

**FIRST AMENDMENT TO THE
THREE RIVERS PROPERTIES, L.L.C. ANNEXATION AGREEMENT**

THIS FIRST AMENDMENT TO THE THREE RIVERS PROPERTIES, L.L.C. ANNEXATION AGREEMENT (the “First Amendment”) is made and entered into as of the _____ of September, 2021, by and between the ***CITY OF JOLIET***, an Illinois home rule municipal corporation (“**City**”), by and through its Mayor and City Council (the “**Corporate Authorities**”) and ***FLEX CAPITAL, LLC.***, an Illinois limited liability company (“**Purchaser**”).

RECITALS

WHEREAS, the City and Three Rivers Properties, L.L.C. (“Owner”) heretofore entered into an Annexation Agreement dated December 20, 2011 (hereinafter referred to as the “**Agreement**”), a copy of which was recorded on March 19, 2012 as Document Number R2012-029758; and

WHEREAS, the Owner has entered into a contract to sell the property to the Purchaser located at 3501 Channahon Road, Joliet, Illinois (“Property”) legally described on Exhibit A and the Purchaser is a successor to the Owner in accordance with the terms of the Agreement; and

WHEREAS, the City and the Purchaser desire and have mutually agreed to amend the Agreement in accordance with this First Amendment.

NOW, THEREFORE, for the good and valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged by the parties, the parties agree as follows:

ARTICLE I

ZONING OF THE PROPERTY

1.1 That Section 3 subsection (b) of the Agreement is hereby deleted and replaced with the following:

(b) *Zoning Classification.*

Immediately after the adoption of an ordinance approving this Amendment to the annexation agreement the City shall enact an ordinance zoning the Parcel I-1 Light

Industrial:

1.2 That Section 3 subsection (c) of the Agreement is hereby deleted and replaced with the following:

(c) Prohibited Uses.

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

- (1) Mobile Home or Recreational Vehicle Park;
- (2) Sexually Oriented Business; Strip Club, Bikini Bar, Massage Parlor, Bathhouse or Similar Adult-Oriented Entertainment and Uses;
- (3) Outdoor Storage of Cargo Containers and Vehicle Chassis unless proper zoning approval is sought from the City of Joliet and approved by the Joliet City Council or other applicable body.
- (4) Outdoor Storage of Semi-Trailers, except as may be permitted in connection with an approved warehousing, or similar, permitted use in an I-1 (Light Industrial) or other Zoning District as may be approved by the City of Joliet in accordance with a Site Plan approved by City of Joliet Planning Division staff. The attached Site Plan or a variation of such plan shall be deemed approved by the City of Joliet Planning Division staff for purposes of allowing the outdoor storage of Semi-Trailers on the property. The redevelopment of the subject site with truck parking along the eastern property line will require removal of the eastern most curb-cut (access) on adjacent Route 6 and additional berming and landscaping as per the attached concept plan so long as the Parcel is adjacent to residential

property to the east. Should one or more of the residential properties east of the Parcel be rezoned to a zoning classification other than residential the City of Joliet Planning Division may approve such additional curb cuts or reductions in landscape, berms, or other screening as would comply with the City of Joliet Zoning Ordinance.

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

1.3 That Section 3 subsection (d) of the Agreement is hereby deleted and replaced with the following:

(c) Existing Land Uses.

The existing principal land uses of the Parcel, including but not limited to, a restaurant, bar, beer garden, and outdoor dining area, and single family residence are hereby accepted for zoning purposes whether or not they strictly conform to the requirements of the Zoning Ordinance. This shall include, but shall not be limited to, the existing two-face outdoor advertising structure.

The current improvements located on the Parcel, including but not limited to, a commercial structure containing a restaurant and bar without a sprinkler system or an alarm system, beer garden and outdoor dining area, single family residence, parking, lighting, signage, well, septic system and landscaping are also accepted by the City in their current form whether or not they strictly conform to the requirements of City ordinances.

The Owner shall keep in place and duly maintain the existing 6' high solid fence installed along the eastern boundary of the Parcel so as to screen and buffer the adjacent residential land uses.

All such existing land uses shall terminate upon the commencement of construction of any warehousing or other permitted use in an I-1 Zoning District. At such time unless otherwise stated herein the Joliet Zoning Ordinance shall govern.

ARTICLE II **NOTICES**

2.1 That Section 9 is hereby modified to delete Notice to Owner and insert the following:

Notice to Purchaser shall be addressed as follows:

Flex Capital, LLC
Attention: Patrick Stanton, Jr.
106 Stephen Street, Suite 202
Lemont, Illinois 60439

With a copy to:

Kavanagh, Grumley & Gorbald, LLC
Attention: Nathaniel P. Washburn
111 N. Ottawa Street
Joliet, IL 60432

ARTICLE III **MISCELLANEOUS**

3.1 No Waiver or Relinquishment of Right to Enforce First Amendment

The failure of any party to this First Amendment to insist upon strict and prompt performance of the terms, covenants, agreements and conditions herein contained, or any of them, upon any other party imposed, shall not constitute or be construed as a waiver or relinquishment of any party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

3.2 Supersession of Existing City Ordinances or Regulations

It is the intent and agreement of the parties hereto that, to the extent permitted by law, if any pertinent exiting ordinance, resolution, or regulation, or interpretations thereof, of the City be in any way inconsistent or in conflict with the provisions hereof, then the

provisions of this First Amendment shall constitute a lawful binding amendment thereto and shall supersede the terms of said inconsistent ordinances, regulations, resolutions or interpretations thereof, as they may relate to the Subject Property. In the alternative, the City shall promptly amend its ordinances, where applicable, to conform to this First Amendment.

3.3 Term of this First Amendment.

This First Amendment shall be binding upon all parties and their successors and assigns for the remaining term of the Agreement.

3.4 Binding Effect of Amendment.

This First Amendment shall be binding upon the parties hereto and their respective successors and assigns.

3.5 Severability.

If any non-material provision of this First Amendment is held invalid by any court of competent jurisdiction, such provision shall be deemed to be excised here from, and the invalidity thereof shall not affect any of the other provisions of this First Amendment which can be given effect without such invalid provision, and to that end, the provisions of this First Amendment are severable.

3.6 Notices.

Notices pursuant to this First Amendment shall be given in accordance with the Agreement.

3.7 Time of the Essence; Good Faith.

It is understood and agreed by the parties hereto that time is of the essence of this First Amendment, and that all parties will make every reasonable effort, including the calling of special meetings as necessary, to expedite the subject matters hereof. It is further understood and agreed by the parties that the successful consummation of this First Amendment requires the continued cooperation and best efforts of all parties.

3.8 Recording.

This First Amendment and all exhibits thereto (or a memorandum hereof), certified as to adoption by the City Clerk, shall be recorded by the City upon execution, acknowledgment and approval. The existence thereof shall be noted by Purchaser on any final plat of subdivision for any portion of the Subject Property prior to its recording.

3.9 Singular and Plural.

Wherever appropriate in this First Amendment, the singular shall include the plural, and plural shall include the singular, unless the context clearly indicates otherwise.

3.10 Section Headings and Subheadings.

All section headings or other headings in this First Amendment are for the general aid of the reader and shall not limit the plain meaning or application of any of the provisions there under whether covered or relevant to such heading or not.

3.11 Construction of Amendment.

No provision of this First Amendment shall be construed more strongly against any party to this First Amendment, the parties recognizing that all parties have contributed substantially to the drafting of this First Amendment.

3.12 Execution in Counterparts.

This First Amendment may be executed in two or more counterparts, each of which may be deemed original and, taken together, shall constitute one and the same instrument.

3.13 Corporate Capacities.

The parties acknowledge that the Corporate Authorities of the City have approved and executed this First Amendment in their official capacities, and not personally, and that no personal liability of any kind shall attach or extend to said officials on account of any act performed in connection with the execution and implementation of this Amendment.

3.14 Purchaser and Owner.

The words "Purchaser" and "Owner" contained in the Agreement and the First Amendment shall be interchangeable and one and the same.

IN WITNESS WHEREOF, the City and Purchaser have caused this First Amendment to be executed by their respective proper officials duly authorized to execute the same on the day and the year first written.

CITY OF JOLIET,
an Illinois municipal corporation

By: _____

Attest: _____

FLEX CAPITAL, LLC,
An Illinois limited liability company

By: _____
Name: _____
Its: _____

EXHIBIT A

LEGAL DESCRIPTION