

ORDINANCE NO. _____

**ORDINANCE ESTABLISHING A RECAPTURE FEE
FOR CONNECTION TO CERTAIN PUBLIC IMPROVEMENTS**

WHEREAS, the City of Joliet, Illinois (the “City”) is a home rule unit of local government authorized by law to require the installation of roadway(s), related facilities, and public improvements as a condition of the development of land; and

WHEREAS, 275 Laraway Investors, L.L.C., a Delaware limited liability company (the “Developer”) is the owner of the real property described in Attachment “A” (the “Developer Parcel”); and

WHEREAS, the Developer, in conjunction with affiliated entities, is developing a warehouse and distribution facility on the Developer Parcel; and

WHEREAS, in connection with Developer’s development of a warehouse and distribution facility Developer Parcel, the Developer has constructed and dedicated certain roadway and public improvements as generally described in Attachment “B” (the “Recapture Improvements”); and

WHEREAS, the Mayor of Joliet, Illinois (the “Mayor”) and City Council of the City of Joliet, Illinois (the “City Council”) hereby find and determine that the making of the Recapture Improvements have conferred a benefit to certain real properties described in Attachment “C” (the “Benefiting Properties” or “Benefiting Property”, as the context may require) and that it would be equitable and appropriate to require the Benefiting Properties to pay the cost associated with the acquisition, planning, development, construction, and dedication of the Recapture Improvements; and

WHEREAS, the Recapture Improvements were designed, engineered, constructed and installed at the sole expense of the Developer at a total cost of **ONE MILLION NINE HUNDRED TWENTY THOUSAND THREE HUNDRED TWENTY-NINE AND 45/100THS DOLLARS (\$1,920,329.45)** (the “Recapture Fee”); and

WHEREAS, the Mayor and City Council hereby find and determine that the expense of providing the Recapture Improvements has actually been incurred and paid in full by the Developer and that said cost was reasonable; and

WHEREAS, the Mayor and City Council further find and determine that the apportionment of the cost associated with the acquisition, planning, development, construction, and dedication of the Recapture Improvements among the Benefiting Properties as set forth in Attachment “D” is fair and equitable and that none of the Benefiting Properties will be required to make reimbursement in excess of the benefit derived by said parcel from the Recapture Improvements; and

WHEREAS, this Ordinance is enacted pursuant to the home rule powers of the City of Joliet and, to the extent required by law, Division 5 of Article 9 of the Illinois Municipal Code;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF JOLIET, ILLINOIS AS FOLLOWS:

SECTION 1: The foregoing recitals are hereby incorporated by reference as substantive provisions of this Ordinance. Any Attachment referred to herein shall also be deemed expressly incorporated by reference herein as if fully set forth and repeated.

SECTION 2: A Benefiting Property shall not be permitted to connect to one or more of the Recapture Improvements, or receive services therefrom, unless and until the owner or owners of such Benefiting Property pay in full to the City Collector the such Benefiting Property's Share (as hereinafter defined) of the Recapture Fees. As use herein, the term "Benefiting Property's Share" means the percentage of the Recapture Fees allocated to such Benefiting Property as specified in Attachment "D", plus accrued interest as provided in this Ordinance.

SECTION 3: A Benefiting Property shall be considered as connected to or serviced by a Recapture Improvement if such connection or service is made or received directly, through an intermediate facility or if the Benefiting Property is served by another roadway owned or operated by the City of Joliet. It shall not be a defense to the payment of a Benefiting Property's Share of such Recapture Fee that the connection point of a Benefiting Property to a Recapture Improvement is on a parcel of property not subject to this Ordinance or a parcel of property that has already paid the fees set forth herein.

SECTION 4: A Benefiting Property's Share of the Recapture Fee shall be paid as follows:

(a) A Benefiting Property's Share of the Recapture Fee shall be paid to the City Collector at the time of application for a City permit to connect a Benefiting Property to all or any of the Recapture Improvements or at the time of actual connection thereto, whichever occurs first, but in no event later than the issuance of an occupancy permit for the Benefiting Property;

(b) Payments of a Benefiting Property's Share of the Recapture Fee shall be made in full and not in installments. The City's obligation to reimburse the Developer for the Recapture Fees shall be limited to funds actually collected from the owners of the Benefiting Properties as provided herein, and payments of such Recapture Fees to Developer made hereunder shall be made solely out of said funds. This Ordinance shall not be construed as creating any obligation upon the City to make payments of such Recapture Fees to Developer from any other fund or revenue source.

(d) Upon the City's receipt of full payment of a Benefiting Property's Share of the Recapture Fees and the remittance of the same to Developer, the City Collector shall, upon request, issue a release of such Benefiting Property from the recapture obligations described herein and deliver the release to the owner of such Benefiting Property.

(e) The payment of a Benefiting Property's Share of the Recapture Fees shall be in addition to any other tax, fee, charge, assessment or recapture obligation respecting such Benefiting Property.

SECTION 5: Interest shall accrue on the unpaid balance of the Recapture Fee at the rate of seven and one quarter percent (7.25%) per annum commencing on the date of passage of this Ordinance. The accrual of interest shall terminate on the twentieth (20th) anniversary of the date of passage of this Ordinance.

SECTION 6: This Ordinance may be enforced by any appropriate action at law or in equity. All actions brought to enforce this Ordinance shall originate and be tried in the Circuit Court of Will County, Illinois. No action may be brought to enforce this Ordinance or any lien or claim arising under this Ordinance twenty (20) years after the effective date hereof.

SECTION 7: The Developer may bring an action under this Ordinance against the owner of any Benefiting Property owing a Recapture Fee for collection thereof.

SECTION 8: The obligations created hereunder shall constitute a real obligation running with the land of the Benefiting Properties. The recording of this Ordinance shall, to the extent provided by law, perfect a lien against each Benefiting Property, including each subdivided lot hereafter contained therein, in favor of the City and the Developer in the amount of such Benefiting Property's Share of the Recapture Fees, plus accrued interest as provided in this Ordinance.

SECTION 9: This Ordinance shall be deemed severable. In the event that any portion of this Ordinance is deemed invalid by any tribunal having competent jurisdiction, such invalidity shall not be deemed to invalidate the remaining provisions of this Ordinance. If any charge referred to herein shall be deemed invalid or excessive, the City of Joliet shall not be held liable to any person, including but not limited to, the Developer for any resultant deficiency.

SECTION 10: The City Clerk is hereby authorized and directed to record a copy of this Ordinance with the Will County Recorder. The City Manager is hereby authorized to refuse to issue, revoke, suspend or take other appropriate action with respect to any permit or license issued or applied in respect of a Benefiting Property if such property is not in compliance with this Ordinance.

SECTION 11: Any Ordinance directly in conflict with this Ordinance is hereby repealed.

SECTION 12: This Ordinance shall take effect immediately upon its passage.

PASSED this ____ day of _____, 2024.

MAYOR

CITY CLERK

VOTING YES: _____

VOTING NO: _____

NOT VOTING: _____

EXHIBIT E
ATTACHMENT "A"

Legal Description of the Developer Parcel

PARCEL 1:

THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER LYING EAST OF THE EASTERLY RIGHT OF WAY LINE OF THE GULF, MOBILE AND OHIO RAILROAD COMPANY (FORMERLY THE CHICAGO & ALTON RAILROAD COMPANY), AND THAT PART OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 28 LYING EAST OF THE EASTERLY RIGHT OF WAY LINE OF THE GULF, MOBILE & OHIO RAILROAD COMPANY (FORMERLY THE CHICAGO & ALTON RAILROAD COMPANY), ALL BEING IN SECTION 28 TOWNSHIP 35 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, WILL COUNTY, ILLINOIS.

PARCEL 2:

THAT PART OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER AND THE SOUTH 179.21 FEET OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 28, IN TOWNSHIP 35 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING EASTERLY OF THE EASTERLY RIGHT OF WAY LINE OF THE GULF, MOBILE AND OHIO RAILROAD, IN WILL COUNTY, ILLINOIS.

LOCAL MAILING ADDRESS:
275 LARAWAY ROAD
JOLIET, ILLINOIS

PIN# 30-07-28-400-001-0000, 30-07-28-300-008-0000

EXHIBIT E

ATTACHMENT "B"

Recapture Improvements

(a) Marcella Avenue Improvements

Construction and extension of Marcella Avenue north from Laraway Road to the north property line including public water and sewer mains. Construction of right and left turn lane(s) into the Property from Laraway Road and a de-acceleration lane on the north side of Laraway Road at Marcella Avenue in accordance with the specifications as set forth in the City's Code of Ordinances.

(b) Signal Improvements

Installation of a traffic signal at the intersection of Laraway Road and the newly constructed Marcella Avenue and any interconnection with the traffic signal at Laraway Road and Route 53.

ATTACHMENT "C"

Legal Description of Benefiting Properties

PROPERTY 1

THAT PART OF THE NORTH 474.19 FEET OF THE EAST 1/2 OF THE NORTHWEST QUARTER (LYING EASTERLY OF THE UNION PACIFIC RAILROAD, FORMERLY THE CHICAGO AND ALTON RAILROAD) AND THE WEST 1/2 OF THE NORTHEAST QUARTER OF SECTION 33, TOWNSHIP 35 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY LINE OF LARAWAY ROAD WITH THE EASTERLY RIGHT OF WAY LINE OF UNION PACIFIC RAILROAD; THENCE NORTH 87 DEGREES 29 MINUTES 57 SECONDS EAST, ON SAID SOUTHERLY RIGHT-OF-WAY LINE (BASIS OF BEARING BEING THE ILLINOIS STATE PLANE COORDINATE SYSTEM EAST ZONE (NAD 83) 2007 ADJUSTMENT), 30.78 FEET TO A LINE 30.00 FEET NORMALLY DISTANT FROM SAID EASTERLY RAILROAD RIGHT OF WAY LINE; THENCE SOUTH 10 DEGREES 26 MINUTES 28 SECONDS WEST ON SAID LINE, 133.46 FEET; THENCE NORTH 79 DEGREES 33 MINUTES 32 SECONDS WEST PERPENDICULAR TO THE LAST DESCRIBED COURSE, 10.00 FEET TO A LINE 20.00 FEET NORMALLY DISTANT FROM SAID EASTERLY RAILROAD RIGHT OF WAY LINE; THENCE SOUTH 10 DEGREES 26 MINUTES 28 SECONDS WEST, ON SAID LINE, 304.20 FEET; TO THE SOUTH LINE OF SAID NORTH 474.19 FEET; THENCE SOUTH 87 DEGREES 49 MINUTES 40 SECONDS WEST ON SAID LINE, 20.49 FEET TO SAID EASTERLY RAILROAD RIGHT OF WAY LINE; THENCE NORTH 10 DEGREES 26 MINUTES 28 SECONDS EAST, ON SAID LINE, 435.25 FEET TO THE POINT OF BEGINNING, IN WILL COUNTY, ILLINOIS.

PERMANENT TAX NUMBER: 30-07-33-200-022-0000

PROPERTY 2

THE WEST 5 ACRES OF THE NORTH 15 ACRES OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 33, TOWNSHIP 35 NORTH, AND IN RANGE 10 EAST OF THE 3RD P.M., WILL COUNTY, IL; AND

THE WEST 58.56 FEET (EXCEPT THE NORTH 7.0 FEET THEREOF) OF THAT PART OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 33, DESCRIBED AS FOLLOWS: COMMENCING ON THE SOUTH LINE OF THE PUBLIC HIGHWAY WHICH RUNS ALONG THE NORTH LINE OF SAID SECTION 33 AT A POINT IN THE CENTER OF THE PUBLIC HIGHWAY WHICH RUNS ALONG THE EAST LINE OF SAID SECTION, AS SAID HIGHWAYS WERE LOCATED MARCH 21, 1983; THENCE WEST ON THE SOUTH LINE OF THE FIRST NAMED HIGHWAY 14 CHAINS AND THE 14 1/2 LINKS; THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID

SECTION, 7 CHAINS AND 7 1/4 LINKS; THENCE EAST PARALLEL WITH THE NORTH LINE OF SAID SECTION TO THE CENTER OF THE SECOND NAMED HIGHWAY; THENCE NORTH ALONG THE CENTER OF SAID HIGHWAY TO THE POINT OF BEGINNING, ALL BEING IN TOWNSHIP 35 NORTH, RANGE 10 EAST OF THE 3RD P.M., WILL COUNTY IL.

PERMANENT TAX NUMBER: 30-07-33-200-002-0000

PROPERTY 3

THE SOUTH 130 FEET OF THE WEST 130 FEET OF LOT 9 IN JAMES C. O'CONNOR'S SUBDIVISION OF PART OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 28, TOWNSHIP 35 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 17, 1891 AS DOCUMENT 165164 IN WILL COUNTY, ILLINOIS.

PERMANENT TAX NUMBER: 30-07-28-407-008-0000

PROPERTY 4

PARCEL 1:

THE WEST HALF OF LOTS 9 AND 10, IN JAMES C. O'CONNOR'S SUBDIVISION OF PART OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 35 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPT THOSE PARTS DEDICATED AS PUBLIC HIGHWAY RECORDED AS DOCUMENT NUMBERS 557900 AND 829411, ALL IN JOLIET TOWNSHIP, WILL COUNTY, ILLINOIS.

EXCEPT THE SOUTH 130 FEET OF THE WEST 130 FEET OF LOT 9 IN JAMES C. O'CONNOR'S SUBDIVISION OF PART OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 28, TOWNSHIP 35 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 17, 1891 AS DOCUMENT 165164 IN WILL COUNTY, ILLINOIS.

PARCEL 2:

LOTS 9 AND 10 EXCEPTING THEREFROM THE WEST 1/2 OF SAID LOTS 9 AND 10, IN JAMES C. O'CONNOR'S SUBDIVISION OF PART OF THE EAST 1/2 OF THE SOUTH EAST 1/4 OF SECTION 28, TOWNSHIP 35 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 8, 1981 IN PLAT BOOK 7, PAGES 62 AND 63, IN WILL COUNTY, ILLINOIS.

PERMANENT TAX NUMBER: 30-07-28-407-007-0000

PROPERTY 5

LOT 11 IN JAMES C. O'CONNOR'S SUBDIVISION OF PART OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 28, TOWNSHIP 35 NORTH, RANGE 10 EAST OF THE 3RD P.M., ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 8, 1891, IN PLAT BOOK 7, PAGES 62 AND 63, IN WILL COUNTY, ILLINOIS.

PERMANENT TAX NUMBER: 30-07-28-405-003-0000

PROPERTY 6

THE SOUTH 1/2 OF LOTS 5 AND 12 IN JAMES C. O'CONNOR'S SUBDIVISION IN SECTION 28, TOWNSHIP 35 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 17, 1891, IN PLAT BOOK 7 PAGES 62 AND 63 AS DOCUMENT NO. 165164, IN WILL COUNTY, ILLINOIS.

PERMANENT TAX NUMBER: 30-07-28-405-002-0000

PROPERTY 7

THE NORTH HALF OF LOTS 5 AND 12 IN JAMES C. O'CONNOR SUBDIVISION OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 35 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 17, 1891, AS DOCUMENT NO. 165164, WILL COUNTY, ILLINOIS.

PERMANENT TAX NUMBER: 30-07-28-405-001-0000