

[FINAL]

EXPOSITION GARDENS LOT DEVELOPMENT AGREEMENT

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This Exposition Gardens Lot Development Agreement is made and entered into as of the Effective Date, by and between the City of Peoria Illinois, an Illinois municipal corporation, ("City"), and Exposition Gardens, an Illinois not-for-profit corporation, ("Developer").

WHEREAS, the City is in the process of planning and implementing the final phase of the Northmoor Road Improvements Project (from Allen Road to University Street) (the "Road Project"); and

WHEREAS, Developer owns real property along Northmoor Road between Allen Road and University Street that is integral to the Road Project; and

WHEREAS, as part of such Road Project, the City and Developer have agreed to a frontage road and sidewalks (the "Frontage Road") adjacent to Developer's property, which Frontage Road will funnel traffic to a signalized intersection on Northmoor Road at Rosemead Drive (the "Intersection"); and

WHEREAS, to construct such Frontage Road and Intersection, the City must acquire from the Developer approximately 1.582 acres of right of way set forth on the ~~Preliminary~~ Plat described below, ("ROW"), together with temporary and permanent easements reasonably required by the City for the Road Project (including without limitation, with respect to Northmoor Road, the Frontage Road and the Intersection); and

WHEREAS, the Frontage Road, Intersection and ROW are also depicted on the ~~Preliminary Plat~~ Plat of Expo Gardens Square, dated April 19, 2017, attached hereto and incorporated herein as Exhibit A ("~~Preliminary~~ the " Plat"); and

WHEREAS, the construction of the Frontage Road and Intersection will result in the creation of three (3) new lots owned by the Developer as depicted on the ~~Preliminary~~ Plat (the "Lots"); and

WHEREAS, the Developer is prepared to execute this Agreement and the ~~Preliminary~~ Plat set forth in Section 1 hereof, prior to the City Council meeting on April 25, 2017, subject to the conditions set forth in Section 4 hereof; and

WHEREAS, in consideration of the foregoing and the terms and conditions set forth herein;

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. Dedication of ROW. By ~~executing~~ execution of the ~~Preliminary~~ Plat, the Developer shall dedicate the ROW, free and clear of all liens and encumbrances; (but subject to

all easements of record), for \$100,000, in cash (which the City will pay to the Developer on or before May 10, 2017). Developer shall execute the ~~Preliminary~~ Plat concurrent with the execution hereof, subject to the conditions set forth in Section 4 hereof.

2. Easements. The Developer shall provide to the City from time to time upon request ~~by~~of the City all temporary and permanent easements reasonably required by the City for the Road Project including with respect to Northmoor Road, the Frontage Road and the Intersection.

3. Other Development Matters.

3.1. Sign. The Developer agrees to relocate its existing sign within the ROW. The relocated sign will have a height no greater than six (6) feet and a size no greater than fifty (50) square feet. The relocated sign will serve as the only free-standing sign for all of Developer's real property including the Lots (and all business located thereon). The City will construct such relocated sign subject to the Developer's reasonable approval and shall also pay the Developer Fifty Thousand Dollars (\$50,000) as compensation for the reduction of the sign size.

3.2. Sanitary Sewer Extension. As part of the Road Project, the City will construct/install a sanitary sewer extension to serve the Lots.

3.3. Utility Sleeves. As part of the Road Project, the City will install utility sleeves under the public roads so that future utility installation for the Lots can be accomplished without disturbing the roadways.

3.4. Private Roads. As part of the Road Project, the City shall construct driveways from the new public roads to the existing access points on the Developer's retained parcel.

4. Lot Development Covenant. Developer, for itself and its successors and assigns with respect to the Lots, agrees that all buildings and other improvements constructed on the Lots shall adhere to the following minimum standards ("Standards"), ~~requiring, among other things, that~~: the design-, materials, elevations and siting of all buildings and other improvements on the Lots shall be consistent with and equal to or better than the quality and character of the current buildings and other improvements (as of the date hereof) of the most immediate neighbors of the Lots along the north side of Northmoor Road, i.e., Northmoor ~~Middle~~Elementary School, Richwoods High School and Independence Village. To assure compliance with the Standards, no building permit shall be issued by the City or hook-up to the sewer system allowed with respect any Lot unless and until all plans and specifications (and all material amendments thereto) for all construction and other improvements on ~~the Lots~~such Lot are reviewed by the City and the City issues a written finding that such plans and specifications comply with the Standards, as reasonably determined by the City; provided however that at a minimum (i) there shall be no vehicular drive-throughs; (ii) all buildings shall be constructed primarily with brick exteriors; and (iii) all buildings shall face Northmoor Road with their primary functioning entrances/exits facing Northmoor Road. Exhibit B attached hereto and

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incorporated herein sets forth an example of Commercial Development ~~permitted by the Standards~~ that would be permitted by the Standards. The parties agree to execute and record against the Lots a Memorandum of Agreement in the form attached hereto and incorporated herein as Exhibit C.

~~_____ The City Council and the Developer both agree to proceed in good faith to negotiate, agree upon and record the Standards as soon as reasonably possible, provided that said Standards must be approved by the City Council. There shall be no construction of buildings and other improvements on the Lots unless and until the Standards are agreed to by the City Council and the Developer, executed by the City and the Developer and recorded against the Lots. No other aspect of the Road Project shall be affected by the timing of the recording of the Standards.~~

_____ For the avoidance of doubt, all City code provisions and regulations shall also be applicable to the Lots and their development.

5. Conditions. Notwithstanding anything to the contrary, the obligations of City and Developer under this Agreement are conditional upon the following actions of the City Council of the City at its meeting on April 25, 2017: (a) enactment of an Ordinance rezoning the Lots to CN; ~~and~~ (b) enactment of an Ordinance or other action sufficient to approve of this Agreement; ~~and~~ (c) an amendment to Developer's special use site plan to permit the sale of two (2) parcels of Developer's retained land to Peoria School District 150. If these conditions are not satisfied, this Agreement shall terminate and be of no further force or effect. If these conditions are satisfied, then this Agreement shall be fully enforceable by and against the parties hereto. The execution and recording of the Plat shall be conclusive evidence that all such conditions have been satisfied.

6. Representations and Warranties of Developer. The Developer represents and warrants as follows:

6.1 Organization. The Developer is organized, existing and in good standing under the laws of the State of Illinois; and is authorized to do business in the State of Illinois.

6.2 Authorization. The Developer has power to enter into, and by proper action has been duly authorized to execute, deliver and perform, this Agreement.

6.3 Non-Conflict or Breach. Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement, conflicts with or results in a breach of any of the terms, conditions or provisions of the Developer's organizational documents or any restriction, agreement or instrument to which the Developer is now a party or by which the Developer is bound.

6.4 Litigation. ~~There~~ Subject to the conditions set forth in Section 5(c) being satisfied, ~~there~~ is no litigation either pending or threatened that would affect the ability of the Developer to proceed with the terms of this Agreement.

6.5 ROW. As of the date hereof and as of the date of dedication, the ROW shall be owned by the Developer, free and clear of all liens and encumbrances.

7. Representations and Warranties of City. The City represents and warrants as follows:

7.1 Organization and Authorization. The City is a municipal corporation organized and existing under the laws of the state of Illinois, and has the power to enter into and by proper action has been duly authorized to execute, deliver and perform this Agreement.

7.2 Non-Conflict or Breach. Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement, conflicts with or results in a breach of any of the terms, conditions or provisions of any restriction, agreement or instrument to which the City is now a party or by which the City is bound.

7.3 Litigation. There is no litigation either pending or threatened that would affect the ability of the City to perform this Agreement.

8. Miscellaneous.

8.1- Authorized Representatives.

8.1.1 Developer. By complying with the notice provisions hereof, the Developer shall designate an authorized representative from time to time, who, unless applicable law requires action by the Directors, shall have the power and authority to make or grant or do all things, requests, demands, approvals, consents, agreements and other actions required or described in this Agreement for and on behalf of the Developer.

8.1.2 ~~City~~. By complying with the notice provisions hereof, the City shall designate an authorized representative from time to time, who shall communicate with the Developer on behalf of the City. Such representative shall not have the authority to make agreements on behalf of the City; provided, however, that the foregoing is not intended to limit or prohibit such representative from granting approvals or consents hereunder where required by the City for any act or conduct of the Developer.

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8.2- Entire Agreement. The terms and conditions set forth in this Agreement and exhibits attached hereto supersede all prior oral and written understandings and constitute the entire agreement between the City and the Developer.

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8.3- Binding upon Successors in Interest. This Agreement shall be binding upon all the parties hereto and their respective heirs, successors, administrators, assigns or other successors in interest.

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8.4- Titles of Paragraphs. Titles of the several parts, paragraphs, sections or articles of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any provision hereof.

8.5- Severability. If any provision of this Agreement is held to be invalid, the remainder of this Agreement shall not be affected thereby.

8.6- Further Assistance and Corrective Instruments. The City and the Developer agree that they will, from time to time, execute, acknowledge ~~and~~, deliver and record, or cause to be executed, acknowledged ~~and~~, delivered and recorded, such supplements hereto and such further instruments as may reasonably be required by the parties hereto, for carrying out the intention of or facilitating the performance of this Agreement.

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8.7 -Notices. Any written notice or demand hereunder from any party to another party shall be in writing and shall be served by (a) personal delivery, (b) fax with confirmation by first-class mail or (c) certified mail, return receipt requested at the following addresses:

To the City at:

City Clerk
City of Peoria
419 Fulton Street, Room 401
Peoria, IL 61602

With copies to:

City Manager
City of Peoria
419 Fulton, Room 403
Peoria, IL 61602

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And, to the Developer at:

Exposition Gardens
1601 W. Northmoor Road
Peoria, IL 61614

Any party may change its address by providing notice in accordance with this provision. In the event said notice is mailed by certified mail, the date of service shall be deemed delivered on the date received as indicated on the return receipt, or the date refused by addressee.

8.8 Incorporation by Reference. The parties agree and acknowledge that the RECITALS, as well as the exhibits and schedules hereto, are incorporated into and constitute a part of this Agreement.

8.9 Counterparts. This Agreement may be executed in counterparts each of which shall be considered an original and all of which shall be considered one document.

8.10 Effective Date. The “Effective Date” as used herein is the date that the last party executed this Agreement.

[Signature Page to Follow]

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates set forth below.

CITY OF PEORIA, ILLINOIS

EXPOSITION GARDENS

By: _____

By: _____

Its: _____

Its: _____

Dated: _____: April 25, 2017

Dated: _____: April 25, 2017

Attest:

By: _____
City Clerk

Approved as to Form:

By: _____
Corporation Counsel

Exhibits:

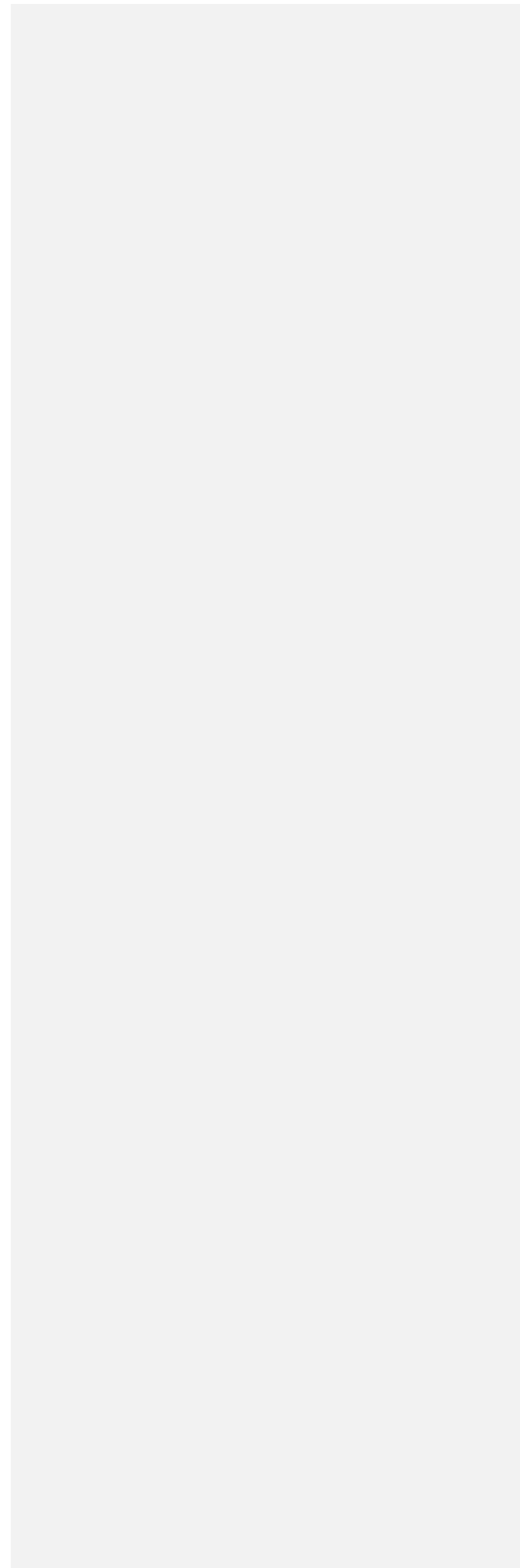
Exhibit A: ~~Preliminary~~ Plat

Exhibit B: Example of Commercial Development Permitted by Standards

Exhibit C: Memorandum of Agreement

[Exposition Gardens Lot Development Agreement]

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Example of Commercial Development

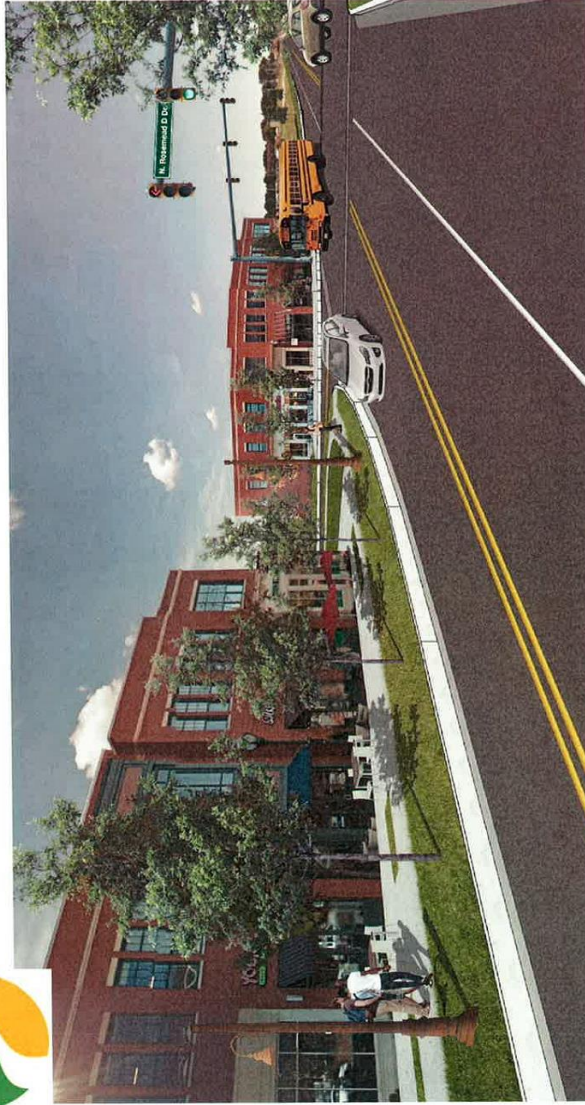


Exhibit B

Example of Commercial Development Permitted by Standards

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Exhibit C

Memorandum of Agreement

[See Attached]