

ORDINANCE NO. O2026-08

**AN ORDINANCE AUTHORIZING THE EXECUTION OF  
A PURCHASE AND SALE AGREEMENT WITH DENVER CAPITAL, LLC  
FOR THE SALE OF THE 1.39-ACRES OF CITY-OWNED PROPERTY LOCATED AT  
THE NORTHEAST CORNER OF BATAVIA ROAD AND WARRENVILLE ROAD**

WHEREAS, the City is a home rule municipal corporation pursuant to Article VII, Section 6(a) of the Constitution of the State of Illinois of 1970; and

WHEREAS, the State of Illinois has adopted tax increment financing pursuant to the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 *et seq.*, as amended from time to time ("**TIF Act**"); and

WHEREAS, pursuant to its powers and in accordance with the TIF Act, and pursuant to Ordinance Nos. 2780, 2781, and 2782, adopted June 3, 2013, which are incorporated into this Ordinance by reference, the City of Warrenville Old town/Civic Center Tax Increment Financing District ("**TIF District**") was formed as a TIF district for a 23-year period; and

WHEREAS, the City is the owner of at certain 2.38-acres of real property, and all appurtenances thereto, located at the northeast corner of Batavia Road and Warrenville Road, consisting of 4 separate parcels of record assigned parcel identification numbers 04-35-403-009, 04-35-403-010, 04-35-403-011, and 04-35-403-027; and

WHEREAS, the City desires to convey 1.39 acres as depicted on the map attached to this Ordinance as **Exhibit A** (collectively, the "**Property**") in furtherance of the Redevelopment Plan and Project for the TIF District to Denver Capital, LLC ("**Buyer**"); and

WHEREAS, the Property, which is currently improved with surface parking areas and a vacant garage building, is located within the TIF #3 District; and

WHEREAS, pursuant to and in accordance with the TIF Act, the Ordinances establishing the TIF District, and the City's home rule authority, the Corporate Authorities of the City are empowered under Sections 4(c) of the TIF Act, 65 ILCS 5/11-74.4-4(c), to convey real property owned by the City within the TIF District in furtherance of the Redevelopment Plan and Project for the TIF District, including for the conveyance of the Property; and

WHEREAS, the City desires to convey the Property to the Buyer on the terms set forth in a purchase and sale agreement ("**Agreement**"); and

WHEREAS, prior to adoption of this Ordinance, the City published notice of the proposed conveyance of the Property, made public disclosure of the terms of the disposition, and invited alternative bids and proposals; and

WHEREAS, the Mayor and the City Council have determined that it is in the best interest of the City to convey the Property to the Buyer to ensure that redevelopment within the TIF District continues;

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

SECTION 1: Recitals. The recitals listed above are incorporated in this Ordinance as if fully set forth in this Ordinance.

SECTION 2: Approval of Agreement. The Mayor and the City Council hereby approve the Agreement with the Buyer for the conveyance of the Property from the City to the Buyer, in substantially the form attached to this Ordinance as **Exhibit B**, and in a final form to the approved by the City Administrator and the City Attorney. The Mayor, City Clerk, and City Administrator are hereby authorized and directed to convey the Property pursuant to the terms and conditions of the final Agreement.

SECTION 3: Authorization to Execute Documents. The Mayor and the City Clerk are hereby authorized to execute and seal, on behalf of the City, the final Agreement and the Mayor, City Manager, City Clerk, and City Attorney, and such other officials as may be necessary, are hereby authorized to execute all agreements, legal instruments and other documents required to effectuate the intent of this Ordinance.

SECTION 4: Effective Date. This Ordinance shall be in full force and effect following its passage and approval in the manner provided by law.

PASSED THIS \_\_\_\_ day of \_\_\_\_\_, 2026.

AYES:  
NAYS:  
ABSENT:  
ABSTAIN:

APPROVED THIS \_\_\_\_ day of \_\_\_\_\_, 2026.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

**EXHIBIT A**

**DEPICTION OF PROPERTY**



**EXHIBIT B**  
**AGREEMENT**

**REAL ESTATE PURCHASE AND SALE AGREEMENT**

**By and Between**

**CITY OF WARRENVILLE, an Illinois municipal corporation**

**and**

**DENVER CAPITAL, LLC, an Illinois limited liability company**

**Property:**

That portion of the 2.38-acre city-owned property located at the northeast corner of Batavia Road and Warrenville Road, Warrenville, Illinois, comprised of four separate parcels below excluding the floodplain area along the West Branch of the DuPage River

PIN: 04-35-403-009, 04-35-403-010, 04-35-403-011 and 04-35-403-027

## TABLE OF EXHIBITS

EXHIBIT A	--	Depiction of City Property and Property
EXHIBIT B	--	Legal Description of the Property
EXHIBIT C	--	Proposed Development Plan

## REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT (“**Agreement**”) is made and entered into as of the Effective Date (as defined in Section 15 below), by and between the **CITY OF WARRENVILLE**, an Illinois home rule municipal corporation (“**City**”) and **DENVER CAPITAL, LLC**, an Illinois limited liability company (“**Denver Capital**”) (collectively, City and Denver Capital are the “**Parties**”, and individually a “**Party**”).

### Section 1. Recitals.

A. City is the record owner of that parcel of real property comprised of four separate lots of record, encompassing 2.38 acres located generally at the north-east corner of Warrenville Road and Batavia Road in Warrenville, Illinois, and depicted on the attached **Exhibit A** (“**City Property**”).

B. City issued a request for proposals to develop a 1.39-acre portion of the City Property, which portion is depicted on Exhibit A and described on **Exhibit B** (“**Property**”).

C. Denver Capital submitted a proposal to acquire and develop the Property in a manner that aligns with the City’s long-range vision and goals for the Old Town District of the City, as detailed in the City’s Comprehensive Plan for the area (“**Development**”). The Development will comport with the proposed development plan (“**Proposed Development Plan**”), attached as **Exhibit C**, and will incorporate, without limitation, the following attributes:

1. All structures, landscaping, access drives, and off-street parking areas on the Property will strictly comply with the Village Shopfront designation and associated regulations as set forth in the Warrenville By Design Overlay District of the City Zoning Ordinance;
2. One or two or three-story building(s) that will not exceed 42 feet in height (“**Building**”). The first floor of the Building will consist of commercial tenant spaces that will be occupied with a dynamic mix of commercial tenants consisting primarily of retail, restaurant/café, and limited service uses. The upper story(ies) of the Building will contain residential dwelling units;
3. An open space element at the corner of Warrenville Road and Batavia Road and an outdoor common area to support small business and community engagements (e.g. outdoor dining space);
4. Storm water detention facilities, as required, on the Property; and
5. Public improvements, including: (i) a public pedestrian path leading from the off-street parking area on the Property to the City-owned portion of the City Property along the West Branch of the DuPage River to be used as public open space; and (ii) allowing a certain portion of the off-street parking on the Property to be used by the public for the purpose of accessing the City-owned public open space; and (iii) water, storm and sanitary sewer main extension (as necessary); and (iv) other public improvements (collectively, the “**Public Improvements**”).

D. City and Denver Capital desire to enter into this Agreement in order to memorialize their respective rights and responsibilities regarding the conveyance of the Property.

E. DENVER CAPITAL AND THE CITY ACKNOWLEDGE AND AGREE THAT THE CITY IS A MUNICIPAL ENTITY AND THIS AGREEMENT IS SUBJECT TO, AND CONTINGENT ON, THE APPROVAL OF, AND IS NOT ENFORCEABLE UNLESS APPROVED AT AN OPEN MEETING BY, THE WARRENVILLE CITY COUNCIL ("**City Council**"). IN THE EVENT THIS CONTINGENCY IS NOT SATISFIED ON OR BEFORE \_\_\_\_\_, \_\_\_\_\_, THIS AGREEMENT WILL AUTOMATICALLY TERMINATE AND THE PARTIES WILL HAVE NO FURTHER RIGHTS OR OBLIGATIONS HEREUNDER, EXCEPT FOR THOSE THAT EXPRESSLY SURVIVE ANY SUCH TERMINATION.

**Section 2. Incorporation of Recitals.** The foregoing recitals are hereby incorporated into this Agreement as substantive terms of this Agreement.

**Section 3. Sale of Property.**

A. City agrees to sell to Denver Capital, and Denver Capital agrees to purchase from City, upon the terms and conditions set forth in this Agreement, fee simple title to the Property, together with (i) all privileges, rights, easements, hereditaments and appurtenances thereto belonging, (ii) all right, title and interest of City in and to any streets, alleys, passages and other rights of way included therein, and (iii) any improvements located upon the Property.

B. **Purchase Price:** The purchase price for the purchase of the Property by Denver Capital is \$10.00 ("**Purchase Price**"), but is for good and valuable consideration in the form of the obligations for Development herein. The Purchase Price will be paid by Denver Capital to City on the Closing Date (hereinafter defined), subject to the prorations and adjustments set forth herein, by wire transfer or other immediately available funds. As part of Denver Capital's consideration, Denver Capital has not requested, and will not request, any additional economic relief or incentives from the City, including, without limitation, sale tax rebates, tax increment financing, and permit waivers.

C. **Earnest Money and Escrows.** Within five business days after the Effective Date, Denver Capital will deposit the amount of \$20,000.00 as earnest money ("**Earnest Money**") with Chicago Title Insurance Company ("**Title Company**"), at 325 W. Wacker Drive, 11<sup>th</sup> Floor, Chicago, Illinois, 60601, to be held in escrow pursuant to mutually acceptable strict joint order escrow instructions. Within five business days after the Effective Date, Purchaser will deposit an additional \$5,000.00 cash in escrow with the Title Company for closing costs ("**Closing Escrow**"). Within five business days after the Effective Date, Denver Capital will deposit an additional \$10,000.00 cash escrow with the City as required pursuant to Section 2.C of the Zoning Ordinance to reimburse the City for costs associated with the review, preparation, negotiation, and approval of the Governmental Approvals (as hereinafter defined) ("**City Cost Escrow**"). The Earnest Money, Closing Escrow, and City Cost Escrow shall be refunded to Denver Capital if the City Council does not approve the Government Approvals (as defined in Section 8 of this Agreement), in accordance with Section 8.B.7 of this Agreement, or if Denver Capital terminates this Agreement during the Due Diligence Period, in accordance with Section 5.F of this Agreement.

D. **Interest on Earnest Money.** None, unless Denver Capital pays the Title Company investment fees, in Denver Capital's sole discretion.

**Section 4. Property Information, Title and Survey.**

A. **Property Information:** Within 10 business days after the Effective Date, City will deliver to Denver Capital copies of all of the following pertaining to the Property to the extent such items are in its possession or control (and not previously delivered to Denver Capital): (i) title insurance policies; (ii) existing survey(s); and (iii) any environmental reports or wetlands studies (collectively, "**Deliveries**"). City makes no representation or warranty regarding accuracy or completeness of the Deliveries or the content or subject matter thereof.

B. **Title Commitment.** Within 10 business days after the Effective Date, City will instruct the Title Company to issue a title commitment for an owner's policy of title insurance ("**Title Commitment**") and deliver the Title Commitment and copies of all underlying title documents listed therein to Denver Capital upon receipt from the Title Company.

C. **Surveys and Plats.**

1. **Survey.** Denver Capital, at its sole cost and expense, may obtain an ALTA/NSPS standard survey ("**Survey**") of the Property prepared by a surveyor registered and licensed in the jurisdiction the Property is located. The Survey will be certified to City, Denver Capital, and Title Company. Denver Capital will deliver a copy of the Survey to City.
2. **Plat of Subdivision.** Denver Capital, at its sole cost and expense, will provide to City, in connection with Denver Capital's submittal of documentation for the Government Approvals (as defined in Section 8 below), a draft preliminary plat of subdivision ("**Preliminary Plat**") and final plat of subdivision ("**Final Plat**") to subdivide the City Property into the Property and a remainder parcel to be owned by the City for City approval. The Final Plat must include the dedication of permanent easements to the City necessary and sufficient to grant public right-of-way access and grant the City the right to maintain, alter, repair, remove, or abandon in place the water, sanitary sewer, and storm sewer main Public Improvements (as applicable) (collectively, the "**Required Easements**"). The Final Plat will be recorded after approval by City but immediately prior to Closing; provided, however, that that Final Plat will not be recorded without the prior written consent of the Parties.

D. **Review of Title Commitment and Survey.**

1. **Identification of Unpermitted Exceptions and Commitment to Cure.** Denver Capital has until the end of the Due Diligence Period (as hereinafter defined) ("**Title Review Period**") to review the Title Commitment and Survey, and satisfy itself with the status of title to the Property. Denver Capital must send written notice to City ("**Title Objection Notice**") identifying any matter identified in the Title Commitment or Survey that Denver Capital determines will adversely affect the Property ("**Unpermitted Exceptions**"), and City may elect, by written notice to Denver Capital, to (a) cure or remove each Unpermitted Exception, or (b) cause the Title Company to insure over the Unpermitted Exceptions.

2. **Option to Close or Terminate.** If, in its response to the Title Objection Notice, City does not make a commitment to clear the Unpermitted Exceptions, then Denver Capital, within 10 days after receiving the response, may send City a written notice ("**Closing/Termination Notice**") electing to either: (i) proceed with the Closing, in which case Denver Capital will be deemed to have accepted the uncleared or uninsured Unpermitted Exceptions and will accept the Deed at the Closing subject to the same, or (ii) terminate this Agreement. If Denver Capital fails to give City a Closing/Termination Notice as provided above within ten 10 days after the expiration of the Title Review Period, Denver Capital will be deemed to have elected to proceed with the Closing and will accept the uncleared or uninsured Unpermitted Exceptions.
3. **Permitted Exceptions.** Any matter of record shown in the Title Commitment that is (i) not objected to by Denver Capital in a Title Objection Notice, or (ii) is an uncleared or uninsured Unpermitted Exception that is deemed accepted by Denver Capital pursuant to Section 4.D.2, is a "**Permitted Exception.**"
4. **Effect of Termination.** In the event of a termination pursuant to Section 4.D.2 neither Party will have any claim or obligation under this Agreement, except for those rights, liabilities, and obligations that expressly survive the termination of this Agreement.

## **Section 5. Due Diligence Period.**

A. **Due Diligence Period and License.** During the period that begins on the Effective Date and ends on the 90<sup>th</sup> day after the Effective Date ("**Due Diligence Period**"), Denver Capital may conduct all investigations, inspections, reviews, and analyses of or with respect to the Property as it desires ("**Due Diligence Activities**"). The Due Diligence Activities may include, without limitation, reviews of the Deliveries and the Environmental Assessments (as defined below). At reasonable times, upon written notice by Denver Capital and written approval by the City, Denver Capital may enter the Property for the purpose of conducting Due Diligence Activities. Notice may be by email.

B. **Environmental Assessment.** Beginning on the Effective Date, Denver Capital may cause to be performed one or more (i) environmental assessments, reviews, or audits, including without limitation a Phase I site assessment, of or related to the Property and (ii) other investigations or analyses concerning the environmental and physical condition of the Property, including without limitation, wetland studies (collectively, "**Environmental Assessments**").

C. **Restoration.** If any Due Diligence Activities damage or alter the Property, and the Closing does not occur, then Denver Capital must restore the Property to a condition that is substantially the same as its condition prior to the performance of such Due Diligence Activities.

D. **Insurance.** Denver Capital agrees that it will cause it and any person accessing the Property pursuant to this Agreement to be covered by not less than \$2,000,000 commercial general liability insurance (with a contractual liability endorsement, insuring its indemnity obligation under this Agreement), insuring all activity and conduct of such person while exercising such right of access and naming City as an additional insured, issued by a licensed insurance company qualified to do business in Illinois and otherwise reasonably acceptable to City.

E. **Indemnity.** Denver Capital agrees to indemnify, defend, and hold harmless City and its officials, employees, contractors, and agents from any loss, injury, damage, cause of action, liability, claim, lien, cost or expense, including reasonable attorneys' fees and costs, caused directly, or indirectly by any act or omission of Denver Capital or its employees, agents, representatives, contractors or consultants conducting Due Diligence Activities. The indemnity in this Section will survive Closing or any termination of this Agreement.

F. **Termination.** If for any reason whatsoever Denver Capital determines that the Property is not satisfactory, then Denver Capital may terminate this Agreement by delivering notice of such termination to City on or before the expiration of the Due Diligence Period. If Denver Capital fails to give such notice of termination as aforesaid, Denver Capital will be deemed to have waived its rights under this Section, and this Agreement will remain in full force and effect. In the event Denver Capital delivers such notice of termination on or before the expiration of the Due Diligence Period, the Earnest Money, Closing Escrow, and the amount left in the City Cost Escrow after the final settlement per Section 2.C.2.c.iv of the Zoning Ordinance, will be returned to Denver Capital and neither party hereunder will have any further rights, liabilities, or obligations, under this Agreement, except for those matters contained herein which expressly survive such termination.

## **Section 6. Representations and Warranties.**

A. **Denver Capital-General Representations and Warranties.** Denver Capital represents and warrants to City that, as of the date hereof and as of the Closing Date:

- (i) Denver Capital is a limited liability company duly organized and validly existing under the laws of the State of Illinois;
- (ii) Denver Capital has the requisite power and authority to enter into and perform the terms of this Agreement and the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary company action and authority, do not violate any agreement to which Denver Capital is a Party, and no other proceedings on Denver Capital's part are necessary in order to permit Denver Capital to consummate the transaction contemplated hereby;
- (iii) On the Closing Date, Denver Capital, or its designated assignee in accordance with Section 14.F below, will be in good standing under the laws of the State of Illinois;
- (iv) The execution and performance of this Agreement has been authorized by Denver Capital and, to Denver Capital's knowledge, the execution of this Agreement by Denver Capital will not result in a breach of, violate any term or provision of, or constitute a default under, any certificate of formation, operating agreement, indenture, deed to secure debt, deed of trust, mortgage, lease or other document by which Denver Capital is bound;
- (v) No petition in bankruptcy (voluntary or otherwise), assignment for the benefit of creditors, or petition seeking reorganization or arrangement or other action under federal or state bankruptcy law is pending against Denver Capital; and

- (vi) Each person executing this Agreement on behalf of Denver Capital is fully authorized to do so and, by doing so, to bind Denver Capital to its obligations under this Agreement.

At City's request, Denver Capital must reconfirm all representations and warranties set forth in this Section 6 as true, accurate, and complete on and as of the Closing.

**B. City-General Representations and Warranties.** City represents and warrants to Denver Capital that, as of the date hereof and as of the Closing Date:

- (i) City is a municipal corporation duly organized and validly existing under the laws of the State of Illinois;
- (ii) City has the power to own and dispose of the Property and to engage in the transactions contemplated in this Agreement;
- (iii) City is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code; and
- (iv) Each person executing this Agreement on behalf of City is fully authorized to do so and, by doing so, to bind City to its obligations under this Agreement.

At Denver Capital's request, City must reconfirm all representations and warranties set forth in this Section 6 as true, accurate, and complete on and as of the Closing.

If Denver Capital has or obtains knowledge prior to a Closing that any of City's representations or warranties contained herein are or become untrue or inaccurate in any respect, and nonetheless elects to proceed with Closing without requiring the correction of the representation or warranty or without terminating this Agreement for breach, such representations or warranties (as the case may be) will be deemed to be automatically modified to take into account any changes in facts or circumstances which caused such representations or warranties to become untrue or inaccurate, and Denver Capital will be deemed to have irrevocably waived the right to make a claim for City's breach of such representations and/or warranties. For purposes hereof, Denver Capital will be deemed to have actual knowledge of all matters, facts and circumstances described or disclosed in the Title Commitment, Survey and other Deliveries made available to Denver Capital.

**C. Survival; Indemnification.** The representations and warranties in this Section 6 will survive the Closing for six months.

**D. Disclaimer of Warranties.** Denver Capital and City acknowledge that Denver Capital will inspect the Property pursuant to the terms hereof, and will acquire the Property "**AS IS, WHERE IS**" without any obligation of City, except as expressly set forth herein to the contrary, to perform any repairs, improvements, maintenance or other work to the Property or any part thereof, and without, except as expressly set forth herein to the contrary, any warranties, express or implied, of any kind from City, including but not limited to, warranties of fitness, merchantability, fitness for a particular purpose, habitability, tenantability or environmental condition. City expressly disclaims any representations and warranties with respect to the Property, except as specifically set forth in this Agreement, including any representations by any brokers or salesmen, and Denver Capital does hereby acknowledge that, in purchasing the Property, Denver Capital is

relying only upon those representations of City concerning the Property expressly set forth as such in this Agreement. Further, in the event Denver Capital purchases the Property, Denver Capital hereby waives any claim it may have against City as to matters related to the Property or City of which Denver Capital has knowledge at the Closing. This provision will expressly survive the Closing.

**Section 7. Intentionally Omitted.**

**Section 8. Conditions Precedent to Closing.**

A. **Closing Contingencies.** Each Party's obligation to close on the Property is subject to each and all of the following conditions being satisfied, unless waived in writing by both Parties (collectively, the "**Closing Contingencies**"):

1. The Property will not be affected by eminent domain proceedings at the time of the Closing;
2. The Property will be free and clear of any leases, licenses, or possessory rights of any third party at the time of the Closing;
3. Title Company has irrevocably committed to issue and deliver an owner's title policy dated as of the date and time of recordation of the Deed subject only to the Permitted Exceptions;
4. All of City's and Denver Capital's representations and warranties are true and correct and each Party will have performed all covenants which that Party is required to perform under the Agreement;
5. There is no material adverse change in the environmental condition of the Property that first occurs due to new contamination arising after the expiration of the Due Diligence Period;
6. Execution by City and Denver Capital of the Development Agreement (as defined in Section 8.B.1(ii) below);
7. Final approval and issuance of the Governmental Approvals (as defined in Section 8.B.1 below), including strict adherence to the Warrenville by Design Overlay Zoning District Village Shopfront regulations; and
8. The Final Plat has been recorded.

If a Closing Contingency is not satisfied because of a default by Denver Capital, City will have all of its rights under Section 14.

B. **Issuance of Governmental Approvals.** The Parties agree that the Development may not be commenced except upon the issuance by City, in its governmental capacity, of zoning and subdivision approvals, as required and governed by the applicable provisions of the City Code of the City of Warrenville, Illinois, as amended ("**City Code**"), including, without limitation (i) Title 11 of the City Code, known as the Subdivision Regulations for the City of Warrenville, Illinois ("**Subdivision Regulations**"), and (ii) The City of Warrenville Zoning Ordinance ("**Zoning Ordinance**").

1. With respect to the required zoning, subdivision, and related approvals for the Development, the Parties agree that the following approvals will be required (collectively, the **“Governmental Approvals”**):
  - (i) Preliminary approvals, including approval of a preliminary plat of subdivision, preliminary plan for planned unit development, and any other preliminary approvals required for the Development (collectively, the **“Preliminary Approvals”**);
  - (ii) A development agreement between the Parties, in form provided by the City and acceptable to the City Attorney, incorporating terms and conditions mutually agreed upon by Denver Capital and the City, including, without limitation, the provision set forth in Section 16.E of this Agreement (the **“Development Agreement”**);
  - (iii) Final approvals, including approval of a final plat of subdivision that includes the dedication of the Required Easements, site plan, final plan for planned unit development, special use permit for planned unit development, any deviations from the Zoning Ordinance within the planned unit development, and any other final approvals required to authorize the construction of the Development on the Property (collectively, the **“Final Approvals”**); and
  - (iv) Other approvals from the City deemed necessary by City or Denver Capital in order to allow the Development on the Property.
2. Denver Capital must file all applications for the approval of the Preliminary Approvals on or before the expiration of the Due Diligence Period. The applications must be for a development in substantial conformance with the description of the Development set forth in Section 1.C of this Agreement and with the exhibits to this Agreement. At no cost or expense to City, City agrees to be a co-applicant for the Governmental Approvals in its capacity as a current owner of the Property. Denver Capital must diligently pursue receipt of all Governmental Approvals for the Development. Denver Capital’s failure to diligently pursue the Governmental Approvals will be considered a default by Denver Capital pursuant to Section 14.E of this Agreement. Denver Capital will be required to pay all fees and costs associated with the Governmental Approvals.
3. Intentionally omitted.
4. Denver Capital and City agree to negotiate in good faith and use commercially reasonable efforts to address and resolve all issues necessary to finalize the Development Agreement prior to the end of the Due Diligence Period; provided, however, that the Development Agreement must include, without limitation, a provision requiring Denver Capital to comply with the City’s Subdivision Code requirements for school, park, and library land donations/impact fees.

5. Denver Capital must apply for approval of the Development Agreement and the Final Approvals within the timeframe required by the Zoning Ordinance.
6. Denver Capital must comply with all City rules and procedures for consideration of Governmental Approvals, including City staff review, Plan Commission public hearing and recommendation, and City Council approval, all at Denver Capital's sole cost and expense with respect to the Development. City must process all Governmental Approvals applications in accordance with the applicable provisions of the City Code. Denver Capital acknowledges and agrees that this Agreement is not to be deemed or interpreted as requiring City Council to approve any or all of the Governmental Approvals, and that the granting or denial of the Governmental Approvals will be at the sole and absolute discretion of the City Council. The date on which the Final Approvals are granted by City and the statutory appeal period set forth in Section 11-13-25 of the Illinois Municipal Code (65 ILCS 5/11-13-25) has expired without an appeal or suit with respect to such Governmental Approvals having been filed by an arms-length third-party, or, if filed, with such suit or appeal dismissed or resolved finally and conclusively in favor of such Governmental Approvals, and, at the expiration of such appeal period, or at the conclusion of such appeal or suit, the Governmental Approvals will not have been further changed or withdrawn by the appropriate officials of the City of Warrenton and any other applicable governmental entities is referred to herein as the **"Governmental Approvals Date"**. If there is an appeal or challenge of the Governmental Approvals by an arms-length third-party, then City and Denver Capital will cooperate, in good faith, in defending such appeal or challenge. For the avoidance of doubt, if there is an appeal or challenge of the Governmental Approvals by an arms-length third-party that results in the invalidation of one or more of the Governmental Approvals, then Denver Capital's sole remedy will be to notify City and Title Company that this condition precedent has failed, whereupon the Title Company and City, as applicable, must return to Denver Capital the Earnest Money, Closing Escrow, the amount left in the City Cost Escrow after the final settlement per Section 2.C.2.c.iv of the Zoning Ordinance, and thereafter this Agreement will terminate and be null and void and of no further force and effect, and neither Denver Capital nor City will have any further rights, duties, liabilities or obligations to the other, except for such obligations and agreements of, and indemnifications by, the Parties which expressly survive such termination.
7. If Denver Capital applies for all necessary Governmental Approvals by the deadlines set forth in this Section 8 and City Council denies one or more of the required Governmental Approvals, then either Party may terminate this Agreement by providing written notice to the other Party, whereupon Title Company and City, as applicable, will return to Denver Capital the Earnest Money, Closing Escrow, and the amount left in the City Cost Escrow after the final settlement per Section 2.C.2.c.iv of the Zoning Ordinance., and neither Party will have any further liability, obligations or rights under this Agreement other than those which expressly survive the Closing or earlier termination of this Agreement. For the avoidance of doubt, if the

Governmental Approvals are not approved despite Denver Capital making all reasonable efforts, then Denver Capital may terminate this Agreement and the Earnest Money, Closing Escrow, and the amount left in the City Cost Escrow after the final settlement per Section 2.C.2.c.iv of the Zoning Ordinance will be refunded to Denver Capital.

**Section 9. Intentionally Omitted.**

**Section 10. Closing.**

A. City must convey fee simple title to the Property to Denver Capital by delivery of a Special Warranty Deed (“**Deed**”) in recordable form conveying fee simple title to the Property, subject only to Permitted Exceptions and the terms of the Development Agreement. City must deliver full and complete possession of the Property to Denver Capital upon Closing. City must deliver the Property to Denver Capital in its condition as of the Effective Date except for ordinary wear and tear.

**B. Closing Time, Place; Closing Escrow.**

1. **Closing.** The Closing will occur no later than the 30th calendar day following the Governmental Approvals Date (the “**Closing Date**”).
2. The Closing will be at the office of the Title Company at 325 W. Wacker Drive, 11<sup>th</sup> Floor, Chicago, Illinois, 60601. The Parties need not physically attend the Closing.

**C. Closing Deliveries.**

1. At the Closing, City will deliver or cause to be delivered to Denver Capital the following, in each case, fully executed (as applicable), in form and substance reasonably satisfactory to Denver Capital:
  - a. Evidence reasonably satisfactory to the Title Company of the authority of City to consummate the Closing;
  - b. The Deed and other instruments of transfer and conveyance transferring the Property, free of all liens other than the Permitted Exceptions;
  - c. To the extent required by the Title Company, a “gap” undertaking in customary form and substance for the “gap” period” through the Closing Date or the date of recording, as the case may be;
  - d. A current form of ALTA Statement in customary form and substance as required by the Title Company;
  - e. Real estate transfer declarations or exemptions required of City by Applicable Laws;

- f. A non-foreign affidavit sufficient in form and substance to relieve Denver Capital of any and all withholding obligations under Section 1445 of the Internal Revenue Code;
  - g. The Development Agreement, executed by City and in a recordable form; and
  - h. A closing statement itemizing and approval all receipts and disbursements made in connection with the Closing (the “**Closing Statement**”).
2. At the Closing, Denver Capital must pay the balance of the Purchase Price to City, and deliver or cause to be delivered to City the following, in each case, fully executed (as applicable), in form and substance reasonably satisfactory to City:
- a. A counterpart to the Closing Statement;
  - b. All other documents, certificates, forms and agreements required by this Agreement or Applicable Law or customarily required by the Title Company, in order to close the transaction; and
  - c. The Development Agreement, executed by Denver Capital (or Denver Capital, if applicable), in recordable form.

D. **Closings Costs.** At the Closing, City will pay the cost of transfer taxes due on the sale of the Property, if any. Denver Capital will pay the premium for an ALTA Standard Owner’s Policy of Title Insurance with extended coverage, additional costs for all endorsements to its title policy, the costs of the Survey, the cost of any inspections conducted by Denver Capital and any third-party reports ordered by Denver Capital, including without limitation all Environmental Assessments and wetlands studies, and the costs of any reliance letters in favor of Denver Capital from the consultants that prepared any third-party reports. City and Denver Capital will divide equally recording and escrow fees.

E. **Prorations.** City represents that the Property currently is exempt from real estate taxes and State, County, and City real estate transfer taxes because of the ownership of the Property by City and, therefore, no real estate taxes or real estate transfer taxes should be due or payable at the Closing. All other charges and fees customarily prorated and adjusted in similar transactions will be prorated as of Closing Date.

**Section 11. Condemnation.** City will give Denver Capital written notice of any condemnation of the Property. If, prior to the Closing, any portion of the Property is condemned, Denver Capital will have the option of terminating this Agreement by delivering written notice of such termination to City within 10 business days after Denver Capital has received written notice from City of the condemnation. If, prior to the Closing, a portion of the Property is condemned, and Denver Capital does not exercise its right of termination as set forth in this Section 11, the proceeds of any condemnation award or payment must be paid to Denver Capital and City will assign to Denver Capital its title and interest in any unpaid awards or payments.

**Section 12. Brokers.** City and Denver Capital each represents and warrants to the other that it knows of no broker or other person or entity who has been instrumental in submitting or showing

the Property to Denver Capital. If any broker or other person asserts a claim against one of the parties for a broker's commission, finder's fee, or similar payment in connection with the transactions contemplated in this Agreement, then that Party must indemnify and hold harmless the other Party from and against any damage, liability or expense, including costs and reasonable attorneys' fees that that Party incurs because of such claim.

### **Section 13. Patriot Act.**

A. **Definitions.** All capitalized words and phrases and all defined terms used in the USA Patriot Act of 2001, 107 Public Law 56 (October 26, 2001) ("**Patriot Act**") and in other statutes and all orders, rules and regulations of the United States government and its various executive departments, agencies and offices related to the subject matter of the Patriot Act, including, but not limited to, Executive Order 13224 effective September 24, 2001, and the USA FREEDOM Act dated June 2, 2015 are collectively referred to as the "Patriot Rules" and are incorporated into this Section.

B. **Representations and Warranties.** The Parties hereby represent and warrant, each to the other, that each and every "person" or "entity" affiliated with each respective Party or that has an economic interest in each respective Party or that has or will have an interest in the transaction contemplated by this Agreement or in any property that is the subject matter of this Agreement or will participate, in any manner whatsoever, in the purchase and sale of the Property is, to the best of Denver Capital' or City's knowledge:

- (i) Not a "blocked" person listed in the Annex to Executive Order Nos. 12947, 13099 and 13224 (the "**Annex**");
- (ii) In full compliance with the requirements of the Patriot Rules and all other requirements contained in the rules and regulations of the Office of Foreign Assets Control, Department of the Treasury ("**OFAC**");
- (iii) Operated under policies, procedures and practices, if any, in compliance with the Patriot Rules and available to each other for review and inspection during normal business hours and upon reasonable prior notice;
- (iv) Not in receipt of any notice from the Secretary of State or the Attorney General of the United States or any other department, agency or office of the United States claiming a violation or possible violation of the Patriot Rules;
- (v) Not listed as a Specially Designated Terrorist or as a blocked person on any lists maintained by the OFAC pursuant to the Patriot Rules or any other list of terrorists or terrorist organizations maintained pursuant to any of the rules and regulations of the OFAC issued pursuant to the Patriot Rules or on any other list of terrorists or terrorist organizations maintained pursuant to the Patriot Rules;
- (vi) Not a person who has been determined by competent authority to be subject to any of the prohibitions contained in the Patriot Rules, and
- (vii) Not owned or controlled by or now acting and or will in the future act for or on behalf of any person or entity named in the Annex or any other list

promulgated under the Patriot Rules or any other person who has been determined to be subject to the prohibitions contained in the Patriot Rules.

C. **Mutual Notice; Termination.** Each Party covenants and agrees that in the event it receives any notice that it or any of its beneficial owners or affiliates or participants become listed on the Annex or any other list promulgated under the Patriot Rules or indicted, arraigned, or custodially detained on charges involving money laundering or predicate crimes to money laundering, the Party that receives such notice must immediately notify the other (the “**Non-Blocked Party**”) and the effect of the issuance of a notice pursuant to the Patriot Rules is that the Non-Blocked Party may elect to either: (i) obtain permission from OFAC to proceed with the Closing, in which case the Closing Date will be delayed until such permission is obtained, or (ii) send written notice to the other Party terminating this Agreement, in which event the Parties will have no further rights or obligations under this Agreement, except for those rights, liabilities or obligations that survive a termination of this Agreement.

#### **Section 14. General Provisions.**

A. **Integration; Modification.** This Agreement constitutes the entire agreement between the Parties pertaining to the purchase and sale of the Property and supersedes all prior agreements, understandings, and negotiations pertaining thereto. This Agreement may be modified only by a written amendment or other agreement that is lawfully approved and executed by the Parties.

B. **Further Actions.** The Parties agree to execute all documents and take all other actions consistent with this Agreement that are reasonably necessary to consummate the transactions contemplated in this Agreement.

C. **Confidentiality.** The Parties must keep all negotiations, information, and documents related to this Agreement (including without limitation any appraisals or financial information) (collectively, “**Negotiation Information**”), strictly confidential and may not disclose (and will cause its attorneys consultants, and agents not to disclose) Negotiation Information to any third Party, without the other Party’s prior written consent, which consent may be granted or withheld. The obligations of this Section will survive Closing or the termination of this Agreement. Prior to the Closing, all press releases or other dissemination of information to the media or responses to requests from the media for information relating to the transaction contemplated herein will be subject to the prior written consent of both Parties. The foregoing sentence does not apply to public disclosures of City pursuant to the Illinois Freedom of Information Act (5 ILCS 140/1 *et seq.*), the Illinois Open Meetings Act (5 ILCS 120/1 *et seq.*), or other Applicable Laws. After Closing, this covenant will terminate and will no longer be binding on either Party.

#### **D. Interpretation.**

- (i) **Presumption.** There is no presumption that this Agreement is to be construed for or against either Party as the principal author of the Agreement. Instead, this Agreement is to be interpreted in accordance with the general tenor of the language in an effort to reach the intended result.
- (ii) **Headings and Exhibits.** The Section headings in this Agreement are used as a matter of convenience and do not define, limit, construe or describe the scope or intent of the text within such headings. The following Exhibits

attached hereto are incorporated herein as an integral part of this Agreement:

EXHIBIT A	--	Legal Description of the Property
EXHIBIT B	--	Proposed Tentative Plat of Subdivision
EXHIBIT C	--	Proposed Development Plan

- (iii) **Non-Waiver.** Except as expressly provided in this Agreement, the mere failure by a Party to insist upon the strict performance of any obligation of this Agreement or to exercise any right or remedy related to a default thereof will not constitute a waiver of its rights. If a Party waives a right under this Agreement, that waiver is not to be deemed a waiver of any other right.
- (iv) **Severability.** If any provision of this Agreement is invalid or unenforceable against any Party under certain circumstances, then this Agreement will be deemed to be amended by deleting such provision. This Agreement will be enforceable, as amended, to the fullest extent allowed by Applicable Laws and so long as the amendment does not result in a failure of consideration.
- (v) **Time.** Time is of the essence in the performance of this Agreement. If any date upon which action is required under this Agreement is a Saturday, Sunday, or legal holiday, the date will be extended to the first business day after such date that is not a Saturday, Sunday or legal holiday.

**E. Enforcement.**

(i) **Default.**

- a. **Denver Capital' Default.** If Denver Capital (i) fails to perform an obligation under this Agreement, or (ii) any representation or warranty made by Denver Capital hereunder is untrue when made or becomes materially untrue as the result of an act or omission of Denver Capital, and does not, within five days after receiving written notice from City of such failure, either (i) cure such failure or cause such representation or warranty to become materially true or (ii) if such failure cannot reasonably be cured within five days, commence and diligently pursue a cure for such failure and, in any case, cure such failure within 10 business days, then Denver Capital will be in default of this Agreement, and City may terminate this Agreement, keep the Earnest Money as liquidated damages. Without limiting City's rights under the preceding sentence, if (i) a representation or warranty made by Denver Capital becomes materially untrue, but not as the result of an act or omission of Denver Capital, or (ii) a condition precedent to City's obligation to proceed with Closing is not satisfied not as the result of an act or omission of Denver Capital, then City may terminate this Agreement, whereupon the Earnest Money, Closing Escrow, and the amount left in the City Cost Escrow after the final settlement per Section 2.C.2.c.iv of the Zoning Ordinance must be promptly

returned to Denver Capital, and the Parties will have no further rights or obligations under this Agreement, except for those rights, liabilities or obligations that survive a termination of this Agreement.

- b. **City's Default.** If City (i) fails to perform an obligation under this Agreement or (ii) any representation or warranty made by City hereunder is untrue when made or becomes materially untrue as the result of an act or omission of City and City does not, within five days after receiving written notice from Denver Capital of such failure, either (i) cure such failure or cause such representation or warranty to become materially true or (ii) if such failure cannot reasonably be cured within five days or if such action cannot reasonably be completed within five days, commence and diligently pursue a cure for such failure and, in any case, cure such failure within 10 business days, then City will be in default of this Agreement and Denver Capital may (i) terminate this Agreement and receive a return of the Earnest Money, Closing Escrow, and the amount left in the City Cost Escrow after the final settlement per Section 2.C.2.c.iv of the Zoning Ordinance,, or (ii) pursue any other remedy available at law or equity, including without limitation an action for specific performance, or (iii) waive such breach or default and proceed to Closing. Without limiting Denver Capital' rights under the preceding sentence, if (i) a representation or warranty made by City becomes materially untrue, but not as the result of an act or omission of City, or (ii) a condition precedent to Denver Capital's obligation to proceed with a Closing is not satisfied, then Denver Capital may terminate this Agreement, whereupon the Earnest Money, Closing Escrow, and the amount left in the City Cost Escrow after the final settlement per Section 2.C.2.c.iv of the Zoning Ordinance must be promptly returned to Denver Capital, and the Parties will have no further rights or obligations under this Agreement, except for those rights, liabilities or obligations that survive a termination of this Agreement.

- (ii) In the event that a Party elects to seek specific performance, it hereby agrees that it will bring such action within 60 days after the scheduled Closing Date, or else such remedy will be deemed waived. If the Party does not institute an action for specific performance within 60 days after the scheduled Closing Date, time being of the essence, then such Party will be deemed to have waived its right to pursue specific performance.

F. **Assignability/Successors and Assigns.** Denver Capital's rights under this Agreement are intended to be personal to Denver Capital and may not be assigned by Denver Capital to any other person or entity without prior written consent of City, which consent may be granted or withheld in City's sole and absolute discretion; provided, however, that Denver Capital may assign the Agreement to an Affiliate of Denver Capital or a joint venture in which an Affiliate of Denver Capital is a partner or member. For purposes of this Agreement, "Affiliate" means persons or entities that directly or indirectly control or are controlled by, or are under common control with, Denver Capital. Any assignment made without City's prior written approval will be void. No assignment will release Denver Capital from any obligation or liability under this

Agreement. This Agreement is binding upon and inures to the benefit of the parties hereto and their respective successors and assigns.

G. **Prevailing Party Attorney Fees.** In any litigation filed to enforce this Agreement, the prevailing Party will be entitled to recover from the other Party its reasonable attorney's fees, litigation expenses, and court costs at trial and on appeal that are incurred in such litigation. The "prevailing Party" is to be determined by the court hearing such matter.

H. **Venue.** Venue for any litigation concerning the enforcement of this Agreement will be in the 18<sup>th</sup> Judicial Circuit Court in DuPage County, Illinois.

I. **Compliance with Applicable Laws; Governing Law.** In performing their obligations under this Agreement, the Parties will comply with all applicable federal, state, and local statutes, regulations, requirements, ordinances, and other laws ("**Applicable Laws**"). The internal laws of the State of Illinois, without regard to its conflict of laws rules, govern the interpretation of this Agreement.

J. **Execution of Agreement.** The Parties may execute this Agreement in multiple counterparts, all of which taken together will constitute a single Agreement binding on the Parties, notwithstanding that the Parties are not signatories to the same counterpart. This Agreement will be deemed fully executed, and effective as of the Effective Date, when each Party has executed at least one counterpart. Any signature of a Party to this Agreement that is sent by that Party to the other Party via an email transmission in a PDF format will be deemed a binding signature hereto. Each Party must deliver an original signature to the other Party upon the other Party's request.

K. **Notices.** Any notice or communication required or permitted to be given under this Agreement must be in writing and must be delivered (1) personally, (2) by a reputable overnight courier, (3) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid, or (4) by e-mail. E-mail notices will be deemed valid and received by the addressee thereof when delivered by e-mail and acknowledged by the addressee. Unless otherwise expressly provided in this Agreement, notices will be deemed received upon actual receipt. By notice complying with the requirements of this Section, each Party will have the right to change the address or the addressee, or both, for all future notices and communications to such Party, but no notice of a change of addressee or address will be effective until actually received.

Notices and communications to City must be addressed to, and delivered at, the following address:

City of Warrenville  
Attention: Cristina White, City Administrator  
3S258 Manning Avenue  
Warrenville, Illinois 60555  
Email: cwhite@warrenville.il.us

With a copy to:

Elrod Friedman LLP  
350 North Clark Street, Second Floor  
Chicago, Illinois 60654  
Attention: Brooke Lenneman

E-mail: brooke.lenneman@elrodfriedman.com

Notices and communications to Denver Capital must be addressed to, and delivered at, the following address:

Denver Capital  
Attention: Kevin Dermondy  
E-mail: kd29784@gmail.com>

With a copy to:

The Collins Law Firm, P.C.  
1770 Park, Suite 200  
Naperville, IL 60563  
Attention: Robert Dawidiuk  
E-mail: [rdawidiuk@collinslaw.com](mailto:rdawidiuk@collinslaw.com)

Any notice will be deemed given upon actual receipt. Nothing in this Section will be deemed to invalidate a notice that is actually received, even if it is not given in strict accordance with this Section.

L. **No Partnership.** Nothing contained in the Agreement may be construed to create a partnership or joint venture between the Parties.

M. **No Recordation.** The Parties agree not to record this Agreement or any memorandum hereof.

N. **Intentionally Omitted**

O. **No Third Party Beneficiary.** The provisions of this Agreement are and will be for the benefit of City and Denver Capital only and are not for the benefit of any third party, and, accordingly, no third party will have the right to enforce the provisions of this Agreement.

**Section 15. Effective Date.** This Agreement will be deemed dated and become effective on the date that is the later to occur of (a) the date that the authorized signatory of City signs this Agreement, and (b) the date that the authorized signatory of Denver Capital signs this Agreement.

**Section 16. Right of Reverter.**

A. If Denver Capital fails to (i) obtain a building permit for vertical construction of the Development, and (ii) complete the first inspection of the applicable work, within 18 months of the Closing Date, City will have the right to require that ownership of the Property revert to City ("**Right of Reverter**").

B. Upon City's exercise of such Right of Reverter, Denver Capital (or any successor owner) will cooperate with the City to take all necessary actions to promptly execute and deliver a special warranty deed, duly executed and acknowledged in recordable form, reconveying fee simple title to the Property to City, subject only to those exceptions contained in the Deed to Denver Capital (or any designated assignee)(plus any exceptions entered into after such date between Denver Capital and City). Upon reversion, City will pay Denver Capital an amount equal to the Purchase Price that Denver Capital originally paid City for the Property.

C. If Denver Capital (or any successor owner) fails to execute and deliver the necessary documents to effectuate the reversion, City will have the right to take any necessary legal action, including specific performance, to confirm and enforce the reversion, and City will be entitled to recover reasonable attorney's fees and court costs incurred in connection with such litigation. If Denver Capital has applied for a complete permit, including all required plans, details, specifications, fees, and other City requirements, within 18 months after the Closing Date, believes the City has improperly failed to issue the permit, and such failure risks triggering the Right of Reverter, Denver Capital may take necessary legal action to protect itself against the City's exercise of the Right of Reverter, including, without limitation, seeking a writ of mandamus. If Denver Capital takes such legal action, the prevailing party will be entitled to recover reasonable attorneys' fees and court costs incurred in connection with such litigation.

D. The Right of Reverter as described in Subsection A and B of this Section will be documented in the Deed conveying title to the Property from the City to Denver Capital and will be binding upon Denver Capital and its successors and assigns as a covenant running with the land.

E. Denver Capital, or its successor or assign, may notify the City at least 45 days prior to the expiration of the 18-month timeframe set forth in the Right of Reverter that it will require a six-month extension of the 18-month timeframe, but only if Denver Capital, or its successor or assign, has either (a) obtained the requisite permit but was delayed in commencing construction due a Uncontrollable Circumstance (as defined below); or (b) filed a complete permit application, including all required plans, details, specifications, fees, and other City requirements, for vertical construction within one year after the Closing Date and has diligently attended to the permit application review process, but, nevertheless, the permit application review process was not completed, and the permit was not issued, with sufficient time to complete the first inspection of the applicable work within the 18-month timeframe. Upon receipt of the notice of a requested extension, the City and Denver Capital will enter into an addendum to this Agreement and the Development Agreement pursuant to which the City will agree not to exercise the Right of Reverter until the after the expiration of the extension. Thereafter, the Parties may extend the deadline further by mutual agreement documented in writing in the form of another addendum.

For the purposes of this Section 16.E, "Uncontrollable Circumstance" means any of the following events and circumstances that materially change the ability of Developer to meet the obligations and deadlines set forth in the Right of Reverter:

1. a change in the law, other than an action taken by the City to repeal the Governmental Approvals due to a default under the Development Agreement or failure to comply with the Governmental Approvals;
2. insurrection, riot, civil disturbance, sabotage, act of public enemy, explosion, nuclear incident, war, or naval blockade;
3. epidemic or pandemic, hurricane, tornado, landslide, earthquake, lightning, fire, windstorm, other extraordinary weather conditions preventing performance of work, or other similar Act of God;
4. governmental condemnation or taking other than by the City; or

5. strikes, lockouts, or labor disputes, other than those caused by the unlawful acts of Denver Capital, its partners, or affiliated entities.

“Uncontrollable Circumstance” does not include: (i) delays caused by weather conditions, unless the weather conditions are unusually severe or abnormal considering the time of year and the particular location involved; or (ii) economic hardship, impracticability of performance, commercial, economic, or market conditions, or a failure of performance by a contractor (except as caused by events that are Uncontrollable Circumstances as to the contractor).

The City and Denver Capital will include in the Development Agreement a provision that is substantially similar to this Subsection 16.E.

F. Reserved.

G. If City has not exercised the Right of Reverter, and Denver Capital (i) obtains a building permit for vertical construction, and (ii) completes the first inspection of the work on the Property within 18 months of the Closing Date (or any extension thereof pursuant to Section 16.E of this Agreement), the Right of Reverter will automatically terminate and be of no further force or effect. The City will cooperate with Denver Capital to record documentation of the termination at the DuPage County Recorder’s Office.

H. If Denver Capital intends to transfer a legal or beneficial interest in any portion of the Property after Closing, Denver Capital must: (i) notify the City at least 30 days prior to any transfer, and (ii) incorporate the Development Agreement by reference into any and all real estate sales contracts for transfers, as defined in the Development Agreement.

I. Survival. This Section 16 of this Agreement will survive the Closing until either the City exercises its Right of Reverter, the Right of Reverter is terminated pursuant to Subsection 16.G, or 20 years, whichever occurs first.

(Signatures Appear on Following Page)

**IN WITNESS WHEREOF**, City and Denver Capital have executed this Agreement on the dates set forth below, effective as of the later of the dates set forth below.

**CITY OF WARRENVILLE,**  
an Illinois municipal corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**DENVER CAPITAL, LLC,**  
an Illinois limited liability company

By:  \_\_\_\_\_

Name: Ryan Dermody

Trustee SPH Family Trust, Manager Wharf

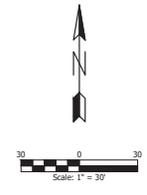
Title: Holdings, Member/Manager Denver Capital LLC

Date: 01/30/26

EXHIBIT A

DEPICTION OF CITY PROPERTY AND PROPERTY





**NEW DRAFT LEGAL DESCRIPTION**

THE WEST 140 FEET OF LOT 8 AND THE WEST 140 FEET OF THE SOUTH 12.22 FEET OF LOT 7 IN BLOCK 5 IN THE PLAT OF THE TOWN OF WARRENVILLE, BEING A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 39 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AS DOCUMENT R1860-001193, IN DUPAGE COUNTY, ILLINOIS.

ALSO

THAT PART OF LOT 9 IN BLOCK 5 IN THE TOWN OF WARRENVILLE, BEING A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 39 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AS DOCUMENT R1860-001193, IN DUPAGE COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 9; THENCE NORTH 88 DEGREES 02 MINUTES 21 SECONDS EAST ALONG THE NORTH LINE OF SAID LOT 9, A DISTANCE OF 140.00 FEET; THENCE SOUTH 01 DEGREES 57 MINUTES 15 SECONDS EAST AND PARALLEL TO THE WEST LINE OF SAID LOT 9, A DISTANCE OF 63.92 FEET; THENCE SOUTH 71 DEGREES 50 MINUTES 43 SECONDS EAST, A DISTANCE OF 27.55 FEET TO THE SOUTH LINE OF SAID LOT 9; THENCE SOUTH 88 DEGREES 02 MINUTES 21 SECONDS WEST ALONG SAID SOUTH LINE OF LOT 9, A DISTANCE OF 165.87 FEET TO THE SOUTHWEST CORNER OF SAID LOT 9; THENCE NORTH 01 DEGREES 57 MINUTES 15 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 9 TO THE POINT OF BEGINNING.

ALSO

THAT PART OF LOT 1 OF OLD TOWN REDEVELOPMENT SITE 2, BEING A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 39 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 1, 2025 AS DOCUMENT R2025-018168 IN DUPAGE COUNTY, ILLINOIS, LYING SOUTHERLY OF THE FOLLOWING DESCRIBED LINE: COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE NORTH 88 DEGREES 02 MINUTES 21 SECONDS EAST ALONG A NORTH LINE OF SAID LOT 1, A DISTANCE OF 165.87 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 71 DEGREES 50 MINUTES 43 SECONDS EAST, A DISTANCE OF 113.39 FEET TO TO THE POINT OF TERMINUS BEING ON THE EASTERLY LINE OF SAID LOT 1 AND NORTH 19 DEGREES 15 MINUTES 35 SECONDS EAST, 159.32 FEET FROM THE SOUTHEAST CORNER OF SAID LOT 1.



**CITY OF WARRENVILLE**  
 JOSH WALKER, Mayor, IL 0055  
 JOSH WALKER, Mayor, IL 0055  
 (630) 393-3000

**OLD TOWN REDEVELOPMENT SITE # 2**  
 THE CORNER OF WARRENVILLE AND WILSON ROAD  
 PROJECT # W22260.00

DATE	: 01-10-2024
PROJECT #	: W22260.00
DESIGNED BY	: SG / RB
DRAWN BY	: SG / RB
CHECKED BY	: TF
DESCRIPTION	: 2024-02-26 COST REVISION

PROP EXHIBIT

**EX-1.0**  
 SHEET

**EXHIBIT B**  
**LEGAL DESCRIPTION OF THE PROPERTY**

THE WEST 140 FEET OF LOT 8 AND THE WEST 140 FEET OF THE SOUTH 12.22 FEET OF LOT 7 IN BLOCK 5 IN THE PLAT OF THE TOWN OF WARRENVILLE, BEING A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 39 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AS DOCUMENT R1860-001193, IN DUPAGE COUNTY, ILLINOIS.

ALSO

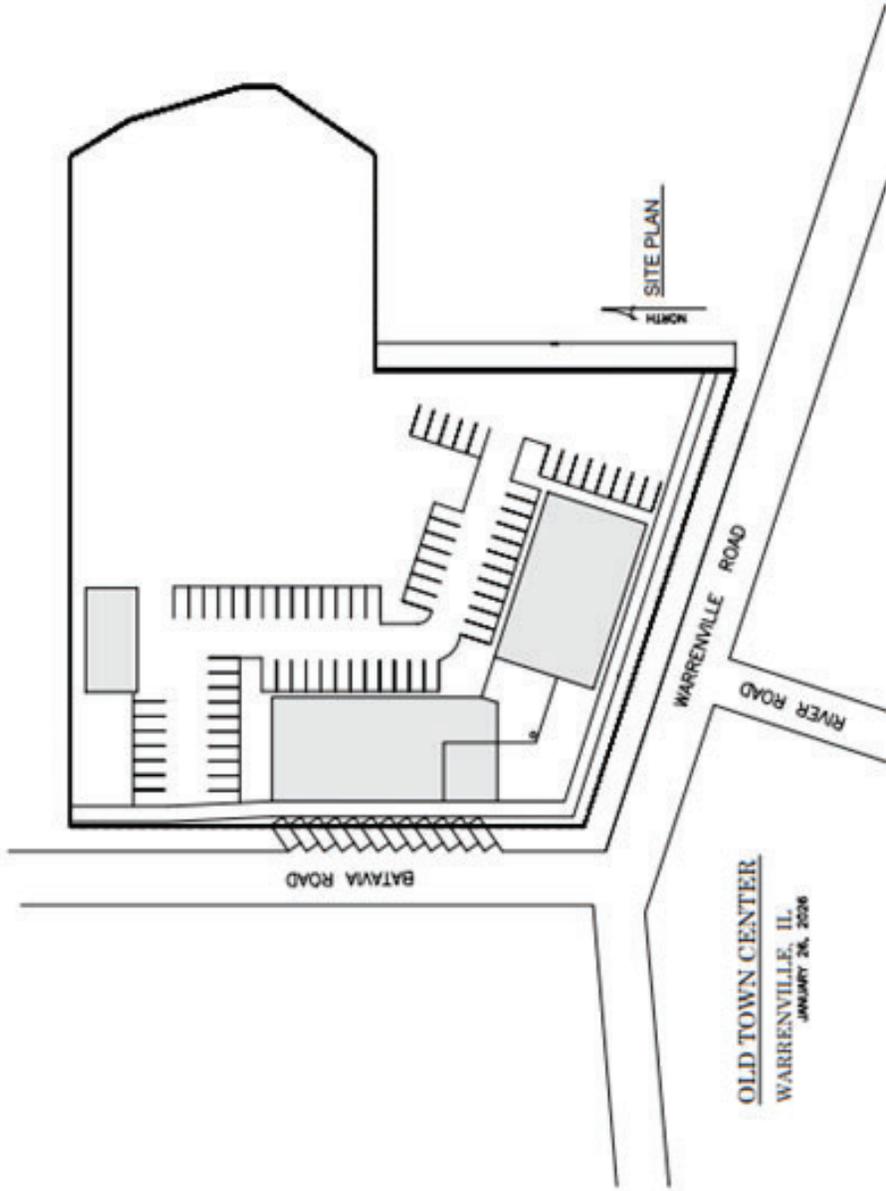
THAT PART OF LOT 9 IN BLOCK 5 IN THE TOWN OF WARRENVILLE, BEING A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 39 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AS DOCUMENT R1860-001193, IN DUPAGE COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 9; THENCE NORTH 88 DEGREES 02 MINUTES 21 SECONDS EAST ALONG THE NORTH LINE OF SAID LOT 9, A DISTANCE OF 140.00 FEET; THENCE SOUTH 01 DEGREES 57 MINUTES 15 SECONDS EAST AND PARALLEL TO THE WEST LINE OF SAID LOT 9, A DISTANCE OF 63.52 FEET; THENCE SOUTH 71 DEGREES 50 MINUTES 43 SECONDS EAST, A DISTANCE OF 27.55 FEET TO THE SOUTH LINE OF SAID LOT 9; THENCE SOUTH 88 DEGREES 02 MINUTES 21 SECONDS WEST ALONG SAID SOUTH LINE OF LOT 9, A DISTANCE OF 165.87 FEET TO THE SOUTHWEST CORNER OF SAID LOT 9; THENCE NORTH 01 DEGREES 57 MINUTES 15 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 9 TO THE POINT OF BEGINNING.

ALSO

THAT PART OF LOT 1 OF OLD TOWN REDEVELOPMENT SITE 2, BEING A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 39 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 1, 2025 AS DOCUMENT R2025-018168 IN DUPAGE COUNTY, ILLINOIS, LYING SOUTHERLY OF THE FOLLOWING DESCRIBED LINE: COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE NORTH 88 DEGREES 02 MINUTES 21 SECONDS EAST ALONG A NORTH LINE OF SAID LOT 1, A DISTANCE OF 165.87 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 71 DEGREES 50 MINUTES 43 SECONDS EAST, A DISTANCE OF 113.39 FEET TO TO THE POINT OF TERMINUS BEING ON THE EASTERLY LINE OF SAID LOT 1 AND NORTH 19 DEGREES 15 MINUTES 35 SECONDS EAST, 159.32 FEET FROM THE SOUTHEAST CORNER OF SAID LOT 1.

**EXHIBIT C**  
**PROPOSED DEVELOPMENT PLAN**

Exhibit C



OLD TOWN CENTER  
WARRENVILLE, IL  
JANUARY 26, 2026

