

ORDINANCE NO. F-1058

**AN ORDINANCE AUTHORIZING THE SIGNING OF AN
ANNEXATION AGREEMENT -
PAPWORTH STREET BETWEEN GENEVA ROAD AND AMY LANE
S&K DEVELOPMENT, LLC**

WHEREAS, a written petition has been filed with the City Clerk of Wheaton, Illinois, requesting the annexation to the City of Wheaton, Illinois ("City"), of certain territory legally described in Exhibit 'A' which is contiguous to the boundaries of the City and not within the corporate boundaries of any other municipality, pursuant to a proposed Annexation Agreement which sets forth the terms and conditions under which annexation shall take place; and

WHEREAS, pursuant to notice, a public hearing was conducted by the City Council on May 23, 2005, to consider the terms and conditions of the proposed Annexation Agreement; and

WHEREAS, an Annexation Agreement dated June 20, 2005, among the City and S&K Development, LLC ("Developer") ("Annexation Agreement"), is the direct result of deliberations on the proposed Annexation Agreement pursuant to the public hearing and other meetings before the City Council and City Staff.

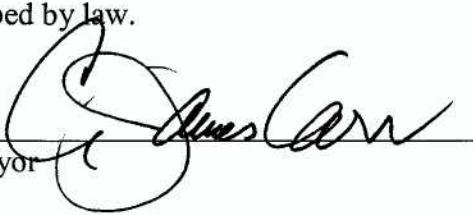
NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, DuPage County, Illinois, pursuant to its home rule powers, as follows:

Section 1: The Mayor of the City is authorized and directed to sign, on behalf of the City, the Annexation Agreement, and the City Clerk is authorized and directed to attest to the signature of the Mayor and affix the corporate seal of the City thereon. A copy of the Annexation Agreement is on file in the Office of the City Clerk and is incorporated into this ordinance by this reference as though fully set forth herein.

Section 2: The Annexation Agreement shall be recorded in the Office of the Recorder of Deeds, DuPage County, Illinois, at the expense of the Owners.

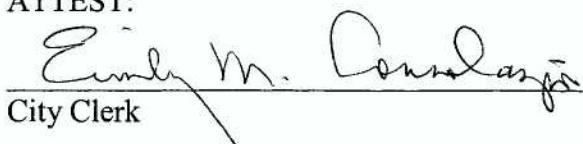
Section 3: All ordinances or parts of ordinances in conflict with these provisions are repealed.

Section 4: This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.



Mayor

ATTEST:



Emily M. Consalvo
City Clerk

Roll Call Vote

Ayes: Councilman Mouhelis
Councilman Bolds
Councilwoman Corry
Councilman Johnson
Mayor Carr
Councilman Levine

Nays: Councilman Seuss

Absent: None

Motion Carried

Passed: June 20, 2005
Published: June 21, 2005

ANNEXATION AGREEMENT

between

THE CITY OF WHEATON, an ILLINOIS municipal corporation,

and

S&K DEVELOPMENT, LLC, an Illinois limited liability company

Dated: June 20, 2005

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THIS INSTRUMENT PREPARED BY
AND RETURN TO:

Scott E. Pointner, Esq.
RATHJE & WOODWARD
300 E. Roosevelt Road, Ste. 300
Wheaton, IL 60187

ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT, made and entered into this 23rd day of June, 2005 among the City of Wheaton, Illinois, an Illinois municipal corporation, located in DuPage County, State of Illinois ("City"), and S&K DEVELOPMENT, LLC, an Illinois limited liability company ("S&K") (S&K is sometimes hereinafter referred to as the "Owner"). The City and S&K are sometimes referred to herein individually as "Party" and collectively as the "Parties".

RECITALS:

- A. S&K owns or controls the real estate legally described in Exhibit "A" (the "Subject Property"), comprising approximately 5.6 acres.
- B. The Subject Property is located in unincorporated DuPage County, Illinois, and zoned under the DuPage County Zoning Ordinance.
- C. The Subject Property is contiguous to the corporate limits of the City.
- D. It is the desire of the Owner that the Subject Property, pursuant to the provisions of Division 15.1 of Article 11 of Chapter 65 of the Illinois Compiled Statutes and upon the terms and conditions contained in this Agreement, be annexed to the City.
- E. The Owner is desirous of constructing nineteen (19) single family dwelling units upon the Subject Property under the R-4 District, with a special use for planned unit development ("PUD"), of the City's Zoning Ordinance.

F. The City has concluded that annexation of the Subject Property under the terms and conditions of this Agreement would further the growth of the City, enable the City to control the development of the area, increase the taxable value of the property within the City, extend the corporate limits and jurisdiction of the City, permit the sound planning and development of the City, and otherwise enhance and promote the health, safety, and general welfare of the City.

G. Pursuant to the provisions of Section 6.1, et.seq., of the Wheaton City Code and applicable provisions of the Illinois Compiled Statutes and Illinois Constitution, a proposed annexation agreement in substance and form of the same as this Agreement was submitted to the Wheaton City Council, and a public hearing was held thereon pursuant to notice as provided by ordinance and statute.

H. Notice has been duly served in the manner provided by statute on the appropriate governmental entities and an affidavit that service of said notice has been duly served has been placed on record with the Recorder of Deeds, DuPage County, Illinois.

I. The City has had such hearings and heard such testimony as prescribed by law with respect to the requested zoning classification of R-4 Residential District with issuance of a special use permit for a PUD.

K. The City, by a favorable vote of at least two-thirds (2/3) of the corporate authorities then holding office, has adopted an ordinance authorizing the execution of this Agreement.

NOW, THEREFORE, in consideration of the foregoing preambles and mutual covenants and agreements contained herein, the Parties hereto agree as follows:

1. **LEGAL CONFORMANCE WITH LAW.** This Agreement is made pursuant to and in accordance with the provisions of the Wheaton City Code and applicable provisions of the Illinois Compiled Statutes and Illinois Constitution.

2. **PETITION TO ANNEX.** The Owner has filed with the Clerk of the City, a petition pursuant to the provisions of Section 7-1-8 of the Illinois Compiled Statutes [65 ILCS 3/7-1-8], conditioned upon the signing of this Agreement, to annex the Subject Property to the City. The petition is attached as Exhibit "B". This Agreement in its entirety, together with the aforesaid petition for annexation, shall be null, void, and of no force and effect unless the Subject Property is validly zoned and classified under the City's Zoning Ordinance as hereinafter set forth and amended.

3. **ANNEXATION ORDINANCE.** Immediately upon the execution of this Agreement, the City Council will enact an ordinance annexing the Subject Property to the City.

4. **REZONING/PRELIMINARY PUD PLAN.** Immediately upon the execution of the ordinance annexing the Subject Property to the City, the City will enact an ordinance approving the Owner's PUD plan, including but not limited to the re-zoning of the Subject Property and the granting of planned unit development approval which approves the development of the Subject Property with exceptions from the Zoning Ordinance and the Subdivision Ordinance as provided for below.

A. **Rezoning:** Immediately after the passage of the ordinance annexing the Subject Property, the City shall, without further hearing, adopt an ordinance amending its Zoning Map, which is part of the Zoning Ordinance of the City and the Comprehensive Plan of the City, zoning and classifying the Subject Property in the R-4 Residential District with issuance of a special use permit for a planned unit development.

B. **Preliminary PUD Plan:** In conjunction with the rezoning and special use for PUD provided in Paragraph 4.A. of this Agreement, the Owner has submitted that certain preliminary planned unit development plan (the "Preliminary

PUD Plan") attached herein as Exhibit "C". The City has reviewed and approved the Preliminary PUD Plan with respect to the number of lots, stormwater management facilities, public improvements, and other aspects of the development for the Subject Property. The Parties agree that the development and use of the Subject Property shall generally conform to the Preliminary PUD Plan. The proposed development of the Subject Property in substantial conformity with the PUD Plan shall comply with all of the applicable requirements of the City Code, unless otherwise hereafter approved by the City Council.

- C. Standards For Development of PUD: Section 5.11 of the Zoning Ordinance was established to encourage imaginative design of coordinated land uses, and to allow for relief from the subdivision and zoning district requirements which are designed for conventional developments and may inhibit innovative development and cause undue hardship with regard to the use of parcels. The provisions of Section 5.11 are further designed to provide safe and desirable living and working environments, characterized by a unified building and site development program. The City agrees that it will approve the exceptions as outlined herein at the time of Planned Unit Development Approval. Therefore, the City agrees that the following standards shall govern with respect to the development of the Subject Property in any case where the standards now or hereafter provided in the Zoning Ordinance shall conflict or in any case where there shall be no applicable standards:

1. The following exceptions from the codes and ordinances of the City shall be granted for the Subject Property:
 - a. The minimum lot depth shall be reduced to 110 feet from the 132 otherwise required by City Code Section 62-214.
 - b. The maximum lot coverage for lots under 9,000 square feet shall be increased to 40% from the 33 1/3% otherwise required by City Zoning Ordinance Section 10.2.3.
 - c. The minimum front yard setback shall be reduced to 22 1/2 feet from the 30 feet otherwise required by City Zoning Ordinance Section 10.2.5.
 - d. The minimum side yard setback shall be reduced to 5 feet from the various other setbacks required by City Zoning Ordinance Section 3.4A5.
 - e. The minimum rear yard setback shall be reduced to 22 1/2 feet from the 25 feet otherwise required by City Zoning Ordinance Section 3.4A6, although the minimum rear yard setbacks for decks and patios shall be 12 1/2 feet.
2. The exceptions granted as part of the special use permit shall be granted subject to the condition that the Final PUD Documents are in substantial conformance with the Preliminary PUD Plan approved by the City. The preliminary plans (the "Preliminary Plans") consist of the following documents, which are hereby incorporated herein by reference:

- a. The Preliminary Planned Unit Development Plan dated May 24, 2005;
- b. The Landscape Plan dated March 21, 2005;
- c. The Preliminary Engineering Plans dated May 24, 2005; and
- d. The Plat of Annexation dated March 21, 2005.

5. OWNERSHIP AND CONTROL OF PUD. The Owner shall have the right to convey, for separate ownership, the individual single family lots (lots 1 through 19) pursuant to Section 5.11.D.2 of the City Zoning Ordinance (the eventual owners of the single family lots are sometimes hereinafter referred to collectively as the "Lot Owners"), provided the Owner subjects the Subject Property to a declaration of covenants, conditions and restrictions (sometimes hereinafter the "Declaration") as a covenant running with the land, which provides for the unified ownership and control of, and maintenance obligations for, Lots 20 and 21, as well as the private drive known as "Windham Court", all as identified on the Preliminary PUD Plan (Lot 20, Lot 21, and Windham Court are sometimes hereinafter collectively referred to as the "Common Facilities"). The Declaration shall be submitted to the City for approval as part of the Owner's application for final approval. The Declaration shall be subject to the reasonable approval of the City and shall include assurances that the ownership, control, and maintenance of the Common Facilities shall be effectuated in perpetuity; and that the City has further assurances that it has the power to enforce the Declaration at no net cost to the City in the event the Common Facilities are not properly owned, controlled, and maintained in conformance with applicable City Codes. The Declaration shall be recorded against the Subject Property and shall survive the termination of this Annexation Agreement.

6. SANITARY SEWER, WATER, AND STORM WATER FACILITIES. The City agrees to cooperate in obtaining such permits as may be required from time to time by both Federal and State law, including (without limitation) the Illinois Environmental Protection Act, permitting the connection onto the sanitary lines of the Wheaton Sanitary District in order to develop and use the Subject Property. In addition, the City will accept dedication of all sanitary sewer mains located within the Corporate limits of the City and constructed by the Owner in accordance with the Final Plans, pursuant to Chapter 62 of the Wheaton City Code, as modified by Paragraph 18 of this Agreement. The location and size of the sanitary sewer mains to be installed by the Owner shall be in conformity with the Final Engineering Plans, subject to final engineering considerations.

The City will accept dedication of all primary water mains constructed by the Owner in accordance with the Final Plans pursuant to Chapter 62 of the Wheaton City Code. The location and size of the water lines to be installed by the Owner shall be in substantial conformance with the Preliminary Plans, subject to final engineering considerations as approved by the Director of Engineering.

The Owner agrees to design and construct suitable storm water facilities for the Development which comply with the requirements and standards contained in Chapter 34 of the Wheaton City Code, the DuPage County Countywide Stormwater and Floodplain Ordinance, and all other applicable statutes and ordinances. The City's approval of the Final Plans shall be proof of the Owner's compliance with the requirements of the previous sentence.

7. IRREVOCABLE LETTER OF CREDIT. In lieu of a construction bond or development bond or bonds, the City will accept an irrevocable letter of credit from a reputable banking institution to guarantee construction and quality of all public and storm water management facilities to be constructed on the Subject Property. Said letter of credit shall be in the amount of one

hundred twenty-five percent (125%) of the Owner's engineer's estimate of construction costs (as approved by the City Engineer) or one hundred percent (100%) of the contract costs of construction of all of the public facilities. Said letter of credit shall be in a format approved by the City Attorney and shall be payable to the City of Wheaton.

The letter of credit shall be issued and presented to the City on or before the date that the City approves the Final Plans. As the Owner completes the items within the letter of credit, the Owner may apply to the City for acceptance of said improvements in accordance with applicable ordinances of the City. The Owner agrees to cause the letter of credit to be extended to cover the actual time of construction.

8. MINOR CHANGES IN DEVELOPMENT. Minor variations or deviations from the Preliminary Plans may be approved in conformance with Section 5.11F of the City Zoning Ordinance.

9. BUILDING PLAN. The Owner shall be required to submit a building plan and building permit application for each building to be constructed as a part of the PUD on the Subject Property. A building permit must be obtained and the appropriate permit fee paid as required by the applicable Wheaton ordinances for each building to be constructed.

10. MODEL HOMES. The Owner shall have the right, after the City approves the Final Plans and subject to issuance of a building permit in accordance with the requirements of this Agreement, to construct up to two (2) model homes on two separate Lots on the Subject Property. The use of dwelling units for model homes and/or sales offices shall be terminated within thirty (30) business days following the issuance of the final occupancy permit for the last dwelling unit constructed on the Subject Property.

11. ANNEXATION AND PERMIT FEES. The amount of the permit, license, tap-on or connection fees imposed by the City which are applicable to or required to be paid by the Owner or successor owners or developers, contractors, subcontractors, material men, or others performing work or supplying materials in connection with the development or construction of improvements on the Subject Property shall be the amount or rate of said fees in effect at the time of application for the same.

12. SCHOOL AND PARK CASH CONTRIBUTIONS. Pursuant to Section 62-326 of the City Code, the Owner shall comply and make cash donations in lieu of actual land dedications for schools and parks to serve the immediate and future needs of the residents of the development, in the amounts of \$51,300.00 and \$62,700 respectively, payable in accordance with the City Code.

13. WHEATON PARK DISTRICT ANNEXATION. Owners agree to annex, pursuant to applicable Illinois statute, the Subject Property to the Wheaton Park District within one (1) year from the date of this Agreement.

14. PROPERTY OWNERS' ASSOCIATION – MAINTENANCE. The Declaration shall provide for all necessary and proper easements granted to the City to provide the City the rights necessary to own and maintain the sanitary sewer, water, and stormwater mains and appurtenances thereto upon the Subject Property. For the funding and implementation of the care and maintenance of the Common Facilities, as well as the landscaping and other architectural features identified on the Landscape Plan, including but not limited to the Coach Lights identified thereon (collectively the "Landscape and Architectural Features"), which the Parties hereby agree are shared for the common benefit of the Lot Owners, the Owner shall establish an association of owners (the "Owners' Association") pursuant to the Declaration. The Declaration shall obligate the Lot Owners to participate in the care and maintenance of the Common Facilities and the Landscaping and

Architectural Features. The Declaration shall provide for the right and authority, but not the obligation, of the City to enforce proper maintenance and care of the Common Facilities and the Landscaping and Architectural Features, and the right of the City to carry out such maintenance and care, and collect the cost thereof from the Lot Owners, including the right of lien against the real property owned by the Lot Owners. Such maintenance responsibilities and rights of the City shall not be amendable under the Declaration without the City's prior written consent.

Any common elements, including but not limited to private streets, which are damaged or otherwise altered as a result of the City's repair or maintenance of any easement identified in any section of this Agreement shall be restored by the Owner's Association in conformance with City Codes and regulations at its sole cost and expense. This obligation shall survive the termination of this Annexation Agreement.

15. AMENDMENTS TO ORDINANCES. Except as expressly hereinafter provided, the Subject Property shall be developed and used in conformance with the City's Zoning Ordinance, Subdivision Control Ordinance, Building Codes, and other Ordinances, Codes, Rules and Regulations of the City pertaining to the development of the Subject Property. The Ordinances, Codes, Rules and Regulations existing on the date of application for building/site development permits shall be applicable, except as this same may be specifically amended pursuant to the terms of this Agreement.

16. OFF-SITE IMPROVEMENTS. The Owner shall be responsible for the improvement of Papworth Street along the eastern edge of the Subject Property and extended north to Geneva Road, pursuant to the Preliminary Engineering Plan.

17. LIENS AND ENCUMBRANCES; RECAPTURE. The City hereby represents that to the best of its knowledge, there are currently no recapture agreements or recapture ordinances

affecting the public utilities which will be utilized to service the Subject Property of which the City has any knowledge or under which the City is or will be required to collect recapture amounts from the Owner or its successors, upon connection of the Subject Property to any of the public utilities contemplated herein. Also, the City does not have any knowledge of any pending or contemplated requests for approval of any such recapture agreement(s) or ordinance(s) which will affect the Subject Property.

Despite the foregoing representations the City does not waive or release any applicable ordinances related to the recapture, or the design or construction of water or sewer mains and their appurtenances for the benefitted properties.

18. ACCEPTANCE OF PUBLIC IMPROVEMENTS. The procedure for acceptance by the City of any public improvement constructed as part of the development of the Subject Property shall be as provided in the Subdivision Improvement Agreement to be hereafter entered into between the City and the Owner.

19. GENERAL PROVISIONS.

A. TERM OF AGREEMENT. This Annexation Agreement shall be binding upon the Parties hereto, their respective successors and the assigns for a full term of twenty (20) years from the date of this Agreement. The agreements contained herein expressly survive the annexation of the Subject Property and shall not be merged or expunged by the annexation of the Subject Property or any part thereof to the City.

B. INDEMNIFICATION. The Owner shall indemnify and hold the City harmless from all injuries to persons and property which arise due to the negligence of the Owner, its agents, assigns, employees, contractors, and subcontractors. The Owner, as the case may be, shall indemnify and hold the City harmless from all causes of action, suits, judgments, settlements, legal fees, and

all other costs which may be incurred by the City as a result of the aforesaid negligence. The Owner shall provide the City with certificates of insurance as required by any PUD Improvement Agreement hereafter entered between the City and the Owner. The Owner shall further defend and hold the City harmless from any and all actions directed at setting aside any portion of, or all of this Annexation Agreement and/or the annexation and rezoning of the Subject Property.

C. BINDING EFFECT; RECORDING. This Agreement shall be binding upon the Parties hereto, their heirs, executors, administrators, assigns, successors, and grantees. It is understood that this Agreement shall run with the land and, as such, shall be assignable to and binding upon subsequent grantees, lessees, and successors in interest of the Owner, and as such, this Agreement and all exhibits hereto shall be recorded with the Recorder of Deeds of DuPage County, Illinois. Upon the conveyance of any of the Owner's interest in a phase of development or any portion of the Subject Property to a third party ("Transferee"), the rights and obligations contained herein of such Transferor, shall be deemed assigned to and assumed by such Transferee, and such Transferor shall thereupon be released and discharged by the City from any further obligation pertaining to such identified rights and duties pertaining to the portion of the Subject Property that was transferred. The Transferee shall thereupon be entitled to exercise all rights and authorities and shall perform all duties and obligations of such Transferor pertaining to the portion of the Subject Property so transferred. The Transferee shall comply with the applicable requirements of this Agreement pertaining to the posting of guarantees with the City affecting the portion of the Subject Property conveyed. Any such guarantee previously posted by the Transferor shall be released by the City upon the delivery to the City by the Transferee of a substitute guarantee in the appropriate amount, in proper form and issued by a financial institution approved by the City, which approval shall not be unreasonably conditioned, delayed or withheld.

D. NOTICES. Notices or other writings which any party is required to, or may wish to, serve upon any other party in connection with this Agreement shall be in writing and shall be deemed properly given on the date delivered personally or the second (2nd) business day following the date deposited in the U.S. mail by certified or registered mail, return receipt requested, postage prepaid, addressed as follows:

(i) If to the Owner: S&K Development, LLC
Attn: Kelly Knierim
586 Kelly Avenue
Yorkville, IL 60560

with a copy to: Rathje & Woodward
Attn: Scott E. Pointner, Esq.
300 E. Roosevelt Road, Ste. 300
Wheaton, IL 60187

(ii) If to City: City of Wheaton
City Clerk
City of Wheaton
303 West Wesley Street
Wheaton, IL 60189-0727

or to such other address as either Party may from time to time specify in writing to the other in accordance with the terms hereof.

E. RECORDING. This Agreement shall be recorded in the Office of the Recorder of Deeds, DuPage County, Illinois at the expense of the Owner.

F. PARAGRAPH AND EXHIBIT REFERENCES. All references to section and paragraph numbers contained in this Agreement shall mean the section or paragraph of such number contained in this Agreement, unless otherwise expressly provided therein. All references herein to an Exhibit shall mean such exhibit attached to this Agreement, unless otherwise expressly provided herein.

G. CAPTIONS AND PARAGRAPH HEADINGS. The captions and paragraph headings inserted in this Agreement are for convenience only and are not intended to, and shall not be construed to, limit, enlarge or affect the scope or intent of this Agreement nor the meaning of any provision hereof.

H. GOVERNING LAW. This Agreement shall be construed and governed by the laws of the State of Illinois.

I. COUNTERPARTS. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

J. BINDING EFFECT, SUCCESSION IN INTEREST. This Agreement shall constitute a covenant running with the land and be binding upon and inure to the benefit of the Parties hereto, their successors in interest, assignees, lessees, and upon any successor municipal authorities of the City and successor municipalities.

K. TIME OF THE ESSENCE. Time is of the essence of this Agreement.

L. INVALIDITY. If any provision of this Annexation Agreement, or any section, sentence, clause, phrase, or word, or the application thereof in any circumstances, is held invalid, the validity of the remainder of this Annexation Agreement and the application of such provision, section, sentence, clause, phrase, or word in any other circumstances shall not be affected thereby. Despite the foregoing, if any Lot Owner brings litigation to set aside any portion of or all of this Annexation Agreement, the City in its sole discretion may disconnect the property of said Lot Owner from the City and upon disconnection the City shall have no obligation to provide utilities to said Lot Owner's property.

M. AMENDMENT OF ANNEXATION AGREEMENT. This Agreement, and any exhibits or attachments hereto, may be amended from time to time in writing with the consent of the Parties hereto, pursuant to applicable provisions of Chapter 6 of the Wheaton City Code. This Agreement may be amended from time to time by written agreement between the City and the then legal owner of fee title to that portion of the Subject Property which is subject to and affected by such amendment; provided, that such amendment, if not executed by the then legal owner or owners of any other portion of the Subject Property, shall in no manner alter, amend, or modify any of the rights, duties or obligations as set forth in this Agreement as they pertain to such other portions of the Subject Property.

N. CONFLICT IN REGULATIONS. The provisions of this Annexation Agreement shall supersede the provisions of any ordinances, codes, or regulations of the City which may be in conflict with the provisions of this Annexation Agreement.

O. CONVEYANCES. Nothing contained in this Agreement shall be construed to restrict or limit the right of an Owner, its grantees, successors and assigns, to sell or convey all or any portion of the Subject Property, whether improved or unimproved.

P. NECESSARY ORDINANCES AND RESOLUTIONS. The Parties believe that following approval and execution of (1) this Agreement, (2) the approvals of the preliminary plans, and (3) the approvals of the final plans and plats, all ordinances which are required to give full legal effect to said approvals will be in affect. The City hereby agrees to adopt all ordinances or to correct any technical defects which may arise after the execution of this Agreement which are required to give legal effect to the matters contained in this Agreement, as well as any ordinance approving the annexation, rezoning, subdivision, and special use as contemplated herein. To the extent not

previously provided for, the City shall pass all ordinances and resolutions necessary to permit the Owner to develop the Subject Property in accordance with the provisions of this Agreement.

Q. RECITALS AND EXHIBITS. The recitals set forth at the beginning of this Agreement and the exhibits attached hereto are hereby incorporated into this Agreement and made a part of the substance hereof.

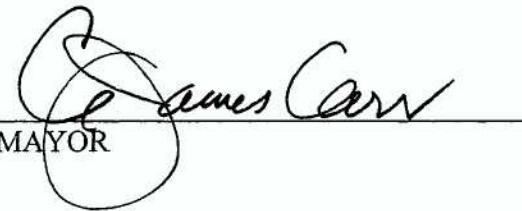
R. APPROVAL OF FINAL PLANS. The Final Plat of Subdivision, the Final PUD Plat, and remaining final plans required under the City Code and contemplated herein (collectively the "Final Plans") shall be approved if they are in substantial compliance with the preliminary plans approved herein.

[signatures on following page]

IN WITNESS WHEREOF, the Corporate authorities and the Owner have hereunto set their hands and seals, and have caused this instrument to be executed by their duly authorized officials and the Corporate seal attached here, all on the day and year first above written.

CITY:

By:


MAYOR

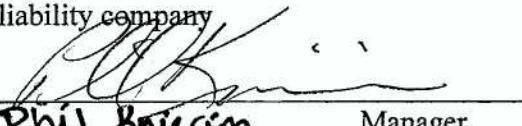
ATTEST:


CITY CLERK

OWNER:

S&K DEVELOPMENT, LLC, an Illinois limited liability company

By:


Phil Brucim, Manager

Printed June 16, 2005 (10:46am)
F:\SEPS&K Development\Papworth\Annexation\Annexation Agreement Draft 09.wpd

STATE OF ILLINOIS)
) SS
COUNTY OF _____)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that _____, _____, and _____, _____, of the CITY OF WHEATON, an Illinois municipal corporation, who are personally known to me to be the same persons whose names are subscribed to the foregoing instruments as such _____ and _____, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth; and the said _____ then and there acknowledged that he, as custodian of the records of the corporation, did affix the corporate seal of said corporation to said instrument as his own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this _____ day of _____, 200____

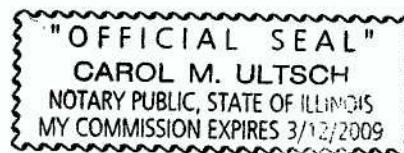
Notary Public

STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY, that Philip E. Knierim, personally known to me to be the Manager of S&K DEVELOPMENT, LLC, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such Manager, he signed and delivered the said instrument pursuant to authority given by the Members of said limited liability company, as his free and voluntary act, and as the free and voluntary act and deed of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 28th day of June, 2005

Carol M. Ulrich
Notary Public



SCHEDULE OF EXHIBITS

EXHIBIT "A":	LEGAL DESCRIPTION OF THE SUBJECT PROPERTY	A-1
EXHIBIT "B":	PETITION FOR ANNEXATION	B-1
EXHIBIT "C":	PRELIMINARY PUD PLAN	C-1

EXHIBIT "A"

LEGAL DESCRIPTION OF THE SUBJECT PROPERTY

PARCEL I - 25W133 GENEVA ROAD - 05-08-202-001 AND
25W1II GENEVA ROAD - 05-08-202-002

THAT PART OF THE NORTH EAST QUARTER OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED BY COMMENCING AT THE NORTH EAST CORNER OF SAID SECTION 8 AND RUNNING THENCE WESTERLY ALONG THE NORTH LINE OF SAID SECTION 8, A DISTANCE OF 678 FEET FOR A POINT OF BEGINNING; THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID SECTION 8, A DISTANCE OF 267.26 FEET; THENCE WEST PARALLEL WITH THE NORTH LINE OF SAID SECTION 8, A DISTANCE OF 326.0 FEET; THENCE NORTH PARALLEL WITH THE EAST LINE OF SAID SECTION 8, A DISTANCE OF 267.26 FEET TO THE NORTH LINE OF SAID SECTION 8; THENCE EAST ALONG SAID NORTH LINE, 326.0 FEET TO THE POINT OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS, EXCEPT THAT PART THEREOF DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTH EAST CORNER OF SAID SECTION 8 AND RUNNING THENCE WESTERLY ALONG THE NORTH LINE OF SAID SECTION 8, A DISTANCE OF 678 FEET FOR A POINT OF BEGINNING; THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID SECTION 8, A DISTANCE OF 40.00 FEET; THENCE WESTERLY PARALLEL WITH THE NORTH LINE OF SAID SECTION 8, A DISTANCE OF 33.00 FEET; THENCE SOUTHERLY PARALLEL WITH THE EAST LINE OF SAID SECTION 8, A DISTANCE OF 152.00 FEET; THENCE WESTERLY PARALLEL WITH THE NORTH LINE OF SAID SECTION 8, A DISTANCE OF 143.00 FEET; THENCE SOUTHERLY PARALLEL WITH THE EAST LINE OF SAID SECTION 8, A DISTANCE OF 9.0 FEET; THENCE WESTERLY PARALLEL WITH THE NORTH LINE OF SAID SECTION 8, A DISTANCE OF 150.02 FEET; THENCE NORTHERLY PARALLEL WITH THE EAST LINE OF SAID SECTION 8, A DISTANCE OF 201.0 FEET TO THE NORTH LINE OF SAID SECTION 8; THENCE EAST ALONG SAID NORTH LINE, 326.02 FEET TO THE POINT OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS

PARCEL 2 - ON750 PAPWORTH STREET - 05-08-202-003

OF THAT PART OF THE NORTHEAST QUARTER OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED BY COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 8 AND RUNNING THENCE WEST ALONG THE NORTH LINE OF SAID SECTION 678.0 FEET TO THE NORTHWEST CORNER OF THE VETERANS OF FOREIGN WARS PROPERTY; THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID SECTION 8, 267.26 FEET FOR A PLACE OF BEGINNING; THENCE CONTINUING SOUTH ON SAID LINE PARALLEL WITH THE EAST LINE OF SAID SECTION 8, 180 FEET; THENCE WEST PARALLEL WITH THE NORTH LINE OF SAID

SECTION 8, 326 FEET; THENCE NORTH, PARALLEL WITH THE EAST LINE OF SAID SECTION 8, 180 FEET; THENCE EAST PARALLEL WITH THE NORTH LINE OF SECTION 8, 326 FEET TO THE PLACE OF BEGINNING, IN MILTON TOWNSHIP, DUPAGE COUNTY, ILLINOIS

PARCEL 3 - ON720 PAPWORTH STREET - 05-08-202-004

THAT PART OF THE NORTHWEST QUARTER OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED BY COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 8 AND RUNNING THENCE WEST ALONG THE NORTH LINE OF SAID SECTION 678 FEET TO THE NORTHWEST CORNER OF VETERANS OF FOREIGN WARS PROPERTY; THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID SECTION 8, 447.26 FEET FOR A PLACE OF BEGINNING; THEN CONTINUING SOUTH ON SAID LINE PARALLEL WITH THE EAST LINE OF SAID SECTION 8, 218.34 FEET; THENCE WEST PARALLEL WITH THE NORTH LINE OF SAID SECTION 8, 326 FEET; THENCE NORTH PARALLEL WITH THE EAST LINE OF SAID SECTION 8, 218.34 FEET; THENCE EAST PARALLEL WITH THE NORTH LINE OF SAID SECTION 8, 326 FEET TO THE PLACE OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS

PARCEL 4 - ON674 PAPWORTH STREET - 05-08-206-001 AND 05-08-206-002

THAT PART OF THE NORTHEAST QUARTER OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED BY COMMENCING THAT THE NORTHEAST CORNER OF SAID SECTION AND RUNNING THENCE WESTERLY ALONG THE NORTH LINE OF SAID SECTION, 678 FEET TO THE NORTHWEST CORNER OF A TRACT OF LAND NOW OWNED BY V.F. W.; THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID SECTION AND ALONG THE WEST LINE OF SAID V.F.W. TRACT, 665.6 FEET FOR A POINT OF BEGINNING; THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID SECTION, 267.27 FEET; THENCE WESTERLY PARALLEL WITH THE NORTH LINE OF SAID SECTION, 326 FEET; THENCE NORTH PARALLEL WITH THE EAST LINE OF SAID SECTION, 267.27 FEET; THENCE EASTERLY PARALLEL WITH THE NORTH LINE OF SAID SECTION, 326 FEET, TO THE POINT OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS

EXHIBIT "B"

PETITION FOR ANNEXATION

EXHIBIT "C"

PRELIMINARY PUD PLAN