

**HIGHLAND REDEVELOPMENT COMMISSION
SPECIAL PUBLIC MEETING MINUTES
MONDAY, SEPTEMBER 30, 2019**

The Highland Redevelopment Commission ("Commission", "RC") met in a Special Public Meeting on September 30, 2019 in the Council Chambers of the Municipal Building located at 3333 Ridge Road, Highland, Indiana. President Zemen called the meeting to order at 7:00 p.m. Taking minutes for the meeting was Director Kathy DeGuilio-Fox.

Roll Call: Present on roll call were Redevelopment Commissioners Michael Griffin, Mark Herak, Dan Vassar, Steve Wagner and Bernie Zemen. A quorum was attained.

Officials Present: Rhett Tauber, Redevelopment Commission Attorney; John Bach, Public Works Director; Peter Hojnicky, Police Chief; and Kathy DeGuilio-Fox, Redevelopment Director were also present.

Additional Officials Present: Larry Kondrat, Board of Waterworks; Ed Dabrowski, IT Consultant.

Guests: Robin Carlascio, Idea Factory and James Wieser, Attorney for S.J. Highland, LLC and Iowa Limited Liability Company were also present.

Minutes of the Previous Meetings: None

Special Orders: None

Public Comment:

1. Joe Poplas, 3434 Condit Street, Highland questioned whether the Redevelopment Commission should pass Resolution 2019-29 prior to seeing plans for the development. He was advised that the agreement provides provisions that require the developer to receive all governmental approvals prior to the development going forward. Mr. Poplas also questioned the cost of improving Ernie Strack Drive. He was advised that improvements have been estimated at \$650,000.
2. Larry Kondrat, 8115 E. 4th Place, Highland questioned the Town making property improvements, specifically building sidewalks and improving a parking lot, on property they do not own. And, Mr. Kondrat questioned whether the Town would condemn private property if the current owner is unwilling to sell it. He was advised that it is right-of-way and not property beyond that which is being sought for the improvement of Ernie Strack Drive. He was further advised that Ernie Strack Drive is not currently a public right-of-way.
3. Mark Schocke, 3645 Manor Drive, Highland questioned the agreement language regarding the acquisition of the Scheeringa Property and whether this is an eminent domain situation or if there is an agreement between the Town and the owner. He was advised that discussion is under way with the property owner.
4. Amber Smith, 3515 Garfield, Highland asked if traffic or environmental studies are going to be done in regard to this development. She was advised that a traffic study has been completed and submitted for the Plan Commission to consider at their meeting on October 16th. She was further advised that the action taken at this meeting of the Redevelopment Commission is totally contingent on the developer getting the necessary governmental approvals. Ms. Smith also asked what the rents will be for living space at this development. She was advised that this is a question to be asked of the developer.

5. Elijah Aurand, 9313 Farmer Drive, Highland asked about the condemnation vs. purchase of the Scheeringa property. He was advised that the property being sought for right-of-way is fully separate and under different ownership than the Scheeringa property where the farm stand and petting zoo is. He also asked if there is a contingency plan should the owner decide not to sell the property needed for the right-of way. He was advised that discussions are underway with the owner and that should an agreement not be reached condemnation is a process used by the government to acquire property needed for right-of way.

There were no further comments written or spoken. The Redevelopment Commission President closed the public comment section of the meeting.

Communications: None

Unfinished Business and General Orders: None

New Business:

- a. **Ratification of Special Public Meeting to consider Redevelopment Commission Resolution 2019-29.** Director DeGuilio-Fox asked for a ratification of the special meeting. Commissioner Griffin moved to ratify the special meeting of the Redevelopment Commission to consider Resolution 2019-29. The motion was seconded by Commissioner Vassar. Upon a roll call vote there were five affirmatives and no negatives. The motion passed.
- b. **Resolution 2019-29: Resolution to Adopt the Agreement Among SJ Highland, LLC, an Iowa Limited Liability Company, Griffland Center, Inc., an Indiana Corporation, Town of Highland, Indiana and Highland Redevelopment Commission concerning a Senior Housing Project.** Commissioner Herak moved to adopt Resolution 2019-29. The motion was seconded by Commissioner Wagner. Prior to a roll call vote Commissioner Griffin advised that while he intends to participate in the vote, unless there was an objection to his voting on this matter, he wished to acknowledge that although there is not an ownership stake in this project, two of the audience members present to protest the project are related to him by blood as first cousins once removed. There were no objections. Therefore, upon a roll call vote there were five affirmatives and no negatives. The motion passed to adopt Resolution 2019-29.

Action to Pay Accounts Payable Vouchers: None

Business from the Commissioners: None

Next Meeting: The next full Study Session is scheduled to be held on October 7, 2019 at 7:00 p.m. The next Public Meeting will be convened on October 21, 2019 immediately following the adjournment of the study session. A Study Session at 7:00 p.m. will precede the public meeting and reconvene following the public meeting, if deemed necessary. The next meeting of the Highland Main Street will be Thursday, October 3, 2019 at 6:30 p.m. in the Upper Conference room of the Town Hall.

Adjournment: Just prior to the adjournment of the special meeting Commissioner Griffin asked to briefly explain the purpose of the meeting just held. He acknowledged that the Redevelopment Commission attorney did an excellent job however, the commissioners wish to provide a better explanation of what took place during the meeting. He explained that this project does require a lot of process and explained each step needed by the Plan Commission, Highland Economic Development Commission and Town Council. Commissioner Griffin explained the imminent domain remark in the agreement and that the sale of the property is between two private entities with the Town having no role in the purchase of the property. However, by virtue of the Town participating in certain of the improvement activities action in regard to this was required in the form of the agreement adopted this evening. He furthered explained that there still needs to be a development agreement approved and that is yet to be worked out. Each governmental

authority will take their appropriate steps as the process moves forward and that, while this evening was a necessary step, it is not the final step by any means. There being no further business of the Highland Redevelopment Commission, Commissioner Steve Wagner made a motion to adjourn the meeting. Commissioner Dan Vassar seconded the motion. Upon a voice vote, the motion passed. The September 30, 2019 special public meeting of the Highland Redevelopment Commission was adjourned at 7:21 p.m.

Respectfully submitted by Kathy DeGuilio-Fox, Recording Secretary

THE TOWN OF HIGHLAND
HIGHLAND REDEVELOPMENT COMMISSION
RESOLUTION 2019-29

A RESOLUTION OF THE HIGHLAND REDEVELOPMENT COMMISSION ADOPTING AN AGREEMENT AMONG S.J. HIGHLAND, LLC AN IOWA LIMITED LIABILITY COMPANY, GRIFFLAND CENTER, INC., AN INDIANA CORPORATION, TOWN OF HIGHLAND, INDIANA, AND HIGHLAND REDEVELOPMENT COMMISSION CONCERNING A SENIOR HOUSING PROJECT

Whereas, The Redevelopment Commission of the Town of Highland is authorized to undertake redevelopment activities under IC 36-7-14 and Chapter 216 of the Highland Municipal Code, which are public uses and purposes for which public money may be spent and private property may be acquired, and

Whereas, Redevelopment activities include performing all acts incident to the statutory powers and duties of a redevelopment commission; and

Whereas, The Redevelopment Commission may adopt rules and bylaws it considers necessary for the proper conduct of their proceedings, the carrying out of their duties; and

Whereas, The Redevelopment Commission is authorized to negotiate and enter into contract by statute; and

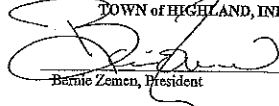
Whereas, An adopted agreement that will serve to guide a project determined in the best interest of the citizens of the Town to assist in, (i) the development of the Project, (ii) the construction of the a public way now operating as a private way commonly known as Ernie Strack Drive, (iii) the reconfiguration of the Center parking lot and the access to the Center from Ernie Strack Drive that is necessitated by the construction of the new Ernie Strack Drive, (iv) the disconnection of the Center's sanitary sewer system from the Town of Griffith and connecting it to the Town's sanitary sewer system, and (v) the taking of such other actions as are set forth in the agreement, all for the promotion of economic development in or serving the Economic Development Area; and,

Now Therefore Be It Hereby Resolved by the Highland Redevelopment Commission, Lake County, Indiana:

Section 1. That the Town of Highland Redevelopment Commission hereby adopts the agreement among S.J. Highland, LLC, an Iowa Limited Liability Company, Griffland Center, Inc., an Indiana Corporation, the Town of Highland and the Town of Highland Redevelopment Commission concerning a senior housing project as an exhibit affixed to this resolution;

Section 2. That the proper officials, agents and employees of the Town are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitment of the Town in accordance with the provisions of the Agreement, provided it is approved by all the required proper governing authorities.

DULY PASSED and RESOLVED by the Highland Redevelopment Commission, Lake County, Indiana, this 30th day of September, 2019 having passed by a vote of 5 in favor and 0 opposed.

REDEVELOPMENT COMMISSION of the
TOWN of HIGHLAND, INDIANA

Bernie Zeman, President

ATTEST:

Mark Heak, Secretary

AGREEMENT

AMONG

S.J. HIGHLAND, LLC an Iowa limited liability company,

GRIFFLAND CENTER, INC., an Indiana corporation,

TOWN OF HIGHLAND, INDIANA,

and

HIGHLAND REDEVELOPMENT COMMISSION

Re:

SENIOR HOUSING PROJECT

DATED: September 30, 2019

AGREEMENT

This AGREEMENT (the "Agreement") made as of this 30th day of September, 2019, by and among S.J. Highland, LLC, an Iowa limited liability company (the "Developer"), Griffland Center Inc., an Indiana corporation ("Griffland"), Town of Highland, Indiana, an Indiana Municipal Corporation (the "Town"), and the Highland Redevelopment Commission (the "Redevelopment Commission").

WITNESSETH:

A. The Town and the Redevelopment Commission, (collectively, the "Town Parties") desire to stimulate and promote economic development activities in or about the Highland Commercial Corridors Redevelopment Area, the same being the geographic area which will include all of the Project Site designated pursuant to I.C. 36-7-14 and as approved by Declaratory Resolution No. 2011-06 (the "Economic Redevelopment Area"); and

B. The Developer and Griffland have entered into, (i) a Purchase and Sale Agreement dated effective as of March 2018 regarding the purchase and sale of the real estate described in Exhibit "A" attached hereto and (ii) that certain First Amendment thereto dated effective as June 10, 2018, (iii) that certain Second Amendment thereto dated December 14, 2018, (iv) that certain Third Amendment thereto dated April 29, 2019, (v) that certain Fourth Amendment thereto dated June 27, 2019 and (vi) that certain Fifth Amendment thereto dated August 16, 2019 (collectively, the "Purchase Agreement"); and

C. The Developer intends to acquire, and Griffland intends to convey to Developer pursuant to the terms and provisions of the Purchase Agreement, the real estate described in Exhibit "A" located in the Economic Redevelopment Area for private investment in a project for the development of a Senior Housing Project (the "Project"); and

D. Ernie Strack Drive is presently a private road between Cline Avenue and Kleinman Road which provides access to the Griffland Shopping Center (the "Center"), which Center is owned by Griffland; and

E. The Developer, Griffland, and the Town Parties agree that Ernie Strack Drive is in poor condition and needs to be redesigned, reconfigured and reconstructed in order to provide the citizens of the Town with reasonable and safe access between Cline Avenue and Kleinman Road, and to and from the Center, and the reconstruction of Ernie Strack Drive is a matter of public safety and shall benefit the public at large; and

F. The Town Parties have determined that it is in the best interest of the citizens of the Town to assist in, (i) the development of the Project, (ii) the construction of the new Ernie Strack Drive, (iii) the reconfiguration of the Center parking lot and the access to the Center from Ernie Strack Drive that is necessitated by the construction of the new

Ernie Strack Drive, (iii) the disconnection of Center's sanitary sewer system from the Town of Griffith and connecting it to the Town's sanitary sewer system, and (iv) the taking of such other actions as are hereinafter set forth, all for the promotion of economic development in or serving the Economic Development Area.

NOW, THEREFORE, in consideration of the foregoing premises the mutual covenants of the parties herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Developer, Griffith, and the Town Parties agree as follows:

DEFINED TERMS

"Applicable Laws" means all laws, rules, regulations, ordinances, codes, administrative actions and/or orders of any Court or governmental agency or unit, whether federal, State or local properly exercising or having jurisdiction with respect to or over the subject matter in question.

"Buildings" means the anticipated buildings to be located in the Economic Development Area and on the Project Site.

"Declaratory Resolution" means the resolution of the Redevelopment Commission that declared, (i) the Economic Redevelopment Area to be an "Economic Development Area" within the meaning of I.C. 36-7-14, and (ii) approving the Economic Development Plan for the Economic Redevelopment Area.

"Developer" means S.J. Highland, LLC, an Iowa limited liability company.

"Ernie Strack Drive" means the private road presently being utilized on the Griffith property which road shall be rededicated, reconfigured and reconstructed by the Redevelopment Commission and dedicated to the Town by the Developer as a public road between Kleinman Road and Cline Avenue as hereinafter set forth.

"Ernie Strack Drive Parcel" means the parcel of land described on Exhibit "B".

"Griffith" means Griffith Center Inc., an Indiana corporation.

"Project" means the (i) development and construction of the real property improvements (site and structures) on the Project Site, and (ii) construction of streets, roadways and sidewalks and other improvements within or serving the Project Site (excluding Ernie Strack Drive which design, and reconstruction shall be the responsibility of the Town).

"Project Site" means certain real estate located in the Highland Commercial Corridors Redevelopment Area as shown on attached Exhibit "A".

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Section 1.3 Developer's and Town Parties' Obligations.

Subject to the full satisfaction or written waiver of the conditions precedent set forth in Section 7.14, and within one hundred and eighty (180) days after the Developer's closing on the purchase of the Project Site (the "Closing Date"), or within such other specific time limits set forth below, the Developer and the Town Parties shall have the following obligations:

- a. The Developer shall, at its sole cost and expense, and within ten (10) days after the Closing Date, record in the Lake County Indiana Recorder's Office, (i) the final plat of subdivision of the Project Site, and (ii) a Deed of Dedication wherein the Developer dedicates, conveys and warrants the Ernie Strack Drive Parcel to the Town, subject to adequate perpetual parking and access easements for the benefit of the Center, Griffith, and Griffith's tenants, vendors customers and other invitees (the "Easements"), which Easements shall be subject to the approval of Griffith. The form and substance of the Easements shall be submitted to Griffith for review and approval at least thirty (30) days prior to the Closing Date, which approval shall not be unreasonably withheld.
- b. The Town Parties shall, at their sole cost and expense, disconnect the Center sanitary sewer system from the Town of Griffith's system and construct and install the necessary facilities and improvements required in order to connect the Center's sanitary sewer system to the sanitary sewer system installed on the Project Site, and in connection therewith, the Town Parties hereby waive any tap in fees and all other charges required by the Town's Sanitary District in order to complete the connection of the Center's sanitary sewer system to the Developer's sanitary sewer system located on the Project Site.
- c. In connection with the obligations of the Town Parties under Section 1.3 b. above, the Developer hereby waives the right to any reimbursement from any party for any tap in fees and/or other charges by the Town Parties or the Town's Sanitary District for the connection of the Center or the Schaefer Property (as defined below in Section 7.14) to the sanitary sewer system located on the Project Site.
- d. The Town Parties shall proceed promptly after the Developer's obtaining of the Approvals as defined in Section 1.2 to make a good faith effort to satisfy the condition precedent set forth in Section 7.14 A.
- e. The Town Parties shall, at their sole cost and expense, and on or before September 1, 2020, construct and install a new Ernie Strack Drive, including all pavement, lighting, sidewalks, curbs and all stormwater

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"Redevelopment Commission" means the Highland Redevelopment Commission.

"State" means the State of Indiana.

"Town" means the Town of Highland, Indiana, a Municipal Corporation, duly organized and existing under the laws of the State; provided, that it is expressly understood and agreed by the Developer that, except as otherwise expressly provided in this Agreement, any obligations of the Town under this Agreement may be fulfilled by the duly authorized and appropriate (as the context so requires) subdivision, unit, agency, commission, department, authority, instrumentality, town council, executive or representative or any combination of the Town, as a municipal corporation.

ARTICLE I TERMS AND CONDITIONS

Section 1.1 Construction of Project.

The Developer intends to, (i) acquire from Griffith, the Project Site located in the Economic Redevelopment Area for the Project subject to fulfillment by Griffith, as seller, and Developer, as buyer, of all obligations and conditions precedent contained in the Purchase Agreement, and (ii) develop and construct the Project. Notwithstanding anything to the contrary contained herein, nothing in this Agreement shall obligate Developer to purchase the Project Site or obligate Griffith to sell the Project Site, said sale and purchase shall be governed solely by the Purchase Agreement.

Section 1.2 Governmental Approvals and Purchase Agreement Conditions.

The Developer shall, promptly after the date of this Agreement, (i) apply for and make a good faith effort to obtain all the necessary and appropriate governmental approvals for the development of the Project Site and the construction of the Project as are required by the Purchase Agreement, including but not limited to, subdivision approval from the Highland Plan Commission, the appropriate rezoning of the Project Site for the development of the Project, the obtaining of appropriate variances which are necessitated in order to develop and construct the Project, and the obtaining of appropriate variances which are necessitated in order to construct the Ernie Strack Drive improvements (as defined below in Section 1.3 e.) and reconfigure the Griffith parking lot and access driveways as required by the Plans (as defined below in Section 1.3 e. collectively, the "Approvals") and (ii) proceed in good faith with taking those actions required for the satisfaction or written waiver of all of the other conditions precedent to the Developer's obligation to purchase the Project Site from Griffith which are set forth in the Purchase Agreement.

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lines and facilities (collectively, the "Ernie Strack Drive Improvements") and reconfigure the Center's parking lot and its access to Ernie Strack Drive pursuant to the Plans of NIES Engineering, Inc. specifically labeled as follows:

- (i) "ERNE STRACK DRIVE -- TOPOGRAPHIC SURVEY; PRELIMINARY R.O.W. LAYOUT dated 07/16/19-18:00, NIES Engineering, Inc. Project No. 19-504" and (ii) "ERNE STRACK DRIVE -- TOPOGRAPHIC SURVEY; PRELIMINARY ROAD & PARKING LAYOUT - OPTION 1 dated 07/16/19-18:00, NIES Engineering, Inc. Project No. 19-504" (together, the "Plans")

ARTICLE II REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE DEVELOPER

The Developer makes the following representations, warranties and covenants which representations, warranties and covenants are true and correct on the date hereof:

Section 2.1 Organization and Existence.

The Developer is a limited liability company organized, validly existing and in good standing under the laws of the State of Iowa and is licensed to do business in the State. The Developer has all requisite company power and authority to own, lease and operate its properties and to carry on its business as now being conducted and as contemplated under this Agreement.

Section 2.2 Power and Authority.

The Developer has all requisite company power and authority to enter into this Agreement, to legally bind Developer to, and to perform its obligations under, this Agreement.

Section 2.3 Due Authorization.

All company acts and other proceedings required to be taken by the Developer to authorize the execution, delivery and performance of this Agreement have been duly and properly taken.

Section 2.4 Financial Capacity to Complete Project.

As of the date hereof, the Developer has the financial ability to complete its obligations under this Agreement. Upon Developer's request, the Town Parties shall cooperate as reasonably necessary for Developer to obtain third party financing for the Project.

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Section 2.5 Payment of Inspection Fees.

Developer shall be responsible to pay and/or reimburse to the Town Parties the cost to the Town Parties of any and all engineering or consulting inspections of the construction work for the Infrastructure (water, storm, and sanitary) and Buildings that are part of the Project, either on or off of the Project Site. The Developer shall also be responsible to pay any costs and expenses incurred by the Town Parties for design review and/or construction observation during the course of construction with regard to the Project on the Project Site or improvements that serve or benefit the Project Site except as hereinbefore provided. All of Developer's obligations to pay and/or reimburse the Town Parties contained in this Section shall be per the Town of Highland's current codes and ordinances, and nothing herein shall be construed to obligate Developer to pay and/or reimburse the Town Parties for anything not required per code or ordinance.

**ARTICLE III
REPRESENTATIONS, WARRANTIES AND COVENANTS
OF GRIFFLAND**

Griffland makes the following representations, warranties and covenants, which representations, warranties and covenants are true and correct on the date hereof.

Section 3.1 Organization and Existence.

Griffland is a corporation organized validly existing and in good standing under the laws of the State and is licensed to do business in the State. Griffland has all requisite corporate power and authority to own, lease and operate its properties and to carry on its business as now being conducted and as contemplated under this Agreement.

Section 3.2 Power and Authority.

Griffland has all requisite corporate power and authority to enter into this Agreement, to legally bind Griffland to, and to perform its obligations under, this Agreement.

Section 3.3 Due Authorization.

All corporate acts and other proceedings required to be taken by Griffland to authorize the execution, delivery and performance of this Agreement have been duly and properly taken.

Section 3.4 Center Tenant Approvals.

Griffland has obtained all approvals required by the Center tenant leases.

**ARTICLE IV
REPRESENTATIONS, WARRANTIES AND COVENANTS
OF THE TOWN AND REDEVELOPMENT COMMISSION**

Each of the Town Parties makes the following representations, warranties and covenants, which representations warranties and covenants are true and correct on the date hereof, and makes the following covenants and agreements:

Section 4.1 Power and Authority.

Each of the Town Parties have all requisite corporate power and authority to enter into this Agreement, to legally bind Town parties to, and to perform their respective obligations under, this Agreement.

Section 4.2 Due Authorization.

All acts and other proceedings required to be taken by the Town Parties to authorize the execution, delivery and performance of this Agreement have been duly and properly taken.

Section 4.3 Due Execution.

This Agreement has been duly executed and properly delivered by the Town parties and constitutes the valid and binding obligation of each of the Town parties, enforceable in accordance with this Agreement's terms, subject to (i) bankruptcy, insolvency, reorganization, moratorium and similar laws affecting creditors' rights generally heretofore or hereafter enacted; (ii) the exercise of judicial discretion in accordance with the general rules of equity; (iii) the valid exercise of the constitutional powers of the Town Parties, the State and the United States of America; and (iv) public policy of the State and the United States of America.

Section 4.4 Survival of Representations and Warranties.

Each of the Town Parties covenants that the representations and warranties made by it in this Agreement shall be true and correct on each day that this Agreement remains in force and effect, with the same effect as if such representations and warranties had been made and given on and as of such day; except that if any such representation and warranty is specifically given in respect of a particular date or particular period of time and related only to such date or period of time, then such representation and warranty shall continue to be given only as of such date or for such period of time.

**ARTICLE V
DEFAULT AND REMEDIES**

Section 5.1 Events of Default.

The following events, if not remedied as hereinafter provided, shall be deemed an "Event of Default" by the respective party:

- A. The Developer's failure to perform any covenant or agreement herein applicable to Developer; and
- B. Griffland's failure to perform any covenant or agreement herein applicable to Griffland; and
- C. The failure by any of the Town Parties to perform any covenant or agreement herein applicable to such Town Parties.

Section 5.2 Extensions Upon Default.

In the event of an Event of Default by any party, or any successor, the defaulting or breaching party (or successor) shall, upon written notice from the other party specifying such default or breach, proceed immediately to cure or remedy such default or breach, and shall, in any event, within thirty (30) days after receipt of written notice, commence to cure or remedy such default or breach. In the event that the defaulting party or breaching party (or successor) diligently and in good faith commences to cure or remedy such default or breach but is unable to cure or remedy such default or breach within thirty (30) days after receipt of notice, the defaulting or breaching party (or successor) shall, prior to the end of such thirty (30) days, provide written notice to the other party that it has in good faith commenced to cure or remedy such default or breach, whereupon the defaulting or breaching party (or successor) shall have an additional ninety (90) days to cure or remedy such default or breach. In case such cure or remedy is not taken or not diligently pursued, or the default or breach shall not be cured or remedied prior to the end of the additional ninety (90) day period, the remedy to the aggrieved party shall be as set forth below in Section 5.3.

Section 5.3. Remedies.

Upon the occurrence of any Event of Default, subject to the extensions and cure rights provided in Section 5.2 hereof, the remedies to aggrieved party shall be as follows:

- A. In the case of an Event of Default by Developer, Griffland and/or the Town Parties shall be entitled to seek any and all remedies available to it at law or in equity.

- B. In the case of an Event of Default by Griffland, the Developer or the Town shall be entitled to seek any and all remedies available to it at law or in equity.
- C. In the case of an Event of Default by any of the Town Parties, the Developer and Griffland shall be entitled to seek any and all remedies available to it at law or in equity.

**ARTICLE VI
TERM OF AGREEMENT AND TERMINATION**

The term ("Term") of this Agreement, and its effectiveness, shall commence upon the full execution of this Agreement by each of the parties hereto and shall continue in full force and effect until, (i) the Developer, Griffland and the Town Parties have performed, completed and satisfied the terms and conditions set forth in Article I; (ii) the termination of this Agreement by the Town Parties upon not less than thirty (30) days prior written notice to the Developer or Griffland due to an Event of Default by Developer or Griffland following the applicable extension and cure periods set forth in Section 5.2 hereof or elsewhere in this Agreement; (iii) the termination of this Agreement by the Developer upon not less than thirty (30) days prior written notice to the Town Parties or Griffland due to an Event of Default by the Town Parties or Griffland following the applicable extension and cure periods set forth in Section 5.2 hereof; or (iv) the termination of this Agreement by Griffland upon not less than thirty (30) days prior written notice to the Town Parties or the Developer due to an Event of Default by either the Town Parties or the Developer following the applicable extension and cure periods set forth in Section 5.2 hereof. Notwithstanding the foregoing, neither the Town Parties, nor the Developer, nor Griffland, shall have the right to terminate this Agreement after the Closing Date, even in the case of an Event of Default.

**ARTICLE VII
MISCELLANEOUS**

Section 7.1 No Agency, Partnership or Joint Venture.

Nothing contained in this Agreement nor any act of the Town Parties, Griffland or the Developer, or any other person, shall be deemed or construed by any person to create any relationship of third-party beneficiary, or if principal and agent, limited or general partnership, or joint venture between the Town Parties, Griffland and the Developer.

Section 7.2 Force Majeure.

Neither the Developer, Griffland or Town Parties nor any successor in interest to Developer, Griffland or Town Parties shall be considered in breach or default of its obligations under this Agreement, and times for performance of obligations hereunder shall be extended in the event of any delay caused by an event of force majeure, including with limitation, an Act of God, acts of vandals, criminals or public enemies, act of terrorism,

war, blockade, public riot, lightning, fire, storm, flood, explosion, blackout, adverse weather conditions, lockouts or strikes, delays caused by the Developer's or Town Parties' contractor inability to obtain all necessary materials or labor, orders of the government of the United States of America, the State or municipality or any of their departments, agencies or officials, orders of any civil military authority, or other similar events which are not reasonably within the control of the Developer or the Town Parties; provided that such event of force majeure shall not be deemed to exist as to any matter initiated or sustained by any party in bad faith.

Section 7.3 Notices.

No notice, approval, consent or other communication authorized or required by this Agreement shall be effective unless the same shall be in writing. Any such communications shall be effective (i) upon receipt if it is hand delivered, with signed receipt therefore obtained, (ii) seventy two (72) hours after it is sent postage prepaid by United States registered or certified mail, return receipt requested, or (iii) twenty four (24) hours after it is deposited with a national courier for overnight delivery; directed or addressed in each case set forth in (i) through (iii) above to the other party at its address set forth below.

The addresses and email addresses for notices are:

To the Developer: S.J. Highland, LLC
4600 E. 53rd Street
Davenport, IA 52607
Attention: James V. Russell, Manager
Email Address: dsmith@russellco.com

With a copy to: James L. Wieser
Wieser & Wyllie, LLP
429 W. Lincoln Hwy.
Scherverville, IN 46375
Email Address: jlwieser@wyllie@servylaw.com

To Griffland: Griffland Center Inc.
2244 45th Street
Highland, IN 46322
Attention: Jeffrey D. Strack, Vice President
Email Address: jstrack@cs-vt.com

With a copy to: Glenn R. Patterson
1200 Waterworks Place
New Albany, IN 47150
Email Address: glenn@grpattersonlegal.com

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of scanned copies, and that no delivery of copies of this Agreement with original signatures will be necessary for this Agreement to become or remain effective.

Section 7.6 Assignment and Binding Effect.

The Developer or Griffland may assign its rights and obligations under this Agreement to any entity affiliated with or related to Developer or Griffland without the consent of the Town Parties and may otherwise assign their rights and obligations under this Agreement with the consent of the Town Parties, which consent shall not be unreasonably withheld. The rights of the Developer, Griffland and the Town Parties under this Agreement shall inure to the Developer, Griffland and the Town Parties, respectively, and upon their respective successors and permitted assigns. However, the respective obligations of the Developer, Griffland and the Town Parties under this Agreement shall not extend to their shareholders, officers, directors, office holders, employees, agents, consultants, contractors, members, partners, joint ventures or affiliates.

Section 7.7 Time of the Essence.

Time is of the essence in the performance of this Agreement and each and every provision contained herein.

Section 7.8 Costs of Proceedings.

In the event of the institution of any proceeding relating to the performance of this Agreement, the parties agree that costs and expenses, including reasonable attorneys' fees and expenses, incurred by the prevailing party (as defined herein) in connection with such proceeding, will be paid by the non-prevailing party. The prevailing party shall be defined as (i) the party which ultimately is awarded an amount (net of any offsets or counterclaims awarded to the other party) in excess of the last settlement offer made in writing by the other party, or (ii) the party which made the last settlement offer in writing, if the amount ultimately awarded (net of any offsets or counterclaims awarded to the other party) is less than such last settlement offer, or (iii) the party which ultimately is awarded an amount, regardless of sum, if no settlement offer was ever made in writing by the other party, or (iv) if no amount is awarded, but instead equitable relief is granted, the party in whose favor such equitable relief is granted.

Section 7.9 Severability.

If and in the event any provision of this Agreement is determined to be invalid for any reason, it shall be severed and all other provisions not determined invalid shall continue with full force and effect; provided, however, that if (i) such declaration of invalidity relieves a party of a material obligation to the other, or eliminates a material benefit to a party, and (ii) the effect of either of the foregoing is to deprive the other party of substantially all of the benefits to such party of the transactions contemplated by this Agreement, then the adversely affected party shall have the right to terminate this

Page 13 of 22

To the Town Parties: Town of Highland
3333 Ridge Road
Highland, Indiana 46322
Attention: Steven Wagner, Town Council President
Email Address: swagner@highland.in.gov

With a copy to: Rhett L. Tauber
Tauber Law Offices
1415 Eagle Ridge Drive
Scherverville, IN 46375
Email Address: rtauber@tauberlaw.com

Highland Redevelopment Commission: Highland Redevelopment Commission
3333 Ridge Road
Highland, IN 46322
Attention: Kathy DeGulio-Fox, Director
Email Address: kdegulio-fox@highland.in.gov

With a copy to: Rhett L. Tauber
Tauber Law Offices
1415 Eagle Ridge Drive
Scherverville, IN 46375
Email Address: rtauber@tauberlaw.com

Any party may, in substitution of the foregoing, designate a different address and addresses within the continental United States for purposes of this Section by written notice delivered to all other parties in the manner prescribed in this Section at least ten (10) days in advance of the date upon which such change of address is to be effective.

Section 7.4 Survival.

All representations, warranties and indemnities set forth in this Agreement shall survive the termination hereof for a period of three (3) years.

Section 7.5 Counterparts and Execution of Agreements.

This Agreement may be executed in a number of identical counterparts and, if so, executed, each such counterpart is deemed an original for all purposes, and all such counterparts shall collectively constitute one Agreement. The signatures of the parties hereto indicate their mutual intention and agreement that this Agreement will be effective upon delivery of signed copies hereof to each other by facsimile transmission or by email

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Agreement, by giving notice of such termination to the other party, pursuant to Article V, titled "Term of Agreement and Termination".

Section 7.10 Non-Waiver.

Failure by either party hereto, at any time, to require the performance by the other of any term of this Agreement, shall not in any way affect the right of either party to enforce such terms, nor shall any waiver by either party of any term hereof by taken or held to be a waiver of any other provision of this Agreement. No waiver of any term or provision of this Agreement shall be effective unless the same is in writing, signed by the parties hereto, pursuant to Article VII, Section 7.3 titled "Notices".

Section 7.11 Governing Law.

This Agreement is entered into in the State and shall be governed by and construed (and all of the rights and obligations hereunder shall be determined) in accordance with the internal laws of the State, without reference to the choice of law principles thereof.

Section 7.12 No Third Party Beneficiaries.

Nothing in this Agreement shall be construed as creating any rights of entitlement that inure to the benefit of any person or entity not a party of this Agreement.

Section 7.13 Jurisdiction and Consent to Suit.

Subject to the provisions of this Agreement, the Developer, Griffland and each of the Town Parties hereby agrees and consents to the exclusive personal and subject matter jurisdiction of the courts of the State situated in Lake County, Indiana, or the United States District Court for the Northern District of Indiana, Hammond Division, which shall be the sole and exclusive forum in connection with any claim, cause of action or other dispute by either of them against the other arising out of or relating to the terms, obligations and conditions of this Agreement.

Section 7.14 Conditions Precedent.

This Agreement is subject to the following conditions precedent:

- A. It is a condition precedent to the obligation of the Developer and Griffland to close on the purchase and sale of the Project Site that the Town Parties, at their sole cost and expense, and within one hundred and eighty (180) days after the date that the Developer has obtained the Approvals as defined in Section 1.2 of this Agreement, acquire title to the property described in Exhibit "C" and commonly known as 8613 Kleinman Road, Highland, IN 46322, which is required for the construction and installation of the Ernie Strack Drive Improvements, along with such other property as

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is required for the future expansion of Kleinman Avenue (collectively, the "Scheeringa Property") from the Kenneth D. and Sandra M. Scheeringa Trust ("Scheeringa Trust"), which acquisition of the Scheeringa Property may be either through voluntary conveyance by the Scheeringa Trust to the Town or through condemnation.

B. Except for the obligations of the Developer under Section 1.2, it is a condition precedent to the obligations of the Developer and Griffland under this Agreement that the Developer and Griffland close on the purchase of the Project Site pursuant to the terms and provisions of the Purchase Agreement.

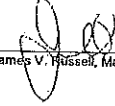
C. The acquisition of the Scheeringa property as defined in Section 7.14 (A) shall be a condition precedent to the obligations of the Town Parties to perform the terms and provisions of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above, to be effective on the Effective Date of this Agreement.

SIGNATURE PAGES TO FOLLOW

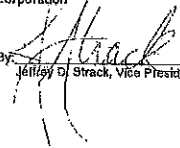
SIGNATURE PAGE OF S.J. HIGHLAND, LLC
TO
AGREEMENT
RE: SENIOR HOUSING PROJECT

S.J. HIGHLAND, LLC, and Indiana limited liability company

By: 
James V. Russell, Manager

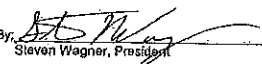
SIGNATURE PAGE OF GRIFFLAND CENTER INC.
TO
AGREEMENT
RE: SENIOR HOUSING PROJECT

GRIFFLAND CENTER INC., and Indiana corporation

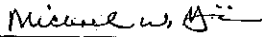
By: 
Jeffrey D. Strack, Vice President

SIGNATURE PAGE OF TOWN OF HIGHLAND, INDIANA
TO
AGREEMENT
RE: SENIOR HOUSING PROJECT

TOWN OF HIGHLAND, INDIANA by and through its Town Council

By: 
Steven Wagner, President

ATTEST:



Michael W. Griffin, IAM/CIMM/C/CPFA/
CPFIM/CMD, Clerk-Treasurer




SIGNATURE PAGE OF TOWN OF HIGHLAND, INDIANA
REDEVELOPMENT COMMISSION

TO
AGREEMENT
RE: SENIOR HOUSING PROJECT

HIGHLAND REDEVELOPMENT COMMISSION

By: 
Barmia Zemen, President

ATTEST:


Mark A. Herak, Secretary

Agreement
Among
S.J. Highland LLC
Griffland Center Inc.
Town of Highland
And
Highland Redevelopment Commission
RE: Senior Housing Project

Exhibit "A"

Legal Description for Project Site
(To be acquired by the Developer)

That part of the west half of the north half of the southeast quarter of the southeast quarter and the east half of the east half of the southeast quarter of Section 27, Township 36 north, Range 9 west of the Second Principal Meridian described as follows: beginning at the southwest corner of said west half; thence N0°05'27"W along the west line of said west half, 661.02 feet to the northwest corner thereof; thence S89°40'53"E along the north line of said west half and the north line of said east half, 1327.98 feet to the northeast corner of said east half; S0°01'01"W along the east line of said Section 27, 686.70 feet; thence N89°25'59"W, 210.00 feet; thence S0°00'39"W, 2.82 feet; thence N89°42'07"W, 453.35 feet to the west line of said east half; thence N0°02'13"W, 30.00 feet to the south line of said west half; thence N89°42'07"W along said south line, 633.37 feet to the point of beginning (excepting therefrom of Lot 1 of Griffland Center Inc. First Addition to the Town of Highland as recorded in Plat Book 63, Page 3) in Lake County, Indiana.

876,115 sq. ft.
20.113 acres

Agreement
Among
S.J. Highland LLC
Griffland Center Inc.
Town of Highland
And
Highland Redevelopment Commission
RE: Senior Housing Project

Exhibit "B"

Legal Description for the Ernie Strack Drive Parcel
(To be Dedicated to the Town by the Developer)

That part of the west half of the north half of the southeast quarter of the southeast quarter and the east half of the east half of the southeast quarter of Section 27, Township 36 north, Range 9 west of the Second Principal Meridian described as follows: commencing at the southwest corner of said west half; thence S89°42'07"E along the south line of said west half, 30.00 feet for a point of beginning; thence N0°05'27"W along the east line of the west 30.0 feet of said west half, 40.00 feet; thence S89°42'07"E parallel with the south line of said west half, 200.00 feet; thence S0°17'53"W perpendicular to the south line of said west half, 40.00 feet to a line 30.0 feet north of and parallel with the south line of said south half; thence S89°42'07"E along said parallel line and the easterly extension thereof, 666.87 feet to the west line of Lot 1 of Griffland Center Inc. First Addition to the Town of Highland as recorded in Plat Book 63, Page 3; thence S0°01'01"E along said west line, 11.16 feet to the southwest corner of said Lot 1; thence S89°25'59"E along the south line of said Lot 1, 170.00 feet to the southeast corner of said Lot 1, being also a point on a line parallel with and 40 feet west of the east line of said southeast quarter; thence S0°01'01"W along said parallel line, 46.00 feet to a line parallel with and 46 feet south of said south line of said Lot 1; thence N89°25'58"W along said parallel line, 170.00 feet; thence S0°00'39"W, 2.82 feet; thence N89°42'07"W, 453.35 feet to the west line of said east half; thence N0°02'13"W, 30.00 feet to the south line of said west half; thence N89°42'07"W along said south line, 633.37 feet to the point of beginning in Lake County, Indiana.

56,024 sq. ft.
1.286 acres

Agreement
Among
S.J. Highland LLC
Griffland Center Inc.
Town of Highland
And
Highland Redevelopment Commission
RE: Senior Housing Project

Exhibit "C"

Legal Description for the Schreieringa Property
(To be acquired by the Town)

Parcel 1:
That part of the west half of the south half of the southeast quarter of the southeast quarter of section 27, Township 36 north, Range 9 west of the Second Principal Meridian described as follows: beginning at the northwest corner of said west half; thence S89°42'07"E along the north line of said west half, 663.37 feet to the east line of said west half; thence S0°02'13"E along said east line, 30.00 feet; thence N89°42'07"W parallel with the north line of said west half, 433.82 feet; thence S0°17'53"W perpendicular to said north line of said west half, 10.00 feet; thence N89°42'07"W parallel with said north line of said west half, 228.46 feet to the west line of said west half; thence N0°05'27"W along said west line, 40.00 feet to the point of beginning in Lake County, Indiana, and:

Parcel 2:
The south 140.0 feet of the north 160.0 feet of the west 30.0 feet of west half of the south half of the southeast quarter of the southeast quarter of Section 27, Township 36 north, Range 9 west of the Second Principal Meridian in Lake County, Indiana.

26,395 sq. ft.
0.606 acres