

VILLAGE OF ANTIOCH

ORDINANCE NO. 19-02-05

***AN ORDINANCE ANNEXING CERTAIN PROPERTY TO THE VILLAGE OF
ANTIOCH***

ADOPTED BY THE PRESIDENT AND BOARD OF TRUSTEES

OF THE

VILLAGE OF ANTIOCH, ILLINOIS

ON

February 27, 2019

**Published in pamphlet form by authority of the Village Board
of the Village of Antioch, Lake County, Illinois,
this 4th day of March 2019.**

LAWRENCE M. HANSON

President

ED MACEK

Trustee

LORI K. ROMINE

Clerk

MARY C. DOMINIAK

Trustee

JAY JOZWIAK

Trustee

SCOTT A. PIERCE

Trustee

ROBERT J. LONG

Attorney

TED P. POULOS

Trustee

JERRY JOHNSON

Trustee

ORDINANCE NO. 19-02-05

**AN ORDINANCE ANNEXING AND APPROVING AN ANNEXATION AGREEMENT
FOR CERTAIN PROPERTY TO THE VILLAGE OF ANTIOCH**

WHEREAS, Chicago Title Trust Company, as trustee under trust No. 1106012 dated 06/12/1998 (hereinafter described as "Owner") is the record owner of a parcel of real property commonly known as 21947 West Route 173, Antioch, Illinois in unincorporated Antioch Township, which property is currently contiguous to property within the Village of Antioch, but is not currently part of the Village, and

WHEREAS, the subject property is legally described as set forth on Exhibit A hereto, and

WHEREAS, the subject property is currently vacant, and

WHEREAS, the Owner has recently submitted petitions in proper form to the Village Board of Trustees, for the annexation and rezoning of the subject property, and

WHEREAS, the legal notice involving the petitions was duly published and notice properly given to all adjoining and abutting property owners as required by the Illinois Municipal Code and by the Antioch Municipal Code, and

WHEREAS, the Planning and Zoning Board held a public hearing pursuant to the said published notice on February 21, 2019 which resulted in the positive recommendation of annexation and rezoning with certain stipulations and conditions to the Village Board, and

WHEREAS, the Village Board duly convened a public hearing and a public meeting, during which evidence was presented and considered, and

WHEREAS, the subject property is located in an area that is commercial in nature, consistent with the Village's B-3 commercial zoning district, and

WHEREAS, the Owner seeks to annex its property and have it designated as being within the Village's B-3 commercial district, consistent with the Village's land use policies and the Comprehensive Plan; and

WHEREAS, the subject property is located within an area that is being considered for the adoption of a statutory Business District concurrently with this annexation, and it is the intention of the Owners and the Village that the subject property will fall within the Business District as it is adopted by separate Ordinance adopted in the same meeting as this Ordinance is adopted; and

WHEREAS, the Owner has committed to entering into an annexation agreement with the Village, in which they will be rezoning the subject site into a B-3 commercial site to consist of two principal buildings, one of which will house one commercial unit and the other which will house three commercial units as described on the site plan which will be adopted by separate action concurrently with this Ordinance; and

WHEREAS, the annexation agreement described hereinabove is attached as Exhibit B hereto; and

WHEREAS, the Village Board does find as follows:

- a) that the petitions are well-taken;
- b) that the petitions meet all the necessary prerequisites imposed by the Illinois Municipal Code and the Zoning Code of the Village of Antioch;
- c) that the annexation of the property is consistent with the Village's comprehensive plan and will materially benefit the logical and orderly growth of the Village of Antioch;
- d) that the proposed intended use is generally compatible with the adjoining properties;
- e) that the exclusively commercial nature of the property as described in the petition and annexation agreement will be consistent with the commercial character of the surrounding properties and promote economic development in the Village;
- f) that the proposed Exhibit B Annexation Agreement contains terms that are fair to the Village and to the Owner and should be adopted.

NOW THEREFORE, BE IT ORDAINED by the Village of Antioch, Lake County, Illinois, as follows:

SECTION ONE: The Annexation Agreement attached hereto as Exhibit B is hereby approved. The property legally described in Exhibit A hereto be and is hereby annexed into and made a part of the territory of the Village of Antioch;

SECTION TWO: The property legally described in Exhibit A hereto be and is hereby classified as being within the B-3 zoning district;

SECTION THREE: The Mayor and Clerk are directed to execute the Annexation Agreement attached as Exhibit B hereto immediately upon the passage and approval of this Ordinance after the Owners have signed such Annexation Agreement.

SECTION FOUR: The Annexation Agreement, attached hereto as Exhibit B be and the same is adopted as a substantive part of this Ordinance, and the Owners shall be required to develop the property in accordance with that Annexation Agreement, which requirement shall run with the land for the statutory lifetime of the Agreement;

SECTION FIVE: The Owners shall further be obligated to make such payments to the Village and to pay for recording of this Ordinance and the Plat of Annexation, together with any and all such miscellaneous expenses as are required by the Annexation Agreement, this Ordinance and the Municipal Code of Antioch;

SECTION SIX: This Ordinance shall be in full force and effect from and after its passage, approval and publication as required by law.

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF ANTIOCH, ILLINOIS, ON THIS
27th Day of February, 2019.

AYES: 4: Pierce, Poulos, Johnson and Macek.

NAYS: 0.

ABSENT: 2: Jozwiak and Dominiak.


LAWRENCE M. HANSON, MAYOR

ATTEST:


LORI K. ROMINE, VILLAGE CLERK



STATE OF ILLINOIS)
)
COUNTY OF LAKE)

SS

CERTIFICATE

I, Lori K. Romine, certify that I am the duly appointed Municipal Clerk of the Village of Antioch, Lake County, Illinois.

I certify that on February 27th, 2019, the Corporate Authorities of such municipality passed and approved **Ordinance NO: 19-02-05** entitled ***"AN ORDINANCE ANNEXING CERTAIN PROPERTY TO THE VILLAGE OF ANTIOCH "*** which provided by its terms that it should be published in pamphlet form.

The pamphlet form of **Ordinance No. 19-02-05** including the Ordinance and cover sheet thereof, was prepared, and a copy of such Ordinance was posted in the municipal building, commencing on March 4, 2019, and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the Municipal Clerk.

DATED at Antioch, Illinois, this 4th day of March, 2019.



Lori K. Romine, Village Clerk





ANNEXATION AGREEMENT

FOR

Antioch Crossing
(Development Name)

THIS ANNEXATION AGREEMENT is entered into this ____ day of ____, 2019, by and between the Village of Antioch, an Illinois municipal corporation (hereinafter referred to as "VILLAGE"), and Chicago Title & Trust Company, as trustee under Trust #11060112, dated 6/12/1998 (hereinafter collectively referred to as "OWNER"), and Innovative Markets Inc., an Illinois corporation (hereinafter referred to as "DEVELOPER") for all the property described in the Plat of Annexation marked Exhibit A, attached hereto. The Village, Owner and Developer may also be individually referred to herein as a Party, or any two or more thereof as Parties.

WITNESSETH:

WHEREAS, the VILLAGE is an Illinois municipal corporation; and,

WHEREAS, the OWNER is the owner of record of the real property legally described in Exhibit "A" (said property referred to herein as the "SUBJECT PROPERTY"), the Plat of Annexation and the legal description, attached hereto and hereby incorporated and made a part of this Agreement, which is not within the corporate limits of any municipality and which constitutes the subject premises to be annexed to the Village; and

WHEREAS, Innovative Markets Inc, an Illinois corporation, is the proposed Developer of the Subject Property; and

WHEREAS, the SUBJECT PROPERTY is contiguous or may become contiguous with the corporate limits of the VILLAGE; and

WHEREAS, there has been filed with the Village Clerk a Petition for Annexation, consented to or signed by the owner of record of the Subject Property; and

WHEREAS, it is the intention of the parties that the annexation of the SUBJECT PROPERTY to the VILLAGE be upon the terms and conditions of this agreement; and

WHEREAS, Owner and Developer propose that the Subject Property be zoned and substantially developed in accordance with the Plat attached hereto as Exhibit B and in accordance with the terms and conditions of this Agreement;

WHEREAS, the Plan Commission, being the commission duly designated by the Corporate Authorities of the City/Village to hold a public hearing on the proposed Plat, zoning, and this Agreement, has theretofore held a public hearing on the application of the Owner for said actions pursuant to the provisions of the Zoning Ordinance of the VILLAGE in accordance with 65 ILCS 5/11-15.1-1 et seq. of the Illinois Compiled Statutes as amended; and due notice of said public

hearing was published in the manner required by law, and said public hearing was held in all respects in a manner conforming to the law; and

WHEREAS, the Plan Commission of the City/Village has made its report and recommendations to the Corporate Authorities of the City/Village, all in accordance with the ordinances of the City/Village and the statutes of the State of Illinois,

WHEREAS, any fire protection district, library district, Board of Town Trustees, Commissioner of Highways and other entity or person entitled to notice prior to annexation of the Subject Property to the City/Village has been given notice thereof by City/Village as required by law; and

WHEREAS, all other matters, in addition to those specifically referred to above which are included in this Agreement, have been considered by the parties hereto, and the development of the Subject Property for the use as permitted under the Zoning Ordinance of the VILLAGE and in accordance with the terms and conditions of this Agreement, will inure to the benefit and improvements of the VILLAGE and its residents, and will promote the sound planning and development of the VILLAGE and will otherwise enhance and promote the general welfare of the people of the VILLAGE; and

WHEREAS, the VILLAGE has duly considered all necessary matters to enter into this Agreement, have considered the recommendations of the Plan Commission in connection with zoning, have considered the Petition for Annexation, and did, by a resolution duly adopted by a vote of two-thirds (2/3) of the Corporate Authorities then holding office, authorize the Mayor to execute, and the Village Clerk to attest to, this Agreement on behalf of the VILLAGE; and

WHEREAS, in reliance upon the execution of this Agreement by the VILLAGE and the performance by the VILLAGE of the undertakings hereinafter set forth to be performed by it, there has been submitted the aforesaid Petition for Annexation, and the Parties are willing to undertake certain obligations as hereinafter set forth, and have or will have materially changed their positions in reliance upon the said Agreement and the undertakings contained therein; and

WHEREAS, it is the desire of the Parties hereto that the development of the Subject Property proceed as conveniently as may be and be subject to the terms and conditions hereinafter contained.

WHEREAS, the VILLAGE, by its Corporate Authorities, shall consider an ordinance adopting this Agreement in the manner provided by law; and

WHEREAS, the adoption and approval of this Agreement is an exercise of the powers vested in the VILLAGE by the Illinois Compiled Statutes.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, it is hereby agreed as follows:

1. INCORPORATION OF RECITALS AND EXHIBITS.

The foregoing recitals are hereby incorporated into the body of this agreement as if fully set forth and repeated herein.

Any exhibit referred to in this agreement and attached hereto shall also be considered incorporated herein by express reference.

2. ANNEXATION AND ZONING.

OWNER has filed properly executed petitions for annexing and zoning said premises.

The VILLAGE agrees, pursuant to requisite notice having been given, and in accordance with law, to enact and adopt ordinances annexing and zoning the premises designated in Exhibit A, attached hereto and made a part of this Agreement, to zoning classification B-3/ PUD. DEVELOPER agrees that the Subject Property shall be developed in accordance with the ordinances of the VILLAGE, as approved or subsequently amended, and agree to follow all of the policies and procedures of the VILLAGE in connection with such development except as modified in this Agreement and shall develop the Subject Property in accordance with the Plat, which is marked "Exhibit B," attached hereto and made a part of this Agreement.

3. LIBRARY DISTRICT ANNEXATION.

Unless the Subject Property is already within the Antioch Library District, upon annexation of the Subject Property to the VILLAGE, the OWNER agrees to file petitions to annex the Subject Property to the Antioch Library District.

The OWNER agrees to annex the SUBJECT PROPERTY to the Antioch Public Library District within 30 days of contiguity with the Districts.

4. PARKS AND SCHOOL DONATIONS.

The OWNER and DEVELOPER agree to comply with the Village Ordinance on land/cash donations for park and school sites. Fees paid in lieu of park land are required prior to the release of the final plat. The DEVELOPER agrees to pay all fees identified in the school facility impact fee schedule attached.

The OWNER and DEVELOPER agree to comply with the Village Ordinance on land/cash donations for park and school sites. Fees paid in lieu of park land are required prior to the release of the final plat. If land is to be dedicated, the DEVELOPER shall enter into a formal park agreement with the Village's Parks Department and shall incorporate the aforesaid agreement as part of this Agreement. The Village must approve all park designs and reserves the right to hire a landscape architect to design any park or open space area. The developer/owner agrees to pay any fee associated with the design.

5. FIRE PROTECTION DISTRICT DONATION.

The OWNER and DEVELOPER agree to pay \$1,000.00 contribution per residential unit to the Antioch Fire Department in which the unit is located and \$0.20 per square foot for commercial development. The fee will be paid at the time of building permit issuance.

6. LIBRARY IMPACT FEE.

The OWNER and DEVELOPER agree to pay \$300.00 per unit, as set forth in the inter-governmental agreement between the VILLAGE and the Antioch Library District. The fee will be paid at the time of building permit issuance.

7. WATER AND SEWER SERVICE.

The SUBJECT PROPERTY described in Exhibit A is not currently within the FPA (Facilities Planning Area) of the VILLAGE. To the extent required by law, Developer shall obtain the consent of the County of Lake to allow the SUBJECT PROPERTY to be served by the sewer of the VILLAGE. The Village will cooperate with DEVELOPER to submit all required applications to obtain the waiver and consent of the County of Lake to allow the VILLAGE to service the SUBJECT PROPERTY with sewer. Any and all application and associated costs to obtain the waiver and consent shall be the responsibility of the DEVELOPER.

VILLAGE represents and warrants that it has the capacity to service the 1.7 acres of SUBJECT PROPERTY with sewer service and water.

8. WATER AND SANITARY SEWER FEES.

Connection fees required for connection to the Village's sanitary sewer system are as established by Village Ordinance. The minimum connection fees to the Village's water supply system are as follows:

Water Meter size (inches)	Water Connection Fee
1 inch	2,070.00
1 ½ inch	2,400.00
2 inch	2,800.00
3 inch	3,200.00
4 inch	3,600.00
6 inch	4,400.00
Sanitary (P.E.)	Sanitary Connection Fee
1 P.E.	2,962.00

For all sanitary sewer construction requiring an Illinois Environmental Protection Agency construction permit, upon receipt of required IEPA Sewer Permit, but before any sewer main construction, the property owner or OWNER shall be required to pay the Village the total sewer connection fee for the entire area served by said permit. The population equivalent stated on the IEPA permit shall be the basis for calculating the required connection fees. Substantial sanitary sewer construction shall begin within ninety (90) days of receiving required IEPA sewer construction permits.

9. RECAPTURE FEES.

Upon development, OWNER or DEVELOPER shall be obligated to pay any recapture fees as applicable to the annexed property for municipal water, sanitary sewers, storm water, roadways, traffic signals or improvements or any other improvements as set forth in 65 ILCS 5/9-5-1.

VILLAGE may adopt any necessary ordinances to provide for recapture to OWNER for streets, water, sanitary sewer or storm sewer lines constructed by OWNER, which benefit other properties by the installation and/or over sizing of said improvements. Such recapture ordinances shall only be adopted upon satisfactory demonstration by the OWNER or DEVELOPER that the recapture is fair and equitable and that provision of notice of the proposed recapture fees is provided to affected property OWNER. The determination that a proposed recapture is fair and equitable shall be solely that of the Village. Fees are due upon Village request.

In the event benefited property subject to recapture is owned by a government agency (e.g., fire protection district, park district, school district), such government entity shall not be required to pay recapture, thus reducing the total amount the DEVELOPER and/or VILLAGE are entitled to recapture.

Any recapture ordinances shall be for a maximum of twenty (20) years from the date of adoption of said ordinance with 4% interest payable to the OWNER or DEVELOPER commencing two (2) years from the date of completion of said improvement. An administrative fee shall be charged at the rate of two percent (2%) of the total recapturable amount payable to the VILLAGE to cover administrative costs of the recapture agreement. The costs to be recaptured shall not exceed 110 percent of the estimated costs per the approved engineer's opinion of probable construction costs (EOPC). Any increase in cost of more than 5 percent of the EOPC (but in no event more than 10 percent of the EOPC) shall not be permitted unless a detailed explanation of the increase in costs is submitted by the DEVELOPER and approved by the VILLAGE.

The Developer further agrees to enter into the Village's Standard Recapture Agreement.

10. TRAFFIC IMPROVEMENT FEE

The OWNER and DEVELOPER agrees to waive any a traffic improvement fee,

11. FORESTATION FEE

The Developer agrees to pay a FORESTATION FEE of \$1000.00. This fee is payable upon first building permit being issued.

12. RIGHT OF WAY and EASEMENTS

The owner agrees to dedicate right of way or grant utility easements to the Village of Antioch at no costs to the Village within thirty days of written request by the Village.

13. ARCHITECTURAL DESIGN PROVISIONS.

The OWNER and DEVELOPER agree to provide a variety of architectural designs for residential dwelling units for the purpose of discouraging excessive similarity between units, including but not limited to single family, duplexes, and multi-family developments. The OWNER and DEVELOPER agree to establish appropriate policies and procedures to provide distinction, for the purpose of anti-monotony as defined in Exhibit C.

The developer agrees to develop the subject property in accordance with the approved Architectural Plans.

14. VARIANCES.

No variances will be necessary to develop the property. (If variances are required, they shall be described and attached as an Amendment, Exhibit C)

15. MISCELLANEOUS FEES.

All other fees provided for by ordinance and uniformly applied and collected in connection with the development of the property within the corporate limits of Antioch, except as otherwise specified in this agreement shall be applicable to the subject realty. Payment of all fees due under the Village Ordinances, together with the posting of any and all letters of credit and other guarantees shall be a pre-condition to the approval by the Village of any final plan, plat or site plan submitted by OWNER and DEVELOPER under this agreement.

16. AMENDMENTS.

This agreement, including the attached exhibits, may be amended only with the mutual consent of the parties by a duly executed written instrument. In the case of the VILLAGE, the written instrument may only be in the form of an ordinance duly adopted in accordance with applicable laws. Modifications subsequent to this Agreement's adoption shall require a public hearing and procedures consistent with law.

17. EXHIBIT C.

Any modifications to the VILLAGE'S standard annexation agreement provisions are set forth in Exhibit C. The OWNER, DEVELOPER and VILLAGE agree that should any conflicts between Exhibit C and the text of this Agreement exist, the provisions of Exhibit C shall supersede those of this text.

18. ENFORCEMENT.

This Agreement shall be enforceable by any action at law or in equity, including actions for specific performance and injunctive relief. The laws of the State of Illinois shall control the construction and enforcement of this Agreement. The parties agree that all actions instituted on this agreement shall be commenced and heard in the Circuit Court of Lake County, Illinois, and hereby

waive venue in any other court of competent jurisdiction. Before any failure of any party to perform any obligation arising from this Agreement shall be deemed to constitute a breach, the party claiming the breach shall notify the defaulting party and demand performance. No breach of this Agreement shall have been found to have occurred if performance is commenced to the satisfaction of the complaining party within thirty (30) days of the receipt of such notice.

19. EFFECT OF SUCCESSORS.

This agreement shall be binding upon and inure to the benefit of the VILLAGE and its successor municipal corporations and corporate authorities. This Agreement shall be binding upon and inure to the benefit of OWNER and their grantees, lessees, assigns, successors and heirs.

20. CONSTRUCTION OF AGREEMENT.

This Agreement shall be interpreted and construed in accordance with the principles applicable to the construction of contracts, provided however, that the parties stipulate that they participated equally in the negotiation and drafting of the Agreement and that no ambiguity contained in this Agreement shall be construed against a particular party.

21. SEVERABILITY.

If any provision, covenant, agreement or portion of this Agreement or its application to any person, entity or property is held invalid, such invalidity shall not affect the application or validity of any other provision, covenants, agreement or portions of this Agreement, and this Agreement is declared to be severable.

22. EFFECT OF THIS AGREEMENT.

The provisions of this Agreement shall supersede the provisions of any ordinances, codes, policies or regulations of the Village which may be in conflict with the provisions of this agreement to the maximum extent permitted by law.

23. DURATION.

This agreement shall remain in full force and effect for a term of twenty (20) years from the date of its execution, or for such longer period allowed by law.

24. NOTICE.

Any notice or demand hereunder from one party to another party or to an assignee or successor in interest of either party or from an assignee or successor in interest of either party to another party, or between assignees or successors in interest, either party shall provide such notice or demand in writing and shall be deemed duly served if mailed by prepaid registered or certified mail addressed as follows:

If to the VILLAGE:

Lawrence Hanson
Village Mayor
874 Main Street
Antioch, IL 60002

Jim Keim
Village Administrator
874 Main Street
Antioch, IL 60002

With copies to: Robert Long, Village Attorney
Daniels, Long & Pinsel, LLC
19 N. County Street
Waukegan, IL 60085

If to any owner of record of any real property located within the subject property, or the OWNER:

Chicago Title & Trust Agt. #1106012 dtd. 6/12/1998
c/o Bernard Edelman, authorized agent
77 W. Washington St., #1501
Chicago, IL 60602-3220
T: 312-519-9900
Edelman@InnovativeMarketsInc.com
Fax: 888-700-5315

With copies to:
Joseph T Morrison
Morrison & Morrison, P.C.
32 N West St., Waukegan, IL 60085
T: 847-244-2660 C: 847-921-2661
joe@morrisonandmorrison.com
Fax 847-244-6817

Or to such address as any party hereto or an assignee or successor in interest of a party hereto may from time to time designate by notice to the other party hereto or their successors in interest.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed the day and year first above written.

THE VILLAGE OF ANTIOCH

a Municipal Corporation

BY _____

Village Mayor

ATTEST:

BY _____

Village Clerk

OWNER:

Chicago Title & Trust Agt. #1106012 dtd. 6/12/1998

BY: Innovative Markets, Inc., as authorized agent

Its: President

EXHIBIT A

Legal Description

*The West 500 feet of the North 215 feet of the Northwest Quarter
of the Southwest Quarter of Section 15, Township 46 North, Range
10, East of the third Principal Meridian, in Lake County, Illinois*

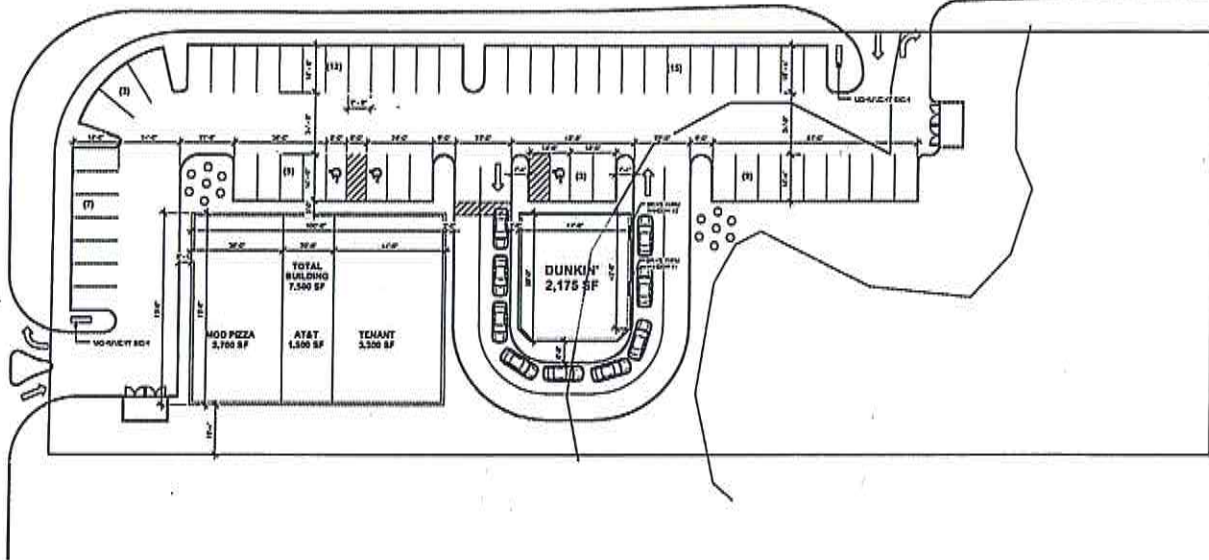
Commonly known as SEC Deep Lake Rd. & Illinois Route 173

PIN: 02-15-300-023

Exhibit B

503

DEEP LAKE ROAD



IMI ♦ FOUNDED 1988
 INNOVATIVE MARKETS, INC.
 77 West Washington Street ♦ Suite 1501
 Chicago, Illinois USA ♦ 60602-3220
 Tel: 312.519.9900 ♦ Fax: 888-700-5315
 Edelman@InnovativeMarketsInc.com

EXHIBIT C
ATTACHMENT
TO ANNEXATION AGREEMENT

THIS ATTACHMENT TO THE ANNEXATION AGREEMENT (the "Attachment" or "Agreement") is entered effective as of the 27th day of February, 2019, by and between the Village of Antioch, an Illinois municipal corporation (hereinafter referred to as "VILLAGE"), Chicago Title Trust Company, Trust # 1106012 Dated 06/12/98 (hereinafter collectively referred to as "OWNER"), and Innovative Markets Inc., an Illinois corporation (hereinafter referred to as "DEVELOPER.")

WITNESSETH:

- a. **WHEREAS**, the VILLAGE is an Illinois municipal corporation;
- b. **WHEREAS**, the OWNER is the owner of record of the real property located in Lake County, Illinois and is legally described in Exhibit "A" (said property referred to herein as the "SUBJECT PROPERTY");
- c. **WHEREAS**, Innovative Markets Inc, an Illinois corporation, is the proposed Developer of the Subject Property;
- d. **WHEREAS**, the SUBJECT PROPERTY is contiguous or may become contiguous with the corporate limits of the VILLAGE, and the Subject Property is not within the corporate limits of any municipality and constitutes the subject premises to be annexed to the Village;
- e. **WHEREAS**, the Subject Property is located at the southeast corner of Illinois Route 173 and Lake County Deep Lake Road, and at one time consisted of approximately 2.47 gross acres extending to the centerline of each roadway per the survey completed 11/18/97 and later dated 7/7/99 attached hereto and incorporated herein as Exhibit B (the "Pre-Agreement Configuration");
- f. **WHEREAS**, in or about 2002, the Village was considering a proposal for the development of approximately 31.5 acres located at the northwest corner of Illinois Route 173 and Deep Lake Road for commercial uses (the "Wal-Mart Site"), including a Wal-Mart Super Store and multiple out-lots which would generate millions of dollars in sales tax revenue for the Village as well as proving other valuable benefits to the Village ("Wal-Mart Project");
- g. **WHEREAS**, the intersection of Illinois Route 173 and Deep Lake Road was and is controlled and maintained by the Illinois Department of Transportation (IDOT);
- h. **WHEREAS**, in order to develop the Wal-Mart Site, significant improvements needed to be made by IDOT to Illinois Route 173 and Deep Lake Road, including intersection improvements such as widening Illinois Route 173 and Deep Lake Road;
- i. **WHEREAS**, the significant improvements needed made to the Illinois Route 173 and Deep Lake Road, including intersection improvements such as widening Illinois Route 173 and Deep Lake Road, required acquisition of title to and right-of-way from almost 30% of the fee simple title to the Pre-Agreement Configuration of Subject Property;

- j. **WHEREAS**, IDOT, and the owners of the Wal-Mart Site wanted to proceed in a timely manner and requested Owner to "donate" *at no cost and without payment of any cash consideration to Owner* all of the necessary title and required right-of-way along the south side of Illinois Route 173 and the east side of Deep Lake Rd. from the Subject Property as well as allow for a temporary "grading easement" further encroaching onto the Subject Property (collectively the "Donation");
- k. **WHEREAS**, IDOT sent a letter to Owner dated July 2, 2003, whereby IDOT formally approved "Left-in, Right-in/Right Out" on Illinois Route 173 for commercial development of the Subject Property, together with extension of full width and striping for the left turn lane to accommodate the site all in conjunction with a plan showing a proposed development of the Subject Property;
- l. **WHEREAS**, IDOT sent a letter to Owner dated September 4, 2003, confirming that even after any future SRA improvements, the Subject Property will have continued access on Route 173 and agreed to issue the Access Permit to reflect this (including but not limited to providing that the Village of Antioch was duly notified of the same as well as causing such Agreement to be inserted in a "reading file" so as to effectuate the Agreement should any further modifications be made to IL Route 173;
- m. **WHEREAS**, IDOT constructed access points to the Subject Property in conformance with the above letter agreements when the intersection improvements for Illinois Route 173 and Deep Lake Road were made to accommodate the traffic from the Wal-Mart Site development, which access points exist today;
- n. **WHEREAS**, IDOT's approvals for the access to the Subject Property were reflected in Antioch's approval of the construction plans prepared by Manhard Consulting for the Wal-Mart Site (which included improvements to the Subject Property;
- o. **WHEREAS**, Antioch established an escrow for reviewing the plans for the Subject Property in 2005;
- p. **WHEREAS**, Antioch approved the annexation and development of the Wal-Mart Site in 2002 and 2003 which included the proposed intersection improvements made possible by the Donation of land by the Owner;
- q. **WHEREAS**, Owner and Developer now desire to annex the Subject Property into Antioch and develop a shopping center on the Subject Property;
- r. **WHEREAS**, there has been filed with the Village Clerk a Petition for Annexation, consented to or signed by the Owner;
- s. **WHEREAS**, it is the intention of the parties that the annexation of the SUBJECT PROPERTY to the VILLAGE be upon the terms and conditions of this Attachment to the Annexation Agreement;
- t. **WHEREAS**, Owner and Developer propose that the Subject Property be zoned and substantially developed in accordance with the Preliminary Plat (or its equivalent in the form of a Site Plan as that term is defined and referenced in paragraph 2 below as Exhibit C) all in accordance with the terms and conditions of this Attachment to the Annexation Agreement;

- u. **WHEREAS**, the Subject Property is identified for commercial development in the Antioch Economic Redevelopment Plan ("Redevelopment Plan");
- v. **WHEREAS**, the Village recognizes that the Subject Property can only be developed if municipal sewer lines are extended to service the Subject Property;
- w. **WHEREAS**, the actual usable square footage of the Subject Property has been substantially reduced due to the previous Donation;
- x. **WHEREAS**, a commercial development is only feasible if the Village provides certain economic incentives;
- y. **WHEREAS**, a commercial development on the Subject Property will provide additional sales tax revenue to the Village;
- z. **WHEREAS**, the extension of the sewer line to service the development of the Subject Property and other incentives contained herein are consistent with the goals of the Redevelopment Plan;
- aa. **WHEREAS**, the annexation and development of the Subject Property in accordance with this Attachment to the Annexation Agreement is consistent with the Antioch Economic Redevelopment Plan, and is in the best interests of the residents of the Village of Antioch, including providing an important "Gateway" to the Village of Antioch.

NOW, THEREFORE, for and in consideration of the recitals as hereinbefore set forth and for other good and valuable consideration, the receipt and sufficiency of which are all hereby acknowledged; and in consideration of the mutual covenants and agreements as hereinafter set forth, the receipt sufficiency of which is hereby acknowledged, it is hereby agreed as follows:

1. The recitals set forth in this Amendment as paragraphs 1(a)-(aa) above are incorporated herein by this reference and made a part hereof as if fully set forth as paragraphs 1(a) thru 1(aa) in this Attachment. Each of the Exhibits attached hereto are hereby incorporated into this Attachment as if fully set forth in the paragraph where they are initially referenced.
2. Within 30 days following the execution of this agreement by all parties, the Village shall: enact such ordinances and take such other action that may be necessary to rezone the Subject Property to the Village's B-3 zoning district including calling special meetings or otherwise (the "Rezoning"); approve the special use permit for the PUD for the Subject Property; and, otherwise issue such licenses, plan approvals, and permits as are necessary to immediately effectuate all of the agreements set forth in this Attachment. Such Rezoning shall allow the development of the Subject Property pursuant to and in substantial compliance with the site plan attached hereto as Exhibit C (the "Site Plan").
3. The Owner and Developer shall be entitled to signage for the proposed development in the two locations as set forth on the Site Plan and in accordance with the attached Signage Plan, a copy of which is attached as Exhibit D and hereby approved.
4. The Village represents and warrants that it owns, operates and maintains a potable water supply and distribution system and water mains which service the Subject Property. The owner and developers of the Subject Property shall be permitted to make all new connections to the foregoing water systems as may be deemed necessary and appropriate. A culvert has previously been installed for the exclusive use and to service the Subject Property under IL Route 173.

5. A portion of the Subject Property described in Exhibit A is not currently within the FPA (Facilities Planning Area) of the Village. To the extent required by law, Owner and Developer shall work to obtain the consent of the County of Lake to allow the Subject Property to be served by the sewer system of the Village of Antioch. The Village of Antioch represents and agrees that it has adequate sewer capacity to service the development proposed on the Subject Property. The Owner and Developer will promptly submit all required applications required by law to obtain the waiver and consent of the County of Lake to allow the Village to service the Subject Property with sewer. Any and all application and associated costs to obtain the waiver and consent of the County of Lake shall be the responsibility of Owner and Developer.

6. The Village, Owner, and Developer understand that it will be necessary to extend the sanitary sewer system of the Village to service the proposed development on the Subject Property. Owner and Developer have obtained a preliminary estimate of the cost of the extension of that sewer system, and that estimate is attached hereto as Exhibit E and shall be paid for at Developer's sole cost and expense ("Sewer Extension Costs.") The proposed route of the sanitary sewer extension is attached as Exhibit F. In recognition of Developer paying all Sewer Extension Costs, and the recitals as set forth above, the Village has agreed to reimburse Owner and Developer for these improvements in the sum of \$300,000.00 out of "Business District Revenue" amortized over a period of six (6) years, which is \$50,000.00 per year. ("Business District Revenue Payments.'). These annual Business District Revenue Payments shall be shall begin and may be proportionally reduced as set forth in paragraph 7 below.

7. The Business District Revenue Payments shall begin at such time as the development reaches a state of full occupancy. Full occupancy is defined as four (4) completed commercial units, each of which having duly issued occupancy permits, and each of which is actually occupied by a commercial user which may be a tenant or owner-occupied space. Until such time as the development reaches a state of full occupancy, or if one or more units is not continuously occupied prior to the payment of the entire \$300,000.00 referred to in paragraph 6 hereinabove, the parties agree that payments shall be prorated and adjusted based on the following scale:

- Dunkin Donuts: This is identified as the primary tenant of the development and intended occupant of the drive-thru outlet. Once the occupancy permit issues for this space, and the space is occupied by Dunkin, 3/4 of the gross annual payment of \$50,000.00 shall commence and shall be paid in annual payments as set forth below. If, for any reason Dunkin closes prior to complete payment of the entire \$300,000.00, these specific payments will be abated until another tenant with equal or greater gross revenues shall occupy this particular space.
- Remaining 3 units: Unless and until all three remaining units are fully occupied, there will be no further payments from the Business District funds. At such time as the last remaining occupancy permit for all three units is issued and all three of these spaces are occupied by commercial users, then payments of the remaining 1/4 of the \$50,000.00 from the Business District funds shall commence. If, for any reason any one or more of these three remaining units closes prior to the complete payment of the entire \$300,000.00, the specific payment of this 1/4 of the \$50,000.00 annual payment will be abated. At such time thereafter, when and if all three of these remaining units are occupied and open for business the 1/4 of the \$50,000.00 annual payments shall resume.
- The annual payments shall be calculated and paid on a quarter-annual basis and any adjustments using the foregoing formula shall be applied on a pro rata basis at each such payment.

- If the adjustments made pursuant the foregoing formula result in payments less than \$300,000.00 after six years, and if Dunkin' Donuts or some other tenant with equal or greater gross revenues continues to occupy that particular space, then the payments shall continue according to the foregoing formula until the \$300,000.00 is paid, provided that if this Agreement lapses due to the running of the statutory time period of twenty years, any remaining payments not paid by that time shall also lapse, relieving the village of any obligation to make any further payments from that point forward.

8. The Village acknowledges that there are sufficient storm water facilities already in place and those existing facilities have sufficient capacity for the development of the Subject Property. Thus, the Village will not require any additional storm water detention facilities for the development of the Subject Property. All water quality matters and other related storm water runoff issues shall comply with all WDO regulations.

9. This Attachment, including the attached exhibits, may be amended only with the mutual consent of the parties. This Attachment may be executed in any number of counterparts via the exchange by telephone facsimile counterparts or e-mail transmission of an Adobe® file format document (also known as a PDF file) of the signature pages. The parties have signed this effective as of the date first written above.

10. The parties hereto intend and believe that each provision in this Agreement comports with all applicable law. However, if any provision in this Attachment (or the Annexation Agreement it is attached to) is found by a court of law to be in violation of any applicable law, and if such court should declare such provision to be unlawful, void or unenforceable as written, then it is the intent of all parties hereto that such provision shall be given full force and effect to the fullest possible extent that it is legal, valid and enforceable, that the remainder of this Attachment (or the Annexation Agreement it is attached to) shall be construed as if such unlawful, void or unenforceable provision were not contained herein, and that the rights, obligations and interest of the Parties under the remainder of this Attachment (or the Annexation Agreement it is attached to) shall continue in full force and effect.

11. The OWNER, DEVELOPER and VILLAGE agree that should any conflicts or ambiguities between this Attachment and the text of the Annexation Agreement exist and/or arise, the provisions of this Attachment shall supersede those of the Agreement text.

12. The OWNER and DEVELOPER have represented to the Village that MOD Pizza other tenants to be later identified may be seeking a liquor license. The zoning and approvals as set forth herein permit restaurants to apply for and to qualify to maintain liquor licenses. Each individual tenant will have to make formal application for such liquor licenses under the applicable ordinances and regulations of the Village. The Village agrees to process such applications in a timely manner and to apply its usual and customary vetting process to these applications as it does in similar circumstances for other prospective liquor licensees.

SIGNATURES FOLLOW ON THE NEXT PAGE

IN WITNESS WHEREOF, the parties have caused this agreement to be executed the day and year first above written.

THE VILLAGE OF ANTIOCH
a Municipal Corporation

OWNER:
Chicago Title Trust Company,
Trust # 1106012 Dated 6/12/98

By: _____

BY _____
Village Mayor

Its: _____

DEVELOPER:
Innovative Markets Inc., an Illinois corp.

By: _____

ATTEST:

Its: _____

BY _____
Village Clerk

Exhibit A
Real property legally described below (the "SUBJECT PROPERTY")

Exhibit B
Original Survey

Exhibit C
Site Plan

Exhibit D
Signage Plan

Exhibit E
Preliminary estimate of the cost of the extension of that sewer system

Exhibit F
Proposed route of the sanitary sewer extension

EXHIBIT A

Legal Description

*The West 500 feet of the North 215 feet of the Northwest Quarter
of the Southwest Quarter of Section 15, Township 46 North, Range
10, East of the third Principal Meridian, in Lake County, Illinois*

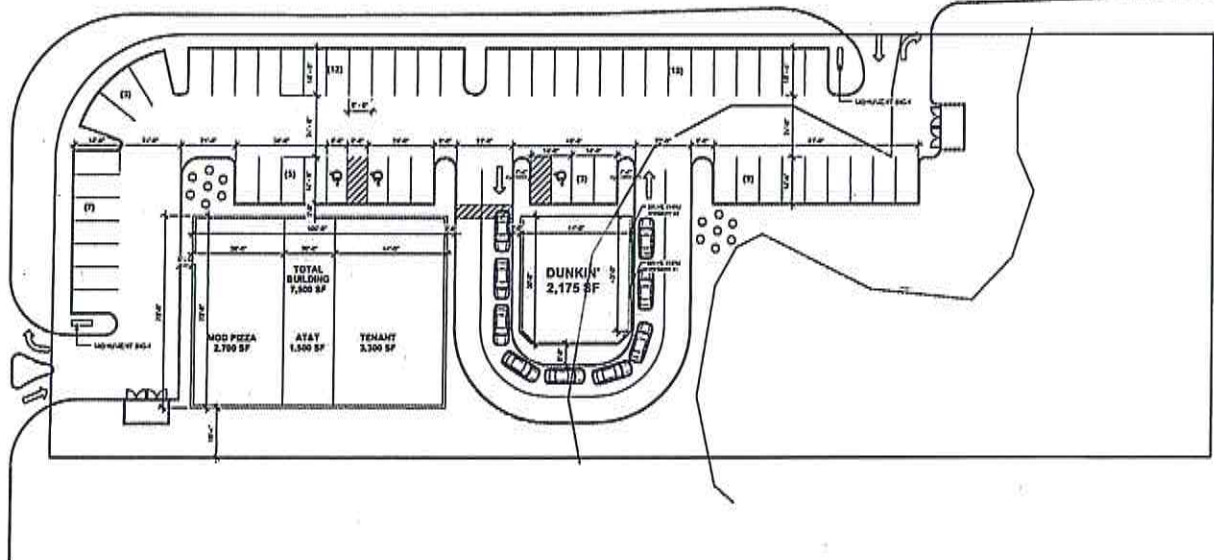
Commonly known as SEC Deep Lake Rd. & Illinois Route 173

PIN: 02-15-300-023

Exhibit C

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DEEP LAKE ROAD



IMI ♦ FOUNDED 1988
 INNOVATIVE MARKETS, INC.
 77 West Washington Street ♦ Suite 1501
 Chicago, Illinois USA ♦ 60602-3220
 Tel: 312.519.9900 ♦ Fax: 888-700-5315
 Edelman@InnovativeMarketsInc.com

Exhibit D

GW PROPERTIES
PROPOSED COMMERCIAL DEVELOPMENT
 21947 W. ILLINOIS ROUTE 173
 ANTIOCH, ILLINOIS

DESIGN STUDIO 24 LLC
 ARCHITECTS - DESIGNERS - PLANNERS
 2117 E. WILSON AVENUE, CHICAGO, ILLINOIS 60622
 TEL: 312.321.1111 FAX: 312.321.1111

GW PROPERTIES
PROPOSED MONUMENT SIGN
 ANTIOCH CROSSROADS

21947 W. IL Route 173
 Antioch, IL

INNOVATIVE MARKETS INC



InnovativeMarketsInc.com
 Founded 1988

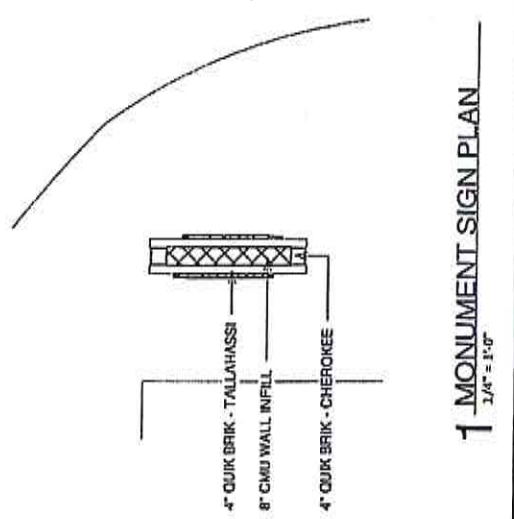
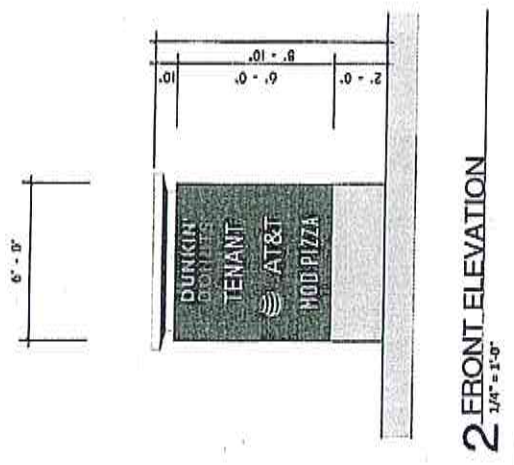
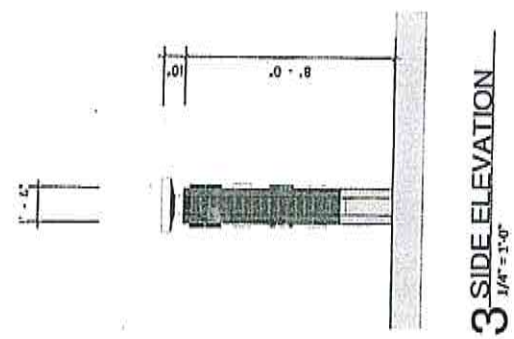
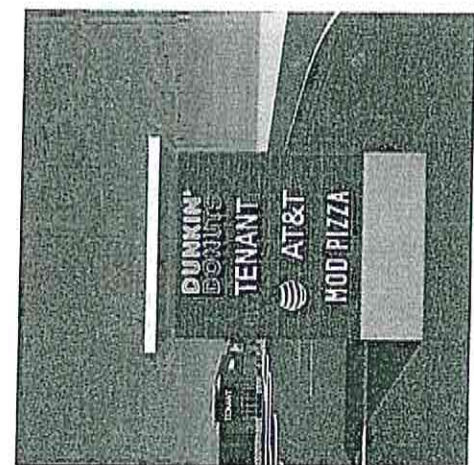


Exhibit E

CONCEPTUAL BUDGET

**Forcemain Extension Connection to/from SE Corner
of Deep Lake Road & IL Route 173:**

Work to be performed:

**Extend the force main \pm 1,000 feet west and then
auger beneath Rte. 173 and connect to the Village's
public sanitary manhole on the north side of Rte. 173
(see attachment).**

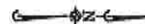
Conceptual budget for this work is:

\$350,000 Construction

**\$ 30,000 Topographic Survey, Easements, Design and
permit assistance**

\$ 5,000 Construction Management + Legal

**\$385,000 + Tap on fees & recapture (not included in this
quote or need to be waived)**



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PROPOSED RETAIL DEVELOPMENT
 SEC OF IL RT. 173 AND DEEP LAKE ROAD
 SANITARY FORCEMAIN LAYOUT EXHIBIT

Manhard
 CONSULTING LTD.
 6000 Sandstone Parkway, Suite 100 • 90001 • 904-477-3443 • FAX 904-477-3444
 Civil Engineers • Surveyors • Interior Remediation Engineers • Interior Air Remediation Engineers
 Coastal Engineers • Marine • Environmental Engineers • Environmental Scientists • Environmental Consultants