

Ordinance #O.22.24

An Ordinance **AUTHORIZING THE EXECUTION OF THE FIRST AMENDMENT TO THE ANNEXATION AGREEMENT WITH TRUE NORTH QUALITY HOMES, LLC.**

Adopted by the City Council of the City of Galena this 28<sup>th</sup> Day of November 2022.

Published in pamphlet form by authority of the City Council of the City of Galena, Jo Daviess County, Illinois, this 28<sup>th</sup> Day of November 2022.

STATE OF ILLINOIS            )  
  )       City of Galena  
COUNTY OF JO DAVIESS )

CERTIFICATE

I, Mary Beth Hyde, certify that I am the duly elected municipal clerk of the City of Galena, JoDaviess County, Illinois.

I further certify that on the 28<sup>th</sup> Day of November 2022, the Corporate Authorities of said municipality passed and approved Ordinance No. O.22.24 entitled **AN ORDINANCE AUTHORIZING THE EXECUTION OF THE FIRST AMENDMENT TO THE ANNEXATION AGREEMENT WITH TRUE NORTH QUALITY HOMES, LLC**, which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. O.22.24 including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted in the municipal building, commencing the 29<sup>th</sup> Day of November 2022 and commencing for at least ten (10) days thereafter.

Dated at Galena, Illinois, this 29<sup>th</sup> Day of November 2022.

  
Mary Beth Hyde, City Clerk

(Seal)

**ORDINANCE NO. O.22.24**

**AN ORDINANCE AUTHORIZING THE EXECUTION OF THE FIRST AMENDMENT TO THE ANNEXATION AGREEMENT WITH TRUE NORTH QUALITY HOMES, LLC**

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**WHEREAS**, it is in the best interests of the City of Galena, Jo Daviess County, Illinois, that a certain amendment to an annexation agreement with True North Quality Homes, LLC, and their successor and assigns, pertaining to the land described below, be entered into; and

**WHEREAS**, a copy of such agreement is attached hereto and incorporated herein; and

**WHEREAS**, the legal owners of record of the property that is the subject of the amendment to the annexation agreement are ready, willing and able to enter into that agreement and to perform the obligations as required thereunder; and

**WHEREAS**, the statutory procedures provided in Division 15.1 of Article 11 of the Illinois Compiled Statutes, as amended, 65 ILCS 5/11-15.1, for the execution of the amendment to the annexation agreement have been fully complied with;

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF GALENA, JO DAVIESS COUNTY, ILLINOIS, AS FOLLOWS:**

**SECTION 1:** That the property covered by the Amendment to the Annexation Agreement is described in EXHIBIT A and shown in plat form in Exhibit B, and

**SECTION 2:** That the Mayor be and is hereby authorized and directed to execute, and the City Clerk is directed to attest, a document known as "First Amendment to Annexation Agreement" (a copy of which is attached hereto and made a part hereof), and

**SECTION 3:** The invalidity of any section part, provision, term or phrase of this Ordinance shall not affect the validity of the remainder hereof, and

**SECTION 4:** All ordinances or parts of ordinances in conflict or inconsistent with this Ordinance shall be repealed to the extent of any such conflict or inconsistency, and

**SECTION 5:** This Ordinance shall be in full force and effect from and after its passage; approval and publication as provided by law.

PASSED AND APPROVED THIS 28<sup>th</sup> DAY OF NOVEMBER, 2022.

**AYES:** Kieffer, McCoy, Westemeier, Hahn, Renner

**NAYS:** Bernstein

**ABSENT:** Wienen



Terry Renner  
Mayor

ATTEST:



Mary Beth Hyde  
City Clerk

Prepared by:

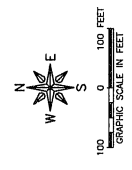
Joseph Nack  
City Attorney  
101 Green Street  
Galena, Illinois 61036

## EXHIBIT A

### ANNEXATION DESCRIPTION

A part of the East Half (E 1/2) of the South Half (S 1/2) of Fractional Section Twenty (20), Township Twenty-eight (28) North, Range One (1) East of the Fourth Principal Meridian, bounded and described as follows:

Commencing at the Southeast corner of said Section Twenty (20); thence West on the South line of said Section Twenty (20), a distance of 171.60 feet to the point of beginning of the hereinafter described tract of land; thence continuing West on the South line of said Section Twenty (20), a distance of 940.00 feet to a point 198.00 feet East of the Southwest corner of the East Half (E 1/2) of the South Half (S 1/2) of said Section Twenty (20); thence Northwesterly at an angle  $73^{\circ}38'29''$  as measured counter-clockwise from the last described course, a distance of 1214.44 feet; thence Southeasterly at an angle of  $56^{\circ}32'13''$  as measured counter-clockwise from the last described course, a distance of 132.95 feet; thence Southeasterly at an angle of  $172^{\circ}02'48''$  as measured clockwise from the last described course, a distance of 148.87 feet; thence Northeasterly at an angle of  $94^{\circ}06'00''$  as measured clockwise from the last described course, a distance of 172.44 feet to a point in the centerline of a public road known as the Galena and Savanna Road; thence Southeasterly on said centerline of the Galena and Savanna Road, at an angle of  $94^{\circ}10'34''$  as measured counter-clockwise from the last described course, a distance of 118.89 feet; thence Southeasterly on said centerline of the Galena and Savanna Road at an angle of  $164^{\circ}31'46''$  as measured counter-clockwise from the last described course, a distance of 381.28 feet; thence Southerly at an angle of  $145^{\circ}57'13''$  as measured counter-clockwise from the last described course, a distance of 687.37 feet to the point of beginning, containing 18.239 acres, more or less. Situated in the County of Jo Daviess in the State of Illinois.

[illegible]

AREA TO BE ANNEXED  
TO THE CITY OF GALENA

SOUTH LINE OF  
FRAC. SEC. 20  
177.60' P.O.B. P.O.C.  
SE COR., SEC.  
20, T.28N., R.1E.,  
4TH P.M.

<b>BEHR GRAHAM</b> ENGINEERING & ENVIRONMENTAL 11000 13TH AVE. S.W. MINNEAPOLIS, MN 55426 TEL: 612-339-2222 FAX: 612-339-2223	ILLINOIS	JOB NUMBER:
	IOWA	21-287
WISCONSIN		SHEET NUMBER:
		1 of 1

**FIRST  
AMENDMENT TO  
ANNEXATION  
AGREEMENT**

This First Amendment to Annexation Agreement (the "Amendment") is made to the Annexation Agreement (the "Annexation Agreement") dated May 11, 2022 and recorded by the Jo Daviess County Recorder, State of Illinois, on May 11, 2022, as Document No. 421761, between the City of Galena, a municipal corporation of Jo Daviess County, Illinois (the "City") and True North Quality Homes, LLC, or their grantees, heirs, successors or assigns (the "Owner/Developer").

**RECITALS**

A. Owner/Developer has requested an amendment to the Annexation Agreement to approve an addition of 18.239 acres (the "Addition") to the 56.17-acre property subject to the Annexation Agreement and annexed to the City of Galena on May 23, 2022; and

B. The Addition is more particularly described in "Exhibit A".

C. Section 11-15.1-1 of the Illinois Municipal Code authorizes municipalities to enter into annexation agreements, and make amendments to such agreements, providing for the annexation of certain property upon the property becoming contiguous to the municipality.

D. Section 11-15.1-2.1 of the Illinois Municipal Code provides that the property that is the subject of an annexation agreement adopted under Division 15.1 is subject to the ordinances, control and jurisdiction of the annexing municipality in all respects, the same as property that lies within the annexing municipality's corporate limits.

E. Owner/Developer has signed a duly executed Petition for Annexation in accordance with the provisions of the Illinois Compiled Statutes, 65 ILCS 5/7-1-2 and is hereby requesting that the City enter into this Amendment to the Annexation Agreement pursuant to the requirements and provisions of Section 11-15.1-1 of the Illinois Municipal Code; and

F. The Addition is contiguous to the City of Galena and Owner/Developer has indicated the desire and intention to have the Addition annexed to the City upon the terms and conditions herein set forth.

G. Owner/Developer proposes to zone the Addition Planned Unit Development District with an underlying district of Agricultural and amend the previously approved Preliminary Planned Unit Development Plan (Preliminary PUD Plan) for "The Parker" development pursuant to authority granted by the City of Galena Zoning Board of Appeals and the Galena City Council.

H. Given the proximity of the Addition to the City of Galena corporate boundary and the possible provision of City utilities to the Addition, the proposed development of the Addition will have a far greater impact on the City than upon any other unit of local government having the authority to undertake regulation of those operations.

I. On November 9, 2022, after duly published notice, the Zoning Board of Appeals of the City conducted a public hearing on the request of the Owner/Developer for approval of the amendment to the Preliminary Planned Unit Development Plan and

rezoning of the Addition to the Planned Unit Development District with an underlying district of Agricultural. This request included the referenced 18.239 acres in Exhibit A, the 56.17 acres subject of the May 23, 2022 annexation, and the +/-23.85 acres of contiguous property subject of the Annexation Agreement and approved Preliminary PUD Plan. Upon adjournment of the public hearing, the Zoning Board of Appeals of the City voted five in favor and none against (5-0) to send a positive recommendation to the City Council in the manner provided by law.

J. On November 14, 2022, after duly published notice, the City Council of the City reviewed and considered the record from the November 9, 2022, Zoning Board of Appeals public hearing on the proposed rezoning of the Addition and amendment to the Preliminary PUD Plan. The City Council voted five (5) in favor and two (2) against (5-2), achieving the votes required for approval of the amendment to the Preliminary PUD Plan, including the zoning of the 18.239 Addition as Planned Unit Development District with an underlying district of Agricultural.

K. On November 14, 2022, after duly published notice, the City Council conducted a public hearing on this Amendment in accordance with applicable law. After the public hearing concluded, the City Council voted on November 14, 2022 six (6) in favor and one (1) against (6-1) to approve the first reading of an ordinance authorizing the execution of the Amendment. On November 28, 2022, after duly published notice, the City Council voted five (5) in favor and one (1) against (5-1), achieving the votes required for approval of this Amendment and the ordinance authorizing the execution of the Amendment.

L. Performance by both the Owner/Developer and the City of their respective obligations under this Amendment is critical to the health, safety and welfare of the general public, and to the enjoyment and use of property located in the vicinity of the



Addition and the Property (as hereafter described), as hereafter defined, of the Owner/Developer.

**NOW, THEREFORE**, in consideration of the mutual promises and agreements between the parties, the sufficiency of which is hereby acknowledged, the parties agree as follows:

## **ARTICLE I**

### **INCORPORATION OF RECITALS AND EXHIBITS**

1.1 **Incorporation of Recitals.** The recitals herein above set forth are incorporated into and made a part of this Amendment.

1.2 **Incorporation of Exhibits.** The exhibits attached hereto are incorporated into and made a part of this Amendment.

## **ARTICLE II**

### **DEFINITIONS**

2.1 **Definitions.** As used in this Amendment, the following terms shall have the meaning set forth opposite each of them except where the use or context clearly indicates that a different meaning is intended:

2.1.1 **"Amendment"** shall mean this amendment to the Annexation Agreement.

2.1.2 **"Annexation Agreement"** or **"the Agreement"** shall mean the Annexation Agreement between the City and the Owner/Developer executed May 11, 2022.

2.1.3 **"City"** means the City of Galena, a municipal corporation organized and existing under the laws of the State of Illinois and located in Jo Daviess County, Illinois.

2.1.4 **"County"** means the County of Jo Daviess in the State of Illinois.

2.1.5 **"Owner/Developer"** means True North Quality Homes, LLC, or their grantees, heirs, successors or assigns.

2.1.6 **"Addition"** means the 18.239 acres of real property legally described on "Exhibit A."

2.1.7 **“Property”** means the real property subject of the Annexation Agreement, including parcel numbers, 09-500-296-00, 06-500-294-03, 06-500-294-00, 06-000-101-00, 06-000-101-03, totaling 80.0 acres more or less.

2.1.8 **“Zoning Code”** means the City of Galena Zoning Ordinance found at Chapter 154 of the City Code of the City.

## **ARTICLE III**

### **ANNEXATION AND ZONING OF THE ADDITION**

3.1 **Plat of Annexation.** A plat of annexation, prepared at the sole cost and expense of the Owner/Developer, depicting the relationship of the boundaries of the Addition prior to its annexation to the then-existing corporate limits of the City is attached and made part hereof as “Exhibit B”.

3.2 **Annexation of the Addition.** Within sixty (60) days after the adoption of this Amendment, the City shall, subject to the terms and conditions of this Amendment, do all things necessary or appropriate to cause the Addition to be annexed to the City and to comply with the provisions of this Amendment. In particular and without limitation, the City shall pass and approve an ordinance annexing the Addition to the City and prepare and serve any notices as may be required for any township road district, fire protection district or library district, as appropriate. The City shall record with the Jo Daviess County Recorder as necessary the ordinance annexing the Addition and record or file any other documents as may be necessary to effectuate the terms of this Amendment.

3.3 **Adoption of Ordinances Addressing Zoning Matters.** No later than sixty (60) days after the adoption of this Amendment, the City shall, subject to the terms and conditions of this Amendment, do all things necessary or appropriate to cause the City to adopt an ordinance for the purpose of establishing the zoning of the Addition and

parts thereof, being Planned Unit Development District zoning with the underlying default district of Agricultural.

3.4 **Use of the Addition Prior to Annexation.** Until the City annexes the Addition as provided in Section 3.3 of this Amendment, the City and Owner/Developer agree that the Owner/Developer may proceed with planning activities for developing the Addition in accordance with and consistent with the terms of this Amendment and with all ordinances of the City regarding such development in place at the time of the execution of this Amendment.

## **ARTICLE IV**

### **ZONING**

4.1 **Zoning.** The City shall enact such ordinances, adopt such resolutions and take such other actions as are necessary to zone the Addition as Planned Unit Development District with the underlying default district of Agricultural and shall approve the Preliminary PUD Plan for the Addition and Property.

## **ARTICLE V**

### **GENERAL PROVISIONS**

5.1 All terms and conditions of the Annexation Agreement dated May 11, 2022 not inconsistent with this Amendment shall remain the same and shall be in full force and effect and apply to the Addition.

**IN WITNESS WHEREOF,** the City and Owner/Developer have caused this Amendment to be executed effective as of the day and year first above written.

CITY OF GALENA:

BY: Terry Renner  
Its Mayor

OWNER/DEVELOPER:

BY: David Hooten  
David Hooten

ATTEST: Margaret Hyde  
Its City Clerk

ATTEST: By Sam

STATE OF ILLINOIS   )  
  ) ss.  
JO DAVIESS COUNTY )

The foregoing instrument was acknowledged before me by Terry Renner, City Mayor, and Mary Beth Hyde, City Clerk, this 29th day of November, 2022

Mary Beth Hyde

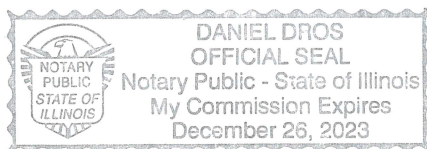
Notary Public



STATE OF ILLINOIS   )  
  ) ss.  
JO DAVIESS COUNTY )

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, Do Hereby Certify that **David Hooten**, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 7 day of December, 2022.



1 Daniel Dros

Notary Public

PREPARED BY AND RETURN TO:

Joseph Nack  
City Attorney  
City of Galena  
101 Green Street  
Galena, IL 61036  
815-777-1050

## EXHIBIT A

### ANNEXATION DESCRIPTION

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[illegible]

<b>FEHR GRAHAM</b>	ILLINOIS IOWA WISCONSIN
ENGINEERING & ENVIRONMENTAL	JOB NUMBER: <b>217-287</b>
ALUOG 25000 PINE RD. 94-03265	SHEET NUMBER: <b>1 of 1</b>
221 E. MAIN ST., FREEPORT, IL 61037.235.7643	<b>BARANSKI, HAMMER, MORETTA &amp; SHEEHY</b>
DATE: 06/17/94 DRAWN BY: JMS FIELD: JMS DOWNS: NAG	QV/QC: —