



**Village of Itasca**  
**Community Development Department**

550 WEST IRVING PARK RD. ITASCA, IL 60143  
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e-mail: smalikjarmusz@itasca.com  
www.itasca.com

**MEMORANDUM**

**TO:** President Jeff Pruyn  
Village Board of Trustees

**RE:** 17-003  
RagingWire Data Centers, Inc.  
Development Agreement 1<sup>st</sup>  
Amendment

**FROM:** Shannon Malik Jarmusz, AICP  
CD Director

**COTW:** September 17, 2019

**CC:**

**ENCL:** Draft Changes

**Background**

This item had originally been scheduled for COTW review on September 3, 2019 and was pulled from consideration that evening because RagingWire indicated that they wished to propose a substantive change to the originally approved Development Agreement as a result of the revised site plan that was recently approved by the Village Board.

Initially, staff coordinated minor amendments to the Development agreement to ensure consistency with Village Board approvals related to the revised development plan. These changes are primarily centered on updating language pertaining to the construction schedule due to phasing changes and amending the approved plan documents.

Subsequently, the developer requested that the Village Board consider allowing them to proceed with the two buildings in two separate phases as opposed to constructing the site utilities and other improvements for both simultaneously. RagingWire indicates that they would first like to construct all public and site improvements, utilities such as sewer, water, storm sewer, telecom, gas, etc., for the southern building, what they are now calling Phase One, and then tie into those improvements later when they are ready to construct the second building to the north during Phase Two.

The previously approved Development Agreement allowed for three phases over three to five years. The revised site plan requires that this be changed to two phases due to the new building layout and elimination of a third addition or structure. The Development Agreement also requires the developer to seed or sod undeveloped portions of the property if there is a delay of more than 365 days between the completion of one phase and the commencement of the next phase.

Customarily, all site improvements and utilities are provided for together, and public improvements must be completed within two years of the start of construction. This site is a bit unique in that it will have two principal structures on one lot of record and was treated as a Planned Development by Special Use as required under the Zoning Ordinance. Had the lot been

subdivided into two in order to accommodate the two buildings, there wouldn't be an issue of considering tapping into the site and utility improvements at a later date, hence the reason that this is considered a discussion point in negotiating the final terms of the Development Agreement.

The attached agreement is a draft for discussion purposes only and it will be refined prior to the Village Board Regular voting meeting scheduled for October 1, 2019 through coordination between the applicant, Community Development, and the Village Attorney. The developer is hoping to capitalize on what remains of this construction season, if at all possible.

### **Requests Before the Village Board**

#### **A. First Amendment to the Development Agreement**

### **RECOMMENDATION**

Staff seeks Village Board direction on whether there is comfort with making revisions to accommodate the developer's phasing request on site improvements and underground utilities since it is a substantial change from the initial development agreement.

Village staff is determining what additional sureties can be put in place for the entire development as a safeguard against Phase Two lagging or not coming to fruition. We are comfortable with seed or sod being covered within the agreement as it stands, but the Board may wish to negotiate for its installation earlier than 365 days as described above.

In addition, staff recommends the following be provided by the developer prior to September 24<sup>th</sup>:

- Letter on RagingWire letterhead summarizing the request and rationale
- More detail to be provided on phasing exhibit to be coordinated with Village Engineer
  - Additional storm sewer connections
  - Detailed grading and seed/sod plan

Staff would like to note that all other matters pertaining to stormwater management, public improvements/conveyance, and maintenance matters remain unchanged as they were settled within the original approved document.

If the Village Board is open to considering the proposed request, staff will prepare a revised Development Agreement to memorialize the final terms for the October 1, 2019 Village Board meeting.

Any Village Board approved Development Agreement will subsequently be recorded at the DuPage County Clerk's office.

**RAGINGWIRE  
DEVELOPMENT AGREEMENT- FIRST AMENDMENT**

This Development Agreement (“Agreement”) is made and entered into as of the 17<sup>th</sup> day of September, 2019 (“Effective Date”), by and between the Village of Itasca, an Illinois municipal corporation located in DuPage County, Illinois (the “Village”) and RagingWire Data Centers, Inc. (the “Developer”). The Village and the Developer are sometimes hereinafter referred to individually as a “Party” and collectively as the “Parties”.

**WITNESSETH:**

WHEREAS, the Developer is the contract purchasers and proposed developer of a parcel of vacant real estate within the Village of Itasca consisting of approximately 18.8 acres, generally located north of the terminus of Hamilton Lakes Dr. at Pierce Road (portions of PIN 03-05-200-23 and 03-05-200-038) and legally described in Exhibit A attached hereto (the “Subject Property”); and

**Commented [SMJ1]:** DuPage County GIS does not yet show that the property is owned by RagingWire Data Centers., Inc. Do you have any record of the land sale transaction being finalized?

WHEREAS, the Developer ~~wishes requested amendments~~ to construct a data center and associated improvements (the “Development”); and

~~WHEREAS, the Village Board previously adopted Ordinance No. 1852-17 granting project entitlements for a data center and associated improvements (“the Development”) and Resolution 891-17 authorizing the Village to enter into a Development Agreement in furtherance of construction of the proposed project; and~~

~~WHEREAS, the Developer subsequently proposed Development changes which required the Itasca Plan Commission (the “Plan Commission”) to hold a duly noticed public hearing on July 17, 2019 to consider modifications to the originally approved Development, and the Plan Commission recommended approval of the changes to the Development to the Village Board of Trustees (the “Village Board”, with conditions; and~~

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~~WHEREAS, on June 21, 2017, the Itasca Plan Commission (the “Plan Commission”) held a duly noticed public hearing to consider the Development, and the Plan Commission recommended approval of the Development to the Village Board of Trustees (the “Village Board”), with conditions; and~~

WHEREAS, the Village adopted Ordinance No. ~~1852-17~~1920-19, which: (i) amended the Chancellory at Hamilton Lakes Concept Plan to permit a 2-story data center; (ii) ~~approved the Planned Development by Special use to allow more than one principal building on a lot;~~ (iii) approved the Class I Site Plan ~~Review for the purpose of constructing a data center in the ROC district; and for the Subject Property, including preliminary and final plan of development approval;~~ (iii) granted certain variances and relief from the Itasca Subdivision Ordinance and Itasca Zoning Ordinance; and (iv) approved the requested for final plat of subdivision for the Subject Property.

WHEREAS, the Developer and the Village wish to ~~enter into~~ revise this Agreement with respect to the Subject Property and the Development, upon the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the premises, mutual covenants and agreements herein set forth, the Parties hereto agree as follows:

1. Recitals and Exhibits. The above recitals are hereby incorporated into and made a part of this Agreement. The Exhibits referred to in this Agreement and attached to or incorporated into it by textual reference are made a part of this Agreement as though they were fully set forth in this Section 1. The Parties acknowledge the accuracy and validity of those Exhibits.

2. Plans. The Developer's construction of the Development shall be in substantial compliance with the Village Board approved plans and subsequent final engineering approved plans including the following plans and agreed to conditions:

- a. Hamilton Lakes Master Concept Plan – showing site plan changes, dated June 7, 2019 (Exhibit B)
- b. Architecture Perspectives, Elevations, Floor and Roof plans, dated July 3, 2019 (Exhibit C)
- c. Project Description and Parking Analysis, dated June 6, 2019 (Exhibit D)
- d. Landscape Plan, dated July 3, 2019 (Exhibit E)
- e. Revised Preliminary Engineering Plans with Fire Truck Turning Exhibit, dated July 3, 2019 (Exhibit F)
- f. Hamilton Lakes Resubdivision No. 2, dated June 13, 2019 (Exhibit G)
- g. Lighting Photometric Plans, dated July 3, 2019 (Exhibit H)
- h. Security Fencing Details, dated June 7, 2019 (Exhibit I)
- i. Technical Memorandum regarding Traffic Impact Study, prepared by Civiltech, dated May 5, 2017 with addendum dated July 3, 2019. (Exhibit J)
- j. Response to Planning Review memorandum on June 24, 2017, dated July 3, 2019 (Exhibit K)
- k. Engineering review memorandum dated June 21, 2019, and subsequent memos. (Exhibit L)
- l. Itasca Fire District review memorandum dated June 19, 2019, and subsequent memos. (Exhibit M)
- a. Architectural Submittal, prepared by Integrated Design Group, revised June 7, 2017, and attached hereto as Exhibit B, including the following plans: Exterior Perspectives, First Floor Plan, Second Floor Office Plan, Second Floor Vault Plan, Roof Plan, and Exterior Elevations;
- b. Site Lighting Plans, prepared by Integrated Design Group, revised July 28, 2017, and attached hereto as Exhibit C;
- e. Preliminary Engineering Plans, prepared by RWG Engineering, revised July 28, 2017, and attached hereto as Exhibit D, including the following plans: Title Sheet, Existing Conditions Plan, Master Development Plan;

**Commented [SMJ2]:** The Developer has indicated that Integrated Design Group, their architect/engineer, has merged with Harley Ellis Devereaux (HED). We've eliminated references to the design firm in the exhibits.

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~~Preliminary Site Geometric Plan, and Preliminary Grading, Drainage, and Utility Plan;~~

- ~~d. Preliminary Plat of Subdivision, prepared by Edward J. Molloy & Associates, revised June 13, 2017, and attached hereto as Exhibit E;~~
- ~~e. Revised “The Chancellory at Hamilton Lakes” Concept Plan, prepared by the Jenkins Group, dated April 12, 2017, and attached hereto as Exhibit F;~~
- ~~f. DuPage County Stormwater Management letter, dated April 4, 2017, prepared by Anthony J. Charlton, PE, and attached hereto as Exhibit G;~~
- ~~g. Technical Memorandum regarding Traffic Impact Study, prepared by Civiltech, dated May 5, 2017 with addendum dated June 7, 2017, and attached hereto as Exhibit H;~~
- ~~h. Monument Sign Proposal, prepared by Facility Solutions Group, Revised February 27, 2017, and attached hereto as Exhibit I;~~
- ~~i. Fire Truck Exhibit, prepared by RWG Engineering, revised July 28, 2017, and attached hereto as Exhibit J; and~~
- ~~j. Landscape Plan, prepared by Integrated Design Group and McCallum Associates, dated May 8, 2017 with Tree Inventory Plan dated July 28, 2017, and attached hereto as Exhibit K.~~

3. Should Developer fail to develop the Subject Property in substantial compliance with the approved plans (as listed above in Section 2) or should Developer seek to depart from or modify these approved plans, Developer shall then be required to again go before the Plan Commission and Village Board to seek the necessary approvals of such departure or modification, as outlined in the Itasca Zoning Ordinance and Subdivision Regulations. Notwithstanding the foregoing, any departures from or modifications to the approved plans hereafter sought by the Developer which are deemed minor in the discretion of the Community Development Director, or his or her designee, may be approved by said Director or designee without public hearings and without formal amendment to this Agreement.

4. Compliance with Applicable Ordinances / Conflicts.

- a. In constructing the Development, the Developer agrees to comply with: (i) the Itasca Zoning Ordinance and Subdivision Ordinance, as they exist as of the Effective Date of this Agreement, and as applicable to the Development; (ii) all Village Board approvals as outlined in this Agreement; (iii) all plans referenced in Section 2 above; and (iv) subject to the provisions of Sections 4(b) and (c) below, all other Village codes, ordinances, regulations, standards and specifications, as amended from time to time.
- b. In the event of a conflict or inconsistency between the Village’s codes, ordinances, regulations, standards and specifications, as amended from time to time, on the one hand, and this Agreement (including the plans and exhibits attached to this Agreement), the ordinance adopted by the Village Board pursuant to this

Agreement or the Final Development Plans, on the other hand, the latter shall govern and control. In the event of a conflict or inconsistency between the text of this Agreement and either the plans and exhibits attached to this Agreement or the Final Development Plans, the plans and exhibits to this Agreement and the Final Development Plans shall govern and control. In the event of a conflict or inconsistency between the plans and exhibits attached to this Agreement and the Final Development Plans, the Final Development Plans shall govern and control.

- c. Should Developer fail to commence any construction of the Development within two years from the Effective Date of this Agreement, Developer would be required to follow all Village ordinances and building codes as they exist at that time, and, pursuant to Village Ordinance, the Village Plan Commission may recommend to the Village Board that any zoning related to the Development be affirmed or repealed to the most appropriate district classification in accordance with the Village's Zoning Ordinance.
- d. Following the Village's issuance of final certificates of occupancy, any construction or repair work performed must comply with all existing Village codes, ordinances, regulations, and standards.

5. Construction Schedule. ~~The Developer anticipates construction to proceed in three (3) phases over the course of three to five years, as shown in Exhibit D, Preliminary Engineering Plans. Phase I will consist of an approximately 247,000 square foot, 2-story building and all underground improvements for the site and site improvements. Phase II will consist of an approximately 185,200 square foot, 2-story building. Phase III will consist of an approximately 232,200 square foot, 2-story building. If there is a delay of more than 365 days between the completion of one phase and the commencement of the next phase, the Developer will seed or sod undeveloped portions of the property.~~ The Developer anticipates construction to proceed in two (2) phases over the course of three to five years, as shown in Exhibit F, Revised Preliminary Engineering Plans. Phase I will consist of an approximately 228,000 square foot, 2-story building and all underground improvements for the site and site improvements. Phase II will consist of an approximately 228,000 square foot, 2-story building. ~~Phase I will consist of an approximately 228,000 square foot, 2-story building and all underground improvements for that facility and partial underground improvements for the site, as well as, site improvements associated with the first structure (landscaping). Phase II will consist of an approximately 228,000 square foot, 2-story building and all remaining underground improvements and site improvements. If there is a delay of more than 365 days between the completion of one phase and the commencement of the next phase, the Developer will seed or sod undeveloped portions of the property.~~

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**Commented [SMJ3]:** Developer proposes: Phase 1 will consist of an approximately 228,000 square foot, 2-story building and all underground improvements for that facility and partial underground improvements for the site, as well as, site improvements associated with the first structure (landscaping). Phase II will consist of an approximately 228,000 square foot, 2-story building and all remaining underground improvements and site improvements. This will be struck s the timing of all underground improvements for the site and site improvements with Phase 1 was previously negotiated and required by Code.

6. Site Improvements. In connection with its construction of the Development, Developer, at its sole cost and expense, shall construct all of the following improvements to the extent identified on the Final Engineering Plans (collectively, the "Site Improvements"): (i) all water mains and service lines, fire hydrants, and appurtenances, including the 8-inch water main which encircles the building; (ii) all stormwater management facilities, storm sewer mains and related facilities, including those described in Section 7 of this Agreement, (iii) all sanitary sewer mains, service lines, and appurtenances; (iv) a private access drive from the intersection of

Hamilton Lakes Drive and Pierce Road to the building, as depicted on Exhibit D, Preliminary Engineering Plans (hereinafter "Private Drive"); (v) improvements at the intersection of Hamilton Lakes/access drive and Pierce Road, including traffic signal installation at the intersection; and (vi) emergency access on the southeast side of the development as shown on the "Depiction of Emergency Access Easement," attached hereto and incorporated herein as Exhibit L. The construction of all Site Improvements shall be subject to inspection by and the approval of the Village Engineer in accordance with the Village's Development Standards and Specifications, this Agreement and all other applicable provisions of the Village Code.

All work performed on the Site Improvements shall be conducted in a good and workmanlike manner and with due dispatch in accordance with this Agreement. Reasonable care shall be taken to avoid damage to existing and new public improvements, including utilities, streets, and curbs during construction. Any public improvement damaged during construction shall be repaired to the reasonable satisfaction of the Village Engineer and in substantial compliance with this Agreement and all applicable Village codes and ordinances.

7. Stormwater Management System. Stormwater management shall be provided in compliance with the DuPage County Stormwater Ordinance. Final grading and landscaping of the stormwater management system shall be completed in conjunction with the installation of the landscaping depicted on the Final Landscaping Plans, if not completed prior to this activity.

Sediment and erosion control measures shall be implemented in compliance with the DuPage County Stormwater Ordinance and the requirements of the Development's NPDES permit. Said measures shall be put in place by the Developer concurrently with its commencement of mass grading activities on the Subject Property, maintained during the entire construction process, and inspected and repaired as necessary after each significant rainfall. Failure to do so may constitute a default pursuant to Section 14 of this Agreement.

8. Improvement Security. Prior to the Village's issuance of a permit to construct the Site Improvements, the Developer shall deliver to the Village one or more bonds or letter of credit ("Improvement Security") to secure the due and proper construction of the Site Improvements. The Improvement Security shall be in a total amount equal to 110% of the Developer's Engineer's estimated costs of construction of the Site Improvements, as approved by the Village Engineer, and in a form approved by the Village Attorney. This security shall be subject to partial reduction as Site Improvements are completed, inspected, and approved by the Village Engineer, and as Public Improvements are completed and conveyed to and accepted by the Village pursuant to Section 9 below.

9. Conveyance and Acceptance of Public Improvements. For purposes of this Agreement, the following improvements shall be deemed "Public Improvements" which the Developer shall construct and ultimately convey to the Village pursuant to this Section:

- a. Portion of sanitary sewer which serves more than one customer, including the portion underneath the pond to the west of the property, which are depicted on the Final Engineering Plans; and

- b. Traffic improvements and signals at the intersection of Hamilton Lakes Drive/Private Drive and Pierce Road as depicted on the Final Engineering Plans.

The Village will accept the Developer's conveyance of the Public Improvements on an improvement-by-improvement basis, by resolution, following the Village Engineer's inspection and approval of the same and the Developer's delivery of a customary form bill of sale to the Village. The Corporate Authorities shall not accept any Public Improvements proposed for acceptance until: (i) all deficiencies described in a final punch list have been satisfactorily completed and approved by the Village Engineer; (ii) the Developer has delivered final record drawings (as-builts) of the Public Improvements to be conveyed to the Community Development Director and such "as-builts" are approved by the Village Engineer, or his or her designee; and (iii) the Developer has delivered a maintenance bond to the Community Development Director, in a form approved by the Village Attorney and in an amount equal to 10% of the cost of Public Improvements as estimated by the Developer's engineer and approved by the Village Engineer ("Maintenance Bond"), which Maintenance Bond shall guarantee for a period of two years that all construction of the Public Improvements was done in a workmanlike manner and in substantial compliance with the Final Engineering Plans and all applicable provisions of the Village Code. The Maintenance Bond shall be returned to the Developer at the expiration of said two-year period unless at such time the Village Engineer has identified deficiencies in such construction which have not yet been corrected by the Developer.

At the Developer's request, the Village and the Developer will work together in good faith to finalize and make effective a recapture agreement that will permit the Developer to recapture a portion of the costs it incurs in constructing the sanitary sewer system described in Section 9(a) above from future property owners that desire or are required to also use such sanitary sewer system.

10. Maintenance by the Village. Upon conveyance and acceptance of the Public Improvements by the Village, as outlined in Section 9, the Village, at its sole cost, shall maintain, replace and repair the Public Improvements described in Section 9. The Village shall not be responsible for snow removal on the private access road or maintenance of the water main loop through the Subject Property.

11. Ownership and Maintenance by the Developer. The Developer, at its sole cost, shall maintain in good and operational conditions at all times the Private Drive, the emergency access road on the southeast side of the property, the fire lane around the building, and the water main loop which encircles the building. The Developer shall be responsible for snow removal on the Private Drive, the fire lane and the emergency access road. The Developer shall maintain the fire lane and emergency access road in a manner to ensure emergency vehicles have access to the Development 24 hours a day, 7 days a week.

12. Easement Agreements.

The Preliminary Plat of Subdivision contemplates re-subdividing Parcels 3, 4, and 5 of Chancellory Assessment Plat No. 2 (Document R92-254005) into four new lots: Lots 1, 2, 3, and 4. The Developer agrees to obtain the following access easements, which will be reflected on the Final Plat of Subdivision:

- a. Lot 2 Access Easement. The Developer has agreed to construct emergency access on the southeast side of the development, as described in Section 6 above. Ingress and egress to this emergency access will be through the neighboring property to the east of Lot 2. The Developer shall enter into an agreement, subject to the approval of the Village Engineer and Village Attorney, which shall not be unreasonably withheld, with the neighboring property owner to provide a permanent easement for ingress and egress of emergency vehicles and equipment to the emergency access on the southeast side of the Development.
- b. Lots 3 and 4 Access Easement. Lots 3 and 4 shall have access to the Private Drive described in Section 6 above. The Developer shall enter into an agreement, subject to the approval of the Village Engineer and Village Attorney, which shall not be unreasonably withheld, with the owner of Lots 3 and 4 to provide a permanent easement for ingress and egress using the Private Drive. In such agreement or in a separately recorded agreement, the Developer and the owner of Lots 3 and 4 may provide that the owner(s) of Lots 3 and 4 shall reimburse the Developer (or its successor in interest) for their respective proportionate shares of the costs of construction and maintenance of the Private Drive. The distance between the centerline of Pierce Road and the centerline of the future ingress and egress curb cuts for Lots 3 and 4, as measured along centerline of the Private Drive, shall be no less than 250 feet.

Additionally, the Developer agrees to provide the Village with easements for emergency repairs to the water mains and service lines, fire hydrants, and appurtenances, including the 8-inch water main which encircles the building, and the stormwater management facilities described in Section 6 above. Regular, non-emergency maintenance shall be allocated as described in Sections 10 and 11 above. After construction, Developer agrees to provide the Village and record a Plat of Easement, with the as-built location of utilities, for the Village to have access for such repairs. The Developer also agrees to provide the Village with an easement to use the Private Drive for emergency response, including fire, police, and ambulance.

13. Fees.

- a. Recapture Fee. Developer acknowledges that the Village entered into an agreement with Tantillo Corporation and its successors which was approved and incorporated into Ordinance No. 989-98 and that this agreement with Tantillo Corporation and its successors requires the Village to collect certain proportional fees to recapture the costs paid by Tantillo Corporation for improvements which benefit the Subject Property. The Developer acknowledges and agrees that Ordinance NO. 989-98 and the agreement with Tantillo Corporation and its successors is applicable to the Subject Property and that the Village is authorized to collect a recapture fee in the amount of \$119,224.87. Therefore, the Developer shall pay \$119,224.87 in connection with Developer's construction of the Development.
- b. The Developer shall be responsible for all other fees and costs required by the Itasca Code of Ordinances, the Itasca Zoning Ordinance, and the Itasca Subdivision

Regulations, as they exist as of the Effective Date of this Agreement, as well as applicable County, state and federal laws and regulations, including but not limited to the DuPage County Department of Transportation fee.

14. Default. In the event of any violation of any term or portion of this Agreement, the Party not in default or violation shall serve written notice upon the Party in default or violation, which notice shall be in writing and shall specify the particular violation or default. All Parties hereto reserve the right to cure any violation of this Agreement within thirty (30) days after receipt of written notice of such violation or default; provided, however, that said thirty (30) day period shall be extended: (i) if the alleged violation or default is not reasonably susceptible to being cured within said thirty (30) day period, (ii) if the Party in violation or default has promptly initiated a cure of the violation or default, and (iii) if the Party in violation or default diligently and continuously pursues a cure of the violation or default until its completion.

In the event either Party hereto is delayed, hindered or prevented in performing any act required hereunder by reason of any act or occurrence beyond its reasonable control and not the fault of such Party, including labor disputes, acts of God, material shortages, governmental restrictions or regulations, extreme adverse weather conditions, wet soil conditions, fire, civil insurrection, war or other such reason, the Party so delayed, hindered or prevented shall, if reasonably practicable hereunder, be excused from performance only for the period of such delay, hindrance and/or prevention and shall reasonably promptly tender said performance upon the removal and/or reconciliation of said interference.

The failure of a Party to exercise any right or remedy or to insist upon the due performance of an obligation under this Agreement on any given occasion shall not be deemed or construed to be a waiver of such right or remedy or of the right to insist upon such due performance on any subsequent occasion.

15. Notices. Any notice, request, demand, or other communication provided for by this Agreement must be in writing and will be deemed to have been duly received on (i) actual receipt if personally delivered and the sender received written confirmation of personal delivery, (ii) receipt as indicated by written or electronic verification of delivery when delivered by overnight courier, (iii) receipt as indicated by the electronic transmission confirmation when sent via facsimile transmission, or (iv) three calendar days after the sender deposits the notice with the U.S. Post Office when sent by certified or registered mail, return receipt requested. Notice must be sent to the addresses set forth below or to another address if specified in writing by a party.

If to Developer:

RagingWire Data Centers, Inc.  
5470 Kietzke Lane, Suite 230  
Reno, Nevada 89511  
Attn: Seshma Kumararatne/Legal  
Fax: 916-921-4150

with a copy to:

If to the Village:

Village of Itasca  
Attn: Village Administrator  
550 W. Irving Park Road  
Itasca, Illinois 60143  
Fax: 630-773-2505

with a copy to:

Franklin T. Watson  
Watson Law Firm  
1849 Iron Point Road, Suite 140  
Folsom, California 95630  
Fax: 916-986-9797

Charles E. Hervas  
Hervas, Condon & Bersani, P.C.  
333 Pierce Rd. Suite 195  
Itasca, Illinois 60143  
Fax: 630-773-4851

16. Cooperation of the Parties. The Village and Developer agree to cooperate reasonably with each other when requested to do so concerning the development of the Subject Property. Notwithstanding any provision of this Section, the Village shall not be required to take any action which may decrease real estate or other tax revenues generated by the Property or the use of the Property.

17. Integrated Agreement. This Agreement and the ordinances adopted by the Village Board pursuant to this Agreement constitute the entire agreement between the Parties, superseding any and all prior agreements and negotiations between the Parties, whether written or oral, relating to the subject matter of this Agreement.

18. Successors. The provisions of this Agreement shall inure to the benefit of and be binding on the successors and assigns of the Parties. Should Developer sell the Development or Subject Property or should new ownership take control of the Developer prior to the completion of the Development, the Village shall be provided at least thirty (30) days' notice of such change and shall have an opportunity prior to any change to meet with the new ownership to review this Agreement. This Agreement shall not be binding on successor owners of the Development or Subject Property without Village approval.

19. Amendments. No amendment or any other change of any kind to this Agreement will be valid or binding unless it is in writing and signed by authorized representatives of the Village and the Developer or their successors or assigns.

20. Choice of Law. The validity, meaning and effect of this Agreement shall be determined in accordance with the laws of the State of Illinois. The Venue for any action under or resulting from this Agreement shall be in the Circuit Court of the Eighteenth Judicial Circuit of the State of Illinois, located in DuPage County, Illinois.

21. Captions and Headings. The captions and section headings used in this Agreement are for convenience only and are not a part of this Agreement and shall not be used in construing it.

22. No Third-Party Beneficiary Intended. No claim as a third-party beneficiary under this Agreement by any person, firm, or corporation shall be made, or be valid, against the Village or Developer.

23. Severability. Each provision hereof is intended to be severable, and the invalidity or unenforceability of any portion of this Agreement shall not affect the validity or enforceability of the remainder hereof, provided the overall intentions of the parties and the purposes of this Agreement, each as expressed herein, are not materially impaired. Neither of the parties shall

challenge the validity or enforceability of this Agreement nor any provision of this Agreement, nor assert the invalidity or unenforceability of this Agreement or any provision of it.

24. Representation of Binding Effect. The Developer and the Village each represent that this Agreement has been properly approved and executed and is legally binding on them.

25. Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original document and together shall constitute the same instrument.

26. Definitions. As used in this Agreement, the terms “Final Development Plan(s),” “Final Engineering Plan(s)” and “Final Landscaping Plan(s)” shall have the same meaning as the terms are used in the Itasca Zoning Ordinance, Itasca Subdivision Ordinance, and Itasca Development Standards.

27. This Agreement shall be recorded with the DuPage County Recorder’s Office by the Developer.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Developer and the Village have caused this Agreement to be properly executed as of the Effective Date.

**VILLAGE OF ITASCA**, an Illinois  
Municipal Corporation

RagingWire Data Centers, Inc.

By: \_\_\_\_\_  
Hon. Jeff Pruyn, Mayor

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

Dated: \_\_\_\_\_

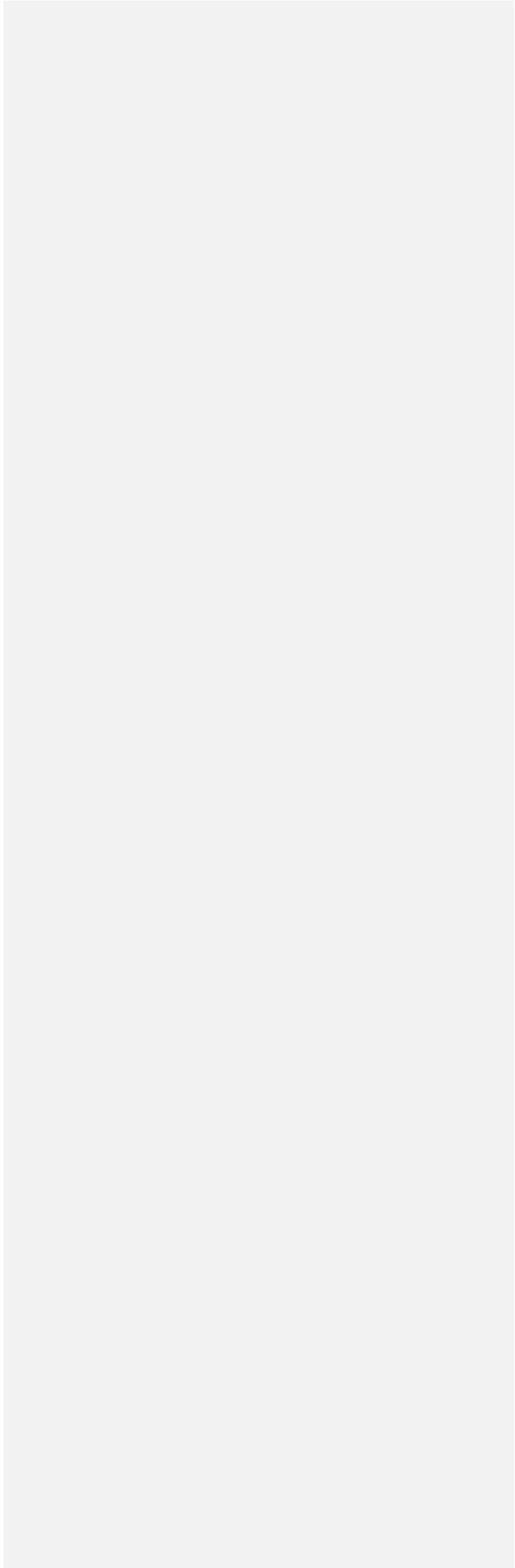
Dated: \_\_\_\_\_

Attest: \_\_\_\_\_  
Village Clerk

Attest: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_



Village of Itasca  
Community Development Department  
550 West Irving Park Rd.  
Itasca, IL 60143

September 16, 2019

Re: RagingWire Data Centers, Inc.  
Development Agreement Amendment  
Site Development Rationale

Ms. Jarmusz,

Thank you for the opportunity to present RagingWire's rationale toward developing the site's underground and site improvements for this new 2-building configuration.

The originally proposed development, established in 2017, was a single facility sized at 664,400 square feet. The facilities electrical capacity was sized for approximately 87MW. Changes in the data center industry and competitive forces have resulted in RagingWire revising the form factors of the building footprint and electrical capacity. The newly proposed development plan, establish in 2019, competitively positions RagingWire for market changes and delivery of advanced compute facilities. The single facility has been divided into two facilities each 228,000 square feet totaling 456,000 square feet and both having 60MW electrical capacity for a total capacity of 120MW.

With this dual structure arrangement, we have provisioned fire access drives around both facilities with storm, water, sewer, fiber optic and utility power loops residing below. The configuration seeks to maximize building footprints while satisfying access clearances and parking requirements. All underground services, storm; water & sewer will be installed concurrently with the fiber optic and utility power services (all defined as "Services") under this fire access drive. The site's design strategy delivers these Services from south of the property via Pierce Road. All Services are sized to serve both facilities.

RagingWire's business plan has established a two phased rationale, identifying the first building as the "Southerly" facility and second building as the "Northerly" facility with each phase requiring a capital investment of \$200+ million dollars. Each investment brings numerous construction contracts to the area, shall employ 40+ permanent employees and requires many service/maintenance contracts with local vendors to sustain operations.

The capital investment demands for each phase requires establishing business operations in the first phase before investing in construction activities for the second facility. Our development rationale includes extending the Services approximately Twenty (20) feet north of the parking stalls illustrated between both facilities. Further, for Corporate Security purposes we shall install a fence adjacent to these parking stalls for separation of Northerly facility construction activities and stringent security requirements of an occupied/functional data center, the Southerly facility.

It is important to outline the history of this parcel (Lot #2) within the Hamilton Lake Business Park. Lot #2 incorporates both the Northerly and Southerly facilities, with the Northerly situated on an infilled wastewater pond. RagingWire's geotechnical engineer has performed an extensive evaluation of the soil compaction quality, we, along with Hamilton Partners, have been monitoring the soil settlement performance for 2+ years and continuing to monitor settlement. Our geotechnical engineer is recommending the installation of piles to native soil, some 60+ below surface to adequately support a data center facility.

We request relief from the Village for developing the Northerly underground and site improvements concurrently with development of the Southerly facility for the following reasons:

1. Northerly facility, at infilled wastewater pond, contains soil not meeting the compaction requirements for the weight bearing needs of a data center and requiring installation of piles as noted above. Pile driving equipment presents significant risk to damaging underground and site improvements if complete now. RagingWire will be required to implement protection methods and procedures during construction that will escalate capital costs.
2. Normal construction sequences require completion of piles prior to installation of Services for a properly coordinated solution.
3. RagingWire shall extend Services designed to support the Northerly facility, approximately Twenty (20) feet beyond a demised line of the finished Southerly facility for connection without interruption of Southerly facility operations and maintaining security protocols.

RagingWire and our design professionals find the installation of the Northerly facility's underground and site improvement scope a risk to damage and source of business interruption to a functioning Southerly facility, seeking to commence with the installation in a logical sequence given the foundation requirements. We believe this rationale avoids unnecessary capital expenditures while meeting the Development Agreement between the Village of Itasca and RagingWire.

Finally, we wish to additionally address the fire protection water connection point under the revised Development Agreement. The original 2017 design intent and the new two facility configuration intended to connect the fire protection system to the municipal water service in lieu of the existing Hamilton Lakes POA grey-water system, which, is targeted for retirement. We understand this grey-water system's filtration system is decommissioned, unfiltered water poses a significant risk of failure from biological attack to piping and we request connection to the municipal potable water system.

Sincerely,

Paul Mihm PE  
SR. Design Manager  
RagingWire Data Centers, Critical Facilities Design & Construction