Village of Downers Grove

Report for the Village Council Meeting

Table 1 - Council Agenda item.

Subject	**Sales Tax Rebate Agreement with Rivian**
Submitted By	David Fieldman, Village Manager

Synopsis

A motion authorizing execution of a Sales Tax Rebate Agreement with Rivian, LLC for the property at 2100 Ogden Avenue is requested.

Strategic Plan Alignment

A Strong & Diverse Local Economy is a Strategic Goal of the 2025-2027 Long Range Plan.

Fiscal Impact

50% of the sales tax revenue generated from the Rivian facility will be rebated over the next ten years. After the rebate, the facility is expected to generate a minimum of $150,000.00 in Village revenue annually. The net Village revenue could be significantly more starting in year 3 of the Rivian operations.

Recommendation

Approval on the October 6, 2026 Active Agenda.

Background

Rivian plans on occupying a to-be-constructed 5100 square foot building with a new vehicle sales and service facility. The operation of the facility will be subject to the attached Sales Tax Rebate Agreement, which contains the following key terms:

Rivian Obligations

- Redevelop the property in accordance with the site plan in the Special Use Ordinance.
- Operate the facility for a period of fifteen (15) years.
- If Rivian fails to operate the facility for the full 15 years, reimburse the Village a certain percentage of the total rebate amounts paid (100% for years 1 through 4, 50% for years 5 through 9 and 25% for years 10 through 15). Rivian shall also forfeit the amount of rebates being withheld by the Village.
- Operate the facility in accordance with all applicable rules and regulations.
- Indemnify the Village against any legal or administrative proceedings against the Village.

Village Obligations

- Rebate 50% of the annual municipal sales tax revenue generated by the facility for a ten (10) year period.
- Withhold 25% of each annual rebate payment.

Attachments

Ordinance

Sales Tax Rebate Agreement

Ordinance

An Ordinance Approving a Sales Tax Rebate Agreement Between the Village of Downers Grove and Rivian, LLC

WHEREAS, the Village of Downers Grove (the "Village") is a home rule unit of government in accordance with Article VII, Section 6, of the Constitution of the State of Illinois, 1970; and

WHEREAS, the Village has the authority, pursuant to the laws of the State of Illinois, to promote the health, safety and welfare of the Village and its inhabitants, to prevent the presence of blight, to encourage private development in order to enhance the local tax base, to increase additional tax revenues realized by the Village, foster increased economic activity within the Village, to increase employment opportunities within the Village, and to enter into contractual agreements with third parties for the purpose of achieving the aforesaid purposes, and otherwise be in the best interests of the Village; and

WHEREAS, 65 ILCS 5/8-11-20 authorizes municipalities to enter into economic incentive agreements in order to encourage the development or redevelopment of land within their corporate limits; and

WHEREAS, Rivian, LLC, an Illinois limited liability company (“Rivian”) shall lease a certain parcel of land commonly known as 2100 Ogden Avenue, Downers Grove, Illinois (“the Property”); and

WHEREAS, Rivian intends operate a new facility for vehicle sales and service (“Facility”) on the Property; and

WHEREAS, the Village is desirous of having the Property developed for the use described in the Sales Tax Rebate Agreement to serve the needs of the Village, and to produce increased tax revenues for the various taxing districts authorized to levy taxes within the Property; and

WHEREAS, the Mayor and Village Council of the Village of Downers Grove, after due and careful consideration, have concluded that the development of the Property on the terms and conditions set forth in the Sales Tax Rebate Agreement will promote sound planning, increase the taxable value of property within the Village and otherwise promote, enhance, and serve the best interests and general welfare of the Village and its citizens;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Downers Grove, DuPage County and State of Illinois, as follows:

SECTION 1. Recitals. The foregoing recitals are incorporated into this Ordinance as findings of the Council.

SECTION 2. Approval of the Sales Tax Rebate Agreement. The Sales Tax Rebate Agreement shall be, and it is hereby, approved in final form satisfactory to the Village Manager. The Mayor and Village Manager are hereby authorized and directed to execute and deliver the Sales Tax Rebate Agreement and any other necessary and appropriate related documents after such documents have been properly executed and delivered by Rivian.

SECTION 3. Conflict. That all ordinances and resolutions or parts thereof in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 4. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form in the manner provided by law.

____
By: Mayor

Passed:

Published:

Attest:

____
By: Village Clerk

SALES TAX REBATE AGREEMENT BETWEEN THE VILLAGE OF DOWNERS GROVE AND RIVIAN, LLC

THIS SALES TAX REBATE AGREEMENT (the "Agreement"), is made and entered into as of the ____ day of _______________, 202__ ("Agreement Date") by and between the **Village of Downers Grove, Illinois,** an Illinois municipal home rule corporation, located in DuPage County, Illinois (the "Village"), and Rivian, LLC ("Rivian"), a Delaware limited liability company with its principal place of business located at 14600 Myford Rd., Irvine, CA 92606 , hereinafter sometimes referred to individually as a "Party" and collectively as the "Parties").

WHEREAS, the Village is an Illinois municipal corporation possessing home rule powers under Section 6 of Article VII of the Illinois Constitution; and

WHEREAS, the Village has the authority, pursuant to the laws of the State of Illinois, to promote the health, safety and welfare of the Village and its inhabitants, to prevent the presence of blight, to encourage private development in order to enhance the local tax base, to increase additional tax revenues realized by the Village, foster increased economic activity within the Village, to increase employment opportunities within the Village, and to enter into contractual agreements with third parties for the purpose of achieving the aforesaid purposes, and otherwise be in the best interests of the Village; and

WHEREAS, Rivian will be a tenant of a new facility to be located on that certain parcel of land known as 2100 Ogden Avenue which is situated in Downers Grove, IL and legally described on Exhibit A attached hereto and incorporated herein by reference ("the Property"), which Property is owned by a third-party entity; and

WHEREAS, the owner of the Property intends to demolish the two (2) buildings presently situated on the Property and construct, develop, and improve the Property with a new facility for vehicle sales and service ("Facility") in accordance with the site plan attached hereto as Exhibit B ("Site Plan"), and Rivian intends to lease and operate said Facility until at least December 31, 2044 ("the Project"); and

WHEREAS, Rivian represents and warrants to the Village that Rivian and its principals are skilled in the development and operation of vehicle sales facilities and are able to provide to the Village skill, knowledge and expertise as well as input from other experts and consultants in vehicle sales facilities projects; and

WHEREAS, Rivian represents and warrants to the Village that Rivian, and its Principals, have the requisite legal authority to bind Rivian to the terms of this Agreement.

WHEREAS, the Village, recognizing the economic and other benefits derived therefrom by the Village and its residents, has determined that it is desirable and in the Village's best interests to assist Rivian in its endeavors to complete the Project; and

WHEREAS, this Agreement has been submitted to the Corporate Authorities of the Village for consideration and review, the Corporate Authorities have taken all actions required to be taken prior to the execution of this Agreement in order to make the same binding upon the Village according to the terms hereof, and any and all actions of the Corporate Authorities of the Village precedent to the execution of this Agreement have been undertaken and performed in the manner required by law; and

WHEREAS, this Agreement has been submitted to the Principals of Rivian for consideration and review, which Principals have taken all actions required to be taken prior to the execution of this Agreement in order to make the same binding upon Rivian according to the terms hereof, and any and all action of Rivian precedent to the execution of this Agreement have been undertaken and performed in the manner required by law.

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

A. INCORPORATION OF RECITALS

The findings, representations and agreements set forth in the above Recitals are material to this Agreement and constitute findings, representations and agreements of the Village and of Rivian and are incorporated and adopted as fully set forth herein.

B. DEFINITIONS

For the purposes of this Agreement, unless the context clearly requires otherwise, words and terms used in this Agreement shall have the meanings provided from place to place herein, including above in the recitals hereto and as follows:

"Agreement" means this Sales Tax Rebate Agreement and all of the exhibits and attachments referenced herein and made a part hereof.

"Corporate Authorities" means the Mayor and Village Council of the Village of Downers Grove, Illinois.

"Rivian" means Rivian, LLC

"Facility" means the location offering automotive sales of new vehicles and servicing vehicles located at the Property.

"Party" means the Village and/or Rivian and its successors and/or assigns as permitted herein, as the context requires.

"Project" means Rivian's continued operation of the Facility until December 31, 2044 .

"Property" means 2100 Ogden Avenue, which is legally described in Exhibit A, and utilized for the operation of the Facility

"Required Commitment Period" means the required time period that Rivian commits to operate the Facility on the Property.

"Sales Tax" and "Sales Tax Revenue" means that net portion of taxes imposed by the State of Illinois for distribution to the Village pursuant to the Retailers' Occupation Tax Act and the Service Occupation Tax Act (as said Acts may be amended from time to time) and which are collected by the State and distributed to the Village, and all revenue derived from such taxes. This does not include the Home Rule Sales Tax, which has been adopted by the Village.

"State" means the State of Illinois.

"**Substantial Completion**" means the Village's issuance of a certificate of occupancy for Rivian's development of the Property in substantial conformity with the Site Plan attached hereto as Exhibit B.

"Village" means the Village of Downers Grove, Illinois, an Illinois municipal corporation.

C. CONSTRUCTION

This Agreement, except where the context by clear implication shall otherwise require, shall be construed and applied as follows:

(a) Definitions include both singular and plural.
(b) Pronouns include both singular and plural and cover all genders.
(c) The word *"*include*"*, *"*includes*"* and *"*including*"* shall be deemed to be followed by the phrase *"*without limitation*"*.
(d) Headings of Sections herein are solely for convenience of reference and do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.
(e) All exhibits attached to this Agreement shall be and are operative provisions of this Agreement and shall be and are incorporated by reference in the context of use where mentioned and referenced in this Agreement. In the event of a conflict between any exhibit and the terms of this Agreement, the terms of this Agreement shall control.
(f) Any certificate, letter or opinion required to be given pursuant to this Agreement means a signed document attesting to or acknowledging the circumstances, representations, opinions of law or other matters therein stated or set forth. Reference herein to supplemental agreements, certificates, demands, requests, approvals, consents, notices and the like means that such shall be in writing whether or not a writing is specifically mentioned in the context of use.
(g) The Village Manager, unless applicable law requires action by the Corporate Authorities, shall have the power and authority to make or grant or do those things, certificates, requests, demands, notices and other actions required that are ministerial in nature or described in this Agreement for and on behalf of the Village and with the effect of binding the Village as limited by and provided for in this Agreement. Rivian is entitled to rely on the full power and authority of the persons executing this Agreement on behalf of the Village as having been properly and legally given by the Village.
(h) In connection with the foregoing and other actions to be taken under this Agreement, and unless applicable documents require action by Rivian in a different manner, Rivian hereby designates Andrew Capezzuto (and in his absence Brian Jones) as its authorized

representatives who shall individually have the power and authority to make or grant or do all things, supplemental agreements, certificates, requests, demands, approvals, consents, notices and other actions required or described in this Agreement for and on behalf of Rivian and with the effect of binding Rivian in that connection (each such individual being an *"*Authorized Representative*"*). Rivian shall have the right to change its Authorized Representative by providing the Village with written notice of such change which notice shall be sent in accordance with Section L, paragraph 4.

D. <u>VILLAGE'S OBLIGATIONS</u>

1. **Sales Tax Rebates:** In the event that all terms and conditions set forth in this Agreement are satisfactorily met by Rivian, including (a) Substantial Completion and (b) commencement of operations of the new auto Facility on the Property (the date both said conditions in (a) and (b) are first satisfied shall be referred to herein as the "Rebate Payment Start Date") the Village hereby agrees to rebate to Rivian a portion of the State Retailers' Occupation Tax which the Village receives from Rivian's payments to the State ("Rebate Payments") by annual installments over a period commencing on Rebate Payment Start Date and expiring on December 31st of the calendar year in which the tenth (10^{th}) anniversary of the Rebate Payment Start Date occurs (the "Rebate Period") in accordance with this Section. The Parties expressly acknowledge that the Village has adopted a Home Rule Sales Tax, and that the Village's Home Rule Sales Tax is not included in calculating Rebate Payments and will not be used to make the Rebate Payments required by this Agreement.

2. **Calculation and Payments of Rebates:** Subject to Sections D.3. and E.2 below, the Village agrees to make the Rebate Payments to Rivian subject to the following conditions and restrictions:

a) It is understood that each amount will be due and payable solely from the proceeds of sales tax revenue received by the Village from the Facility.

b) It is acknowledged and understood by and between the Parties hereto that the Village receives sales tax revenue monthly, and that the taxes generated by sales in any one month are distributed to the Village approximately three months later (e.g. taxes generated by sales in July are generally not received by the Village until October).

c) The calendar year in which the Rebate Payment Start Date occurs shall hereinafter be referred to as the "Initial Payment Year", and each calendar year thereafter in the Rebate Period shall be a "Payment Year".

d) From the Initial Payment Year through December 31^{st} of the tenth (10^{th}) anniversary year thereof, the Village shall rebate Rivian fifty percent (50%) of the sales tax revenue received from the Facility (the "Rebate Payments"), subject to all other provisions of this Agreement, and specifically, paragraph D.3. Withholding.

e) The Rebate Payments shall be computed at the close of each Payment Year by the Village as provided herein. The Village will make annual payments to Rivian, subject to the withholding and release of Holdback Funds as described in Section

D.3. below, within ninety (90) days after it receives notification from the State of the sales tax revenue generated by the Facility for the preceding Payment Year. If Rivian fails to continue the Facility as set forth in Section E.1., the Village shall be released and discharged from any obligation to make any Rebate Payment not yet paid. The Village shall be entitled to any reimbursement of Rebate Payments previously paid in accordance with the declining schedule set forth in Section E.2., less the amount of any Holdback Funds then retained. Upon expiration of the ninety (90) day period set forth above, and only if Rivian is in compliance with Section E.1., the Village will make payments to Rivian.

3. **Withholding:** The Village shall withhold twenty-five percent (25%) of each annual Rebate Payment ("Holdback Funds") for a period of one (1) year. Upon the expiration of the one (1) year period applicable to each annual Rebate Payment, the Holdback Funds relative to such Rebate Payments shall be paid to Rivian by the Village commensurate with the Village's payment of each subsequent year's Rebate Payment as set forth in Section D.2.e) above, subject to Holdback Funds being withheld by the Village for said subsequent years. If Rivian fails to continue to operate the Facility in accordance with Section E.1., any Holdback Funds retained by the Village shall be automatically forfeited to the Village and applied to any amount owed to the Village in accordance with Section E.2. Upon expiration of the term of this Agreement, if Rivian is in compliance with Section E.1 (the "Required Commitment Period"), any Holdback Funds retained by the Village shall be paid to Rivian.

4. **Compliance with Village Ordinances*:*** The Village shall only be obligated to make Rebate Payments to Rivian if Rivian has no outstanding Village ordinance violations of which Rivian has received notice and that Rivian has failed to cure within the applicable cure period, and Rivian is operating in accordance with any special use permit issued by the Village in connection with the Property. The Village may temporarily withhold Rebate Payments only in the event that Rivian has been properly provided written notice that the Village has determined Rivian to be in violation of any Village ordinance, code or regulation, and Rivian has failed to cure such violation within the applicable cure period. If such written violation remains uncured for ninety (90) days or more following the expiration of the applicable cure period, the Village reserves the right to permanently withhold payment of a Rebate Payment.

5. **Village Cooperation:** The Village shall cooperate with Rivian in implementing the terms and conditions of this Agreement.

6. **Superseding Legislation.** For purposes of this Agreement, the use of the terms "sales tax" and "sales tax revenue" shall be construed to refer to that net portion of taxes imposed by the State of Illinois for distribution to the Village pursuant to the Retailers' Occupation Tax Act and the Service Occupation Tax Act (as said Acts may be amended from time to time) and which are collected by the State and distributed to the Village, and all revenue derived from such taxes. It is expressly understood that if a governmental or legislative body other than the Village enacts any law or statute which results or which may result in any material changes or amendments to the foregoing sales tax provisions, which changes or amendments prohibit the Village from complying with this Agreement or which adversely affect the Village's ability to comply herewith, then the Village and Rivian shall reevaluate the provisions of this Agreement and the rebates provided hereunder and may mutually agree to restructure the provisions of this Agreement. For purposes

of this Section, an adverse effect on the Village's ability to comply with this Agreement means an actual legal, financial, operational, or regulatory impairment, penalty, liability, or other material harm to the Village arising from compliance with this Agreement. An adverse effect shall not include, by itself, any reduction in the amount of Sales Tax Revenue retained by the Village, or any change in law that makes this Agreement less financially beneficial to the Village, so long as the Village is not otherwise prohibited from complying with this Agreement and does not incur any such impairment, penalty, liability, or other material harm as a result of such compliance. If a restructured agreement cannot be reached by the Parties within a reasonable period of time (not more than sixty (60) days from the effective date of the law or statute which has materially affected the Village's compliance herewith), then the provisions of this Agreement shall automatically terminate releasing both Parties from all their obligations under this Agreement.

E. RIVIAN OBLIGATIONS

1. **Commitment to Facility:** The Parties agree that the Rebate Payments are based in part upon: 1) a commitment by the owner of the Property to redevelop the Property in accordance with the Site Plan attached hereto as Exhibit B and Rivian's continued operation of the Facility on the Property for a period of not less than fifteen (15) years from the Rebate Payment Start Date ("Required Commitment Period"); and 2) a reimbursement of such rebates, if the terms of this commitment are not fulfilled. To that end, Rivian agrees to continue the operation of the Facility on the Property and shall continue to offer automotive sales with the point of sale being in Downers Grove for fifteen (15) years from the Rebate Payment Start Date. Rivian shall timely exercise the first extension option available to Rivian under its lease for the Property, in accordance with the terms and conditions of the lease, as is necessary to provide Rivian with the right to occupy the Property throughout the Required Commitment Period. If at any time during the Required Commitment Period, Rivian fails to offer automotive sales of new vehicles at the Facility, except due to the total or substantial destruction of the Facility that prevents the use of the Facility for its intended purpose and caused by forces outside Rivian's reasonable control,, then the Village shall be released and discharged from any further obligation to make payments under this Agreement, and Rivian or its successors shall reimburse the Village in accordance with Section E.2. of this Agreement. The failure to meet this commitment is not a breach, but rather a foreseeable event for which offsetting terms have been agreed to here in Section E.2. of this Agreement.

2. **Reimbursement in Lieu of Required Commitment Period:** In the event Rivian, or any approved successor, fails to continue the operation of the Facility on the Property during the Required Commitment Period as provided in Section E.1. of this Agreement, Rivian, or such approved successor, shall reimburse to the Village within sixty (60) days after receipt of a written demand from the Village specifying the amount of the reimbursement due, if any, in accordance with the following declining reimbursement schedule:

If said event occurs during:

- Year one (1) through year four (4) after the Rebate Payment Start Date - One hundred percent (100%) of the Rebate Payments;
- Year five (5) through year nine (9) after the Rebate Payment Start Date – fifty percent (50%) of the Rebate Payments; and

- Year ten (10) through year fifteen (15) after the Rebate Payment Start Date – twenty-five percent (25%) of the Rebate Payments.

After the expiration of a sixty (60) day written demand by the Village to Rivian, or its successors, specifying the amount due, the Village may, in its sole discretion, pursue any and all available legal remedies to recover said monies, including, without limitation, withholding Holdback Funds and proceeding with an action in law or in equity to recover the amounts owed and Rivian agrees to compensate the Village for costs and fees, such as legal action, including but not limited to attorney's fees.

3. **Payment of Sales Taxes:** Rivian shall at all times during the Required Commitment Period pay all sales taxes required to be remitted to the State.

4. **Compliance with Applicable Laws :** Rivian shall at all times acquire, install, construct, operate and maintain the Property and the Facility in conformance with all applicable laws, rules, codes, ordinances and regulations. All work with respect to the Facility shall conform to all applicable federal, State and local laws, regulations and ordinances, including, but not limited to, zoning, subdivision and planned development codes, building codes, environmental codes, life safety codes, property maintenance codes and any other applicable codes and ordinances of the Village.

5. **Disclosure:** For the duration of this Agreement, Rivian shall authorize the Illinois Department of Revenue to release monthly sales tax payments to the Village from which rebate calculations will be made. Rivian agrees to cooperate and provide such additional documents as may be reasonably needed to verify the amount of the Rebate Payments.

F. BREACH

In the event of breach of any of the terms and conditions of the Agreement, the non-breaching Party shall have the right to terminate this Agreement, which will not relieve the breaching Party from performance. In addition, the non-breaching Party shall have the right, by any action or proceeding at law or in equity, to secure the specific performance of the covenants and agreements herein contained, and may be awarded damages for failure of performance, or both, except that the exclusive remedy for the failure to meet the Required Commitment Period is the repayment of the Rebate Payments actually received by Rivian, subject to the scheduled reimbursements as set forth in Section E. The foregoing rights and remedies shall be cumulative and exclusive. Nothing herein shall modify, limit or abrogate any right of the Village to reimbursement as provided under Section E.

G. TRANSFER OF INTEREST

If Rivian transfers or subleases, in whole or in part, any of its interest in the Facility or portion of the Property, the rights and obligations under this Agreement will transfer to successive

owners upon written consent of the Village, which consent shall not unreasonably be withheld. In the event of such transfer, Rivian, its principals, officers, agents, shareholders and associated entities shall be released from all obligations.

H. LIMITATION OF ACTIONS

No recourse under or upon any obligation, covenant or agreement of this Agreement or for any claim based thereon or otherwise in respect thereof shall be had against the Village, its officers, agents and employees, in any amount or in excess of any specific sum agreed by the Village to be paid to Rivian hereunder, subject to the terms and conditions herein, and no liability, right or claim at law or in equity shall attach to, or shall be incurred by the Village, its officers, agents and employees in excess of such amounts, and all and any such rights or claims of Rivian under this Agreement against the Village, its officers, directors, agents and employees are hereby expressly waived and released as a condition of and as consideration for the execution of this Agreement by the Village. No recourse under or upon any obligation, covenant or agreement of this Agreement or for any claim based thereon or otherwise in respect thereof shall be had against Rivian, its officers, directors, agents and employees, in excess of its obligations to the Village hereunder, subject to the terms and conditions herein, and no liability, right or claim at law or in equity shall attach to or shall be incurred by Rivian, its officers, directors, agents and employees, in excess of its obligations hereunder. Nothing herein shall modify, limit or abrogate any right of the Village to reimbursement as provided under Section E.2. of this Agreement.

I. <u>INDEMNIFICATION</u>

In the event that any third party or parties institutes any administrative or legal proceedings against the Village, which relate to the terms of this Agreement, then, in that event, Rivian shall indemnify and hold harmless the Village from any and all such proceedings. In no event shall Rivian be responsible to indemnify and hold harmless the Village from any third party claims stemming from a breach of this Agreement by the Village or the Village's gross negligence, willful misconduct, or failure to follow its usual statutory and/or procedural requirements. For purposes of the preceding sentence, claims arising out of or resulting from the Village's failure to perform its obligations under this Agreement, or its violation of applicable law in approving, administering, implementing, or enforcing this Agreement, shall be deemed claims stemming from a breach of this Agreement by the Village. Further, Rivian, upon receiving notice from the Village of such administrative or legal proceedings, shall assume, fully and vigorously, the entire defense of such lawsuit or proceedings and any and all costs and expenses of whatever nature relating thereto; provided, however, that Rivian may not at any time settle or compromise such proceedings without the Village's consent and even then only so long as such settlement or compromise does not involve an admission of wrongdoing on the part of the Village, nor any liability on the part of the Village, monetary or otherwise. The Village shall fully cooperate in the defense of any claims and, upon written request of Rivian, shall provide to Rivian such documents and records in possession of the Village that are relevant to such claims and not protected from disclosure by applicable law or privilege. If the Village, in its sole discretion, determines that there is, or may probably be, a conflict of interest between the Village and Rivian on an issue of material importance to the Village, or which may reasonably have a potentially substantial adverse effect on the Village, then the Village shall have the option of being represented by its own legal counsel. In the event that the Village exercises such option, then Rivian shall reimburse the Village from time to time on written demand from the Village and notice of the amount due for any and all reasonable out-of-pocket costs and expenses, including but not limited to court costs, reasonable attorney's fees, reasonable witnesses' fees and/or other reasonable litigation expenses incurred by the Village in connection therewith.

J. <u>PREVAILING WAGE</u>

Notwithstanding anything to the contrary in this Agreement, the Parties acknowledge and agree that (i) the Project, including the demolition and construction components thereof, is being funded entirely by the landlord under Rivian's lease for the Property, and not with any of the Sales Tax Rebates to be paid by the Village hereunder; and (ii) regardless of the identity of the payee of such Sales Tax Rebates, based on current Illinois law and the published guidance of the Illinois Department of Labor, the Sales Tax Rebates contemplated under this Agreement are not, in and of themselves, considered "public funds" and do not cause the Project to constitute a "public work" subject to the Illinois Prevailing Wage Act, 820 ILCS 130/1 et seq. Accordingly, Rivian shall comply with the Illinois Prevailing Wage Act solely to the extent, and only for such portions of the Project, as may be required under then-applicable law based on facts or funding sources other than the Sales Tax Rebates contemplated by this Agreement, or based on a change in applicable law or authoritative interpretation.

K. <u>EQUAL EMPLOYMENT OPPORTUNITY</u>

1. **No Discrimination.** Rivian shall not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, or sexual orientation. To the fullest extent permitted by law, Rivian will take affirmative action to ensure that applicants are employed and treated during employment, without regard to their race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability or sexual orientation. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rate of pay or other forms of compensation and selection for training, including apprenticeship. Rivian agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Village setting forth the provisions of this nondiscrimination clause.

2. **Advertisements.** Rivian in all solicitations or advertisements for employees placed by or on behalf of Rivian related to the Project, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability or sexual orientation.

3. **Contractors.** Any contracts made by Rivian with any general contractor, agent, employee, independent contractor or any other person in connection with the Project shall contain language similar to that recited in Sections K.1 and K.2. above.

L. <u>MISCELLANEOUS PROVISIONS</u>

1. **Additional Documentation:** Each Party agrees to execute any additional documents which may be required to carry out the provisions of this Agreement; and Rivian particularly agrees to execute such other documents which may be necessary to enable the Village to verify the amount of sales tax it has received from time to time from the sales taxes paid by Rivian. Upon request of the Village, Rivian shall execute and provide the Village with a limited power of attorney letter (or other necessary document), in form and content reasonably acceptable to the Village Attorney, which letter shall be addressed to the Illinois Department of Revenue ("IDOR") and shall authorize the IDOR to release any and all gross revenue and sales tax information with respect to the operation of the Project on the Property to the Village during the Rebate Period. In addition to said letter, upon the request of the Village, Rivian shall prepare and

submit such other or additional forms as may be required from time to time by the IDOR in order to release such information to the Village. Finally, in the event that the sales tax revenue information is not released by the State due to the failure of Rivian to execute the necessary authorization and/or release upon the request of the Village, same shall not be a breach or default by Rivian under this Agreement, but as a consequence of such failure and as the Village's sole remedy, the Village shall not be required to make any of the Rebate Payments provided for herein.

2. **Jurisdiction:** This Agreement shall be governed by the laws of the State of Illinois, and the sole and exclusive venue for any disputes arising out of this Agreement shall be in DuPage County or the Northern District of Illinois.

3. **Waiver:** A waiver of any part of this Agreement shall be limited to that specific event and shall not be a waiver of the entire Agreement.

4. **Notice:** Any notices required in this Agreement shall be effective when in writing and three (3) days after mailing by certified mail return receipt requested, or by delivering the same in person or to an officer of such Party or by prepaid telegram or private overnight courier, when appropriate, addressed to the Party to be notified.

All notices to Downers Grove shall be sent to:

Village Manager
Village of Downers Grove
850 Curtiss St.
Downers Grove, Illinois 60515

All notices to Rivian shall be sent to:

Attn: Rivian Legal Department
14600 Myford Rd.
Irvine, CA 92606
email: legal@rivian.com

5. **Successors & Assigns:** This Agreement and the covenants, rights, benefits and obligations hereunder shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns, to the extent and as applied hereunder.

6. **Further Assistance and Corrective Instruments:** The Village and Rivian agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may be reasonably required for carrying out the intention of or facilitating the performance of this Agreement to the extent legally permitted and within the Village's sound legal discretion.

7. **Time of the Essence:** Time is of the essence of this Agreement.

8. **Counterparts:** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same Agreement.

9. **Severability:** If any provision of this Agreement, or any Section, sentence, clause, phrase or word, or the application thereof, in any circumstance, is held to be invalid, the remainder of this Agreement shall be construed as if such invalid part were never included herein, and this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

10. **Entire Contract and Amendments:** This Agreement (together with the exhibits attached hereto) is the entire agreement between the Village and Rivian relating to the subject matter hereof, supersedes all prior and contemporaneous negotiations, discussions, understandings and agreements, written or oral, between the Village and Rivian, and may not be modified or amended except by a written instrument executed by the Parties hereto.

11. **Third Parties:** Nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any other persons other than the Village and Rivian, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third persons to either the Village or Rivian, nor shall any provision give any third parties any rights of subrogation or action over or against either the Village or Rivian. This Agreement is not intended to and does not create any third-party beneficiary rights whatsoever.

12. **Successors in Interest:** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective authorized successors and assigns; provided, however, that, except as provided in Section G hereof, Rivian may not assign or transfer its rights under this Agreement without the express written approval of the Village. Notwithstanding anything herein to the contrary, the Village may not delegate its obligation hereunder or transfer any interest in the Property without the express written approval of Rivian.

13. **No Personal Liability of Officials of Village or Rivian:** No covenant or agreement contained in this Agreement shall be deemed to be the covenant or agreement of the Mayor, Village Council member, Village Manager, any official, officer, partner, member, director, agent, employee or attorney of the Village or Rivian, in his or her individual capacity, and no official, officer, partner, member, director, agent, employee or attorney of the Village or Rivian shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of or in connection with or arising out of the execution, delivery and performance of this Agreement, or any failure in that connection.

14. **Repealer:** To the extent that any ordinance, resolution, rule, order or provision of the Village's code of ordinances, or any part thereof, is in conflict with the provisions of this Agreement, the provisions of this Agreement shall be controlling, to the extent lawful.

15. **Term:** This Agreement shall remain in full force and effect through December 31st of the fifteen (15) anniversary year of the Rebate Payment Start Date, unless earlier terminated in accordance with this Agreement. If a third party that is not affiliated with Rivian or transacting substantial business with Rivian prevails in a judicial proceeding in a court of competent jurisdiction with respect to a claim challenging the validity, legality, approval, administration, implementation, or enforcement of this Agreement, and such claim materially impairs Rivian's ability to receive the benefits contemplated by this Agreement, Rivian may terminate this Agreement upon written notice to the Village. Upon such termination, all obligations of the Parties arising after the effective date of termination shall cease, except for (a) Rivian's indemnification obligations under Section I with respect to such claim, and (b) any provision that expressly survives expiration or earlier termination of this Agreement.

16. **Municipal Limitations:** All municipal commitments are limited to the extent required by law.

17. **Effectiveness:** Rivian shall execute this Agreement prior to Village Council authorization of execution of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on or as of the day and year first above written.

VILLAGE OF DOWNERS GROVE,
an Illinois municipal corporation

____
By: Mayor

ATTEST:

____
By: Village Clerk

Rivian, LLC,
a Delaware Limited Liability Company

Alan Hoffman
box SIGN 17JPWZJ3-4K39Z32P
By: Alan Hoffman, Chief Policy Officer

ATTEST:

box SIGN 4PZL8PWK-4K39Z32P
By: Andrew Capezzuto, Director of Corporate Affairs

EXHIBIT A

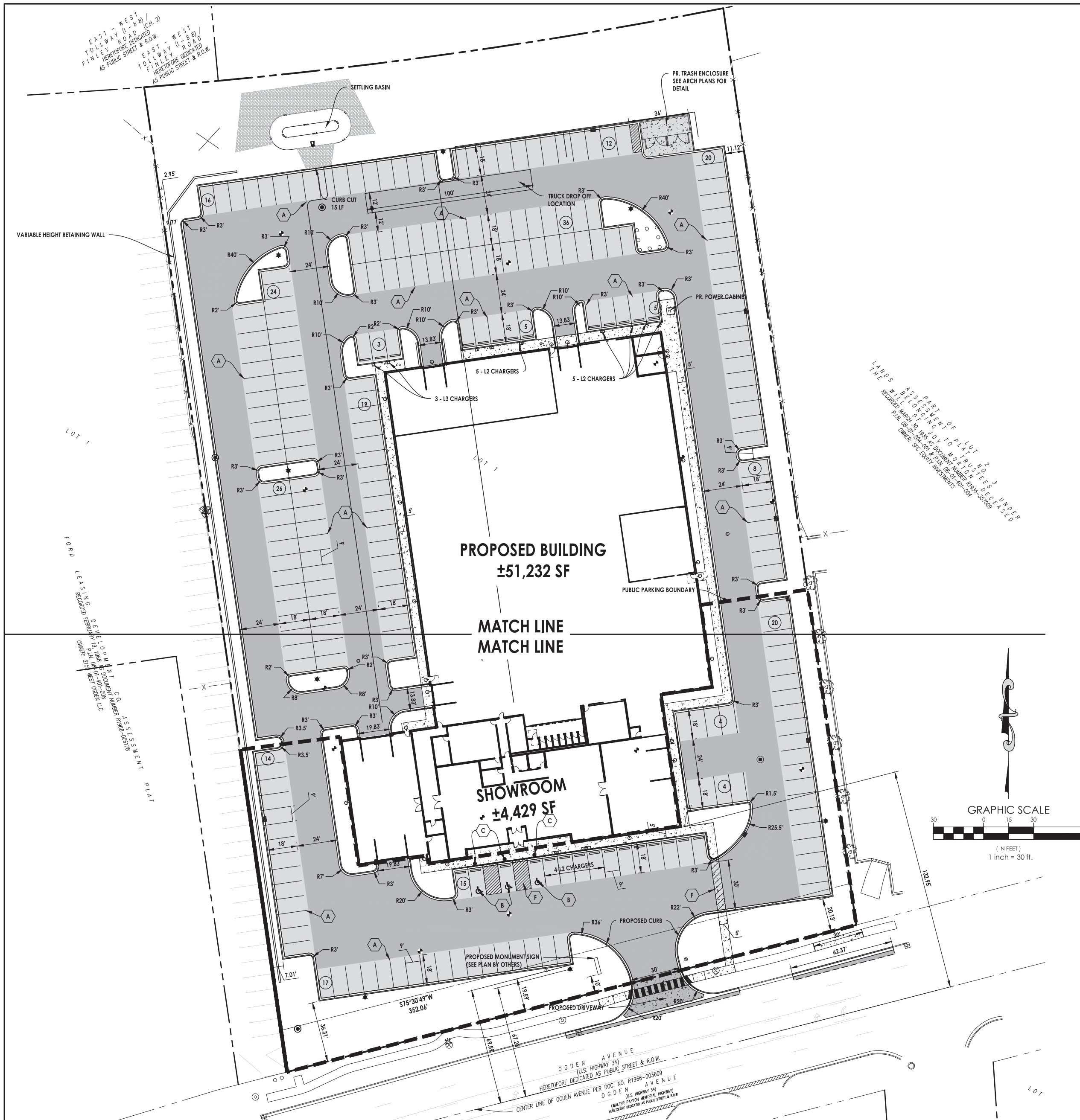
Legal Description

Lot 1 in Owner's Ogden Avenue Subdivision of part of the East half of Section 1, Township 38 North, Range 10, East of the Third Principal Meridian, according to the plat thereof recorded February 1, 1966, as document R66-5609 in DuPage County, Illinois.

Commonly known as: 2100 Ogden Avenue, Downers Grove, IL 60515

PIN: 08-01-401-003

EXHIBIT B
Site Plan



LEGEND:

- ADA TRUNCATED DOMES
- EXISTING BARRIER CURB
- EXISTING CURB AND GUTTER
- EXISTING CURB AND GUTTER - DEPRESSED
- B6.12 CURB AND GUTTER UNLESS NOTED OTHERWISE
- B6.12 CURB AND GUTTER - DEPRESSED
- B6.12 CURB AND GUTTER - TRANSITION (ZERO TO FULL HEIGHT)
- BARRIER CURB UNLESS NOTED OTHERWISE
- BARRIER CURB - DEPRESSED
- B6.12 CURB - TRANSITION (ZERO TO FULL HEIGHT)
- SAWCUT LINE
- PROPOSED FULL-DEPTH REGULAR ASPHALT PAVEMENT. SEE DETAIL ON SHEET C6.0.
- PROPOSED FULL-DEPTH HEAVY-DUTY ASPHALT PAVEMENT. SEE DETAIL ON SHEET C6.0.
- PROPOSED CONCRETE PAVEMENT. SEE DETAIL ON SHEET C6.3.
- PROPOSED CONCRETE SIDEWALK. SEE DETAIL ON SHEET C6.0

NOTES:

1. ALL DIMENSIONS ALONG CURB LINES ARE TO FACE OF CURB, UNLESS NOTED OTHERWISE.
2. BUILDINGS AND ADJACENT TO BUILDING IMPROVEMENTS SHOWN ON THESE PLANS ARE BASED UPON THE BUILDING PLANS PROVIDED BY OTHERS AT THE DATE OF THESE PLANS BEING PREPARED. BUILDING PLANS NORMALLY CONTINUE TO CHANGE AFTER SITE PLANS HAVE BEEN APPROVED. THEREFORE THE CONTRACTOR SHALL USE THE BUILDING PLANS FOR FINAL BUILDING IMPROVEMENTS, AND VERIFY THAT ALL ADJACENT IMPROVEMENTS ARE CONSISTENT WITH THE DESIGN INTENT AND REQUIREMENTS OF THE SITE PLANS. THE CONTRACTOR SHALL NOTIFY ENGINEER IMMEDIATELY IF CLARIFICATION IS NEEDED, OR IF CONFLICTS OR INCONSISTENCIES EXIST.
3. ADA DETECTIBLE WARNING STRIPS SHALL BE CAST IRON TILES, WET SET INTO CONCRETE SURFACE, PER MANUFACTURERS INSTALLATION RECOMMENDATIONS.
4. TOPOGRAPHIC AND BOUNDARY SURVEY PREPARED BY SIGHT ON SOLUTIONS, INC.

X SIGNING AND STRIPING SCHEDULE

A. 4" YELLOW STRIPING
B. YELLOW HANDICAP PARKING STRIPING (SEE DETAIL)
C. "ACCESSIBLE" PARKING STALL SIGN ASSEMBLY ($350 FINE)
D. "STOP" SIGN R1-1 (30"X30")
E. 24" WHITE THERMOPLASTIC STOP BAR
F. 4" PAINTED CROSS STRIPING 4' C-C
G. DIRECTIONAL ARROW
H. RIGHT TURN ONLY R3-5 (24"X30")
I. THERMOPLASTIC RIGHT TURN ONLY STRIPING
J. 4" YELLOW LINES, 5.5" C-C SKIP-DASH AND SOLID
K. 6" SOLID WHITE THERMOPLASTIC.
L. "NO LEFT TURN" SIGN (30"X30")
M. 6" WHITE THERMOPLASTIC 6' SKIP 2' DASH

STRIPING NOTE: ON-SITE PAVEMENT MARKINGS AND GRAPHICS SHALL CONSIST OF TWO (2) COATS OF TRAFFIC-RATED PAINT APPLIED A MINIMUM OF 30 DAYS APART. STRIPING AND GRAPHICS AT ENTRY DRIVES SHALL BE THERMOPLASTIC AS NOTED. MATERIALS SHALL MEET DEPARTMENT OF TRANSPORTATION STANDARDS.

X PARKING SUMMARY

	EXISTING	PROPOSED
REGULAR STALLS (9'x18')(PUBLIC)	–	71
REGULAR STALLS (9'x18')(PRIVATE)	–	174
ACCESSIBLE STALLS (9'x18') (PUBLIC)	–	3
TOTAL STALL COUNT	–	248

L2 CHARGERS: 14
L3 CHARGERS: 3

X SERVICE BAY SUMMARY

	PROPOSED
WASH BAYS	2
LIFT BAYS	10
DETAILS/FLAT BAYS	10
TOTAL BAY COUNT	22

PROJECT NAME	RIVIAN DOWNERS GROVE
ADDRESS:	2100 OGDEN AVENUE, DOWNERS GROVE, IL 60515
PIN (S):	08-01-401-003
ZONING DISTRICT:	B-3
EXISTING USE:	AUTOMOBILE DEALERSHIP
PROPOSED USE:	AUTOMOBILE DEALERSHIP
PETITION TYPE:	SPECIAL USE AND SITE PLAN REVIEW
DEVIATIONS:	NONE

REQUIREMENT	FACTOR	REQUIRED	PROPOSED/EXISTING	MEETS REQ?	DIFFERENCE
LOT FRONTAGE	MINIMUM	75'	350'	YES	+275
BUILDING OGDEN AVENUE SETBACK (SOUTH)	MINIMUM	75' FROM OGDEN AVENUE CENTERLINE	133' FROM OGDEN AVENUE CENTERLINE	YES	+58
PARKING OGDEN AVENUE SETBACK (SOUTH)	MINIMUM	50' FROM OGDEN AVENUE CENTERLINE	69' FROM OGDEN AVENUE CENTERLINE	YES	+19
LOT AREA	MINIMUM	NONE	4.60 AC	–	–
LOT WIDTH	MINIMUM	75'	350'	YES	+275
STREET YARD	MINIMUM	25'	97'	YES	+72
REAR YARD	MINIMUM	NONE	–	–	–
SIDE YARD	MINIMUM	NONE	–	–	–
HEIGHT	MAXIMUM	60'	26'	YES	–34
OPEN SPACE	MINIMUM	10%	20%	YES	+10%
FAR	MAXIMUM	0.75	0.26	YES	–0.49
PARKING	MINIMUM	62	248	YES	+186

No.	DATE	DESCRIPTION

No.	DATE	DESCRIPTION

rtm engineering consultants
1933 N. Meacham Road
Suite 700
Schaumburg, IL 60173
Telephone: (847) 756-4180
www.rtmec.com
IL Design Firm: 184006777-0002

SHEET NAME
SITE PLAN

PROJECT NAME
RIVIAN DOWNERS GROVE
2100 OGDEN AVE
DOWNERS GROVE, IL

PROJECT No.
26.0160.2366
SHEET No.
C2.0
OF 28 SHEETS