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ORDINANCE NO. 0-80-04

ORDINANCE AUTHORIZING THE MAYOR PRO TEM TO EXECUTE A REDEVELOPMENT AGREEMENT BETWEEN THE VILLAGE OF PALATINE AND R. FRANCAK AND ASSOCIATES, INC. FOR BLOCK 19 IN DOWNTOWN PALATINE

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Village of Palatine
200 E. Wood Street
Palatine, IL 60067

Published in pamphlet form by authority of the
Mayor and Village Council of the Village of Palatine
On May 3, 2004

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ORDINANCE NO. 0-80-04

**AN ORDINANCE AUTHORIZING
THE MAYOR PRO TEM TO EXECUTE
A REDEVELOPMENT AGREEMENT BETWEEN THE
VILLAGE OF PALATINE AND R. FRAN CZAK AND ASSOCIATES, INC.
FOR BLOCK 19 IN DOWNTOWN PALATINE**

WHEREAS, the Village of Palatine by Ordinance Nos. 0-224-99, 0-225-99, 0-226-99 and passed by the Mayor and Village Council on December 16, 1999, established a Tax Increment Financing District, adopted a Tax Increment Redevelopment Plan for its downtown and designated a Redevelopment Project Area; and

WHEREAS, on January 24, 2000, the Village Council, at a meeting duly held, did adopt Ordinance No. 0-12-00 correcting certain scrivener's errors in the legal description attached as Exhibit A to Ordinances Nos. 0-224-99, 0-225-99 and 0-226-99 of the Village of Palatine, Cook County, Illinois; and

WHEREAS, the Mayor and Village Council have on May 3, 2004, considered the proposed Redevelopment Agreement with R. Franczak and Associates, Inc. and have determined that entering into this Agreement furthers the purposes of the Tax Increment Financing District and the Redevelopment Plan for Downtown and furthers the public interest; and

WHEREAS, Article 3, paragraph (h) of the Redevelopment Agreement authorizes the Village Manager to do all things for and on behalf of the Village of

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Palatine regarding the execution of this Agreement and any supporting documents to the extent permitted by law.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Village Council of the Village of Palatine, acting in the exercise of their home rule power that:

SECTION 1: The Village of Palatine hereby authorizes the Mayor Pro Tem to execute the Redevelopment Agreement that substantially conforms to Exhibit "A" attached hereto, pursuant to the Tax Increment Financing Act, Section 65 ILCS 5/11-74/4-(c) and authorizes the Village Manager to execute any other supporting documents to the extent permitted by law.

SECTION 2: This Ordinance shall be in full force and effect upon passage and approval as provided by law.

PASSED: This 3rd day of May, 2004

AYES: 5 NAYS: 0 ABSENT: 1 PASS: 0

APPROVED by me this 3rd day of May, 2004


Pro Tem Mayor of the Village of Palatine

ATTESTED and FILED in the office of the Village Clerk this 3rd day of May, 2004


Village Clerk

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REDEVELOPMENT AGREEMENT

THIS REDEVELOPMENT AGREEMENT (this "Agreement"), is made and entered into as of the 3rd day of May, 2004 ("Agreement Date") by and between the **VILLAGE OF PALATINE, ILLINOIS**, an Illinois municipal home rule corporation, located in Cook County, Illinois (the "Village"), and **R. FRAN CZAK & ASSOCIATES, INC.**, an Illinois corporation (the "Developer"). (The Village and the Developer are sometimes referred to individually as a "Party" and collectively as the "Parties").

RECITALS

WHEREAS, 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, to stimulate and induce redevelopment in the Downtown pursuant to the Act, the Village has adopted the following ordinances, after giving all notices required and after conducting the public hearings required by law:

1. Ordinance No. O-224-99, adopted December 13, 1999, titled "Ordinance Approving the Village of Palatine Cook County, Illinois, Downtown Area Project Area Development Plan and Project;
2. Ordinance No. O-225-99 adopted December 13, 1999, titled "Ordinance

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Designating the Village of Palatine, Illinois, Downtown Area Tax Increment Redevelopment Project Area" ("Downtown Redevelopment Project Area");

3. Ordinance No. O-226-99, adopted December 13, 1999, titled "Ordinance Adopting Tax Increment Financing for the Village of Palatine Downtown Area Tax Increment Redevelopment Project Area in the Village of Palatine, Cook County, Illinois"; and

4. Ordinance No. O-12-00 adopted January 24, 2000, titled "Ordinance Correcting Certain Scrivener's Errors in the Legal Description Attached as Exhibit A to Ordinance Nos. O-224-99, O-225-99 and O-226-99, of the Village of Palatine, Cook County, Illinois, Downtown Redevelopment; and

WHEREAS, the Village is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1, et seq., as amended (the "Act"), to finance redevelopment in accordance with the conditions and requirements set forth in the Act; and

WHEREAS, the Developer represents and warrants to Village that Developer, and its principals, are skilled in the development and operation of multiple family residential developments and are able to provide the Project with the necessary skill, knowledge and expertise as well as input from other experts and consultants in the construction and operation of such a Project; and

WHEREAS, the Developer desires to own and redevelop the Property; and

WHEREAS, the Developer intends to file an application for a Planned Development to seek approval to construct a multiple family residential development as more fully described in Article 2, which the Village agrees to consider; and

WHEREAS, it is necessary for the successful completion of the Project (as defined in Article 2) that the Village enter into this Agreement with Developer to provide for the development of the Property, thereby implementing and bringing to completion a portion of the

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Redevelopment Plan; and

WHEREAS, Developer has been and continues to be unwilling to undertake the redevelopment of the Property but for certain tax increment financing ("TIF") incentives from the Village, which the Village is willing to provide under the terms and conditions contained herein; and

WHEREAS, the Village and the Developer propose to jointly finance the cost of acquisition of the Property and certain public improvements to be made thereto within the Project, which will serve a public purpose by reducing or eliminating conditions that, in part, qualify the Downtown Redevelopment Project Area as a blighted area and which are necessary to foster development within the Downtown Redevelopment Project Area; and

WHEREAS, the Village proposes to finance its share of the costs to be incurred in connection with the foregoing acquisition and implementation of the public improvements by utilizing tax increment financing in accordance with the Act; 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 Directors of the Developer for consideration and review, the Directors have taken all actions required to be taken prior to the execution of this Agreement in order to make the same binding upon the Developer according to the terms hereof, and any and all action of the Developer's Directors precedent to the execution of this Agreement have been undertaken and performed in the manner required by

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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:

ARTICLE ONE

INCORPORATION OF RECITALS

The findings, representations and agreements set forth in the above Recitals are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though fully set out in this **Article One**, and constitute findings, representations and agreements of the Village and of the Developer according to the tenor and import of the statements in such Recitals.

ARTICLE TWO

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:

"Act" means the Tax Increment Allocation Redevelopment Act found at 65 ILCS 5-11-74.4-1, *et seq.*

"Agreement" means this Redevelopment Agreement.

"Certificate of Completion" means the document to be provided to Developer by the Village, within thirty (30) days after written request from Developer and after Developer has provided all required waiver of liens and sworn statements necessary to comply with the Illinois Mechanics Lien Act and has complied with all Village codes and with the obligations of

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this Agreement with respect to the construction of the Project, which document states that the Developer has completed and satisfied all construction terms, covenants and conditions contained in this Agreement.

"Change in Law" means the occurrence, after the Effective Date, of an event described below, provided (i) such event materially changes the costs or ability of the Party relying thereon to carry out its obligations under this Agreement and (ii) such event is not caused by the Party relying thereon. Change in Law means any of the following: (i) the enactment, adoption, promulgation or modification of any federal, state or local law, ordinance, code, rule or regulation (other than by the Village); (ii) the order or judgment of any federal or state court, administrative agency or other governmental body; (iii) the imposition of any conditions on, or delays in, the issuance or renewal of any governmental license, approval or permit (or the suspension, termination, interruption, revocation, modification, denial or failure of issuance or renewal thereof) necessary for the undertaking of the services to be performed under this Agreement; or (iv) the adoption, promulgation, modification or interpretation in writing of a written guideline or policy statement by a governmental agency (other than the Village or with respect to those made by the Village, only if they violate the terms of this Agreement).

"Closing" means on or before October 15, 2004, which is the date on which Developer is to acquire title to the Property pursuant to the Real Estate Sale Provisions.

"Concept Plans" means the conceptual planned development plans submitted to the Village on October 16, 2003 for the Project, which consists of the plans listed on **Exhibit "A"**.

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

"Day" means a calendar day.

"Developer" means Franczak & Associates, Inc., an Illinois corporation, or any successor

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in interest thereof permitted pursuant to **Section 10.11** hereof. Developer is referred to as "Purchaser" in **Article Fifteen**.

"Developer Parcels" means the properties commonly known as 18-24 Greeley Avenue and 135 W. Palatine Road, Palatine, Illinois.

"Downtown Redevelopment Project Area" means the entire downtown TIF district created by the Ordinances adopted by the Village in 1999 and 2000.

"Final Award" is the amount of final compensation as ordered and awarded by a judge in the Quick Take Action as the final award pursuant to a jury verdict or judge's decree, including any and all fees, costs, expenses and interest included or awarded; or such final purchase price as agreed upon by the land owner, in lieu of condemnation, including any and all fees, costs, expenses, and interest incurred as a result of having filed a condemnation action.

"Final Plans" means the final plans approved by the Village during the Planned Development approval process, which plans shall substantially conform to the Concept Plans attached hereto as Exhibit "A".

"Off-Site Improvements" means those certain right of way improvements to Greeley Street and Johnson Street to be constructed by Developer at its sole cost and expense and specifically set forth as such on Exhibit "E" attached hereto.

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

"Person" means any individual, corporation, partnership, limited liability company, joint venture, association, trust, or government or any agency or political subdivision thereof, or any agency or entity created or existing under the compact clause of the United States Constitution.

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"Preliminary Award" is the amount of compensation ordered by a judge in the Quick Take Action as preliminary just compensation or award, which sum shall be deposited with the Clerk of the Circuit Court of Cook County, Illinois at the time possession of the Village Parcels is delivered and conveyed to the Village and an order vesting title to the Village Parcels is entered vesting title to the Village Parcels in the Village;

"Preliminary Purchase Price" means the amount to be paid by the Village for the Village Parcels, whether acquired pursuant to a real estate purchase agreement or by a Quick Take Action. Preliminary Purchase Price shall include all costs, expenses, and fees including appraiser and legal fees incurred as a result of the Village preparing for and/or filing a Quick Take Action. Preliminary Purchase Price shall include the Preliminary Award, but shall not include the Final Award amount the Village is required to pay for the Village Parcels pursuant to a Quick Take Action.

"Project" means the development, construction, financing, completion and operation of two residential condominium buildings, both containing approximately 57,200 square feet with approximately 36 condominium units in each building, together with the Off-Site Improvements, all in accordance with the Final Plans to be approved by the Village in the Planned Development ordinance, which plans shall substantially conform to the Concept Plans attached hereto as Exhibit "A".

"Property" means the approximately sixty two thousand, three hundred twenty six (62,326) square foot parcel of land as that parcel is legally described on Exhibit B, upon which the Project will be constructed. The Property includes the properties bounded by Palatine Road on the north, Greeley Street on the east, an office building located at Smith Street on the west, and Johnson Street on the south, and consists of the Developer Parcels and Village Parcels

"Quick Take Act" means Chapter 735 of the Illinois Compiled Statutes, Section 5/7-

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103(40).

"Quick Take Action" means a court action filed by the Village to condemn through an action in eminent domain any or all portions of the Property pursuant to 735 ILCS 5/7-103(40) as authorized by Section 11-74.4-4(c) of the Act.

"R. Franczak & Associates, Inc." means the Developer under this Agreement.

"Real Estate Sale Provisions" means those provisions set forth in **Article Fifteen** herein.

"Redevelopment Plan" means the "Redevelopment Plan" for the Downtown as defined in the Village Ordinance No. O-224-99.

"Repurchase Closing Date" means the date the Village takes title to the Property pursuant to the provisions of Section 7.3.

"State" means the State of Illinois.

"TIF Ordinances" means Ordinance Nos. O-224-99, O-225-99 and O-226-99 all adopted by the Village on December 13, 1999, and Ordinance O-12-00 adopted on January 24, 2000, as described in the Recitals to this Agreement.

"TIF Eligible Expenses" means all qualifying redevelopment project costs that are authorized to be reimbursed by the Act and this Agreement.

"Uncontrollable Circumstance" means any event which:

- (a) is beyond the reasonable control of and without the fault of the Party relying thereon;
and
- (b) is one or more of the following events:
 - (i) a Change in Law;
 - (ii) insurrection, riot, civil disturbance, sabotage, act of the public enemy, explosion, nuclear incident, war or naval blockade;

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- (iii) epidemic, hurricane, tornado, landslide, earthquake, lightning, fire, windstorm, other extraordinary weather conditions or other similar Act of God;
- (iv) governmental condemnation or taking other than by the Village;
- (v) strikes or labor disputes, other than those caused by the acts of Developer;
- (vi) a shortage of materials not attributable to the Developer.

Uncontrollable Circumstance shall not include: (1) economic hardship or impracticability of performance (except as described under Change of Law), (2) commercial or economic frustration of purpose, (except as described under Change of Law), (3) unavailability of materials, strikes or labor disputes caused by the acts of Developer, or (4) a failure of performance by a contractor (except as caused by events which are Uncontrollable Circumstances as to the contractor).

"Village" means the Village of Palatine, Illinois, an Illinois municipal corporation.

"Village Parcels" means the properties commonly known as 149 W. Palatine Road, 157 W. Palatine Road and 148 Johnson Street.

ARTICLE THREE

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

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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) In connection herewith concerning written directions or authorization in respect of the investment of any funds, notwithstanding any provision hereof to the contrary, such direction or authorization orally by telephone, other telecommunication or otherwise, confirmed in writing, including by telecopier/facsimile transmission, shall be appropriate and is hereby approved. Failure of the investing agent to actually receive such written confirmation shall not render invalid or ineffective any such oral direction or authorization.
- (h) 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

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in this Agreement. Developer 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.

- (i) In connection with the foregoing and other actions to be taken under this Agreement, and unless applicable documents require action by Developer in a different manner, Developer hereby designates Ray Franczak and/or Jim Duerr 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 Developer and with the effect of binding Developer in that connection (either of such individuals being "Authorized Developer Representative"). Developer shall have the right to change its Authorized Developer Representative by providing the Village with written notice of such change which notice shall be sent in accordance with **Section 18.2.**

ARTICLE FOUR

IMPLEMENTATION OF PROJECT

The Village and the Developer agree to cooperate in implementing the Project in accordance with the Parties respective obligations set forth in this Agreement. This Agreement and all of its terms is subject to the Village adopting an ordinance granting Planned Development approval for the Project. The Developer shall have no rights to develop the Project unless and until the Village adopts an ordinance granting Planned Development approval for the Project.

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ARTICLE FIVE

DESIGNATION OF DEVELOPER

The Village hereby designates Developer as the exclusive developer for the Property, subject to the Village adopting a Planned Development ordinance authorizing the construction of the Project, subject to the terms of this Agreement and only so long as Developer is not in default of this Agreement after the expiration of all applicable cure periods. The Village hereby represents and warrants to Developer that the Village has taken all necessary actions and has complied with all requirements imposed by law including, but not limited to, the requirements of Section 5/11-74.4-4 (c) of the Act, required to be taken and met prior to the designation of Developer as the exclusive developer for the Property.

ARTICLE SIX

DEVELOPER'S ACCESS TO THE PROPERTY

Developer's rights to access any parcels of land owned by the Village between the later to occur of: 1) the date that the Village obtains title to all of the Village Parcels or 2) the date the Village adopts a Planned Development Ordinance authorizing the Project (the "Village Authorization Date") and the date the Developer purchases the Village Parcels from the Village, for preparation of Developer's desired due diligence, soil tests, land survey, and topographical survey, and other required site preparation work has been set forth in a separate document entitled "License Agreement" by and between the Village and Developer (the "License Agreement"). The License Agreement shall be fully executed prior to Developer's entry on the Village Parcels, a copy of which is attached as Exhibit "C".

ARTICLE SEVEN

ACQUISITION OF THE PROPERTY

7.1 Acquisition of Developer's Parcels by Developer. The Developer has closed on four (4)

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real estate contracts and now holds title to four of the seven parcels of land that comprise the Property ("Developer's Parcels"). Developer agrees to provide the Village with proof that Developer holds title to Developer's Parcels as a condition precedent to Village's execution of this Agreement.

7.2 Acquisition of Village's Parcels by Village.

- A. The Developer represents that it has been unsuccessful in attempts to enter into purchase contracts for the remaining three parcels of land that comprise the Property ("Village Parcels"). Therefore the Village agrees that it shall make a reasonable effort to purchase the Village Parcels.
- B. In the event that the Village is unsuccessful in obtaining contracts to purchase the Village Parcels by May 30, 2004, then the Village agrees to file a Quick Take Action within 10 days thereafter, as hereafter provided and as provided in the Quick Take Act, for those Village Parcels that neither Developer nor the Village have been able to obtain by purchase ("Quick Take Parcels").
- C. The following are conditions precedent to the Village entering into purchase agreements on the Village Parcels and conditions precedent to the Village filing any Quick Take Actions:
- (i). Developer shall hold title to Developer's Parcels;
 - (ii). The Developer shall deliver to the Village a letter of credit in the amount of Two Hundred Fifty Thousand (\$250,000.00) Dollars ("Condemnation Letter of Credit") in favor of the Village in form and substance satisfactory to the Village to insure the Developer's payment of the Preliminary Purchase Price for the Village Parcels, which letter of credit will be posted with the Village prior to the Village's execution of this Agreement. The Village agrees that the Condemnation

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Letter of Credit shall be reduced by One Hundred Twenty Five Thousand (\$125,000.00) Dollars upon the Developer acquiring any two (2) of the three (3) Village Parcels. It shall be released in the event that the Preliminary Purchase Price and Final Award is less than the Total TIF Benefit allowed under this Agreement. In the event the amount of the Preliminary Purchase Price exceeds Two Million (\$2,000,000.00) Dollars then the Condemnation Letter of Credit shall not be released until the amount of the Preliminary Purchase Price and Final Award is known and paid.

- (iii). The Developer shall not be in default under this Agreement until such time as the default has not been cured after the giving of proper notice thereunder and all rights to cure have lapsed.

7.3 Right to Terminate This Agreement:

- (i) In the event the amount of the Preliminary Purchase Price of the Village Parcels is more than the Total TIF Benefit authorized by this Agreement, both the Developer and the Village shall have the right, for a period of twenty-five (25) days after the determination of the Preliminary Award to elect not to proceed to acquire the Village Parcels and to abandon the Project and terminate this Agreement. In the event the Developer elects to abandon the Project and the Village dismisses any Quick Take Action within ninety (90) days thereafter, the Developer shall be responsible for payment of one hundred percent (100%) of any fees, costs or expenses related to the Quick Take Action, including damages awarded to the landowner (if required to be paid by the Village) in such action. If the Village continues the Quick Take Action after this Agreement has been terminated by Developer pursuant to this **Section 7.3(i)**, the Developer will not be responsible for any costs, fees or expenses of the Village or the landowner. In

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addition, the Village shall have the right, but not the duty, to purchase from the Developer all but not less than all, at the option of the Village, of the Developer Parcels from the Developer for the same purchase price paid for the Developer Parcels by the Developer. Notwithstanding anything herein to the contrary, the Parties' right to terminate this Agreement shall terminate pursuant to this section or when the Village transfers any of the Village Parcels to the Developer, whichever is the first to occur.

(ii) If the Village elects to terminate this Agreement, upon notice to the Developer given within said twenty-five (25) days, the Developer shall be responsible to pay the Village for any of the Village's fees, costs or expenses in excess of One Hundred Sixteen Thousand (\$116,000.00) Dollars, including the Preliminary Award, if any, related to the Quick Take Action that are incurred by the Village.

7.4 Sale of Village Parcels. Subject to acquiring title to the Village Parcels and adopting a Planned Development ordinance for the Project, the Village agrees and covenants to convey title to the Village Parcels by special warranty deed, subject to **Article 15** simultaneous with the payment by the Developer, if the Preliminary Purchase Price exceeds the Total TIF Benefit authorized by this Agreement, those costs in excess of the Total TIF Benefit. The Village's obligation to make such conveyance shall be contingent upon closing of all of the Developer's financing necessary for the construction of the Project.

7.5 Use of Plans. In the event of exercise by the Village of its rights under **Section 7.6** hereof, Developer shall assign to the Village, or as the Village shall direct, all of its right, title and interest in the Concept, Preliminary and Final Plans for the Property which Developer does not develop. At the Closing, Developer shall deliver to the Village letters from the architect, engineer and all other consultants that have provided development services to the Developer that prepared the Concept, Preliminary and Final Plans permitting the Village or its assignee to

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use them, in accordance with this Section 7.5, without further charge. The Developer shall be responsible for any payments then due the architect, engineer and other consultants.

7.6 Repurchase by the Village. If: (a) the Developer falls more than ninety (90) days behind the time schedule to apply for building permits or to complete the two (2) proposed buildings as set forth in Exhibit "F", or (b) if no substantial work is proceeding on either of the two (2) buildings for the Project for a period of ninety (90) days after the target date set forth in Exhibit "F" and provided that the cause of the condition arising under (a) or (b) above is not due to Uncontrollable Circumstances, then any of such events shall constitute a default hereunder, and thereafter the Village Manager may notify the Developer in writing that the Village demands return (the "Return") of the Property (the "Return Notice"). If Developer does not cure such default within thirty (30) business days of receipt of the Return Notice, then Developer shall immediately convey the Property to the Village subject only to such exceptions as were recorded against the Property when the Property was conveyed to Developer and subject to any construction mortgage placed on the Property by Developer in conformance with the provisions of this Agreement ("Return Closing Date"), which loan shall be assumed or paid by the Village. Developer has warranted that it will not collect a Developer Construction Management fee until after the Village's right of repurchase expires. The Village purchase price shall be One Million Three Hundred Fifty Two Thousand and Eight Hundred (\$1,352,800.00) Dollars ("Repurchase Price") for the return of the Property. Any mortgage encumbering the Property shall contain an express provision permitting such Return to the Village and an agreement of the Lender to release its lien on the Return Closing Date upon payment by the Village of the outstanding balance then due. In the event that there is an amount necessary to obtain releases of the construction loan or other liens, all Letters of Credit tendered by the Developer shall first be used to fully satisfy such amounts and if there are still balances payable

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on any such outstanding liens or encumbrances, the Developer shall pay the excess amount prior to the Return Closing Date. Failure to pay said amount by the Return Closing Date shall result in a draw on the Letter of Credit and the Village shall retain any and all rights and remedies at law and in equity. Developer shall convey the property by special warranty deed, shall assume any costs for title insurance in the amount of the Repurchase Price for the Property and Developer and Village shall execute such other customary title documents as are commonly used in similar commercial transactions in the Chicago, Illinois metropolitan area.

All of Developer's obligations hereunder shall be documented by Developer, to the satisfaction of the Village prior to the Repurchase Closing Date. Failure of the Developer to comply with these terms and conditions shall constitute an Event of Default as defined herein.

ARTICLE EIGHT

VILLAGE COVENANTS AND AGREEMENTS

8.1 Village's Redevelopment Obligations. The Village shall have the obligations set forth in this Article Eight in connection with the Project. Notwithstanding the obligations of this Article Eight, this Agreement shall not constitute a debt of the Village within the meaning of any constitutional statutory provision or limitation.

8.2 Village Funding. The Village may use proceeds of a Bond sale to fulfill the Village's cash obligations under this Agreement or shall identify alternative sources of funds. The funds shall be disbursed in accordance with the terms of this Agreement.

8.3 Demolition of the Property. The Developer shall undertake the demolition of all structures existing on the Property. The Village, upon complete submittal of materials and an application for demolition by Developer, shall issue the demolition permit.

8.4 Development Signage for the Property. Subsequent to execution of this Agreement and subsequent to adoption of the Planned Development ordinance, but prior to conveyance of

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the Village Parcels to Developer, upon proper and complete permit application, the Developer shall have the right to install "Coming Soon" signage on the Village Parcels, designed, located and installed in a manner acceptable to the Village in conformance with the Village Zoning Ordinance.

8.5 Defense of TIF District. In the event that any court or governmental agency, having jurisdiction over enforcement of the Act and the subject matter contemplated by this Agreement, shall determine that this Agreement is contrary to law, or in the event that the legitimacy of the Downtown Redevelopment Project Area is otherwise challenged before a court or governmental agency having jurisdiction thereof, the Village will, at its sole cost and expense, defend the integrity of the Downtown Redevelopment Project Area and this Agreement. Developer will fully cooperate with the Village in connection with the foregoing, at no out-of-pocket cost to Developer without being entitled to reimbursement from the Village so long as said out-of-pocket costs are TIF Eligible Expenses.

8.6 Cooperation with Other Permits. The Village agrees to cooperate with Developer in Developer's attempts to obtain all necessary approvals from any governmental or quasi-governmental entity other than the Village. The Village shall further promptly and expeditiously process and consider to the extent allowable under applicable law, any reasonable request of Developer for zoning and planned development approvals and for relief or variances from Village Zoning and Subdivision ordinances necessary for the construction of the Project.

8.7 Certificate of Completion. Within thirty (30) days after written request from Developer and after Developer has provided all required waiver of liens and sworn statements necessary to comply with the Illinois Mechanics Lien Act and has complied with all Village codes and with the obligations of this Agreement with respect to the construction of the Project, the Village shall deliver a certificate of completion and satisfaction of all construction terms,

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covenants and conditions contained in this Agreement or, if not complete or satisfied, what deficiencies exist. Upon correction of any deficiencies, the Village shall within ten (10) days thereafter deliver the Certificate of Completion.

8.8 Total TIF Benefit. The Total TIF Eligible Expenses to be reimbursed by the Village to the Developer, for land acquisition and other TIF Eligible Expense pursuant to this Agreement, shall not exceed Two Million Dollars (\$2,000,000.00). The Village shall reimburse the Developer for the land acquisition portion of the TIF Eligible Expenses upon issuance of the site development permit by the Village.

8.9 Cash Payment. Subject to the limitation in Total TIF Eligible Expenses set forth in Section 8.8, the Village shall reimburse Developer the sum of up to Four Hundred Sixty Six Thousand and 00/100 Dollars (\$466,000.00) for public improvements, site preparation and other TIF Eligible Expenses not related to land acquisition. Said amount shall be paid within thirty (30) days upon completion of the shell and core of both buildings and upon Developer providing Village with actual receipts to establish that the costs are TIF Eligible Expenses under the Act.

ARTICLE NINE

DEVELOPER'S COVENANTS AND AGREEMENTS

9.1 Developer's Redevelopment Obligations. Developer shall have the obligations set forth in this Article Nine for the development, construction, financing, completion and furtherance of the Project.

9.2 Accept Title to the Property. The Developer hereby agrees to accept legal title to the Village Parcels, at Closing, at the price set forth in Section 15.2 subject to Article Fifteen expenses and subject to the restrictions contained in the title policy.

9.3 Permit Application Deadlines. By June 18, 2004, Developer shall have applied for

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preliminary Planned Development approval and final Planned Development approval. By July 30, 2004, or thirty (30) days after PUD approval, Developer shall have applied for (and made all submittals requirements in conformance with Village codes) a building permit for the first building to be constructed on the Property. By September 30, 2004, Developer shall have applied for (and made all submittal requirements in conformance with Village codes) a building permit, curb-cut permits and other necessary land use and construction approvals as shall be necessary or appropriate to construct the entire Project in accordance with the Final Plans. Developer shall proceed with the application for permits and construction of the Project on the Property in accordance with the schedule set forth in **Exhibit "F"** hereto. This Agreement is subject to the Village adoption of a Planned Development ordinance approving the Project.

9.4 Construction Financing Deadline. Not less than seven (7) days prior to closing on one or more of the Village Parcels, and as a condition precedent to the Village's obligation to close, the Developer shall demonstrate to the Village's satisfaction that Developer has sufficient funds to pay the cost of the Project and any other obligations of Developer hereunder relating to the Property. Developer shall obtain a binding commitment, in form and content that is typical in the industry, for construction financing for the Project ("Construction Loan") to be constructed and shall provide to the Village in accordance with the terms hereof and the Final Plans, and shall furnish evidence of such commitment to the Village not less than seven (7) days prior to closing on one or more of the Village Parcels.

9.5 Project Development Budget. Developer shall submit to the Village the project development budget approved by the construction lender when available but not later than seven (7) days prior to Closing. The Developer agrees that the Village will be provided a reasonable opportunity to meet with the construction lender if requested by the Village.

9.6 Letter of Credit, Permits and Other Security Prior to Commencement of Construction.

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Prior to Closing, Developer shall provide to Village evidence that: (i) all zoning ordinances and resolutions have been obtained; (ii) the Lender has approved the budget for the Project; and (iii) the Developer has a completely executed financing commitment. As a condition to the Village issuing a site development permit for the Project, Developer shall deliver to the Village an unconditional irrevocable letter of credit in the amount of Seven Hundred Fifty Thousand and 00/100 (\$750,000.00) Dollars in form and substance acceptable to the Village (the "LOC") which LOC may be drawn on by the Village upon the occurrence of a Penalty Event as defined in **Exhibit "F"**. One Hundred Seventy Five Thousand and 00/100 (\$175,000.00) Dollars of the letter of credit shall be released at the time that the Village certifies the completion of the foundation of both buildings. One Hundred Seventy Five Thousand and 00/100 (\$175,000.00) Dollars of the letter of credit shall be released at the time that the Village certifies the completion of the shell and core of the first building. One Hundred Seventy Five Thousand and 00/100 (\$175,000.00) Dollars of the letter of credit shall be released at the time that the Village certifies the completion of the shell and core of the second building. One Hundred Twenty Five Thousand and 00/100 (\$125,000.00) Dollars of the letter of credit shall be released at the time that the Village issues a final certificate of occupancy for the last unit in the buildings and upon acceptance of all public improvements and Off-Site Improvements. The balance of the letter of credit shall be released upon the completion of the one-year maintenance period as required under the Village Code.

9.7 Timing of Developer's Obligations. Developer covenants and agrees to construct, or cause to be constructed, the Project on the Property at the times set forth on **Exhibit "F"** hereto and otherwise as required herein, subject to Uncontrollable Circumstances. In addition, at such time as it is determined that the final cost to acquire the Village Parcels will be in excess of Two Million (\$2,000,000) Dollars (i.e. after the Final Award of the Village Parcels), then in that event, the Developer shall deposit with the Village, within fourteen (14) days of entry of the court

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order identifying the Final Award, an amount equal to the amount that the land acquisition of the Village Parcels exceeds Two Million (\$2,000,000) Dollars. This Agreement is subject to and the Village's responsibilities under this Agreement are contingent upon Developer depositing the funds required in this Section 9.7.

9.8 Compliance with Applicable Laws. Developer warrants that it shall at all times acquire, install, construct, operate and maintain the Project in conformance with all applicable laws, rules, ordinances and regulations. All work with respect to the Project shall conform to all applicable federal, state and local laws, regulations and ordinances, including, but not limited to, zoning, subdivision, planned development codes, building codes, environmental codes, life safety codes, property maintenance codes and any other applicable codes and ordinances of the Village as more specifically set forth in **Article Eleven**. Village shall not enact any law, ordinance, rule or regulation (or amendment thereto) which would have the effect of increasing Developer's obligations hereunder, including an increase in the cost of the Project, unless said law, ordinance, rule or regulation is one of general applicability to all the property in the Village.

9.9 No Default. The Developer shall not be in default under this Agreement or be in default under any agreement with its tenants or any other party in connection with the development of the Property, which default has not been cured after the giving of proper notice hereunder and all rights to cure have lapsed. Failure to comply with this term renders the Developer in default of this Agreement, subject to Developer's right to cure under this Agreement.

9.10 Progress Meetings. Developer shall meet with the Village Council and Village staff and make presentations to the Village Council and Village staff as reasonably requested by the Village Manager in order to keep the Village apprised of the progress of the development.

9.11 Authorized Representative. Subject to the provisions thereof, Developer has designated

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in **Article Three** (i) a representative with full power and authority to meet with Village staff for purposes of coordinating and implementing obligations of the Parties under this Agreement.

9.12 Real Estate Tax Payments. Developer and successor owners agree to pay all general and special real estate taxes levied during their respective period of ownership against their respective interest in the Project on or prior to the date same is due and said taxes shall not become delinquent. Developer and successor owners shall deliver evidence of payment of such taxes to the Village upon request.

9.13 Tax Exempt Status. Consistent with its covenant in **Section 10.7**, Developer and successor owners shall not assert a tax-exempt status during their respective period of ownership. This prohibition shall run with the land and shall expire on the date the Downtown Redevelopment Project Area expires or an earlier date if agreed by the Village and Developer.

9.14 Real Estate Tax Challenges. Developer and subsequent owners agree not to challenge, contest or seek reduction in the tax assessment during the life of the TIF.

9.15 Sale Contracts. All sales contracts and leases shall be made subject to the terms of this Agreement.

9.16 MWRD Fees. Developer shall be responsible for paying any MWRD TIF service fees in connection with its development.

9.17 Fees and Expenses. Developer shall pay all Village imposed fees, including but not limited to permit, inspection, review, tap-on, school and park impact fees, and storm water drainage fees that are assessed on a uniform basis throughout the Village and are of a general applicability to all other property in the Village. Said payments shall be made as directed by the applicable Village code or policy.

In addition, Developer shall pay an "art amenity fee" of One Hundred (\$100) Dollars/per residential dwelling unit based on the number of residential dwelling units

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approved in the final Planned Development Ordinance. The "art amenity fee" for each residential unit will be paid in its entirety at the first Closing for the Village Parcels.

Developer's failure to pay the fees and expenses described in this Section 9.17, or elsewhere in this Agreement, shall constitute an Event of Default hereunder. Without waiving its rights against Developer, the Village may be reimbursed for said fees and expenses to the extent they are eligible costs out of the Special Tax Allocation Fund.

9.18 Loan Agreement. Prior to issuance of the Certificate of Completion by the Village, Developer shall not use the Property as collateral for anything other than the cost of constructing the Project. Developer's Loan Agreement shall expressly provide that the amount of said Loan may not be increased without the consent of the Village, if Developer increases the amount of its loan in an amount that exceeds the appraised value of the Property less the Total TIF Benefit paid.

ARTICLE TEN

ADDITIONAL COVENANTS OF DEVELOPER

10.1 Developer Existence. Developer will do or cause to be done all things necessary to preserve and keep in full force and effect its existence and standing as an Illinois Limited Liability Company authorized to do business in Illinois, so long as Developer maintains an interest in the Property or has any other remaining obligation pursuant to the terms of this Agreement.

10.2 Construction of Project. Developer shall diligently pursue obtaining all required permits and Developer shall cause construction of the Project on the Property to be prosecuted and completed pursuant to the schedule set forth on Exhibit "F" with due diligence, in good faith and without delay, subject to Uncontrollable Circumstances and the other provisions of this Agreement. Neither Developer, nor any entity in which Developer has an interest, shall be

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paid any developer construction management fee or other fees from the proceeds of the Construction Loan for the Property, but shall be permitted to be paid a developer construction management fee after the Village's rights to repurchase expire.

- 10.3 Indemnification.** Developer (use of the term "Developer" herein includes permitted successors and assigns), agrees to indemnify, defend and hold the Village, Mayor, Village Council Members, Village Manager, officers, agents and employees (hereinafter "Indemnified Parties") harmless from and against any losses, costs, damages, liabilities, claims suits, actions, causes of action and expenses (including, without limitation, reasonable attorneys' fees and court costs) suffered or incurred by the Indemnified Parties which are caused as a result of:
- a. the failure of Developer to comply with any of the terms, covenants or conditions of this Agreement which Developer is obligated to comply with; or
 - b. the failure of Developer or any of Developer's contractors to pay contractors, subcontractors or materialmen in connection with the Project; or
 - c. material misrepresentations or omissions of Developer relating to the Project, financials or this Agreement which are the result of information supplied or omitted by Developer or by its agents, employees, contractors or persons acting under the control or at the request of Developer; or
 - d. the failure of Developer to cure any material misrepresentations or omissions of Developer in this Agreement relating to the Project within the applicable cure provisions of this Agreement; or
 - e. any claim or cause of action for injury or damage brought by a third party arising out of the construction or operation of the Project by Developer; or
 - f. any violation by Developer of local ordinance, state or federal laws, in connection with the offer and sale of interests in the Developer or any part of the Project.

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- g. The occurrence of an Event of Default by Developer.

The provisions of this **Section 10.3** shall not apply to a loss which arises out of (in whole or in part) intentional misconduct on the part of any Indemnified Party providing this information, but only to the extent that such Indemnified Parties' misconduct or negligence or misstatement of fact contributed to the loss, or that the loss is attributable to such Indemnified Parties' misconduct or negligence or misstatement of fact.

10.4 Insurance. Seven (7) days prior to Closing, Developer (or Developer's contractor) shall deliver to the Village, at Developer's cost and expense, insurance required to be carried by Developer pursuant to **Article Fourteen**. The Village shall be named as additional insured parties on Developer's insurance policies.

10.5 Further Assistance and Corrective Instruments. The Village and Developer 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.

10.6 No Gifts. Developer covenants that no officer, member, manager, stockholder, employee or agent of Developer, or any other person connected with Developer, has made, offered or given, either directly or indirectly, to the Mayor, any Council member, or any officer, employee or agent of the Village, or any other person connected with the Village, any money or anything of value as a gift or bribe or other means of influencing his or her action in his or her capacity with the Village.

10.7 Conveyance. In recognition of the nature of the Project and the Village's projections of the need for incremental tax revenues to finance TIF Eligible Expenses, in accordance with the Act, during the life of the TIF consistent with its covenants in **Sections 9.13**, Developer shall not

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knowingly undertake to convey the Property to persons whose ownership and use of such Property will cause it to be exempt from payment of property taxes, and will impose in the deed conveying all or any portion of the Property, a prohibition against granting such conveyance consistent with the covenants in **Sections 9.13**.

10.8 Disclosure. Concurrently with execution of this Agreement, Developer shall disclose to the Village the names, addresses and ownership interests of all Persons that comprise Developer, including all shareholders of the corporation. The Developer shall disclose the same information to the Village at Closing. At the time of execution of this Agreement and prior to Closing, no change shall be made in the persons comprising Developer or in their ownership interests (excluding transfers due to death) without the consent of the Village. All changes made in the persons comprising Developer or in their ownership interests shall be disclosed to the Village during the term of this Agreement.

10.9 Open Book Project. Developer's Project shall be an "open book" project meaning that Developer and the general contractor (or contractors, if more than one) will assure continuing access to the Village's agents for the purpose of reviewing and auditing their respective books and records relating to any item necessary to determine the costs of the Project. The foregoing Village review rights shall terminate one (1) year after the issuance of the final certificate of occupancy with respect to costs for the Project, unless the Developer has failed to make available any such books and/or records requested in writing by the Village. Developer shall provide to the Village copies of any partnership, limited liability operating agreements or joint venture agreements pertaining to the Property to which the Developer is a party; provided that the Developer may, (if Developer has previously provided the Village not less than thirty (30) days to review such confidential financial materials), remove from the copies of such agreements any confidential financial information previously disclosed to the Village and not

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since changed in form or substance and the Village shall keep such agreements confidential, to the maximum extent permitted by law. Failure to provide the documents or allow review of the books within fifteen (15) days after request by the Village shall be an Event of Default. Developer shall exercise prudence and good faith in attempting to contract with persons or entities who are reputable and experienced in their respective areas for the provision of services or material for the design and construction of the Project at costs not in excess of market rates. The Village agrees that the Developer may designate within its discretion the general contractor (or general contractors) for the Project. The general contractor (or general contractors) designated by Developer shall be experienced and reputable.

10.10 Assignment of Agreement. This Agreement is not assignable except for Permitted Transfers (as hereinafter defined), until a Certificate of Completion for the entire Project including Off-Site Improvements is issued by the Village. Notwithstanding anything in this Section 10.10, no part of this Section 10.10 shall require the Village's consent to the collateral assignment hereof to Developer's construction lender or permanent lender, if required thereby, or to a Permitted Transferee. Subsequent to completion of the Project, as evidenced by a Certificate of Completion, Developer shall give notice of any transfer to a Permitted Transferee to the Village.

10.11 No Transfer without Village's Consent. Prior to issuance of a Certificate of Completion for the entire Project including Off-Site Improvements, no portion of the Developer's Project shall be transferred or conveyed (other than to Permitted Transferees). Developer shall notify the Village of any transfer of any interest in the Project other than: (i) transfers of interests in connection with the sale of individual condominium units and such units' interest in the common elements of the condominium to the future resident of such unit, (individual condominium unit owners shall not be considered to be an assignment but merely a successor

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in title under this Agreement), (ii) transfers of any property to the condominium associations(s) and homeowners association(s) to be established, (iii) the execution of licenses, concessions or leases of any part of the Project, and (iv) transfers to an Affiliate of Developer; as used herein, an "Affiliate of Developer" shall mean an entity which controls, is controlled by, or is under common control with Developer and which has the same manager, members, partners or shareholders owning in the aggregate, more than fifty percent (50%) of the ownership interests in Developer owning more than fifty percent (50%) of the ownership interests in said Affiliate; and as used herein, "control" shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person or entity, whether through the ownership of voting securities or rights, by contract, or otherwise. The foregoing transfers in clauses i, ii, iii and iv shall herein be referred to as the "Permitted Transfers". Developer shall not be required to obtain Village review, approval or consent to any Permitted Transfer. The Village shall have no duty to return any letter of credit or other security posted in connection with the portion of the Project so transferred until substitute security acceptable to Village is received.

ARTICLE ELEVEN**ADHERENCE TO VILLAGE CODES AND ORDINANCES**

All development and construction of the Project shall comply in all respects with the provisions in the Building, Plumbing, Mechanical, Electrical, Storm Water Management, Fire Prevention, Property Maintenance, Zoning and Subdivision Codes of the Village and all other germane codes and ordinances of the Village in effect on the date that an application for the first full building permit for the Project is filed, unless otherwise mandated by State law. Developer has examined and is familiar with and agrees that its development of the Project shall be performed in accordance with all the covenants, conditions, restrictions, building regulations,

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zoning ordinances, property maintenance regulations, environmental regulations and land use regulations, codes, ordinances, federal, state and local ordinances affecting the Project.

ARTICLE TWELVE

REPRESENTATIONS AND WARRANTIES OF DEVELOPER

Developer represents, warrants and agrees as the basis for the undertakings on its part herein contained that as of the date hereof and until completion of the Project:

12.1 Organization and Authorization. Developer is an Illinois corporation authorized to do business in Illinois and existing under the laws of the State of Illinois, and is authorized to and has the power to enter into, and by proper action has been duly authorized to execute, deliver and perform, this Agreement. Developer is solvent, able to pay its debts as they mature and financially able to perform all the terms of this Agreement. To Developer's knowledge, there are no actions at law or similar proceedings which are pending or threatened against Developer which would materially and adversely affect the ability of Developer to proceed with the construction and development of the Project.

12.2 Non-Conflict or Breach. Neither the execution and delivery of this Agreement by Developer, the consummation of the transactions contemplated hereby by Developer, nor the fulfillment of or compliance with the terms and conditions of this Agreement by Developer conflicts with or results in a breach of any of the terms, conditions or provisions of any offerings or disclosure statement made or to be made on behalf of Developer (with Developer's prior written approval), any organizational documents, any restriction, agreement or instrument to which Developer or any of its partners or venturers is now a party or by which Developer or any of its partners or its venturers is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any prohibited lien, charge or encumbrance whatsoever upon any of the assets or rights of Developer, any related party or any of its

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venturers under the terms of any instrument or agreement to which Developer, any related party or any of its partners or venturers is now a party or by which Developer, any related party or any of its venturers is bound.

12.3 Location of Project. The Project will be located entirely within the Property, except for the Off-Site Improvements.

12.4 Financial Resources. Developer and any Affiliate to which portions of this Agreement are assigned has sufficient financial and economic resources to implement and complete Developer's obligations contained in this Agreement.

12.5 Limit on Use of Land as Security. Developer's right to use the land as security for financing purposes shall be subject to the restrictions contained in this Agreement. Violation of this covenant shall constitute an Event of Default.

ARTICLE THIRTEEN

REPRESENTATIONS AND WARRANTIES OF THE VILLAGE.

The Village represents, warrants and agrees as the basis for the undertakings on its part herein contained that:

13.1 Organization and Authority. The Village is a municipal corporation duly organized and validly existing under the law of the State of Illinois, is a home rule unit of government, and has all requisite corporate power and authority to enter into this Agreement.

13.2 Authorization. The execution, delivery and the performance of this Agreement and the consummation by the Village of the transactions provided for herein and the compliance with the provisions of this Agreement: (i) have been duly authorized by all necessary corporate action on the part of the Village, (ii) require no other consents, approvals or authorizations on the part of the Village in connection with the Village's execution and delivery of this Agreement, and (iii) shall not, by lapse of time, giving of notice or otherwise result in any

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breach of any term, condition or provision of any indenture, agreement or other instrument to which the Village is subject.

13.3 Litigation. To the best of the Village's knowledge, there are no proceedings pending or threatened against or affecting the Village or the Downtown Redevelopment Project Area in any court or before any governmental authority which involves the possibility of materially or adversely affecting the ability of the Village to perform its obligations under this Agreement.

13.4 Connections. The Village hereby agrees to permit the connection of all water lines, sanitary and storm sewer lines or Village utility lines existing or constructed in the Property or near the perimeter of the Property as set forth on the Final Plans, provided that Developer complies with all requirements of general applicability promulgated by the Village for such connections. Village shall grant utility easements as may be necessary or appropriate to accommodate the utilities shown on the Final Plans.

ARTICLE FOURTEEN

LIABILITY AND RISK INSURANCE.

14.1 Liability Insurance Prior to Completion. Seven (7) days prior to Closing, Developer (or Developer's contractor) shall procure and deliver to the Village, at Developer's (or such contractor's) cost and expense, and shall maintain in full force and effect until each and every obligation of Developer contained herein has been fully paid, or performed, a policy or policies of comprehensive liability insurance and, during any period of construction, contractor's liability insurance and worker's compensation insurance, with liability coverage under the comprehensive liability insurance to be not less than Two Million (\$2,000,000.00) Dollars each occurrence and Nine Million (\$9,000,000.00) Dollars total. All such policies shall be in such form and issued by such companies as shall be acceptable to the Village to protect the Village and Developer against any liability incidental to the use of or resulting from any claim for injury or

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damage occurring in or about the Project on the Property, or the construction and improvement thereof by Developer. Each such policy shall name the Village as an additional insured and shall contain an affirmative statement by the issuer that it will give written notice to the Village at least thirty (30) days prior to any cancellation or amendment of its policy. Developer may satisfy its insurance obligations in this **Article Fourteen** by way of a blanket policy or policies which includes other liabilities, properties and locations having a general policy aggregate of at least Eleven Million (\$11,000,000.00) Dollars. Developer shall provide to the Village a replacement certificate not less than 30 days prior to expiration of any policy.

14.2 Builder's Risk Prior to Completion. Prior to completion of the construction of the Project on the Property, as certified by the Village, Developer shall keep in force at all times builders risk insurance on a completed value basis, in non-reporting form, against all risks of physical loss, including collapse, covering the total value of work performed and equipment, supplies and materials furnished for the Project (including on-site stored materials), all as to work by Developer. Such insurance policies shall be issued by companies satisfactory to the Village. All such policies shall contain a provision that the same will not be canceled or modified without prior thirty-(30) day written notice to the Village.

ARTICLE FIFTEEN

REAL ESTATE SALE PROVISIONS

15.1 As Is Purchase. This Agreement is an arms-length agreement between the parties.

Subject to the terms of this Agreement, Purchaser is purchasing the Village Parcels, and, except as set forth herein, the Village Parcels shall be conveyed and transferred to Purchaser, "AS IS, WHERE IS, AND WITH ALL FAULTS," and specifically and expressly without any warranties or guaranties, either express or implied, of any kind, nature or type whatsoever from or on behalf of Village. Without limiting the generality of the foregoing except as set forth herein,

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Village HAS NOT MADE, AND DOES NOT AND WILL NOT MAKE WITH RESPECT TO THE VILLAGE PARCELS, ANY WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING BUT IN NO WAY LIMITED TO, ANY WARRANTY OF CONDITION, MERCHANTABILITY, HABITABILITY, OR FITNESS FOR A PARTICULAR USE OR PURPOSE, OR WITH RESPECT TO THE VALUE, PROFITABILITY, BUILDABILITY, MORTGAGEABILITY OR MARKETABILITY OF THE VILLAGE PARCELS, OR THE PRESENCE OF HAZARDOUS MATERIALS THEREIN, THEREON, OR THEREUNDER WHICH WARRANTIES ARE HEREBY DISCLAIMED.

Except as otherwise provided in this Agreement, Purchaser has had, and will have pursuant to this Agreement, an adequate opportunity to make such legal, factual and other inquiries and investigations as Purchaser deems necessary, desirable or appropriate with respect to the Village Parcels. Such inquiries and investigations of Purchaser shall be deemed to include, but shall not be limited to, the physical condition of the Village Parcels, the suitability of the Village Parcels for the Intended Use (as defined below), such state of facts as an accurate survey and inspection of the Village Parcels would show, and all zoning and other codes, ordinances and regulations of any governmental entity applicable to the ownership, maintenance or operation of the Village Parcels.

15.2 Purchase Price.

a. The Village shall transfer title to the Village Parcels at the price the Village pays for the Village Parcels, plus closing costs and all costs and expenses related to the condemnation proceedings including the Preliminary Award and Final Award.

15.3 Title.

a. Title Commitment; Title Policy. Within thirty (30) days after the date hereof, Village shall cause to be furnished to Purchaser Minutes of Condemnation ("Commitment") issued by Chicago Title Insurance Company ("Title Company"), covering the Village Parcels, together

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with true and legible copies of all documents creating or establishing easements, restrictions, and other items referred to as exceptions in Schedule "B" and Schedule "C" of the Commitment ("Title Documents").

b. **Objections.** Purchaser shall have thirty (30) days following receipt of the Commitment, Title Documents and Survey to review the Commitment, Title Documents and Survey and to provide to Village in writing a specific list of Purchaser's objections to any of them ("Title Objections"). Any item constituting an encumbrance upon or adversely affecting title to the Village Parcels (except for Consensual Liens) which is not objected to by Purchaser in writing by such time shall be deemed approved by Purchaser and shall constitute a Permitted Exception (as hereinafter defined). Any mortgages, security interests, financing statements, or any other lien recorded against the Village Parcel's following the Agreement Date with the consent or acquiescence of Village are collectively referred to as the "Consensual Liens" and none of such Consensual Liens shall constitute, be or become Permitted Exceptions. Village shall cause all Consensual Liens to be paid and discharged in full at Closing and in the event Village fails to do so, Purchaser shall have the right to deduct and apply so much of the Purchase Price as is reasonably required to do so. The phrase "Permitted Exceptions" shall mean those exceptions to title set forth in the Commitment, Title Documents and Survey and accepted or deemed approved by Purchaser pursuant to the terms hereof except Consensual Liens as provided above, which shall not constitute Permitted Exceptions and those matters set forth on **Exhibit "G"** hereto.

c. **Cure.** Village shall have the right, but not the obligation for a period of twenty-one (21) days after receipt of Purchaser's Title Objections (the "Cure Period"), to cure (or commit to cure at or prior to Closing) by delivery of written notice thereof to Purchaser within the Cure Period any or all Title Objections contained in Purchaser's notice. If any such Title Objections are not cured (or, if reasonably capable of being cured, Village has not committed to cure same at or prior to

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Closing) within the Cure Period, or if Village sooner elects not to cure such Title Objection by written notice to Purchaser, Purchaser shall have until the earlier of the expiration of the Cure Period or five (5) days after the receipt of such written notice within which to give Village written notice that Purchaser elects either (i) to waive all such uncured objections (in which case the uncured objections shall become Permitted Exceptions); or (ii) terminate this Agreement. If Purchaser does not deliver such written notice within the above period, Purchaser shall be deemed to have waived its objections and all uncured Title Objections shall be Permitted Exceptions (except Consensual Liens, which shall not constitute Permitted Exceptions). If Purchaser terminates this Agreement in accordance with the foregoing, this Agreement shall immediately and automatically terminate, and neither party shall have any further obligations to the other hereunder (except any obligations, which this Agreement provides survive termination).

15.4 Closing Deliveries.

a. **Village.** Closing shall occur on or before October 15, 2004, provided all the conditions precedent described in this Agreement have been satisfied, including but not limited to: the Village obtaining title to the Village Parcels, full execution of this Agreement, adoption of the Final Planned Development Ordinance along with all other required land use ordinances necessary to construct the Project, and compliance with all applicable provisions of this Agreement. Village agrees to consider a request of Developer that it be allowed to close on one or more of the Village Parcels earlier than October 15, 2004. At Closing, Village shall deliver or cause to be delivered to Purchaser, in form and substance reasonably acceptable to Purchaser, each of the following documents applicable to the Village Parcels being conveyed:

- i. **Deed.** Special Warranty Deed conveying the Village Parcels to Purchaser (or Purchaser's Permitted Assignee) free and clear of all liens, claims and encumbrances except for the Permitted Exceptions.

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- ii. **Possession.** Exclusive possession of the Village Parcels shall be conveyed.
- iii. **Title Policy.** At Closing, Village shall provide Purchaser with an ALTA Form B Owner's Policy of Title Insurance for the Village Parcels, dated as of the date of the Closing, in the amount of the Purchase Price, insuring title to be in Purchaser (or Purchaser's Permitted Assignee) in indefeasible fee simple, subject to no exceptions other than Permitted Exceptions with extended coverage (the "Title Policy"). Village shall pay the additional premium charged for extended coverage, however, Purchaser shall pay for any endorsements required by Purchaser or its Lender.
- iv. **Closing Statement.** A Closing Statement conforming to the prorations and other relevant provisions of this Agreement.
- v. **Entity Transfer Certificate.** An Entity Transfer Certification confirming that the Village is a "United States Person" within the meaning of Section 1445 of the Internal Revenue Code of 1986, as amended.
- vi. **Other.** Such other documents and instruments as may reasonably be required by the Title Company as necessary to consummate this transaction and to otherwise effect the agreement of the parties hereto and not inconsistent with the terms of this Agreement, including but not limited to: (1) an Affidavit of Title, and (2) an A.L.T.A. Statement.
- b. **Purchaser.** At Closing, Purchaser shall deliver or cause to be delivered to Village

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the following, in form and substance reasonably acceptable to Village:

- i. **Closing Statement.** At the Closing, a Closing Statement conforming to the proration and other relevant provisions of this Agreement.
- ii. **Corporate Resolutions/Authorizations.** Such corporate, partnership, limited liability company and/or limited partnership resolutions and authorizations reasonably satisfactory to the Title Company evidencing Purchaser's authority to enter into and consummate this transaction and the acceptance of the conveyance of the Village Parcels, pursuant to this Agreement.
- iii. **Other.** Such other documents and instruments as may reasonably be required by the Title Company to consummate this transaction and to otherwise effect the agreement of the Parties hereto and not inconsistent with the terms of this Agreement.

15.5 Prorations and Adjustments. The following shall be prorated and adjusted between Village and Purchaser at the Closing, except as otherwise specified:

- a. Village will pay the basic premium for the Title Policy and any premiums for extended coverage; one-half of the escrow fee and New York closing fee charged by the Title Company; the costs to prepare the Deed; the costs to obtain, deliver, and record releases of all liens to be released at Closing; the costs to record all documents to cure Title Objections agreed to be cured by Village; the costs to obtain the Survey; the cost of state and county transfer stamps, if any, and Village's expenses and attorney's fees. Purchaser will pay one-half of the escrow fee and New York closing fee charged by Title Company; the costs to obtain, deliver, and record all documents other than those to be recorded at Village's expense; the costs of any work required by Purchaser to have the Survey reflect matters other than those required under

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this Agreement; the costs to obtain financing of the Purchase Price, including the incremental premium costs of mortgagee's title policies and endorsements and deletions required by Purchaser or Purchaser's lender; and Purchaser's expenses and attorney's fees. All assessments, general or special, which are due and payable in arrears after the Closing, and assessments for improvements completed prior to such Closing but payable after such Closing shall be prorated at such Closing based on each party's period of ownership. Ad valorem real estate taxes for the Village Parcels will be prorated at 105% of most current available assessed value, equalization factor and tax rate between Purchaser and Village as of the Closing Date. Village's portion of the prorated taxes will be credited to Purchaser at closing as an adjustment to the Purchase Price. If the assessment(s) for the year of closing and/or prior years are not known at the Closing Date, the prorations will be based on taxes for the previous tax year. Village will promptly notify Purchaser of all notices of proposed or final tax valuations and assessments that Village receives after the Contract Date and prior to such Closing. If this sale or Purchaser's use of the Premises after such Closing results in the assessment of additional taxes for periods prior to Closing, Purchaser will pay the additional taxes. All taxes due as of such Closing will be paid at such Closing. Such other items that are customarily prorated in transactions of this nature, if any, shall be ratably prorated. For purposes of calculating prorations, Purchaser shall be deemed to be in title to the Village Parcels on the Closing Date. All such prorations shall be made on the basis of the actual number of days of the year and month, which shall have elapsed as of such Closing Date. The amount of the ad valorem real estate tax proration shall be adjusted in cash after such Closing as and when the final tax bill for such period(s) becomes available. Village and Purchaser agree to cooperate and use their diligent and good faith efforts to make such adjustments no later than thirty (30) days after such information becomes available.

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ARTICLE SIXTEEN

EVENTS OF DEFAULT AND REMEDIES.

16.1 Developer Events of Default. The following shall be Events of Default with respect to this Agreement:

a. If any representation made by Developer in this Agreement, or in any certificate, notice, demand or request made by a Party hereto, in writing and delivered to the Village pursuant to or in connection with any of said documents, shall prove to be untrue or incorrect in any material respect as of the date made; provided, however, that such default shall constitute an Event of Default only if Developer does not remedy the default, within fifteen (15) days after written notice from the Village.

b. Default by Developer for a period of fifteen (15) days after written notice thereof in the performance or breach of any covenant contained in this Agreement concerning the existence, structure or financial condition of Developer; provided, however, that such default or breach shall not constitute an Event of Default if such default cannot be cured within said fifteen (15) days and Developer, within said fifteen (15) days, initiates and diligently pursues appropriate measures to remedy the default and in any event cures such default within sixty (60) days after such notice.

c. Default by Developer in the performance or breach of any covenant, warranty, representation, or obligation contained in this Agreement; provided, however, that such default shall not constitute an Event of Default if such default cannot be cured within said fifteen (15) days and the Developer, within said fifteen (15) days initiates and diligently pursues appropriate measures to remedy the default and in any event cures such default within sixty (60) days after such notice. Notwithstanding anything herein to the contrary, in the event a "Default Date" as defined in Exhibit "F" is missed, the Village may immediately draw on the

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LOC, without rights of Developer to cure.

d. The entry of a decree or order for relief by a court having jurisdiction in the premises in respect of Developer in an involuntary case under the federal bankruptcy laws, as now or hereafter constituted, or any other applicable federal or state bankruptcy, insolvency or other similar law, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of Developer for any substantial part of its property, or ordering the winding-up or liquidation of its affairs and the continuance of any such decree or order unstayed and in effect for a period of sixty (60) consecutive days.

e. The commencement by Developer of a voluntary case under the federal bankruptcy laws, as now or hereafter constituted, or any other applicable federal or state bankruptcy, insolvency or other similar law, or the consent by Developer to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or similar official) of Developer or of any substantial part of the Property, or the making by any such entity of any assignment for the benefit of creditors or the failure of Developer generally to pay such entity's debts as such debts become due or the taking of action by Developer in furtherance of any of the foregoing, or a petition is filed in bankruptcy by others.

f. Failure to have funds to meet Developer's obligations.

g. Failure to renew or extend the LOC referenced in **Section 9.6** thirty (30) or more days prior to its expiry (in which event the Village may draw the full amount of the LOC).

h. Sale, assignment, or transfer of the Project except in accordance with this Agreement.

i. Change in the Developer (other than to Permitted Transferees).

j. Developer abandons the Project on the Property. Abandonment shall be deemed to have occurred when work stops on the Property for more than thirty (30) days for any reason

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 5-7-04

other than Uncontrollable Circumstances.

1. Developer fails to comply with applicable governmental codes and regulations in relation to the construction and maintenance of the buildings contemplated by this Agreement. The maintenance requirement of this provision shall not be covered by and shall survive any Certificate of Completion or Estoppel Certificate of any kind issued during the term of this Agreement.

16.2 Village Events of Default. The following shall be Events of Default with respect to this Agreement:

a. if any material representation made by the Village in this Agreement, or in any certificate, notice, demand or request made by a party hereto, in writing and delivered to Developer pursuant to or in connection with any of said documents, shall prove to be untrue or incorrect in any material respect as of the date made; provided, however, that such default shall constitute an Event of Default only if the Village does not remedy the default, within fifteen (15) days after written notice from Developer.

b. default by the Village in the performance or breach of any material covenant contained in this Agreement concerning the existence, structure or financial condition of the Village; provided, however, that such default or breach shall constitute an Event of Default if the Village does not, within fifteen (15) days after written notice from Developer, initiate and diligently pursue appropriate measures to remedy the default.

c. default by the Village in the performance or breach of any material covenant, warranty or obligation contained in this Agreement; provided, however, that such default shall not constitute an Event of Default if the Village, commences cure within fifteen (15) days after written notice from Developer and in any event cures such default within sixty (60) days after such notice, subject to Uncontrollable Circumstances.

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- d. failure to have funds to meet the Village's obligations.

16.3 Remedies for Default. In the case of an Event of Default hereunder:

a. The defaulting party shall, upon written notice from the non-defaulting party, take immediate action to cure or remedy such Event of Default. If, in such case, any monetary Event of Default is not cured, or if in the case of a non-monetary Event of Default, except for circumstances contemplated under **Section 16.1-a**, action is not taken or not diligently pursued, or if action is taken and diligently pursued but such Event of Default or breach shall not be cured or remedied within a reasonable time, but in no event more than fifteen (15) additional days unless extended by mutual agreement, the non-defaulting party may institute such proceedings as may be necessary or desirable in its opinion to cure or remedy such default or breach, including, but not limited to, proceedings to compel specific performance of the defaulting party's obligations under this Agreement.

b. In case the Village shall have proceeded to enforce its rights under this Agreement and such proceedings shall have been discontinued or abandoned for any reason, then, and in every such case, Developer and the Village shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of Developer and the Village shall continue as though no such proceedings had been taken.

c. In the case of an Event of Default by Developer, in addition to any other remedies at law or in equity, the Village shall be relieved of its obligations under this Agreement, including but not limited to its obligations to accord Developer "exclusive" developer status as set forth in **Article Five**.

d. In the event a "Default Date" as defined in **Exhibit "F"** is missed, the Village may immediately draw on the LOC, without rights of Developer to cure.

16.4 Agreement to Pay Attorneys' Fees and Expenses. In the event an Event of Default is

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not cured within the applicable cure periods and the Parties employ an attorney or attorneys or incur other expenses for the collection of the payments due under this Agreement or the enforcement of performance or observance of any obligation or agreement herein contained, the non-prevailing party shall pay, on demand, the prevailing party's reasonable fees of such attorneys and such other reasonable expenses in connection with such enforcement action. The Village's duty to pay shall be subject to the Illinois Local Government Prompt Payment Act.

16.5 No Waiver by Delay or Otherwise. Any delay by either party in instituting or prosecuting any actions or proceedings or otherwise asserting its rights under this Agreement shall not operate to act as a waiver of such rights or to deprive it of or limit such rights in any way (it being the intent of this provision that neither party should be deprived of or limited in the exercise of the remedies provided in this Agreement because of concepts of waiver, laches or otherwise); nor shall any waiver in fact made with respect to any specific Event of Default be considered or treated as a waiver of the rights by the waiving party of any future Event of Default hereunder, except to the extent specifically waived in writing. No waiver made with respect to the performance, nor the manner or time thereof, of any obligation or any condition under the Agreement shall be considered a waiver of any rights except if expressly waived in writing.

16.6 Rights and Remedies Cumulative. The rights and remedies of the Parties to this Agreement, whether provided by law or by this Agreement, shall be cumulative, and the exercise of any one or more of such remedies shall not preclude the exercise by such Party, at that time or different times, of any other such remedies for the same Event of Default.

ARTICLE SEVENTEEN

EQUAL EMPLOYMENT OPPORTUNITY

17.1 No Discrimination. Developer will not discriminate against any employee or applicant

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for employment on the basis of race, color, religion, sex or national origin. To the fullest extent permitted by law, Developer will take affirmative action to ensure that applicants are employed and treated during employment, without regard to their race, color, religion, sex or national origin. 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. Developer 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.

17.2 Advertisements. Developer will, in all solicitations or advertisements for employees placed by or on behalf of Developer, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

17.3 Contractors. Any contracts made by Developer with any general contractor, agent, employee, independent contractor or any other Person in connection with Project shall contain language similar to that recited in Sections 17.1 and 17.2 above.

ARTICLE EIGHTEEN

MISCELLANEOUS PROVISIONS.

18.1 Cancellation. In the event prior to Closing, Developer or the Village shall be prohibited, in any material respect, from performing covenants and agreements or enjoying the rights and privileges herein contained, or contained in the Redevelopment Plan, including Developer's duty to build the Project, by the order of any court of competent jurisdiction, or in the event that all or any part of the Act or any ordinance adopted by the Village in connection with the Project, shall be declared invalid or unconstitutional, in whole or in part, by a final decision of a court of competent jurisdiction and such declaration shall materially affect the Redevelopment Plan or

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the covenants and agreements or rights and privileges of Developer or the Village, then and in any such event, the party so materially affected may, at its election, cancel or terminate this Agreement in whole or in part (with respect to that portion of the Project materially affected) by giving written notice thereof to the other prior to Closing. If the Village terminates this Agreement pursuant to this **Section 18.1**, to the extent it is then appropriate, the Village, at its option, may also terminate its duties, obligation and liability under all or any related documents and agreements. In the event of any termination/cancellation, the letter of credit shall be released to the Developer.

18.2 Notices. All notices, certificates, approvals, consents or other communications desired or required to be given hereunder shall be given in writing at the addresses set forth below, by any of the following means: (a) personal service, (b) electronic communications, whether by telex, telegram or telecopy, (c) overnight courier, or (d) registered or certified first class mail, postage prepaid, return receipt requested.

If to Village: Village of Palatine
200 E Wood Street
Palatine, IL 60067
Attn: Village Clerk

With a copy to: Village of Palatine
200 E Wood Street
Palatine, IL 60067
Attn: Village Manager

With a copy to: Schain, Burney, Ross & Citron, Ltd.
222 N. LaSalle Street, Suite 1910
Chicago, IL 60601
Attn: Robert C. Kenny

If to Developer: James R. Duerr
R. Franczak & Associates, LLC
751 Graceland Avenue
Des Plaines IL 60091
Attn: Richard Franczak

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With a copy to: Dowd, Dowd & Mertes, Ltd.
 701 Lee Street, Suite 790
 Des Plaines, Illinois 60016
 Attn: Drake D. Mertes

The Parties, by notice hereunder, may designate any further or different addresses to which subsequent notices, certificates, approvals, consents or other communications shall be sent. Any notice, demand or request sent pursuant to either clause (a) or (b) hereof shall be deemed received upon such personal service or upon dispatch by electronic means. Any notice, demand or request sent pursuant to clause (c) shall be deemed received on the day immediately following deposit with the overnight courier, and any notices, demands or requests sent pursuant to clause (d) shall be deemed received forty-eight (48) hours following deposit in the mail.

18.3 **Time of the Essence.** Time is of the essence of this Agreement.

18.4 **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.

18.5 **Recordation of Agreement.** The Parties agree to record this Agreement in the Recorder's Office of Cook County.

18.6 **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.

18.7 **Choice of Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

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18.8 Entire Contract and Amendments. This Agreement (together with the exhibits attached hereto) is the entire contract and a full integration of the Agreement between the Village and Developer relating to the subject matter hereof, supersedes all prior and contemporaneous negotiations, understandings and agreements, written or oral, between the Village and Developer, and may not be modified or amended except by a written instrument executed by the Parties hereto.

18.9 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 Developer, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third persons to either the Village or Developer, nor shall any provision give any third parties any rights of subrogation or action over or against either the Village or Developer. This Agreement is not intended to and does not create any third party beneficiary rights whatsoever.

18.10 Waiver. Any party to this Agreement may elect to waive any right or remedy it may enjoy hereunder, provided that no such waiver shall be deemed to exist unless such waiver is in writing. No such waiver shall obligate the waiver of any other right or remedy hereunder, or shall be deemed to constitute a waiver of other rights and remedies provided pursuant to this Agreement.

18.11 Cooperation and Further Assurances. The Village and Developer each covenants and agrees that each will do, execute, acknowledge and deliver or cause to be done, executed and delivered, such agreements, instruments and documents supplemental hereto and such further acts, instruments, pledges and transfers as may be reasonably required for the better clarifying, assuring, mortgaging, conveying, transferring, pledging, assigning and confirming unto the Village or Developer or other appropriate persons all and singular the rights, property and

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revenues covenanted, agreed, conveyed, assigned, transferred and pledged under or in respect of this Agreement.

18.12 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 10.10** hereof, Developer may not assign 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 except as provided herein, transfer any interest in the Village Parcels without the express written approval of Developer.

18.13 No Joint Venture, Agency or Partnership Created. Nothing in this Agreement, or any actions of the Parties to this Agreement, shall be construed by the Parties or any third person to create the relationship of a partnership, agency or joint venture between or among such parties.

18.14 No Personal Liability of Officials of Village or Developer. 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 Developer, in his or her individual capacity, and no official, officer, partner, member, director, agent, employee or attorney of the Village or Developer 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.

18.15 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.

18.16 Term. This Agreement shall remain in full force and effect for twenty-three (23) years

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from the date the Downtown Redevelopment Project Area was created, unless the Redevelopment Plan with respect to the Project is extended or until termination of the Downtown Redevelopment Project Area or until otherwise terminated pursuant to the terms of this Agreement.

18.17 Estoppel Certificates. Each of the parties hereto agrees to provide the other, upon not less than ten (10) business days prior request, a certificate ("Estoppel Certificate") certifying that this Agreement is in full force and effect (unless such is not the case, in which such parties shall specify the basis for such claim), that the requesting party is not in default of any term, provision or condition of this Agreement beyond any applicable notice and cure provision (or specifying each such claimed default) and certifying such other matters reasonably requested by the requesting party.

18.18 Municipal Limitations. All municipal commitments are limited to the extent required by law.

ARTICLE NINETEEN

EFFECTIVENESS

The Effective Date for this Agreement shall be the day on which this Agreement is fully executed pursuant to a duly enacted Village ordinance authorizing the execution and adoption of this Agreement. Developer shall execute this Agreement not later than twenty-one (21) days after Village Council authorization of execution of this Agreement or else this Agreement will be deemed void.

Franczak RDA
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5-7-04

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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 PALATINE, an Illinois
municipal corporation

By: [Signature]
Its: Mayor Pro Tem

ATTEST:

By: [Signature]
Its: Village Clerk

DEVELOPER:

R. FRAN CZAK & ASSOCIATES, LLC

By: [Signature]
Name: RAY FRAN CZAK
Its: PRESIDENT

PALATINE\Downtown\Franczak\RDA 05-07-04.doc

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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

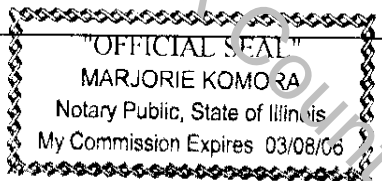
I, MARJORIE KOMORA, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that RAY FRANZAK, Pres. of R. Franzak & Associates, Inc., an Illinois corporation, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act as said President and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 7 day of May, 2004.

Marjorie Komora

Notary Public

My commission expires _____



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EXHIBITS

- EXHIBIT A CONCEPT PLAN
- EXHIBIT B LEGAL DESCRIPTION OF PROPERTY
- EXHIBIT C LICENSE AGREEMENT
- EXHIBIT D FINAL PLANS
- EXHIBIT E OFF-SITE IMPROVEMENTS
- EXHIBIT F DEVELOPMENT SCHEDULE
- EXHIBIT G PERMITTED EXCEPTIONS

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Exhibit "A-1"

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An Area Bounded As Follows:

Beginning at the northeast corner of the intersection of Wood Street and Plum Grove Road; thence south along the east right-of-way line of Plum Grove Road to the north right-of-way line of Slade Street; thence east along the north right-of-way line of Slade Street to the east right-of-way line of Hale Street; thence south along the east right-of-way line of Hale Street to a line that is parallel to and 5 feet north of the south property line of Lot 4 in Block O in Territory in the Town of Palatine; thence east along this line to the east line of aforesaid Lot 4; thence south along the east line of Lot 4 a distance of 5 feet; thence east along the south lot lines of Lots 1 through 3 in aforesaid Block O and this line extended to the east right-of-way line of Benton Street; thence south along the east right-of-way line of Benton Street to the south right-of-way line of Palatine Road; thence west along the south right-of-way line of Palatine Road to the southerly right-of-way line of the Union Pacific Railroad; thence southeasterly along the southerly right-of-way line of the Union Pacific Railroad to the east line of the west 198 feet of Lot 8 in Assessor's Division; thence south to a point 29 feet south of the Northwest Quarter of Section 23; thence east to the east line of that part taken for street purposes; thence south to the south right-of-way line of Washington Street; thence west along the south right-of-way line of Washington Street to the west right-of-way line of Plum Grove Road; thence north along the west right-of-way line of Plum Grove Road to the south right-of-way line of Johnson Street; thence west along the south right-of-way line of Johnson Street to the west right-of-way line of Brockway Street; thence north along the west right-of-way line of Brockway Street to the northeast corner of Lot 8 in Block C in the subdivision of the north 24.60 acres in the northeast quarter of Section 22, Township 42 North, Range 10 East of the Third Principal Meridian, thence west along the north line of Lots 5 through 8 in aforesaid Block C to the east right-of-way line of Greeley Street; thence south along the east right-of-way line of Greeley Street to the north line of Union Cemetery and this north line extended; thence west along the north line of Union Cemetery and this line extended to the west line of Union Cemetery; thence south along the west line of Union Cemetery to the south line of Union Cemetery; thence east along the south line of Union Cemetery to the northwest corner of Lot 48 in Warneke's Addition to Palatine; thence south along the west line of Lot 48 to the southwest corner of aforesaid lot; thence east along the south line of aforesaid Lot 48 a distance of 120 feet; thence south along the west line of Lots 49 through 52 in Warneke's Addition to Palatine and this west line extended to the southwest corner of aforesaid Lot 52; thence west along the north line of Lot 1 in Arthur T. McIntosh & Co's Plum Grove Road Development and the north line of R. Houston Jr. & Sons Glen Tyan Manor to the east line of Lot 18 in Block 6 in R. Houston & Sons Glen Tyan Manor; thence northerly and northeasterly along the east line of Lots 13 through 18 in Block 6 in R. Houston & Sons Glen Tyan Manor to the south line of Kinsch's Subdivision; thence west along the south line of Kinsch's Subdivision to the west line of Kinsch's Subdivision; thence north along the west line a distance of 77 feet; thence east a distance of 23 feet; thence continuing north along the west line of Kinsch's Subdivision a distance of 232 feet to the north line of Kinsch's Subdivision; thence east along the north line a distance of 182.70 feet; thence north a distance of 235.5 feet to the north right-of-way line of Johnson Street; thence easterly along the north right-of-way line of Johnson Street to the southwest corner of Lot 32 in Gorsline's Addition to Palatine; thence north along the west line of Lots 32 and 13 in Gorsline's Addition to Palatine and this west line extended to the north right-of-way line of Palatine Road; thence east along the north right-of-way line of Palatine Road to the east line of the west half of Lot 7 in Gorsline's Addition to Palatine extended; thence south along the east line and the extension of the east line of the west half of aforesaid Lot 7 to the south line of Lot 7; thence east along the south line of Lots 1 through 7 in Gorsline's Addition to Palatine to the southeast corner of Lot 1 in Gorsline's Addition to Palatine; thence north along the east side of aforesaid Lot 1 to the south right-of-way line of Palatine Road; thence westerly along the south right-of-way line of Palatine Road to the east line of the west 51 feet of Lot 7 in Block M in W.J. Lytle's Subdivision extended; thence north along the east line and the extension of the east line of the west 51 feet of aforesaid Lot 7 to the North line of Lot 7; thence west to the southeast corner of the west 33 feet of Lot 2 in aforesaid Block M; thence north along the east line of the west 33 feet of aforesaid Lot 2 to the south right-of-way line of Slade Street; thence west along the south right-of-way line of Slade Street to the east line of Lot 6 in Block L in W.J. Lytle's Subdivision extended; thence north along the east line and the extension of the east line of Lot 6 and 3 in Block L in W. J. Lytle's Subdivision to the south right-of-way line of Wilson Street; thence west along the south right-of-way line of Wilson Street to the east line of Lot

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Exhibit "A-1"

Page 2 of 2

3 in N. Mersch's Subdivision extended, thence north along the east line and the extension of the east line of Lot 3 in N. Mersch's Subdivision to the northeast corner of Lot 3; thence west along the north line of Lot 3 and Lot 3 extended to the east line of Lot 4 in Tin's Addition to Palatine; thence south along the east line of Lot 4 in Tin's addition to the northeast corner of Lot 5 in Tin's Addition to Palatine; thence west along the north line of Lots 5 through 13 in Tin's Addition and this line extended to the west right-of-way line of Maple Street; thence north along the west right-of-way line of Maple Street to the northeast corner of Lot 12 in Schram's Subdivision; thence west along the north line of Lots 5 and 12 in Schram's Subdivision to the east right-of-way line of Cedar Street; thence south along the east right-of-way line of Cedar Street to the south right-of-way line of Wilson Street; thence west along the south right-of-way line of Wilson Street to the west line of Lot 41 in Arthur T. McIntosh & Co.'s Palatine Farms extended; thence north along the west line and the extension of the west line of Lot 41 a distance of 213 feet; thence northeasterly a distance of 161.44 feet to a point on the west line of Lot 11 in Tudyman's Subdivision; thence north along the west line of Lot 11 in Tudyman's Subdivision and the east line of Lot 28 in Arthur T. McIntosh & Co.'s Palatine Farms to a line that is 20 feet north of and parallel to the south line of aforesaid Lot 28; thence west along aforesaid parallel line to the west line of aforesaid Lot 28; thence north along the west line of Lot 28 to the south right-of-way line of Wood Street; thence west along the south right-of-way line of Wood Street to the east line of Imperial Industrial Park extended; thence north along the east line and the extension of the east line of Imperial Industrial Park to the south line of Romark's Resubdivision; thence east along the south line of Romark's Resubdivision to the east line of Romark's Resubdivision; thence north along the east line of Romark's Resubdivision to the southerly right-of-way line of the Union Pacific Railroad; thence southeasterly along the southerly railroad right-of-way line to the centerline of Cedar street; thence north along the centerline of Cedar Street extended to the northerly right-of-way line of the Union Pacific Railroad; thence southeasterly along the northerly right-of-way line of the railroad right-of-way to the southwest corner of Lot 1 in Millin's Subdivision; thence north along the west line of Lot 1 in Millin's Subdivision to the north right-of-way line of Colfax Street; thence east along the north right-of-way line of Colfax Street to the east right-of-way line of Smith Street; thence north on the east right-of-way line of Smith Street to the northwest corner of the south 90 feet more or less of Lot 2 in the subdivision of part of the east 1/2 of the southeast 1/4 section of Section 15, Township 42 north, Range 10 East of the Third Principal Meridian; thence east a distance of 212 feet; thence south a distance of 66 feet; thence east a distance of 79.8 feet; thence north a distance of 115 feet more or less; thence east a distance of 89.45 feet; thence south a distance of 136.68 feet; thence east a distance of 65.30 feet; thence south to the south right-of-way line of Colfax Street; thence west along the south right-of-way line of Colfax Street to the east right-of-way line of Smith Street; thence south along the east right-of-way line of Smith Street to the northern right-of-way line of Wood Street; thence southeasterly and east along the northern right-of-way line of Wood Street to the northeast corner of the intersection of Wood Street and Plum Grove Road and the point of beginning; all in the west half of the southwest quarter of Section 14, the east half of the southwest quarter and the southeast quarter of Section 15, the northeast quarter of Section 22 and the west half of the northwest quarter of Section 23, Township 42 North, Range 10, East of the Third Principal Meridian, Cook County, Illinois.

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Exhibit "B"

Legal Description for Subject Property

That part of the Northeast quarter of the Northeast quarter of Section 22, Township 42 North, Range 10 East of the Third Principal Meridian, known as Lots 1 through 4, both inclusive, and Lots 6 through 8, both inclusive, in Block D, a subdivision by Alexander S. Pratt of the Northeast quarter of Section 22, aforesaid, also Jackson Street West of and adjacent to said Lot 4, except the West 16.5 feet thereof, in Cook County, Illinois.

Property of Cook County Clerk's Office

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LICENSE AGREEMENT

This LICENSE AGREEMENT ("Agreement") is made as of this ___ day of ___, 2004, by and between VILLAGE OF PALATINE, an Illinois municipal home rule corporation ("Village") and PALATINE - GREELEY, L.L.C., an Illinois limited liability company ("Licensee").

The following recitals of fact are a material part of this Agreement.

A. Village is a home rule unit of government in accordance with Article VII, Section 6, of the Constitution of the State of Illinois, 1970;

B. Village is the owner of a certain parcel of land in the Village of Palatine, County of Cook and State of Illinois, graphically depicted on Exhibit A attached hereto and made a part hereof ("Property").

C. Pursuant to a redevelopment agreement (the "Redevelopment Agreement") to be executed between the Village and Licensee, Licensee may become the contract purchaser of the Property which is presently utilized for residential purposes.

D. Village wishes to grant, and Licensee wishes to receive a non-exclusive license to solely perform survey, topographical, soil studies, and other required due diligence studies on the Property, all as set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing, the mutual agreement of the parties hereto and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Grant of License for Survey and Topographical Studies. Village hereby grants to Licensee, a non-exclusive license to solely perform preliminary survey, a topographical survey, soil borings, and other required due diligence studies (hereinafter "Testing"), on the Property subject to: 1) Licensee not interfering with the normal daily use of the Property; and 2) Licensee providing the Village 24 hours notice prior to entering the Property to perform any Testing.

2. Term of License. The license granted hereunder shall commence on the date hereof and shall terminate (the "Termination Date") upon the earlier of: (a) the date Licensee acquires fee title to the Property; (b) the date an Event of Default by Developer under the Redevelopment Agreement to be negotiated between the parties is not timely cured pursuant to the Redevelopment Agreement; (c) upon a breach of the terms hereof; (d) sixty (60) days after the date hereof if the Redevelopment Agreement has not been signed by Licensee and Village; or (e) upon notice of termination from one Party to the other Party if it is evident that a Redevelopment Agreement may not be agreed to between the Parties. Upon the occurrence of any of the events described in the preceding sentence, this License shall immediately expire and Licensee shall remove all

Exhibit "C"
1 of 8

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evidence of the Testing and physical activity performed on the Property and shall restore the Property to the condition of the Property existing on the date of this License Agreement.

3. License Only. This Agreement creates a license only and Licensee acknowledges that Licensee does not and shall not claim at any time any interest or estate of any kind or extent whatsoever in the Property by virtue of such license or Licensee's Testing on the Property pursuant hereto.

4. License for Access and Construction. In addition to the license created by this Agreement, this Agreement creates a license for access across the Property for the purpose of Testing. The term of the license for access shall terminate on the Termination Date.

5. Return of the Property. At the termination of Licensee's license, Licensee shall repair and restore the Property to the same Condition as existed on the date of this Agreement and in any event Licensee shall fill any holes resulting from Developer's Testing and activities on the Property.

6. Code Compliance. During the term of this license, Licensee shall comply with all applicable laws, statutes, ordinances, codes, rules, regulations, orders and decrees.

7. Reservation of Rights by Village. The right to use the Property owned by the Village is expressly reserved by Village, its successors, grantees, invitees and assigns. In addition, and not by limitation but by way of example, Village, its successors, grantees, invitees and assigns, reserve the right from time to time to grant additional licenses upon the Property, provided that such licenses do not unreasonably interfere with Licensee's use of the Property pursuant to the terms hereof.

8. No Transfer by Licensee. Licensee shall not transfer any of its rights hereunder without the prior written consent of Village. Any such assignment made without the prior written consent of Village shall be null and void and of no further force or effect and this Agreement shall automatically terminate.

9. Indemnity. Licensee for and on behalf of itself and all successors, grantees, invitees and assigns, assumes sole and entire responsibility for any and all loss of life, injury to persons or damage to property (wherever such property may be located) that may be sustained directly or indirectly or arising out of the activities, operations or Testing of the Property by Licensee, its successors, grantees, invitees and assigns and all of their officers, directors, employees, representatives and agents. Further, Licensee, for itself, its successors, grantees, invitees and assigns, and for those claiming by, through or under any of them, hereby releases Village, its members, agents and employees (collectively, the "Indemnitees") from any and all claims or demands for loss, liability, expense, cost or damage (whether to person or property), including, without limitation, reasonable attorneys' fees and litigation costs incurred by the Indemnitees in connection therewith, that may arise from the Testing by Licensee, including entry upon Property,

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its successors, grantees, invitees and assigns, and all of their officers, directors, employees, representatives and agents. Licensee hereby agrees to indemnify, defend and hold harmless the Indemnitees from and against any and all liability, loss, claim, demand, lien, damage, penalty, fines, interest, cost and expense (including without limitation, reasonable attorneys' fees and litigation costs) incurred by the Indemnitees for injuries to persons (including, without limitation, loss of life) and for damage, destruction or theft of property which is directly or indirectly due to or arising out of the activity, work or thing done, permitted or suffered by Licensee in connection with Testing, and entry onto Property or for any act or omission of Licensee, its successors, grantees, invitees and assigns and any of their officers, directors, employees, representatives and agents. Licensee shall cooperate with Village in the defense of any such claims, demands or action, including, without limitation, the employment, at the sole expense of Licensee, of legal counsel satisfactory to Village.

10. Insurance. Licensee, at its sole cost and expense, shall purchase and keep in full force and effect during the term hereof, Commercial General Public Liability Insurance (including, but not limited to, contractual liability insurance covering, without limitation, Licensee's indemnification obligations hereunder) in an amount not less than One Million and no/100 Dollars (\$1,000,000.00) per occurrence whether involving bodily injury liability (or death resulting therefrom) or property damage liability or a combination thereof with a minimum aggregate limit of Nine Million and no/100 Dollars (\$9,000,000.00) and provided that same shall not be cancelled without thirty (30) days prior notice to Owner.

Licensee, concurrently with execution hereof, or upon Licensee's commencement of Testing of the Property as permitted hereunder, whichever is earlier, shall deposit with Village, insurance certificates evidencing the foregoing coverage, together with satisfactory evidence of payment of the premiums thereon. All such insurance shall name the Indemnitees as additional insureds, pursuant to language deemed acceptable by the Village. Licensee shall deliver said insurance certificates to the Village Manager's office at 200 East Wood Street, Palatine, Illinois, 60067, or as otherwise directed by Village from time to time.

11. No Liens. Licensee shall not permit any lien to be filed against any portion of the Property or any improvements thereon for any labor or materials in connection with work of any character performed or claimed to have been performed on the Property at the direction or sufferance of Licensee.

In the event any such lien is filed against any portion of the Property or any improvements thereon, Licensee shall remove or cause to be removed such lien within thirty (30) days of written notice from Village. In the event Licensee does not remove or cause to be removed such lien within said thirty (30) day period, Village shall have the right, but not the obligation, to cause such lien to be released and Licensee shall pay on demand all of Village's costs in connection therewith, together with interest thereon at the interest rate set forth in Paragraph 13 hereof, accruing from and after the date of such demand until Village's receipt of full payment therefor.

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12. Code Violation. Licensee shall not permit any code violation to be filed against the Property as a result of Licensee's activities and/or testing.

In the event Licensee receives notice of such a code violation, either from the Village or its successors, Licensee shall remove or cause to be removed such violation within the time specified in said code violation notice. In the event Licensee does not remove or cause to be removed such code violation within said time period, Village shall have the right, but not the obligation, to cause such violation removed and Licensee shall pay on demand all of Village's costs in connection therewith, together with interest thereon at the interest rate set forth in Paragraph 13 hereof, accruing from and after the date of such demand until Village's receipt of full payment therefor.

13. Breach by Licensee. If Licensee breaches any provision in this Agreement and fails to cure any such breach within two (2) days after written notice thereof, in addition to any other right or remedy available at law or in equity, including but not limited to termination of this Agreement, the Village shall have the right, but not the obligation, to cure any such breach and Licensee agrees to reimburse Village for the cost thereof upon demand, together with interest accruing thereon at an annual rate of interest equal to eighteen percent (18%) from and after the date of Village's demand therefor until Village's receipt of full payment therefor.

14. No Warranty; Integration. Village hereby makes and has made no representations, statements, warranties or agreements to Licensee in or in connection with this Agreement or the Property. This Agreement embodies the entire understanding of the parties hereto, and there are no further or other agreements or understanding, written or oral, in effect between the parties relating to the subject matter hereof.

15. Notices. All notices and other communications given pursuant to this Agreement shall be in writing and shall be deemed properly served if delivered in person to the party to whom it is addressed or on the third (3rd) day after deposit in the U.S. mail as registered or certified mail, return receipt requested, postage prepaid or sent by facsimile transmission, as follows:

If to Village:

Village of Palatine
200 East Wood Street
Palatine, Illinois 60067
Attention: Village Clerk
Fax: (847) 359-9094

With copies to:

Schain, Burney, Ross & Citron, Ltd.
222 North LaSalle Street, Suite 1910
Chicago, Illinois 60601
Attention: Robert C. Kenny
Fax: (312) 332-4514

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If to Licensee: Palatine - Greeley, L.L.C.
 751 Graceland Avenue
 Des Plaines, IL 60091
 Attention: James R. Duerr
 Fax: (847) 297-5707

With a copy to: Nicholas Pepper
 Storino, Ramello & Durkin
 9501 W. Devon Ave.
 Rosemont IL 60018

16. Prevailing Party. In the event either party shall use legal counsel to enforce this Agreement, the non-prevailing party shall pay the legal fees of the prevailing party.

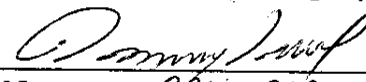
17. Binding on Successors. This Agreement shall be binding upon and shall inure to the benefit of the Village and the Licensee and the respective successors and permitted assigns of each upon execution hereof by the Village and the Licensee. Two (2) duly executed duplicate originals of this Agreement shall be provided to each party. This Agreement creates no rights as a third party beneficiary or otherwise in any person not a party.

18. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which shall together constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

LICENSEE:

Palatine - Greeley, L.L.C.
 An Illinois Limited Liability Company

By: 
 Printed Name: RAY FRANCKZAK
 Title: PRESIDENT

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State of Illinois)
County of Cook)

I, MARJORIE KOMORA, a Notary Public, in and for the County and State aforesaid, do hereby certify that RAY FRANZAK as pres of Palatine - Greeley, L.L.C., 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 and delivered the same instrument as his own free and voluntary act and as the free and voluntary act of _____, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 7 day of May, 2004

Marjorie Komora
Notary Public



Property of Cook County Clerk's Office

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VILLAGE:

VILLAGE OF PALATINE,

an Illinois municipal home rule corporation

By: _____

Attest: _____

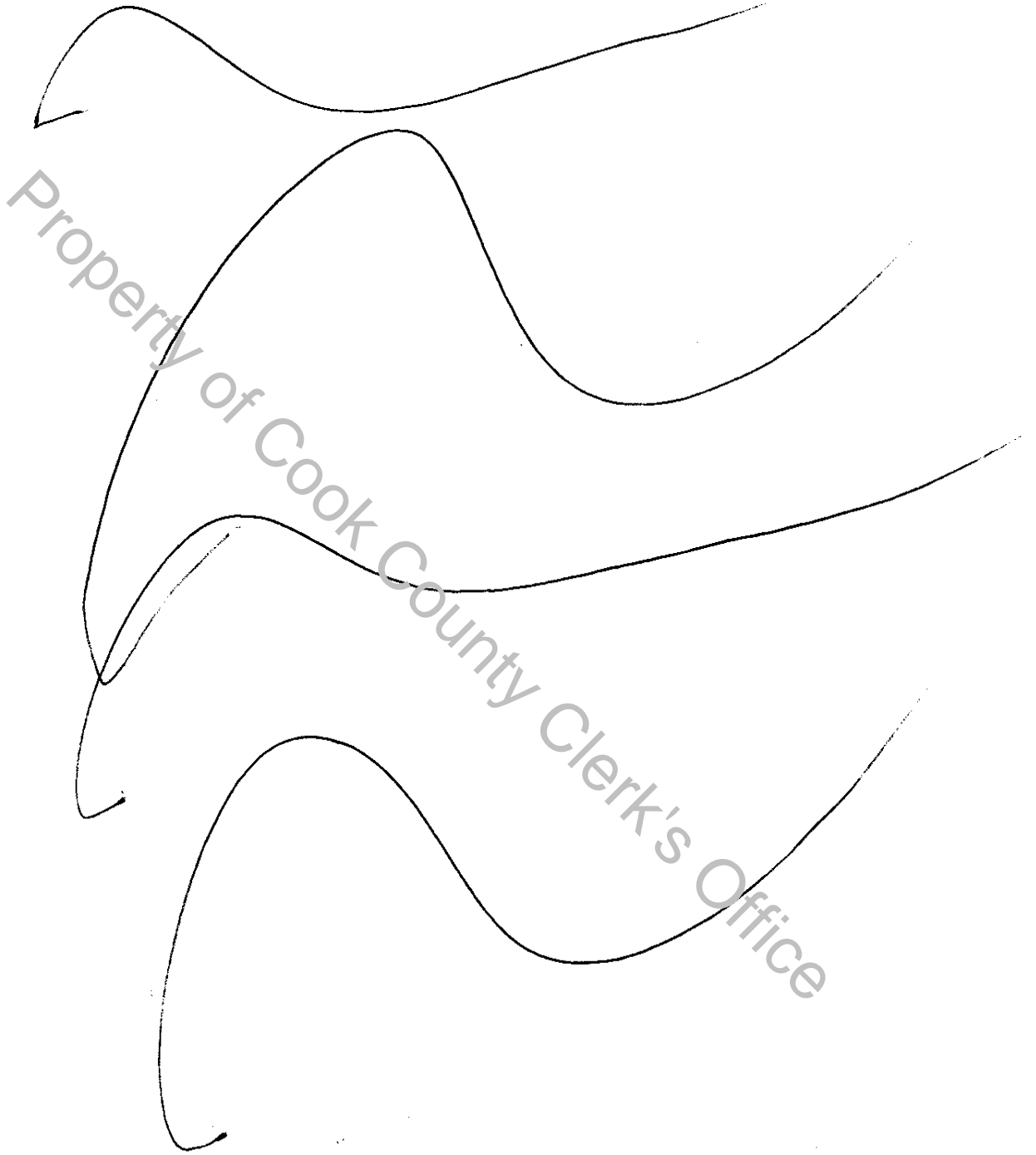
Village Clerk

Property of Cook County Clerk's Office

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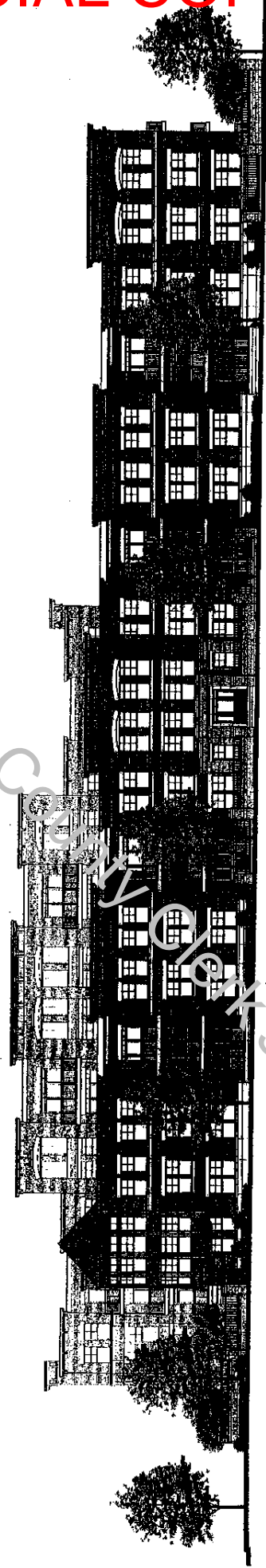
EXHIBIT A

Plan of Property



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Property of Cook County Clerk's Office



Palatine Road Elevation



HKM ARCHITECTS + PLANNERS, INC. <small>6 SOUTHVALE AVENUE AURORA ILLINOIS 60006</small>	R. FRANCAK & ASSOCIATES	<small>September 20, 2009 Job No. 09089</small>	Park Place Condominiums
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Exhibit "D"
1 of 5

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Greely Street Elevation

Exhibit "D"
2 of 5

Park Place Condominiums

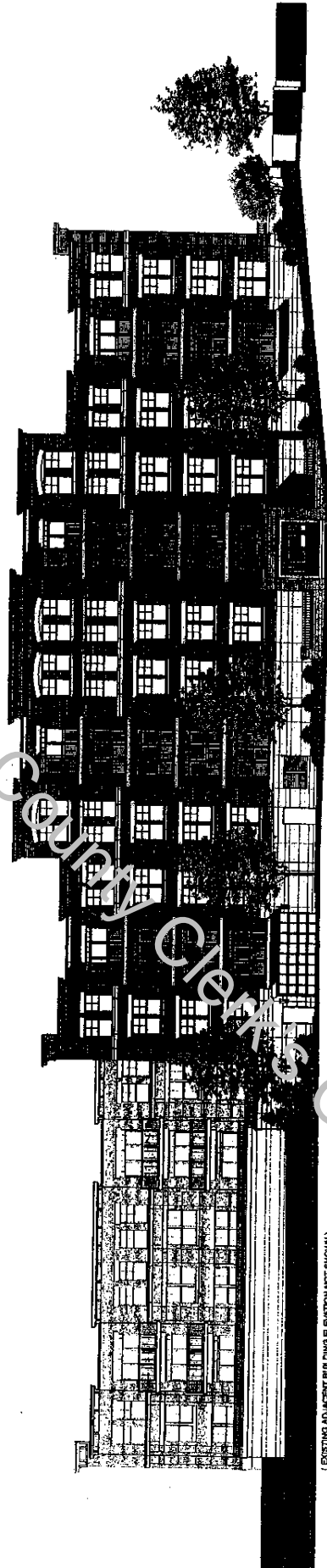
September 01, 2009
Job No. 10005

R. FRANCAZAK & ASSOCIATES

HKM ARCHITECTS + PLANNERS, INC.
1800 W. WASHINGTON AVENUE, SUITE 1000
CHICAGO, ILLINOIS 60606

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Property of Cook County Clerk's Office



(EXISTING ADJACENT BUILDING ELEVATION NOT SHOWN)

Johnson Street Elevation

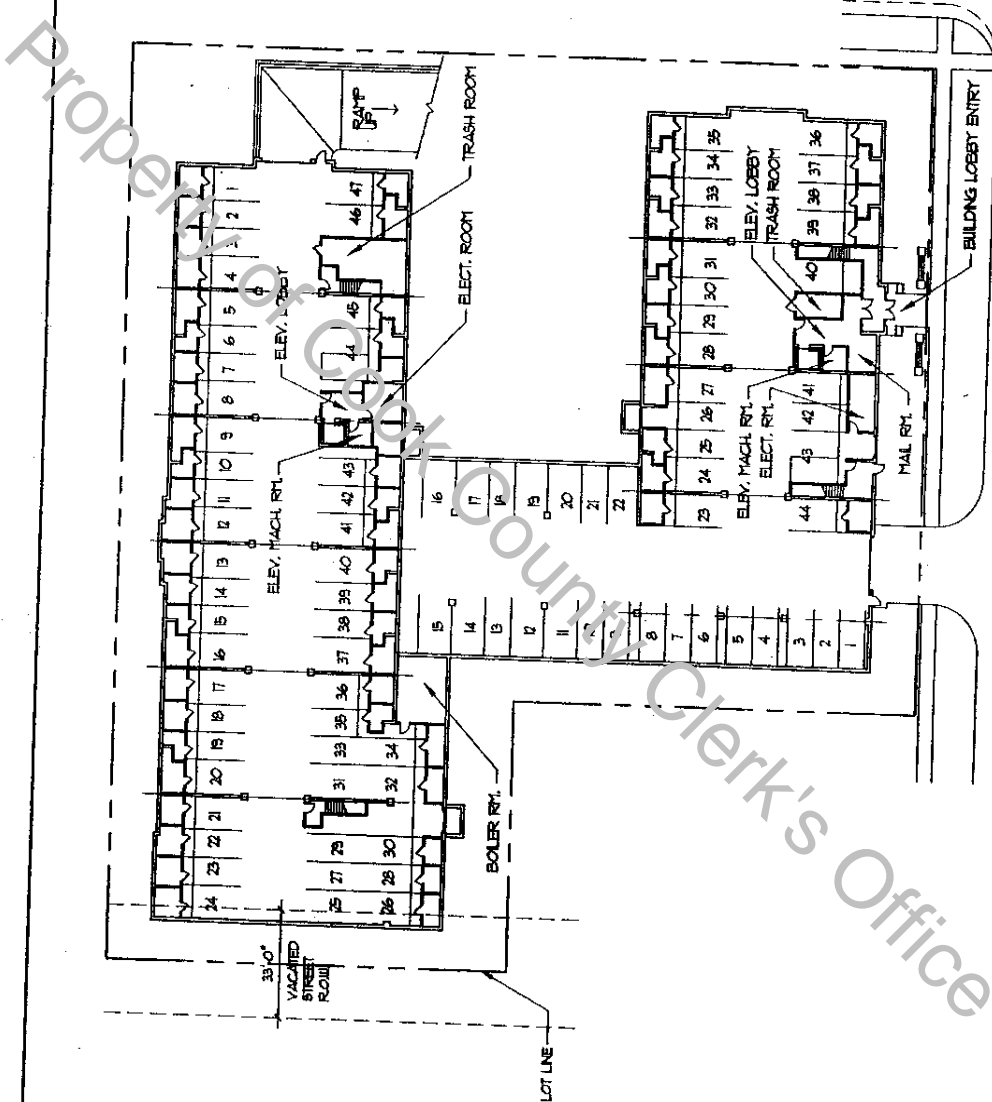
Park Place Condominiums R. FRANCIK & ASSOCIATES

September 24, 2008
JOB NO. 0808

HKM ARCHITECTS + PLANNERS, INC.
6 SOUTH WAL AVENUE ANN ARBOR, MICHIGAN 48106

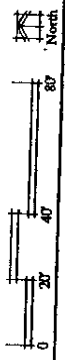
Exhibit "D"
3 of 5

UNOFFICIAL COPY



PARKING
 72 UNITS
 91 STALLS IN GARAGE (INCL. 3 HCU)
 32 STALLS ON GRADE (INCL. 3 HCU)
 123 STALLS TOTAL
 171 STALLS / UNIT

Basement Plan



Park Place Condominiums

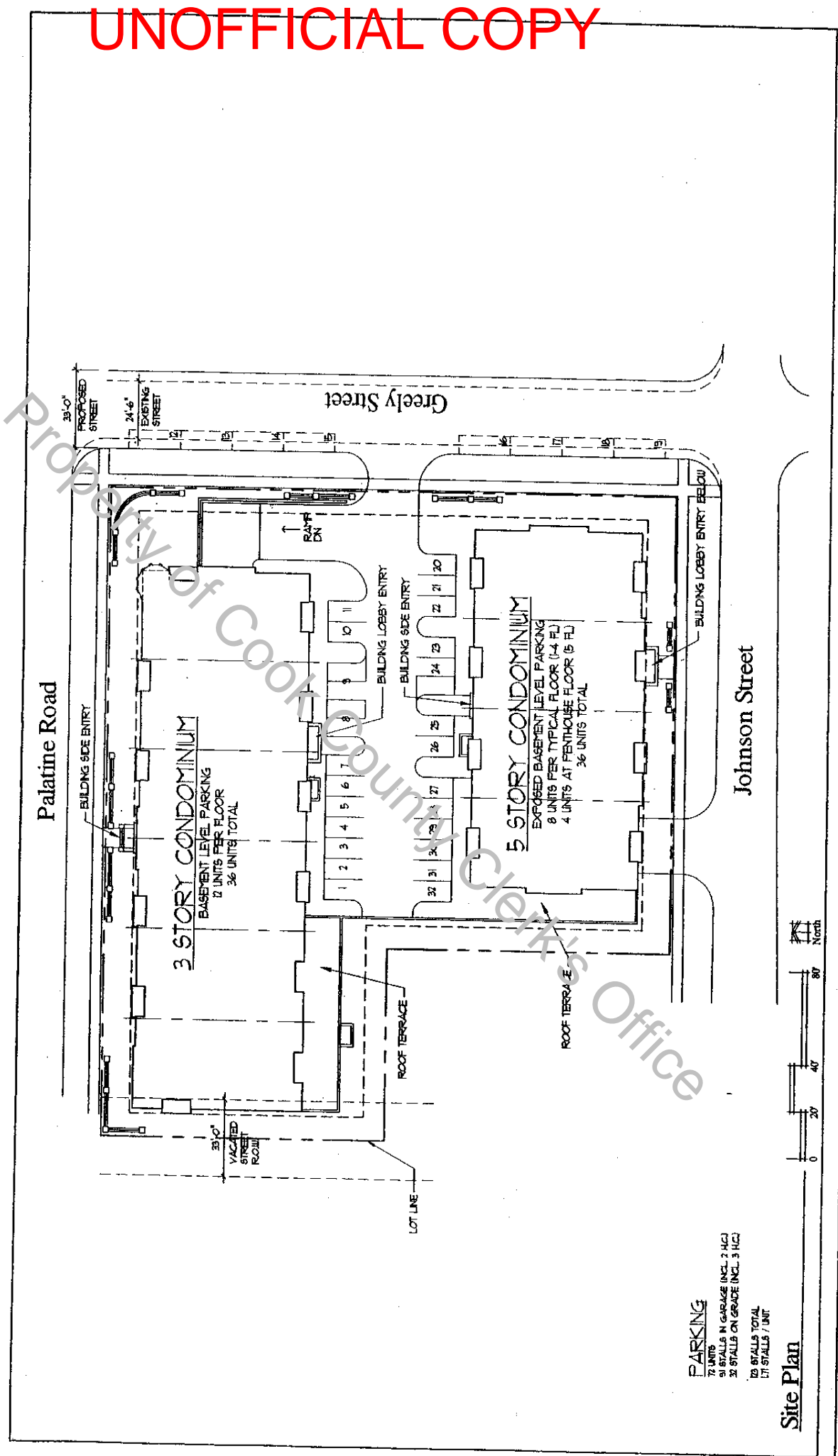
R. FRANCAZAK & ASSOCIATES

September 18, 2008
JOB NO. 08088

HKM ARCHITECTS + PLANNERS, INC.
 6 EASTWING AVENUE
 JACOBUSVILLE, OHIO 43027
 (614) 885-1100

Exhibit "D"
4 of 5

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PARKING
 72 UNITS
 91 STALLS IN GARAGE (INCL. 2 H.C.)
 32 STALLS ON GRADE (INCL. 3 H.C.)
 23 STALLS TOTAL
 171 STALLS / UNIT

Site Plan

Exhibit "D"
 C.T.C.

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3/24/2004

Summary Sheet

Template2002.xls

PROJECT NAME: PARK PLACE CONDOMINIUMS

PROJECT NO.: 3629

A. Palatine Road Improvements	Sub-Total =	\$7,750.00
B. Grocley Street Widening	Sub-Total =	\$40,662.00
C. Johnson Street Improvements	Sub-Total =	\$3,455.00
D. Perimeter Sidewalk Removal & Replacement	Sub-Total =	\$15,627.00
	SUBTOTAL =	\$67,494.00
	15% CONTINGENCY=	\$10,124.10
	TOTAL=	\$77,618

Property of Cook County Clerk's Office

Exhibit "E"
1 of 2

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SPACECO, INC.

FILE NAME: Template2002.xls
3/24/2004

Engineer's Opinion of Probable Construction Cost

<u>ITEM</u>		<u>QNTY</u>	<u>UNIT</u>	<u>UNIT PRICE</u>	<u>AMOUNT</u>
<u>A. Palatine Road Improvements</u>					
1. REMOVE & REPLACE	CURB & GUTTER	310	L.F.	\$25.00	\$7,750
A. Palatine Road Improvements					Sub-Total = <u>\$7,750</u>
<u>B. Greeley Street Widening</u>					
1. REMOVE & REPLACE	CURB & GUTTER	625	L.F.	\$25.00	\$15,625
2. REMOVE PAVT. BITUMINOUS	COLD MILLING, 2.0"	785	S.Y.	\$6.50	\$5,103
3. BITUMINOUS SURFACE COURSE	2.0", CL 1	1,341	S.Y.	\$4.50	\$6,035
4. BITUMINOUS BINDER COURSE	2", CL 1	556	S.Y.	\$4.00	\$2,224
5. BITUMINOUS BASE CSE (SAM)	8"	556	S.Y.	\$16.50	\$9,174
6. AGGREGATE BASE, TYPE 3	4"	556	S.Y.	\$4.50	\$2,502
B. Greeley Street Widening					Sub-Total = <u>\$40,662</u>
<u>C. Johnson Street Improvements</u>					
1. REMOVE & REPLACE	CURB & GUTTER	55	L.F.	\$25.00	\$1,375
2. CURB & GUTTER, (w/o AGGR)	5'-0" 12	160	L.F.	\$13.00	\$2,080
C. Johnson Street Improvements					Sub-Total = <u>\$3,455</u>
<u>D. Perimeter Sidewalk Removal & Replacement</u>					
1. REMOVE SIDEWALK	FULL DEPTH	417	S.Y.	\$6.00	\$2,502
2. PCC SIDEWALK	5" THICK, 4" CA-6	3,750	S.F.	\$3.50	\$13,125
D. Perimeter Sidewalk Removal & Replacement					Sub-Total = <u>\$15,627</u>
SUBTOTAL =					<u>\$67,494</u>
15% CONTINGENCY =					<u>\$10,124</u>
TOTAL =					<u><u>\$77,618</u></u>

NOTES:

1. This estimate is prepared based on a preliminary site plan prepared by HKM Architects
2. This estimate is prepared as a guide only. SPACECO makes no warranty that actual costs will not vary from the amounts indicated, and assumes no liability for such variance.
3. This estimate DOES NOT include: PERMIT FEES
 LANDSCAPING
 REVIEW FEES
 STREETScape IMPROVEMENTS
4. This estimate DOES NOT include:
 EROSION CONTROL
 CONSTRUCTION ROADS

end

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Exhibit "F"
Development Schedule

<u>Action</u>	<u>Target Date</u>	<u>Default Date</u>	<u>Penalty Event / Amount</u>
Submit a complete petition for final planned development	04/19/2004	06/18/2004	\$10,000
Execute a contract to purchase the property at 157 W. Palatine Road	04/30/2004	no default date	
File Quick Take Condemnation of Village Parcels, if necessary	05/30/2004	no default date	
Obtain final planned development approval	06/07/2004	09/20/2004	Convey developer owned property to the VoP
Village closing on the property at 157 W. Palatine Road	10/15/2004	no default date	
Obtain a demolition permit	10/16/2004	01/14/2005	
Complete demolition	11/12/2004	02/10/2005	\$10,000
Obtain a site development permit and commence site work	10/16/2004	01/14/2005	
Apply for a building permit for building 1	07/30/2004	10/28/2004	
Obtain a building permit for building 1	10/29/2004	01/27/2005	\$25,000
Apply for a building permit for building 2	09/03/2004	12/02/2004	
Obtain a building permit for building 2	11/30/2004	02/28/2005	\$25,000
Submit construction financing commitment and development budget	10/01/2004	12/30/2004	
Close on the Property	10/15/2004	01/13/2005	\$50,000
Commence foundation construction for building 1	10/16/2004	01/14/2005	
Complete installation of the foundation for building 1	11/16/2004	03/01/2005	\$50,000
Commence vertical construction on building 1	11/17/2004	02/15/2005	
Complete shell and core of building 1	07/01/2005	09/29/2005	\$100,000
Commence foundation construction for building 2	03/01/2005	05/30/2005	\$50,000
Commence vertical construction on building 2	04/01/2005	06/30/2005	
Complete shell and core of building 2	09/01/2005	11/30/2005	\$100,000
Complete the development	12/31/2005	04/30/2006	\$150,000