

UNOFFICIAL COPY

**THIS INSTRUMENT PREPARED
BY AND SHOULD BE RETURNED
TO:**

Joy S. Goldman
MELTZER, PURTILL & STELLE, LLC
300 S. Wacker Drive, Suite 3500
Chicago, IL 60606



Doc#: 1309539054 Fee: \$172.00
RHSP Fee: \$10.00 Affidavit Fee:
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 04/05/2013 02:29 PM Pg: 1 of 30

Space Above This Line For Recorder's Use Only

ASSIGNMENT OF THORNTON TAX INCREMENT FINANCING REDEVELOPMENT AGREEMENT

BY AND AMONG

ATLAS OIL COMPANY,
B&R OIL COMPANY, INC.,
CENTRUST BANK N.A.

AND

THE VILLAGE OF THORNTON

UNOFFICIAL COPY

LOT 10 (EXCEPT THE SOUTH 10 FEET THEREOF) AND ALL OF LOTS 1, 2, 3, 4, 5, 6, 11 AND 12 IN BLOCK 16 IN THE VILLAGE OF THORNTON, BEING A SUBDIVISION IN THE NORTHWEST QUARTER (1/4) OF SECTION 34, TOWNSHIP 36 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Address: 123 North Williams, Thornton, Illinois

PINs: 29-34-118-001-0000
29-34-118-002-0000
29-34-118-007-0000
29-34-118-008-0000
29-34-118-009-0000
29-34-118-010-0000
29-34-118-011-0000
29-34-118-012-0000
29-34-118-013-0000
29-34-118-015-0000

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Assignment of Thornton Tax Increment Financing Redevelopment Agreement

This Assignment of Thornton Tax Increment Financing Redevelopment Agreement (this "Agreement") is effective as of March 15th, 2013, by and among Atlas Oil Company, a Michigan corporation ("Atlas"), B&R Oil Company, Inc. and Indiana corporation ("B&R") (Atlas and B&R a hereafter referred to herein collectively as "Assignor"), Centrust Bank N.A ("Assignee"), and the Village of Thornton, an Illinois municipal corporation (the "Village").

Recitals

A. Assignor is party to a Thornton Tax Increment Financing Redevelopment Agreement, dated November 29, 2010 (as amended, the "Redevelopment Agreement"), with the Village regarding the redevelopment of certain real property located at 123 N. Williams St., Thornton, IL (the "Premises").

B. Assignor wishes to assign and Assignee wishes to assume all of the rights and obligations under the Redevelopment Agreement, subject to the terms and conditions of this Agreement, and the Village is willing to consent to such assignment.

Agreement

Therefore, the parties agree as follows:

1. Assignment of the Redevelopment Agreement. Subject to the terms and conditions of this Agreement, Assignor hereby assigns, transfers, grants, delivers and conveys all of Assignor's right, title and interest in and to the Redevelopment Agreement to Assignee.
2. Assumption of Liability. Assignee accepts such assignment of the Redevelopment Agreement and hereby assumes each and every obligation of Assignor under the Redevelopment Agreement. Assignee agrees to perform each and every obligation of Assignor under the Redevelopment Agreement.
3. Assignor Covenants. Assignor hereby covenants and agrees that:
 - a. The Redevelopment Agreement is in full force and effect, has not otherwise been modified or extended except as otherwise provided therein, and that as of the date hereof, Assignor has not received notice of any default under the Redevelopment Agreement.
 - b. Except as disclosed on Exhibit A, Assignor covenants that it has not received any other disbursements under the Redevelopment Agreement.
 - c. Assignor has full right and authority to execute and deliver this instrument and to assign the Redevelopment Agreement to Assignee.

UNOFFICIAL COPY

- d. A true, correct and complete copy of the Redevelopment Agreement and all amendments are attached hereto as Exhibit B.
- e. Assignor has not granted any liens or transferred any rights under the Redevelopment Agreement.
- f. To Assignor's knowledge, with the exception of the Village of Thornton, no consents are required to be obtained from any third-party in connection with the execution of this Agreement.

4. Assignee Indemnity. Assignee hereby agrees to completely indemnify and hold harmless Assignor from and against any and all liability, claims, demands, breaches, suits or any other cause of action (collectively, the "Claims") relating to, arising out of, or otherwise in connection with the Redevelopment Agreement, which Claims relate to the occurrence or non-occurrence of any event which postdate the date of this Agreement.

5. Governing Law. This Agreement and the respective rights and obligations of the parties under this Agreement shall be governed by and shall be determined under, the internal laws of the State of Illinois applicable to contracts between residents of the State of Illinois to be performed solely in the State of Illinois, i.e., without regard to choice of law principles. Any action involving this Agreement shall be brought and maintained solely in a court of the State of Illinois or a Federal court sitting in the State of Illinois.

6. Successors and Assigns. All provisions of this Agreement are binding upon, inure to the benefit of and are enforceable by or against the parties and their respective heirs, executors, administrators or other legal representatives and permitted successors and assigns.

7. Further Assurances. The parties agree (i) to furnish upon request to each other such information, (ii) to execute and deliver to each other such other documents, and (iii) to do such other acts and things, all as another party may reasonably request for the purpose of carrying out the intent of this Agreement and the documents referred to in this Agreement.

8. Counterpart Signatures. This Assignment may be executed in multiple counterparts, and all such counterparts shall together constitute a single, complete and fully-executed document.

9. Redevelopment Agreement Remains in Effect. Except as otherwise described herein, the Redevelopment Agreement shall remain in full force and effect.

[signatures on following page]



UNOFFICIAL COPY

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officers of each of the parties hereto as of the date first written above.

ASSIGNOR

Atlas Oil Company

By: *[Signature]*
Print Name: Philip J. Carboni
Title: Secretary

B&R Oil Company, Inc.

By: *[Signature]*
Print Name: Philip J. Carboni
Title: Secretary

ASSIGNEE

Centrust Bank, N.A.

By: _____
Print Name: _____
Title: _____

Consent to Assignment and Acknowledgement

The Village of Thornton hereby consents to the foregoing assignment, by Assignor, and assumption, by Assignee, of the Redevelopment Agreement.

Village of Thornton

By: _____
Print Name: _____
Title: _____

Property of Cook County Clerk's Office

UNOFFICIAL COPY

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officers of each of the parties hereto as of the date first written above.

ASSIGNOR

ASSIGNEE

Atlas Oil Company

Centrust Bank, N.A.

By: _____
Print Name: _____
Title: _____

By: James I. McMahon Jr
Print Name: JAMES I. MCMAHON
Title: PRESIDENT

B&R Oil Company, Inc.

By: _____
Print Name: _____
Title: _____

Consent to Assignment and Acknowledgement

The Village of Thornton hereby consents to the foregoing assignment, by Assignor, and assumption, by Assignee, of the Redevelopment Agreement.

Village of Thornton

By: _____
Print Name: _____
Title: _____

Property of Cook County Clerk's Office

UNOFFICIAL COPY

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officers of each of the parties hereto as of the date first written above.

ASSIGNOR

ASSIGNEE

Atlas Oil Company

Centrust Bank, N.A.

By: _____
Print Name: _____
Title: _____

By: *James I. McMahon Jr*
Print Name: JAMES I. MCMAHON
Title: PRESIDENT

B&R Oil Company, Inc.

By: _____
Print Name: _____
Title: _____

Consent to Assignment and Acknowledgement

The Village of Thornton hereby consents to the foregoing assignment, by Assignor, and assumption, by Assignee, of the Redevelopment Agreement.

Village of Thornton

By: *Jack Swan*
Print Name: Jack Swan
Title: Village President

UNOFFICIAL COPY

ACKNOWLEDGEMENT

State of Michigan)
) ss.
County of Wayne)

The foregoing was acknowledged before me this 14th day of March, 2013 by Philip J. Carbone the Secretary of Atlas Oil Company, a Michigan Corporation, on behalf of Atlas Oil Company.

Bridget Campion
Notary Public,
Oakland County, State of Michigan
Acting in Wayne County
My Commission Expires: 11-12-15

BRIDGET CAMPION
NOTARY PUBLIC OAKLAND COUNTY MI
MY COMMISSION EXPIRES NOVEMBER 12, 2015

State of Michigan)
) ss.
County of Wayne)

The foregoing was acknowledged before me this 14th day of March, 2013 by Philip J. Carbone the Secretary of B&R Oil Company, Inc., an Indiana Corporation, on behalf of B&R Oil Company, Inc.

Bridget Campion
Notary Public,
Oakland County, State of Michigan
Acting in Wayne County
My Commission Expires: 11-12-15

BRIDGET CAMPION
NOTARY PUBLIC OAKLAND COUNTY MI
MY COMMISSION EXPIRES NOVEMBER 12, 2015

UNOFFICIAL COPY

STATE OF ILLINOIS)
) .ss
COUNTY OF Cook)

I Cynthia R. Carey, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that JAMES I. MCMAHON, the PRESIDENT of CENTRUST BANK, N.A., 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 said instrument as his own free and voluntary act, and as the free and voluntary act of said company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 25th day of March, 2013.



[Handwritten Signature]

Notary Public

My Commission Expires: 3-5-2014

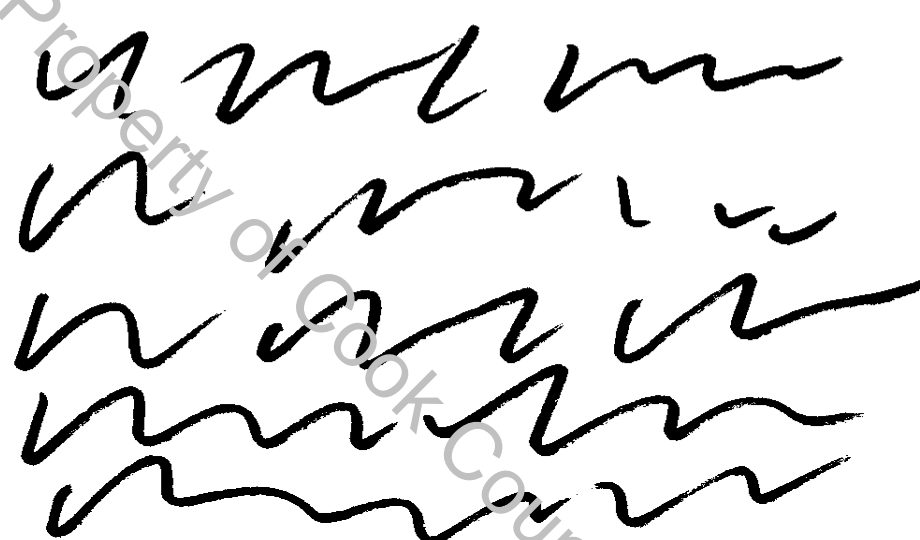
Proprietary Cook County Clerk's Office

UNOFFICIAL COPY

Exhibit A

1. One (1) disbursement in the amount of Thirty Five Thousand and 00/100 Dollars (\$35,000.00) was received by Atlas Oil Company on January 19, 2011.

Property of Cook County Clerk's Office


A large area of the page is filled with dense, overlapping handwritten scribbles in black ink. The scribbles are illegible and appear to be a series of connected, wavy lines. A diagonal watermark reading "Property of Cook County Clerk's Office" is overlaid across this area.

UNOFFICIAL COPY

Exhibit B

[Insert Copy of Redevelopment Agreement and Amendment(s)]

Property of Cook County Clerk's Office



UNOFFICIAL COPY

**THORNTON TAX INCREMENT
FINANCING REDEVELOPMENT AGREEMENT
B&R OIL COMPANY, INC. and ATLAS OIL COMPANY- DEVELOPER
DOWNTOWN THORNTON REDEVELOPMENT PROJECT AREA**

This THORNTON TAX INCREMENT FINANCING REDEVELOPMENT AGREEMENT (hereinafter referred to as the "Redevelopment Agreement" or "Agreement") is made and entered into as of the 29 day of November, 2010, by and between the VILLAGE OF THORNTON, an Illinois municipal corporation (hereinafter referred to as the "Village"), B&R OIL COMPANY, INC., an Indiana Corporation, and ATLAS OIL COMPANY, an Illinois Corporation and affiliate of B&R Oil Company, Inc. (hereinafter referred to as the "Developer").

WITNESSETH:

WHEREAS, pursuant to the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq. (the "Act"), Village has undertaken a program for the redevelopment of certain property within the Village, known as the Downtown Thornton Redevelopment Area generally located as follows: an area of approximately 64 acres, including street and alley rights-of-way, generally bounded by Hubbard Street on the West, the Tri-State Tollway on the North, Hunter Street on the East and Francis Street on the South, Thornton, Illinois, and which is described in Exhibit "A", attached hereto and made a part hereof (hereinafter referred to as the "Redevelopment Area");

WHEREAS, pursuant to the Act, the President and Board of Trustees of the Village have heretofore passed and approved in the manner required by law on February 7, 1994 and June 23, 2008, the following ordinances:

(i) "AN ORDINANCE of the Village of Thornton, Cook County, Illinois, approving a Tax Increment Redevelopment Plan and Redevelopment Project for the DOWNTOWN THORNTON REDEVELOPMENT PROJECT AREA";

(ii) "AN ORDINANCE of the Village of Thornton, Cook County, Illinois, designating the DOWNTOWN THORNTON REDEVELOPMENT PROJECT AREA of said Village a Redevelopment Project Area pursuant to the Tax Increment Allocation Redevelopment Project Area"; and

(iii) "AN ORDINANCE of the Village of Thornton, Cook County, Illinois, adopting Tax Increment Allocation Financing for the DOWNTOWN THORNTON REDEVELOPMENT PROJECT AREA;" and

(iv) "AN ORDINANCE of the Village of Thornton, Cook County, Illinois approving an amendment and amending the Redevelopment Project and Plan for the Village of Thornton DOWNTOWN

UNOFFICIAL COPY

THORNTON REDEVELOPMENT PROJECT AREA to delete a parcel of property commonly known as 203 N. Wolcott Street, Thornton, Illinois, permanent real estate index number: 29-34-109-005-0000".

WHEREAS, Developer has entered into a management agreement with Centrust Bank N.A. ("Owner") dated August 12, 2010 whereby Developer will manage, improve and market the facility located at 123 North Williams, Thornton, Illinois.

WHEREAS, Developer is desirous of developing, constructing and managing a project within the Redevelopment Area, as follows:

(i) The project shall consist of interior and exterior remodeling and improvements of the existing site for the purpose of creating a gas station, convenience store and Domino's Pizza outlet. The legal description of the Project Site is shown on Exhibit "B" attached hereto and made a part hereof and commonly known as 123 North Williams Street, Thornton, Illinois.

WHEREAS, the Village is desirous of approving Developer as the redeveloper of the Project Site and has preliminarily approved (subject to compliance with all Village building and fire codes, ordinances and regulations and all Village engineering requirements), the Developer's Project; and

WHEREAS, the Village believes that the construction of the Project is in the vital and best interest of the Village and the general health, safety and welfare of its citizens and in accordance with public purposes and the provisions of all applicable laws; and

WHEREAS, Developer has agreed, in reliance on the commitments of the Village hereinafter contained, to make a good faith effort to secure financing and thereby advance the funds necessary in order to construct the Project; and

WHEREAS, the Village has agreed, in reliance on the Developer's commitment to advance the funds to construct the Project, to reimburse Developer for eligible Redevelopment Project Costs (as defined and allowed in the Act, the Redevelopment Plan and this Redevelopment Agreement) not to exceed the sum of Two Hundred Ten Thousand and 00/100 Dollars (\$210,000.00) as set forth in Paragraph 4A and 6A herein, including costs advanced by Developer for improvements ("Eligible Redevelopment Project Costs"), payable in installments as provided in this Agreement; and

UNOFFICIAL COPY

WHEREAS, Developer and Village have herein agreed to other matters and therefore the parties hereto are now desirous of committing all of their agreements, understandings and commitments to writing; and

WHEREAS, Village has caused the publication of a ten (10) day Public Notice in a newspaper of general circulation within the Village, expressing Village's desire to enter into this Redevelopment Agreement and inviting any interested persons to present other proposals for the development of the Redevelopment Area to Village, and Village has received no such proposals.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and for other good and valuable considerations, the receipt and legal sufficiency of which are hereby mutually acknowledged, the parties agree as follows:

1. **Preambles.** The preambles and promises set forth above are an integral part of this Agreement and are hereby incorporated into and made a part of this Agreement.
2. **Village and Developer Goals.** It is the intent and goal of the Village and Developer to jointly cooperate in the completion of the Project in accordance with the terms and conditions and the intent and purposes of the Redevelopment Plan and this Agreement.
3. **Basic Developer Obligations and Agreements to the Village.** In accordance with the Village's substantial commitment to the redevelopment of the Project Site pursuant to the Redevelopment Plan, the Developer, on its part, agrees and covenants with Village, as follows.
 - A. To construct the Project at the Project Site. Completion of the Project will be no later than 180 days following the date of this agreement.
 - B. To cause the construction of all infrastructure and site improvements set forth in Exhibit "C" attached hereto and made a part hereof necessary for the development of the Project within the Redevelopment Area.
 - C. Developer shall obtain or cause its contractors to obtain all requisite governmental permits and approvals prior to commencement of construction. Provided: (i) the Village is not otherwise in default hereunder; and (ii) subject to "force majeure" (as such term is hereinafter defined), Developer shall use its best efforts to complete or cause to be completed the Project on or before a date that is 180

UNOFFICIAL COPY

days following the date of this agreement. For purposes of this Redevelopment Agreement, the term "force majeure" shall mean delays caused by: (i) strikes, lockouts or labor disputes; (ii) fire or other casualty; (iii) adverse weather conditions; (iv) acts of God; (v) acts of war or terrorism; (vi) provided that Developer has completed and filed all necessary applications and supporting documents and paid all necessary fees, the refusal or failure of governmental or quasi-governmental authorities to grant necessary approvals and permits; and (vii) other causes which are beyond the reasonable control of Developer. In the event of a force majeure delay, Developer shall notify the Village within ten (10) business days of any such delay. Developer shall, upon notification to the Village, be entitled to an extension of time equal to the period of delay due to the force majeure. Developer shall construct or cause to be constructed the Project in a good and workmanlike manner in accordance with Village approved site plan, engineering and construction plans and specifications (as the same may be amended or modified from time to time), and substantially in accordance with all applicable federal, state and local laws, ordinances and regulations.

D. To obtain and maintain until construction of the Project is complete, general liability, worker's compensation and builder's risk insurance for the Project, and shall cause Village to be named as additional insured party on such insurance policies. Said insurance policies shall be issued in usual and customary amounts given the size, nature and location of the Project, and shall provide for not less than thirty (30) days prior notice to the Village and Developer before such policies may be canceled. Prior to commencement of any construction for the Project, Developer's insurance company shall provide Village with either copies of such policies or certificates thereof.

E. Developer agrees to indemnify and hold Village harmless from and against any and all claims, demands, suits or actions brought against Village, including any reasonable attorneys' fees incurred by Village, which are based on the alleged failure of Developer to pay contractors and material men performing work or supplying materials for the Project and who have contracts with Developer.

F. To cooperate and work with Village with respect to providing Village with any and all information required and necessary to Village pursuant to the Act with respect to Village's obligations to carry out the provisions of the Act, Redevelopment Plan and this Redevelopment Agreement.

UNOFFICIAL COPY

G. To provide documentation, upon Project completion, evidencing the actual and final Project costs for the Project (as set forth in Exhibit "C"), and showing amounts actually expended and any amounts reimbursed other than reimbursements provided herein. Evidence of expenditures for and proof of payment of Eligible Redevelopment Project Costs shall be submitted to the Village prior to disbursement to the Developer of incremental real estate taxes as provided in Section 6 hereof.

H. To obtain the Owner's consent to this Agreement and all improvements set forth in Exhibit "C".

4. Village Obligations and Agreements to the Developer. In accordance with Developer's substantial economic commitment to the redevelopment of the Project Site and pursuant to the Redevelopment Plan, Village on its part, agrees and covenants with Developer, as follows:

A. Subject to the terms and conditions of this Agreement, including Paragraph 6A, the Redevelopment Plan and the Act, the Village has established a Special Tax Allocation Fund (hereinafter referred to as the "Fund") and will reimburse Developer from said Fund in accordance with the Act and this Agreement up to the sum of Two Hundred Ten Thousand and 00/100 Dollars (\$210,000.00) for repayment of Eligible Redevelopment Project Costs.

B. The Village further agrees that all revenues allocated by the Act and this Agreement to the Fund shall be deposited when received by Village into said Fund and pursuant to this Agreement, shall be disbursed to the Developer from the Fund in accordance herewith.

C. To comply promptly with all State of Illinois and County of Cook requests for information concerning initial and annual filings and submissions for, and qualifications of, the Redevelopment Area. The Fund will be audited as a part of the Village's annual audit. A copy of the Village's annual audit will be furnished to Developer upon request.

D. To expedite and diligently process, within the reasonable constraints of the Village's staff, all applications by Developer for all approvals, permits and inspections relating to the Project, including, but not limited to, grading permits, building permits, occupancy permits, site work improvements and all required engineering plans and specification. Provided, however, that a failure on the part of the Village to grant any required approval or issue any required permit shall not be deemed a default, or the cause of

UNOFFICIAL COPY

by default, by the Village under this Agreement, providing Village is acting in accordance with its lawful ordinances and codes.

E. To provide to Developer, at Developer's cost, access to water, sanitary and storm sewer lines in sufficient capacity to serve the Project.

F. Limited Obligation of the Village; Disclaimer of Warranties. The Village's reimbursement obligations set forth herein are limited obligations of the Village payable solely from tax increment revenues deposited into the Fund with respect to the Downtown Thornton Redevelopment Project Area and the redevelopment improvements. Developer acknowledges that this is not a general obligation of the Village. Notwithstanding any incentives being offered to the Village or to the Developer for the Project Site, the Village expressly disclaims any and all warranties, expressed or implied, including without limitation any implied warranty of fitness for a particular purpose, merchantability, habitability or buildability with respect to the condition of the Project with respect to the Redevelopment Area or with respect to any improvements to be constructed hereon, or with respect to the sufficiency of the tax increment revenues deposited from time to time in the Fund to reimburse developer for Eligible Redevelopment Project Costs, or the continuation of or modification to the Act or as to the continuation of ad valorem real estate taxation in the State of Illinois. Developer acknowledges that all such warranties are hereby disclaimed by the Village and are waived by Developer as to the Village. This agreement constitutes the entire understanding between the parties.

5. Term of Agreement and Redevelopment Plan.

This Agreement shall terminate on the earlier of: (i) the date the entire sum as defined in Section 4A or as modified by Section 6A hereof has been disbursed by the Village to the Developer, or (ii) December 31, 2017.

6. Method of Payment from Special Tax Allocation Fund.

A. Subject to the terms and conditions of this Agreement, the Redevelopment Plan and the Act, the Village has established a Special Tax Allocation Fund (hereinafter referred to as the "Fund"), and will reimburse Developer from said Fund in accordance with the Act and this Agreement up to the sum of Two Hundred Ten Thousand and 00/100 Dollars (\$210,000.00) for repayment of Eligible Redevelopment

UNOFFICIAL COPY

Project Costs. Said amount is determined based upon a minimum total Project cost of Four Hundred Twenty Two Thousand Five Hundred Ninety and 00/100 Dollars (\$422,590.00). In the event that the total Project cost is less than Four Hundred Twenty Two Thousand Five Hundred Ninety and 00/100 Dollars (\$422,590.00), then the maximum amount for which the Developer shall be reimbursed is equal to fifty percent (50%) of the total Project costs paid by the Developer or Two Hundred Ten Thousand and 00/100 Dollars (\$210,000.00), whichever is less. Said reimbursement shall also be reduced by the amount that Developer is reimbursed for Eligible Redevelopment Project Costs from other sources.

B. So long as Developer has completed construction in accordance with the terms of this Agreement and is not in default with this Agreement, and the real estate taxes attributable to the Project Site are not in arrears at the time of the scheduled payment, and the Developer has provided proof of payment of unreimbursed Eligible Redevelopment Project Costs to the Village in accordance with Paragraph 3, and provided that the gas station is open for business on the initial request date, payment will be made as follows. Payment of the sum of Thirty Five Thousand and 00/100 Dollars (\$35,000.00) upon the issuance of a Certificate of Occupancy by the Village provided that construction of the Project begins no later than ninety (90) days within execution of this Agreement.

The remaining payments shall be in 5 equal amounts of the lesser of Thirty Five Thousand and 00/100 Dollars (\$35,000.00) or other amounts determined pursuant to 6A, and shall be made as follows:

December 31, 2011;

June 30, 2012;

December 31, 2012;

June 30, 2013; and

December 31, 2013.

Said payments are further conditional upon the gas station, convenience store and Domino's Pizza store all being open for business at the time of payment, the real estate taxes for the Project not being in arrears, and receipt by the Village providing that the documentation set forth in Paragraph 3 hereof has been received from Developer and approved by the Village.

UNOFFICIAL COPY

7. **Further Developer Representations.** Developer hereby represents and warrants to the Village that at all times Developer shall comply with all applicable Village zoning ordinances and regulations, and all building and fire code regulations, and all other applicable Village ordinances, resolutions and regulations.
8. **Assignment or Transfer of Project.** Prior to the termination of this Agreement, any transfer or assignment of all or any interest in the real estate comprising the Project Site (including the beneficial interest under a land trust) or in any portion of the Project, must receive the prior written approval of Village, which approval shall not be unreasonably withheld. In determining any request by Developer to transfer any interest in the Project Site, Village shall be entitled to require Developer to evidence the following:
- A. Any proposed transferee shall make reasonably available to Village credit and financial records adequate to complete the Project and shall enter into documentation with Village reasonably satisfactory to Village assuming said obligations; and
- B. To the fullest extent permitted by law, and excepting only in the manner and to the extent specifically provided otherwise in this Agreement, no transfer of or change with respect to ownership in the Project Site or any part thereof, or any interest therein, however consummated or occurring and whether voluntary or involuntary, shall operate legally or practically to deprive or limit the Village with respect to the Project Site and the construction of the Improvements (set forth in Exhibit "C" hereto) that Village would have had, had there been no such transfer or change.
9. **Default, Remedies.** Except as otherwise provided in this Agreement and only if the projected receipt of incremental revenues at the times and in the amounts contemplated by this Agreement is adversely affected, in the event of any default and/or breach of this Agreement or any terms or conditions by either party hereto, such party shall upon written notice from the other proceed promptly to cure or remedy such default or breach within sixty (60) days after receipt of such notice. Provided, however, that in the event such default is incapable of being cured within said sixty (60) day period and the defaulting party commences to cure the default within said sixty (60) day period and proceeds with diligence, such party shall not be deemed to be in default under this Agreement. In case such action is

UNOFFICIAL COPY

not taken or not diligently pursued or the default or breach shall not be cured or remedied within the above period, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach including, but not limited to, proceedings to compel specific performance by the party in default or breach of its obligations. The rights and remedies of the parties to this Agreement whether provided by law or this Agreement shall be cumulative and the exercise by either party of any one or more of such remedies shall not preclude the exercise by it at the same time or different times of any other remedies for the same default or breach by any other party. Any delay by any party in instituting or prosecuting any actions or proceedings or asserting its rights under this Agreement shall not operate as a waiver of such rights in any way (it being the intent of this provision that such party should not be constrained so as to avoid the risk of being deprived of or limited in the exercise of the remedies provided in this Agreement because of the default involved). No waiver made by any party under this Agreement shall be construed as a waiver of rights with respect to any other default by the defaulting party under this Agreement or with respect to the particular default except to the extent specifically waived in writing.

10. **Payments Solely from Incremental Taxes.** Except as provided herein, all payments due to Developer under, pursuant to or as a result of this Agreement shall be payable solely from the incremental real estate taxes attributed to the Village of Thornton Downtown Redevelopment Project Area, accruing after the execution of this Agreement. All payments include but are limited to payments for reimbursement of Eligible Redevelopment Project Costs as specified in the Act, and Developer hereby irrevocably waives any right of action against the Village for money damages of any kind payable from any fund of the Village other than the Fund heretofore established by the Village for the Redevelopment Area. In particular, the Village makes no representations as to its ability to pay Developer the incremental taxes in the event of a legal challenge of any kind or nature or specifying any cause and affecting the right of the Village to receive or allocate such taxes or to appropriate such taxes for the payment of Eligible Redevelopment Project Costs (including those provided for by this Agreement). Provided, however, that Village hereby represents that the Redevelopment Area was established by the Village in accordance with the Act in effect at the date of establishment of the Redevelopment Area.

UNOFFICIAL COPY

11. **Indemnification.** Developer shall indemnify, defend and save harmless the Village and its officers and employees from and against all claims made against the Village, officers and employees by or on behalf of any person, firm or corporation arising (i) from the conduct or management of the Project, (ii) any breach or default on the part of Developer in the performance of any of its obligations under this Agreement, (iii) any act of negligence of Developer or any of its employees, agents, contractors or licensees, (iv) any act of negligence of any assignee, lessee or sublessee of Developer, or any employees, agents, contractors or licensees of any assignee, lessee or sublessee of Developer, or in any part of the Project (it). Upon receipt of notice in writing from the Village setting forth the particulars of such claim of cause of action, the Developer shall assume the defense thereof including the employment of counsel and the payment of all costs and expenses. The Village shall have the right to employ separate counsel in any such action and to participate in the defense thereof; the reasonable fees and expenses of such counsel shall be at the expense of the Developer. Notwithstanding the above, the Developer shall not be liable for the Village's own negligence or willful misconduct.

12. **Defense of Redevelopment Area.** 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, or payments to be made hereunder are contrary to law, or in the event that the legitimacy of the Redevelopment Area is otherwise challenged before a court or governmental agency having jurisdiction thereof, the Village and Developer shall reasonably cooperate with each other concerning an appropriate strategy acceptable to both parties to defend the integrity of the Redevelopment Area and this Agreement. In the event of an adverse lower court or agency ruling, payments shall be suspended during the pendency of any appeal thereof, but such payments shall be reinstated retroactively if such adverse ruling is reversed by the reviewing court or agency.

13. **Prevailing Wage.** The parties do not presently believe or contemplate that this project is subject to the Prevailing Wage Act (820 ILCS 130/1) under the law as it exists today. However, in the event that this project is determined to be subject to the Prevailing Wage Act, then Developer shall comply with the Prevailing Wage Act and indemnify and hold the Village and its officers and employees

UNOFFICIAL COPY

harmless from any and all claims made against the Village, its officers and employees under or pursuant to the Prevailing Wage Act, including interest and penalties.

14. **Notices.** All notices, demands, requests, and other communications under this Agreement shall be in writing and shall be deemed properly served when delivered by hand to the party to whose attention it is directed or on the fifth business day if sent, postage prepaid, by registered or certified mail, return receipt requested, addressed as follows:

VILLAGE

Village of Thornton
Attention: Village President
115 East Margaret
Thornton, IL 60476.

WITH COPY TO

Scott Dillner,
Village Attorney
Hiskes, Dillner, O'Donnell,
Marovich & Lapp, Ltd.
16231 Wausau Avenue
South Holland, Illinois 60473

DEVELOPER

B&R OIL COMPANY, INC.
24501 Ecorse Road
Taylor, Michigan 48180
Attn: Vice President, Real Estate

WITH COPY TO

B&R Oil Company, Inc.
24501 Ecorse Road
Taylor, Michigan 48180
Attn: General Counsel

or at such other address or to such other party which any party entitled to receive notice hereunder designates to the other in writing.

15. **Village Approvals and Direction.**

A. Where Village approval or direction is required for any material and/or substantive matter under this Agreement, such approval or direction means the approval or direction of the Corporate Authorities of the Village unless otherwise expressly provided or required by law, and any such approval may be required to be given only after and if all requirements for granting such approval have been met unless such requirements are inconsistent with this Agreement.

B. With respect to any notice, approval, consent or supplemental agreement concerning non-material, day-to-day issues, required to be provided by Village, the notice, approval, consent or

UNOFFICIAL COPY

supplemental agreement by the Village President (or Village Building Department or the Village Engineer in the case of construction matters) shall be deemed to be the appropriate notice, approval or consent of the Village, without any other authority being required of the Board of Trustees of Village.

16. **Entire Agreement.** This Agreement sets forth in all the promises, inducements, agreements, conditions and understandings between Developer and Village relative to the subject matter thereof, and there are no promises, agreements, conditions or understandings either oral or written, express or implied, between them, other than are herein set forth. No subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the parties hereto unless authorized in accordance with law reduced to writing and executed by each of them.

17. **Survival of Terms, Binding.** The covenants, terms, conditions, representations, warranties, agreements and undertakings set forth in this Agreement (and specifically also including those covenants, terms, conditions, representations, warranties, agreements and undertakings which survive the termination of this Agreement) shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and legal representatives.

18. **Governing Law.** The validity, meaning and effect of this Agreement shall be determined in accordance with the laws of the State of Illinois.

19. **Severability.** If any provision of this Agreement is held invalid by a court of competent jurisdiction or in the event such a court shall determine that Village does not have the power to perform any provisions hereunder, such provisions shall be deemed to be excised herefrom and the invalidity thereof shall not affect any of the other provisions contained herein, and such judgment shall relieve Village from performance under such invalid provision of this Agreement. Provided, however, if the judgment relieves the Village of any portion of its monetary obligations under this Agreement, then Developer will be relieved of its monetary (including construction) and reporting requirements hereunder.

20. **Village Approval.** The President and Board of Trustees of Village shall adopt and approve an ordinance or resolution approving the terms and conditions of this Agreement and authorizing and directing the Village President to execute this Agreement on Village's behalf. A copy of said ordinance or resolution, certified by the Village Clerk, shall be provided to Developer.

UNOFFICIAL COPY

21. Execution of Agreement. This Agreement shall be signed last by Village and the President of Village shall affix the date on which he signs and approves this Agreement on the first page hereof, which date, shall be the effective date of this Agreement.

22. Owner Consent. This Agreement is subject to the approval and consent of the property owner, Centrust Bank N.A.

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

VILLAGE:

VILLAGE OF THORNTON,
an Illinois Municipal Corporation

BY: [Signature]
Jack Swan, President

Attest: [Signature]
Debra L. Pisarzewski, Village Clerk

DEVELOPER:

B&R OIL COMPANY, INC.,
an Indiana Corporation

BY: [Signature]
Print Name & Title: Michael J. Evans
EVP

ATLAS OIL COMPANY,
an Illinois Corporation
Michigan

BY: [Signature]
Print Name & Title: Michael J. Evans
EVPK'S Office

OWNER:

Consent to this Agreement and the improvements is hereby given.

CENTRUST BANK N.A.

BY: [Signature]
Print Name & Title: John A. Beason
President # (C)

UNOFFICIAL COPY

EXHIBIT "A"

REDEVELOPMENT AREA

THOSE PARTS (TAKEN AS A TRACT) OF THE SOUTHWEST ¼ OF SECTION 27 AND THE NORTHWEST ¼ OF SECTION 34, ALL IN TOWNSHIP 36 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF THE NORTHWEST ¼ OF SAID SECTION 34 WITH THE WEST LINE OF WILLIAM ST. EXTENDED SOUTH; THENCE NORTH ALONG THE LAST DESCRIBED LINE AND ALONG THE WEST LINE OF SAID WILLIAM ST. TO THE SOUTH LINE OF JULIETTE ST.; THENCE WEST ALONG SAID SOUTH LINE AND THE EXTENSION THEREOF, TO THE WEST LINE OF WOLCOTT ST.; THENCE NORTH ON THE EXTENSION OF SAID WEST LINE TO THE CENTER LINE OF THE AFORESAID JULIETTE ST.; THENCE WEST ON SAID CENTER LINE TO THE CENTER LINE EXTENDED OF VACATED HUBBARD ST.; THENCE NORTH ON SAID CENTER LINE 213.00 FEET TO THE WESTERLY PROLONGATION OF THE SOUTH LINE OF THE NORTH ¼ OF BLOCK 8 IN KINZIES ADDITION TO THORNTON (A SUBDIVISION IN THE NORTHWEST ¼ OF SAID SECTION 34); THENCE WEST ON THE LAST DESCRIBED LINE TO THE WEST LINE OF SAID HUBBARD ST.; THENCE NORTH ON SAID WEST LINE AND THE EXTENSION THEREOF TO THE NORTH LINE OF HARRIET ST.; THENCE EAST ON SAID NORTH LINE AND THE EXTENSION THEREOF TO THE WEST LINE OF SAID WOLCOTT ST.; THENCE NORTH ON SAID WEST LINE AND THE EXTENSION THEREOF TO THE SOUTH LINE OF THE SOUTHWEST ¼ OF THE AFORESAID SECTION 27; THENCE EAST ON SAID SOUTH LINE TO A LINE 20.00 FEET WEST OF AND PARALLEL WITH THE WEST LINE OF WILLIAM ST.; THENCE NORTH ON SAID PARALLEL LINE TO THE SOUTH LINE OF THE TRI-STATE TOLLWAY; THENCE EAST ON SAID SOUTH LINE TO THE WESTERLY RIGHT-OF-WAY LINE OF THE C.&E.I. RAILROAD; THENCE SOUTH ALONG SAID WESTERLY RIGHT-OF-WAY LINE TO THE NORTH LINE OF THE AFORESAID HARRIET ST.; THENCE EAST ON SAID NORTH LINE AND THE EXTENSION THEREOF TO THE EAST LINE OF HUNTER ST.; THENCE SOUTH ON SAID EAST LINE AND THE EXTENSION THEREOF TO THE SOUTH LINE OF MARGARET ST.; THENCE WEST ON SAID SOUTH LINE AND THE EXTENSION THEREOF TO THE EAST RIGHT-OF-WAY LINE OF THE AFORESAID C.&E.I. RAILROAD (EAST LINE OF JULIAN ST.); THENCE SOUTH ALONG SAID RIGHT-OF-WAY LINE TO THE SOUTH LINE OF JULIETTE ST.; THENCE WEST ON SAID SOUTH LINE AND THE EXTENSION THEREOF TO THE WEST RIGHT-OF-WAY LINE OF SAID C.&E.I. RAILROAD; THENCE SOUTH ALONG SAID RIGHT-OF-WAY LINE TO THE SOUTH LINE OF THE NORTHWEST ¼ OF THE AFORESAID SECTION 34; THENCE WEST ON SAID SOUTH LINE TO THE POINT OF BEGINNING; ALL IN COOK COUNTY, ILLINOIS.

EXCEPT

LOT 8 EXTENDED TO THE WEST LINE OF WOLCOTT STREET IN BLOCK 7 IN THE VILLAGE OF THORNTON, A SUBDIVISION IN THE NORTH WEST 1/4 OF SECTION 34, TOWNSHIP 36 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

UNOFFICIAL COPY

EXHIBIT "B"

PROJECT SITE

Permanent Index Number: 29-34-118-001-0000
29-34-118-002-0000
29-34-118-007-0000
29-34-118-008-0000
29-34-118-009-0000
29-34-118-010-0000
29-34-118-011-0000
29-34-118-012-0000
29-34-118-013-0000
29-34-118-015-0000

Commonly Known As: 123 North Williams, Thornton, Illinois.

LEGAL DESCRIPTION:

LOT 10 (EXCEPT THE SOUTH 10 FEET THEREOF) AND ALL OF LOTS 1, 2, 3, 4, 5, 6, 11 AND 12 IN BLOCK 16 IN THE VILLAGE OF THORNTON, BEING A SUBDIVISION IN THE NORTHWEST QUARTER (1/4) OF SECTION 34, TOWNSHIP 36 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

UNOFFICIAL COPY

EXHIBIT "C"

PROJECT COSTS

Project Cost Grid
123 North Williams, Thornton, IL

PHASE I: CONVENIENCE STORE			
	Improvement	Contractor/Supplier	Estimated Cost
Exterior:	Painting		3,250.00
	Image Phillips 66	O.W. Larson	24,350.00
	Update pumps	O.W. Larson (PCI Compliant)	15,600.00
	Fix parking lot	Perma Seal coating	8,525.00
	LED price sign	Ahem Signs	7,451.00
	Tank testing		2,600.00
	Tank and pump repairs	B & K Equipment	59,500.00
	TOTAL EXTERIOR		
Interior:	Painting, walls, door, drywall, plumbing, floor tile, RPZ valve, drain system for drinking fountain, electrical for hot food area, water heaters, repair windows, insulate front side wall, repair stucco and install flashing, water for coffee area, restrooms	B & R Construction	16,760.00
	14-door cooler	Convenience Store Equip. Sales	27,896.76
	Shelving	Convenience Store Equip. Sales	5,411.70
	Condiment, pumps & Mic	Convenience Store Equip. Sales	369.77
	Counter/fast food	Creative Store Fixtures	22,302.20
	Cash register ruby	Capital Business Control	6,254.00
	Camera system & DVR	Capital Business Control	4,730.00
	Veeder Root TLS 350	SPEX	2,350.00
	Image Store (decals)	PPC Design	10,603.49
	TOTAL INTERIOR		
Phase I Total			\$218,381.92

UNOFFICIAL COPY

PHASE II: DOMINO'S			
	Capital equipment needed		70,208.00
	Pulse (point of sale equipment)		20,000.00
Equipment unique to C- Store:	Slant top hot hold		2,128.00
	Crescor full height hot hold		2,595.00
	Signage		11,500.00
Tenant improvements:	Concrete		5,390.00
	Rough carpentry		2,100.00
	Finish carpentry		3,640.00
	FRP Paneling		5,845.00
	Wood doors, frames, hardware		1,330.00
	Drywall		4,620.00
	Tile		15,081.00
	Painting, staining, caulking Interior & exterior		3,080.00
	Furnishings		4,284.00
	Plumbing material & labor		14,700.00
	Fire protection		1,680.00
	Electrical material & labor		19,950.00
	HVAC system & ducts		5,298.00
	General Conditions		5,880.00
	Profit		4,900.00
	Phase II Total		\$204,209.00
	TOTAL		\$422,590.92

N:\Word\SCOTT\THORNTON\05005.270 Atlas Oil Redev Agt-123 North Williams\Redevelopment Agt 2.doc

UNOFFICIAL COPY

FIRST AMENDMENT TO REDEVELOPMENT AGREEMENT BETWEEN THE VILLAGE OF THORNTON AND B&R OIL COMPANY

WHEREAS, on November 29, 2010, the Village of Thornton and B&R Oil Company, Inc., and Atlas Oil Company, an affiliate of B&R Oil Company, entered into a Redevelopment Agreement for property located at 123 N. Williams Street, Thornton, Illinois;

WHEREAS, since the entry of the agreement, circumstances have substantially changed;

WHEREAS, the parties believe an amendment to the Redevelopment Agreement is wise and prudent;

WHEREAS, the parties agree to the following amendments to the Redevelopment Agreement executed on November 29, 2010:

Paragraph 6B of said Redevelopment Agreement reads as follows:

B. So long as Developer has completed construction in accordance with the terms of this Agreement and is not in default with this Agreement, and the real estate taxes attributable to the Project Site are not in arrears at the time of the scheduled payment, and the Developer has provided proof of payment of unreimbursed Eligible Redevelopment Project Costs to the Village in accordance with Paragraph 3, and provided that the gas station is open for business on the initial request date, payment will be made as follows. Payment of the sum of Thirty Five Thousand and 00/100 Dollars (\$35,000.00) upon the issuance of a Certificate of Occupancy by the Village provided that construction of the Project begins no later than ninety (90) days within execution of this Agreement.

The remaining payments shall be in three (3) equal amounts of the lesser of Thirty Five Thousand and 00/100 Dollars (\$35,000.00) or other amounts determined pursuant to 6A, and shall be made as follows:

December 31, 2011;
June 30, 2012;
December 31, 2012
June 30, 2013; and
December 31, 2013.

Said payments are further conditional upon the gas station, convenience store and Domino's Pizza store all being open for business at the time of payment, the real estate taxes for the Project not being in arrears, and receipt by the Village providing that the documentation set forth in Paragraph 3 hereof has been received from Developer and approved by the Village.

Shall be amended to read as follows:

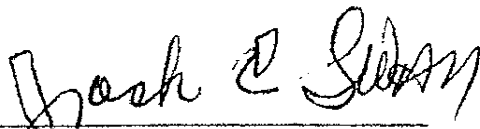
UNOFFICIAL COPY

B. So long as Developer has completed construction in accordance with the terms of this Agreement and is not in default with this Agreement, and the real estate taxes attributable to the Project Site are not in arrears at the time of the scheduled payment, and the Developer has provided proof of payment of unreimbursed Eligible Redevelopment Project Costs to the Village in accordance with Paragraph 3, and provided that the gas station is open for business on the initial request date, payment will be made as follows. Payment of the sum of Thirty Five Thousand and 00/100 Dollars (\$35,000.00) upon the issuance of a Certificate of Occupancy by the Village provided that construction of the Project begins no later than ninety (90) days within execution of this Agreement. Payment of the sum of Seventy Thousand and 00/100 Dollars (\$70,000.00) upon the issuance of a Certificate of Occupancy by the Village for a nationally recognized fast food franchise at the location. said payment is further conditioned upon said restaurant being opened for business to the general public.

The remaining payments shall be in three (3) equal amounts of the lesser of Thirty Five Thousand and 00/100 Dollars (\$35,000.00) or other amounts determined pursuant to 6A, and shall be made as follows:

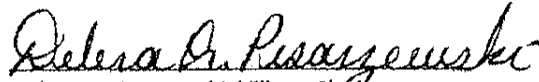
- December 31, 2012
- June 30, 2013; and
- December 31, 2013.

Said payments are further conditional upon the gas station, convenience store and nationally recognized fast food franchise store, all being open for business at the time of payment, the real estate taxes for the Project, not being in arrears, and receipt by the Village providing that the documentation set forth in Paragraph 3 hereof has been received from Developer and approved by the Village.

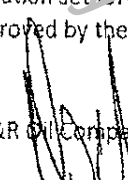


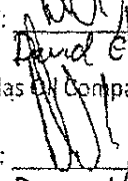
 Jack Swan, President
 Village of Thornton, Cook County, Illinois

ATTESTED:



 Debra L. Piszczewski, Village Clerk
 Village of Thornton, Cook County, Illinois

B&R Oil Company, Inc., an Indiana Corp.
 BY: 

 David G. Barnes, EVP
 Atlas Oil Company, a Michigan Corporation
 BY: 

 David G. Barnes, EVP