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EDWARD M. MOODY

COOK COUNTY RECORDER OF DEEDS

DATE: 10/27/2020 12:25 PM PG: 1 OF 61

Resolution 2530 for Comprehensive Redevelopment & Economic Incentive Agreement

Prepared by:

MG Development, LLC
2200 W Higgins, #115
Hoffman Estates IL 60169
Attn: Nick Scannicchio

Property Identification No.:

See attached.

Property Address:

See attached.

Mail for

Loop Clerking Service, Inc
77 W Washington St, Ste 1414
Chicago IL 60602
312-508-5565

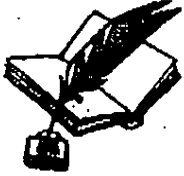
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PLANERA & ASSOCIATES

001



CITY OF HARVEY
15321 BROADWAY AVENUE
HARVEY, ILLINOIS 60426-7539
OFFICE (708) 210-5330

NANCY L. CLARK
CITY CLERK



STATE OF ILLINOIS

COUNTY OF COOK

CITY OF HARVEY

CERTIFICATION

I, NANCY L. CLARK, CITY CLERK OF THE CITY OF HARVEY,
ILLINOIS IN THE COUNTY OF COOK AND THE STATE OF ILLINOIS
AFORESAID, DO HEREBY CERTIFY THAT THE FOREGOING
CONSTITUTES A TRUE, CORRECT COPY OF RESOLUTION # 2530
DATED 30th DAY OF December, 2009

Nancy L. Clark
CITY CLERK

01-12-10
DATE

Seal

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RESOLUTION 2530

A RESOLUTION AUTHORIZING THE CITY OF HARVEY, ENTER INTO THE REDEVELOPMENT AGREEMENT WITH MG DEVELOPMENT SOUTH LLC, FOR THE FORMER DIXE SQUARE MALL

WHEREAS, the City of Harvey is a Home Rule municipality within the purview of Article VII, Section 6(a) of the Illinois Constitution (1970), and the said City, therefore, may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the City of Harvey has procedures for the redevelopment of properties located in Harvey, Illinois, County of Cook; and

WHEREAS, The City of Harvey entered into the TIF Inducement Agreement with the developer of the "Former Dixie Square Mall;"

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Harvey that redevelopment agreement is approved and further negotiable upon mutual agreement between the City and Developer;

BE IT FURTHER RESOLVED that the City of Harvey supports and consents to this agreement and term sheet on the subject property.

Section 1. This Resolution shall be in full force and effect immediately upon its adoption.

PASSED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HARVEY, COOK COUNTY, ILLINOIS THIS 30th DAY OF DECEMBER, 2009.

Voting Aye:

Ald. Charles Givines

Ald. Daryl Cridup

Ald. Donald Nesbit

Ald. Joseph Whittington

Ald. Michael Bowers

Voting Nay:

Absent: Ald. Keith Price

APPROVED by the me this 30th Day of December 2009.

Eric J. Kellogg
Mayor

ATTEST:

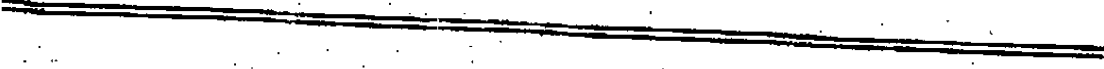
Nancy L. Clark
City Clerk

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06/24/2010 16:34 FAX 708 293 8887

T. PLANERA & ASSOCIATES

003



**COMPREHENSIVE REDEVELOPMENT AND ECONOMIC INCENTIVE
AGREEMENT**

BY AND BETWEEN

**MG DEVELOPMENT SOUTH, LLC,
AN ILLINOIS LIMITED LIABILITY COMPANY,**

AND

**THE CITY OF HARVEY,
AN ILLINOIS MUNICIPAL CORPORATION,**

DATED: DECEMBER __, 2009

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(TO BE INSERTED)**

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The mailing, delivery or negotiation of this Agreement by MG Development South, LLC or its agent or attorney shall not be deemed an offer by MG Development South, LLC to enter into any transaction or to enter into any other relationship with the City of Harvey, whether on the terms contained herein or on any other terms. This Agreement shall not be binding upon MG Development South, LLC, nor shall MG Development South, LLC have any obligations or liabilities or the City of Harvey any rights with respect thereto, unless and until MG Development South, LLC has executed and delivered this Agreement. Until such execution and delivery of this Agreement, MG Development South, LLC may terminate all negotiations and discussions of the subject matter hereto, without cause and for any or no reason, without recourse or liability. All dates presently contained in this Agreement are subject to negotiation by the Parties.

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T. PLANERA & ASSOCIATES

008

MG Development South, LLC reserves the right to modify this Agreement

This space reserved for Recorder's use only.

COMPREHENSIVE REDEVELOPMENT AND ECONOMIC INCENTIVE AGREEMENT

This Comprehensive Redevelopment and Economic Incentive Agreement together with all exhibits and attachments hereto (collectively, this "Agreement") is made and effective as of the "Effective Date" (as defined herein) by and between MG Development South, LLC, an Illinois limited liability company, or its assignee or nominee (the "Developer") and the City of Harvey, Illinois, an Illinois municipal corporation (the "City"). The Developer and the City may, for convenience purposes only, be hereinafter referred to as the "Parties" or individually as a "Party."

RECITALS

R1. The City is a home rule unit of local government as provided by Article VII, Section 6 of the Constitution of the State of Illinois, adopted in 1970, and as such may exercise various powers and perform numerous functions pertaining to its government and affairs in any manner not otherwise prohibited by law.

R2. The City has the authority, pursuant to the laws of the State of Illinois, to promote the health, safety and welfare of the City and its residents, to prevent the spread of and eradicate blight, to encourage private development in order to enhance the local tax base, to increase employment and to enter into contractual agreements with third parties for the purpose of achieving the abovementioned goals.

R3. There exists within the City an abundance of tax delinquent properties and the City has experienced a significant loss of business and jobs within the past several years, which has led to a decrease in the City's tax base and employment opportunities within the City.

R4. The Developer is a limited liability company in good standing and authorized to do business in the State of Illinois and has represented that it has the necessary resources,

expertise, skill and ability to effectuate the commitments and obligations set forth in this Agreement.

R5. The Developer is the fee simple owner of that certain real property commonly known as the old Dixie Square Mall (the "**Dixie Property**"), which is legally described in Exhibit _____, attached hereto and incorporated herein.

R6. The Dixie Property formerly housed the Dixie Square Mall, however, the Dixie Square Mall has been abandoned and the Dixie Property has been left unoccupied for an extended period of time, such that the Dixie Property has not been contributing to the City's real property tax base or generating sales tax revenue for the City.

R7. There also exists certain parcels of real property that neighbor the Dixie Property (collectively, the "**Ancillary Property**"), which are generally described and depicted in Exhibit _____, attached hereto and incorporated herein. The Ancillary Property is prone to flooding and, therefore, the majority of the owners of the parcels comprising the Ancillary Property have abandoned the Ancillary Property.

R8. To decrease the possibility of flooding in and around the Dixie Property and the Ancillary Property (collectively, the "**Property**") and to abate the health and safety issues stemming from any abandoned Ancillary Property, the City has determined that it is in the best interests of the City and its residents to acquire the Ancillary Property and convey the same to the Developer in accordance with that certain Purchase and Sale Agreement (the "**Real Estate Contract**"), attached hereto and incorporated herein as Exhibit _____.

R9. The Developer proposes and intends to redevelop the Property by, among other things, demolishing on-site structures, grading and otherwise preparing the Property for the proposed Redevelopment Plan (as defined herein), by remediating existing on-site environmental conditions, potentially mitigating floodplain issues, constructing on-site infrastructure improvements, constructing a retail shopping center of approximately Five Hundred Thousand (500,000) gross square feet, constructing an outlet mall, constructing mixed-use developments consisting of commercial and residential space, constructing light manufacturing and distribution center(s), providing green space and redeveloping the Property (collectively, the "**Redevelopment Plan**").

R10. In consideration of the Developer undertaking the Redevelopment Plan, the City desires to provide the Developer with a right of first refusal to purchase residential properties located within the corporate limits of the City (the "**City Property**"), for the purpose of providing housing to current and prospective residents of the City (the "**Housing Plan**"), in accordance with the terms of that certain right of first refusal contract (the "**Right of First Refusal Contract**"), attached hereto and incorporated herein as Exhibit _____.

R11. The Redevelopment Plan and the Housing Plan (collectively, the "**Plan**") will consist of approximately five (5) phases. The Redevelopment Plan shall also consist of remediating and landscaping the Property in accordance with the remediation and landscaping plan (the "**Remediation and Landscaping Plan**"), shall be in substantial

compliance with the site plan (the "Site Plan"), and shall be in reasonable compliance with the preliminary timeline established for the Redevelopment Plan (the "Redevelopment Plan Timeline"), all of which shall be provided to the City before the Developer commences the Redevelopment Plan. All subsequent phases of the Plan shall be contingent upon a "Triggering Event" which shall be a condition precedent to the Developer's Authority to continue to the next Phase. All Triggering Events shall be mutually agreed to and established by the City and Developer prior to 28 February 2010, including the finalization of the New Redevelopment Area boundaries.

R12. The City specifically has the authority 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.

R13. To stimulate and induce redevelopment pursuant to the Act and to encourage municipal revitalization, after giving all notices and conducting all public hearings required by law, the City approved a Tax Increment Financing Redevelopment Plan and Plan (the "Redevelopment Plan") in the Dixie Square TIF Districts, by adopting Ordinance Nos. _____ and _____ (collectively, the "TIF Ordinances"), which allowed tax increment financing ("TIF") to be used to redevelop the Dixie Property.

R14. The TIF Ordinances, among other things, established a redevelopment area in accordance with the Act for the area of the City generally bounded by: 151st Street to the North; Robey Avenue, to the East; 154th Street to the South; and Dixie Highway to the West (the "Redevelopment Area"), legally described on Exhibit _____, attached hereto and incorporated herein.

R15. To ensure that the Redevelopment Plan can be successfully completed, to stimulate and induce redevelopment pursuant to the Act and to encourage municipal revitalization, the City hereby desires to and shall take all steps, hold all hearings and pass all legislation necessary to establish a new redevelopment area that encloses the Property (the "New Redevelopment Area"). In accordance with the Act, the Mayor and the Aldermen of the City (collectively, the "Corporate Authorities") shall, after giving all notices, taking all steps and conducting all public hearings required by law, approve a new Tax Increment Financing Redevelopment Plan and Plan for the New Redevelopment Area (the "New Redevelopment Plan") by adopting all necessary ordinances required by law and the Act (the "New TIF Ordinances"), which will allow for TIF to be used to redevelop the Property. The New Redevelopment Area shall minimally include the properties bounded by: 151st Street to the North; 155th Street to the South; Robey Avenue to the East and Western Avenue to the West, plus the properties bounded by: 155th Street to the North; 159th Street to the South; Dixie Highway to the East and Western Avenue to the West, including future annexations; and, further including any additional properties the Parties deem necessary to include.

R16. The City has determined that the New Redevelopment Area has not generally

been subject to growth and the redevelopment of the Property through investment by private enterprise, such as the Redevelopment Plan proposed herein, would not occur without the City offering financial incentives to the Developer, as set forth herein. To further stimulate and induce redevelopment, the City will assign to Developer all rights, including but not limited to, easement, conservation and use rights for signage and advertising adjacent to Interstates 294 and 57, within the City's boundaries at the time of the passage of this Redevelopment Agreement.

R17. By utilizing TIF from the Plan Incremental Taxes (as defined herein) and in accordance with the Act, the City, subject to the terms and provisions of this Agreement, shall reimburse the Developer for certain eligible Redevelopment Plan Costs (as defined herein) deemed reimbursable under the New Redevelopment Plan. Eligible Redevelopment Plan Costs shall include, without limitation, the costs associated with: land acquisition, grading, site preparation, demolition, storm water retention, floodplain improvements, environmental remediation, utility relocation, constructing public improvements, architecture, legal, engineering, zoning and surveying for the Redevelopment Plan, all of which will serve a public purpose and are necessary to foster development within the New Redevelopment Area and will assist in encouraging, inducing and stimulating the redevelopment of the Property.

R18. The Parties acknowledge that the redevelopment of the Property will depend on the construction and/or improvements of the water mains, sanitary sewers, drains, other facilities for sewers and drains and roadways and traffic signals (collectively, "Public Improvements") serving the Property and other City owned Property. The Parties acknowledge and agree that the Public Improvements will mitigate flood issues and, therefore, positively impact the entire City of Harvey. The Parties further acknowledge that unless the City undertakes the Public Improvements or reimburses the Developer as provided for in this Agreement for the construction and/or improvement of the Public Improvements, the Redevelopment Plan will not be economically feasible.

R19. After due and careful consideration, the Corporate Authorities have concluded that the approval of this Agreement and the construction and/or improvement of the Public Improvements will promote sound planning, increase the taxable value of property within the City, lessen or avoid congestion in the public streets, enable the City to better control development of the area, and otherwise promote, enhance and serve the best interests and general welfare of the City and its residents.

R20. Pursuant to the City's home rule powers and Section 8-11-20 of the Illinois Municipal Code (65 ILCS 5/8-11-20), the City is authorized to enter into agreements whereby the City agrees to share or rebate a portion of any retailers' occupation taxes received by the City that were generated by a development or redevelopment over a finite period of time.

R21. The City wishes to support, encourage and facilitate the Redevelopment Plan by rebating to the Developer a portion of the Municipal Sales Tax (as defined herein) that

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the City would otherwise receive.

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RECORDER OF DEEDS**

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R22. The City has specifically investigated the economic benefits to the City if the Redevelopment Plan is approved and after due investigation and consideration, the City has determined that the financial projections with respect to the revenues, income and cash flow to be generated by the Property, if developed in accordance with the Redevelopment Plan as set forth herein, demonstrate a benefit to the City and its residents that justify the reimbursement of certain costs including, without limitation, Redevelopment Plan Costs.

R23. The City, after due and careful consideration of the Developer's proposed Redevelopment Plan, has concluded that the Redevelopment Plan will aid the City in: (1) eliminating the blight factors and characteristics associated with the Redevelopment Area and the New Redevelopment Area; (2) facilitating the redevelopment of the New Redevelopment Area; (3) improving the environment of the City; (4) increasing economic activity within the City; (5) promoting and achieving the goals of the New TIF Ordinances; and (6) producing increased tax revenues for the various taxing districts authorized to levy taxes on the Property. Based on the foregoing, the City has determined and does determine that the Redevelopment Plan is in the best interests of the City as it furthers the health, safety and welfare of the City's residents and taxpayers.

R24. The City has also investigated the benefits of the Housing Plan and, after due investigation and consideration, has determined that the benefits to the City and its residents, as set forth herein, justify offering the Developer the right of first refusal to purchase the City Property in accordance with the terms of the Right of First Refusal Contract.

R25. Based on the foregoing, the Parties have determined that it is not economically viable or economically feasible for the Developer to undertake the Plan, including the Redevelopment Plan, without a commitment by the City to provide financial assistance to the Developer. The financial assistance from the City to the Developer shall include: (1) reimbursing the Developer for eligible Redevelopment Plan Costs through the use of TIF funds up to the total amount of funds that the Developer expends on the Plan, minus the amount of grant funds that the Developer receives from the state and/or federal government (the "Reimbursement Amount"); (2) reimbursing the Developer for the Public Improvements, if applicable; and (3) providing the Developer with the Sales Tax Rebate (as defined herein), which the City has agreed to and shall provide in accordance with the terms and conditions contained herein.

R26. To facilitate the Redevelopment Plan and reimburse the Developer, the City may issue bonds, which may include, without limitation, TIF Bonds (as defined herein) and/or General Obligation Bonds if available (as defined herein).

R27. The Parties, on the Effective Date, shall execute: (1) the Real Estate Contract, which will govern the terms by which the City will acquire, clear all liens on and convey the Ancillary Property to the Developer; and (2) the Right of First Refusal Contract, which will govern the terms by which the City will offer a right of first refusal to the Developer to purchase and develop certain residential properties, to carry out the Housing Plan.

R28. The Parties also agree to cooperate with other governmental and public entities and agencies, which may include entering into agreements with said entities and agencies, to effectuate the terms of this Agreement.

R29. The Developer has filed or will file sufficient petitions for land use adjustments and controls to carry out the Redevelopment Plan in reasonable compliance with the Site Plan.

R30. The Parties are of the opinion that the City would be best served by the Developer being formally named the Master Developer for the area depicted on Exhibit __, attached hereto and incorporated herein (the "Master Development Area").

R31. This Agreement has been submitted to the Corporate Authorities and counsel and experts for the City for consideration and review, the Corporate Authorities have taken all acts required to be taken prior to the execution of this Agreement in order to make the same binding upon the City in accordance with the terms hereof and any and all actions of the Corporate Authorities precedent to the execution of this Agreement have been undertaken and performed in the manner required by law. All notices, publications, procedures, public hearings and such other matters required for the consideration and approval of this Agreement have been made, given, read and performed by the City as required by statute and all applicable ordinances, regulations and procedures of the City.

R32. The Parties desire to enter into this Agreement to set forth the rights, duties and obligations of and between the Parties regarding the undertaking and implementation of the Plan, which includes the Redevelopment Plan and desire to establish certain conditions regarding the City's approval of the Plan and the City providing financial assistance to the Developer as set forth herein.

NOW, THEREFORE, in consideration of the foregoing, the mutual promises and covenants contained herein and for other good and valuable consideration, the sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

ARTICLE I INCORPORATION OF RECITALS AND APPLICABLE LAW

- A. Recitals. The representations, covenants and recitations set forth in the preceding paragraphs (the "Recitals") evidence the intent of the Parties, are material to this Agreement, constitute an inducement by one Party towards the other to enter into this Agreement, and are hereby made part of this Agreement as substantive representations and covenants as though fully set forth herein. The Parties hereby confirm the accuracy, truth and validity of all the statements contained in the Recitals as though the Recitals had been set forth below.

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- B. Applicable Law.** This Agreement shall be governed by, construed under and interpreted in accordance with the laws of the State of Illinois, without giving effect to its principals of conflicts of law or choice of law. All suits, actions, claims and causes of action relating to the construction, validity, performance and enforcement of this Agreement shall be filed in the Circuit Court of Cook County, Illinois or the United States District Court for the Northern District of Illinois, Eastern Division. This Agreement is made pursuant to and in accordance with the Constitution of the State of Illinois, the Illinois Compiled Statutes (including, but not limited to, the Illinois Municipal Code) and all ordinances, resolutions, laws, codes, rules and orders and all interpretations thereof (whether judicial or administrative), enacted by or applicable to the City as of the Effective Date, which shall include, but not be limited to, the Harvey Code of Ordinances, the Harvey Zoning Ordinance, the Harvey Subdivision Ordinance and the Harvey Building Code (collectively, the "Harvey Municipal Code").
- C. Harvey Municipal Code.** The Parties agree that except as otherwise set forth herein, the Plan, the Redevelopment Plan and the related transactions set forth herein or contemplated hereunder shall be governed by the Harvey Municipal Code as it is in effect as of the Effective Date. Each Party, for the term of this Agreement, shall be required to maintain on file a copy of the Harvey Municipal Code effective on the Effective Date. The Parties agree that during the term of this Agreement any more restrictive changes, modifications, amendments or alterations to the Harvey Municipal Code relating directly or indirectly to the subject matter of this Agreement shall not be applicable to the subject matter of this Agreement, and that any less restrictive changes, modifications, amendments or alterations to the Harvey Municipal Code relating directly or indirectly to the subject matter of this Agreement shall be applicable to the subject matter of this Agreement, including the Plan, the Redevelopment Plan, the Property and the City Property. In the event any provision of the Harvey Municipal Code existing as of the Effective Date or during the term of this Agreement is validly amended and as restated does not permit the redevelopment of the Property in accordance with the terms of this Agreement, the City shall promptly amend or revise the Harvey Municipal Code as may be necessary to permit the redevelopment of the Property and performance of this Agreement according to its terms. The Harvey Municipal Code shall be amended to formally codify the position of Master Developer and the designation of the Developer as the Master Developer for the Master Development Area. Notwithstanding the foregoing, if the Developer makes a written request to amend the Harvey Municipal Code, the provisions of the Harvey Municipal Code that are amended in compliance with the Developer's request shall be applicable to the Plan, the Redevelopment Plan and the related transactions set forth herein and contemplated hereunder.
- D. Conflicts.** If in interpreting this Agreement or considering matters affecting the Property, the City Property, the Redevelopment Plan, the Plan or the Housing Plan, a conflict, ambiguity or inconsistency arises or exists between the Harvey Municipal Code and this Agreement, this Agreement shall control and govern in all instances,

to the fullest extent permitted by law. Notwithstanding the foregoing, the provisions of any ordinance relating to the financial incentives and assistance provided for by this Agreement, and any other documentation authorized by the same, shall prevail over any other provision of this Agreement. The terms, conditions and provisions of this Agreement shall supersede, govern and control upon the terms and conditions of any conflicting term of an escrow established to effectuate the intent of this Agreement.

ARTICLE II
PHASED DEVELOPMENT &
FACILITATION OF DEVELOPMENT

- A. **Five Phases of Development.** It is anticipated that the Plan contemplated hereunder shall occur in five (5) phases, which are summarized below. Phase I consists of the redevelopment of the Dixie Property, revitalization of the north side of Dixie Highway, hydrological analysis, infrastructure improvement and construction of the geothermal central plant to address floodplain issues. Phase II consists of constructing a regional outlet mall, revitalization of the south side of Dixie Highway, constructing a mixed-use commercial development and an industrial park on the north side of the Property, undertaking the relocation of low and moderate income housing, devising a transportation plan and undertaking freeway interface beautification. Phase III consists of constructing a mixed-use commercial development and the industrial park on the west side of the Property, constructing a health and leisure community assisted living center, undertaking the relocation of low and moderate income housing, constructing and establishing walking trails. Phase IV consists of constructing a mixed-use commercial development and the industrial park on the south side of the Property, undertaking the relocation of low and moderate income housing, constructing walking trails. Phase V consists of effectuating the Housing Plan.

Phases I through IV may proceed in three (3) distinct sub-phases. Sub-phase (A) generally consists of the acquisition and/or accumulation of property, the City's conveyance of the property to the Developer and flood remediation. Sub-phase (B) generally consists of the demolition of the current structures located at the property, environmental remediation and constructing the substructure of the various portions of the Redevelopment Plan and Sub-Phase (C) generally consists of the construction of the various portions of the Redevelopment Plan. Notwithstanding the foregoing, the City shall remediate any and all Hazardous Substances (as defined herein) or environmental issues located on property that the City is obligated to convey to the Developer before the City conveys such property to the Developer. The Developer, in its capacity as Redevelopment Plan Master Developer, shall assist and direct the City as to the contractors and consultants to utilize during the sub-phases. The City agrees to take all steps necessary to exempt this process from the bidding requirements imposed by state, federal and local laws. Sub-phase (B) of Phases I through IV shall only commence after the City establishes the New Redevelopment

Area and issues the Bonds (as defined herein) in accordance with the terms of this Agreement. Phase V shall commence in accordance with the provisions contained in the Right of First Refusal Contract. The Redevelopment Plan Timeline sets forth the anticipated schedule for the Redevelopment Plan. The City agrees that upon request of the Developer it shall provide the Developer with a certificate certifying that the Developer has satisfied all of its obligations pursuant to the applicable phase or sub-phase of the Redevelopment Plan (the "Completion Certificate"). The City shall deliver the Completion Certificate to the Developer no later than three (3) business days after the Developer makes a request for the same. The City's delivery of any requested Completion Certificate shall not be unreasonably conditioned, withheld or delayed. The specifics of the contents of the Completion Certificate (and the specifics regarding the deliverables in the sum of the phases) shall be determined by the Parties through good-faith negotiations.

- B. Facilitation of Development.** It is understood and agreed that the successful consummation of this Agreement and the completion of the Plan and the Redevelopment Plan are in the best interests of the Parties and require their continued cooperation. The Parties hereby evidence their intent to fully comply with all outstanding requirements, their willingness to discuss any matters of mutual interest that may arise including, but not limited to, negotiations by or with any governmental entity for approvals to effectuate the Plan and their willingness to assist the other in effectuating the obligations under this Agreement, to the fullest extent possible. The City agrees to cooperate fully with any and all of the Developer's applications for governmental permits in order to proceed under this Agreement.

ARTICLE III

ENVIRONMENTAL REMEDIATION & DEMOLITION

- A. Remediation.** The Parties acknowledge and agree that each is undertaking this transaction as an "AS IS, WHERE IS, WITH ALL FAULTS" transaction and that the Dixie Property may contain Hazardous Substances (as defined on Exhibit _____ attached hereto and incorporated herein). The Developer agrees that it will cooperate with the necessary governmental agencies and entities to undertake the obligations set forth in the comprehensive environmental remediation action plan (the "Environmental Remediation Action Plan"), attached hereto and incorporated herein as Exhibit _____. The express goals of the Environmental Remediation Action Plan shall be: (1) obtaining a focused or comprehensive no further remediation letter issued by the Illinois Environmental Protection Agency and/or similar documentation issued by another governmental agency of similar jurisdiction and authority wherein it is determined that no further remedial action is necessary under the circumstances that exist at the time such document is issued; and (2) ensuring that the Dixie Property is abated of asbestos and/or otherwise prepared for the commencement, continuation and completion of the demolition of the structures on the Dixie Property so that said demolition does not cause the release of Hazardous Substances (including, but not limited to, asbestos) into the outside environment. The City

delegates and surrenders any expressed or implied municipal authority to remediate the Dixie Property or otherwise take action regarding any Hazardous Substances located at the Dixie Property pursuant to the dictates of the Environmental Remediation Action Plan. The City acknowledges that the Environmental Remediation Action Plan includes a provision: (1) whereby the Developer or a third-party will receive funds for the reimbursement of remediation costs; or (2) providing for the direct application of state grant funds that will be applied to pay down the costs and expenses associated with undertaking the steps set forth in the Environmental Remediation Action Plan (which shall include, without limitation, the remediation of the Hazardous Substances on the Dixie Property). The Parties agree to enter into any and all necessary intergovernmental agreements to effectuate the intention of this Agreement. The City expressly disavows any claim upon the funds distributed to the Developer pursuant to the Environmental Remediation Action Plan and agrees to cooperate fully (and without objection) with the Developer, the state agencies, public bodies, governmental entities and any applicable council(s) of government in the application, presentment and distribution of the funds to be distributed pursuant to the Environmental Remediation Action Plan. The Developer agrees to abide by the terms of the Environmental Remediation Action Plan in accordance with the terms of this Agreement. With the full support and consent of the City, the Developer shall apply for all necessary permits and other governmental approvals (whether federal, state or local) to certify that the Dixie Property is environmentally safe such that the Developer may commence demolition thereon. The demolition of the old Dixie Square Mall shall thereafter commence and occur in material accordance with the demolition plan and in accordance with the terms of this Agreement.

B. Demolition.

1. **Demolition Plan.** The Developer shall develop a demolition plan for the Dixie Property. Upon the presentation of the demolition plan, the City shall acknowledge and agree to the terms of the demolition plan and consent in writing to allow the Developer to effectuate the steps set forth in the demolition plan waiving its right to: (a) object to the steps to be taken, or (b) cite the Developer or its contractors for violations of the Harvey Municipal Code, where the acts taken are set forth in the demolition plan. The Developer shall commence the steps set forth in the demolition plan subsequent to the receipt of all appropriate federal, state or local demolition permits or such other written authorizations from applicable federal, state and local agencies with appropriate jurisdiction, affirmatively representing that the commencement of the demolition plan shall not be in abrogation of the Environmental Laws (as defined on Exhibit _____, attached hereto and incorporated herein) and is in all other respects compliant with all applicable laws. The Developer shall endeavor to prepare the demolition plan in material accordance with the Harvey Municipal Code.

2. **Demolition.** The Developer shall undertake or cause its contractors, agents or assigns to undertake all necessary steps to comply with the terms of the demolition plan, including demolishing the structures on the Dixie Property and removing the debris created by the demolition from the demolition site. The Developer shall direct its contractors, agents and assigns to secure all necessary permits and approvals in accordance with the aforesaid and in concert with the provisions of this Article.

Legal Proceedings. The Parties, if necessary or warranted, shall file with the Circuit Court of Cook County all necessary pleadings and/or causes of action or complaints to commence and complete the demolition as set forth herein. When and if applicable, the Parties shall jointly submit a demolition order similar in all material respects to the "Demolition Order," attached hereto and incorporated herein as Exhibit ___, to govern the court-ordered demolition process.

ARTICLE IV ACQUISITION AND CONVEYANCE OF THE ANCILLARY PROPERTY AND THE CITY PROPERTY

- A. **Acquisition of the Ancillary Property.** The City has determined that it is in the best interests of the City and its residents to acquire the Ancillary Property and convey the same to the Developer in accordance the Real Estate Contract and the following provisions.
1. **Acquisition of the Ancillary Property.** Concurrently with the execution of this Agreement, the City shall commence all necessary steps and use its best efforts to acquire the Ancillary Property and convey the same to the Developer by warranty deeds in accordance with the terms of the Real Estate Contract. The City may use any and all available methods to the City to acquire the Ancillary Property, which methods may include, without limitation: condemnation (via traditional methods or legislative authorized "quick-take" proceedings); the foreclosure of liens; tax purchases (including, without limitation, the direct purchase of delinquent taxes or the purchase of taxes through the "Cook County No Cash Bid Program" (as applicable)); all standard acquisition methods; and/or any other means permitted by law. Within three (3) business days after receipt of a written request for the same, the City shall issue to the Developer a progress list detailing all steps taken by the City to acquire the Ancillary Property and the City's status regarding the same.
- (a) Notwithstanding anything to the contrary herein, the City's authority

to exercise its "quick-take" powers shall be limited as a means of last resort. For purposes of illustration, in the event the City or Developer are unable to acquire a subject parcel from the lawful title owner through reasonable commercial efforts and after exhausting all reasonable negotiations based on the value of the subject property as established by three (3) certified appraisals; then at the request of Developer the City shall exercise its "quick-take" powers for the acquisition of the subject property. The Developer shall reimburse or pay the City no more than the average of the two (2) highest appraisals.

Conveyance of the Ancillary Property. The Developer shall provide the Title Company (as defined in the Real Estate Contract) or such other licensed title company to issue "Title Insurance" as defined in the Illinois Compiled Statutes, with written notice that it has commenced Phase I(A) of the Plan. The City, within three (3) business days of its receipt of a written correspondence evidencing the Developer's commencement of Phase I(A) of the Plan, shall convey each and every parcel of the Ancillary Property that it currently owns to the Developer by warranty deed. The City shall continue to work diligently to acquire and convey each and every parcel of the Ancillary Property by warranty deed to the Developer. The City shall convey all of the Ancillary Property to the Developer within reasonable time after acquisition or such other date as determined by the Developer.

3. **Conveyance Escrow.** Concurrently with the execution of this Agreement, the Parties shall execute a mutually agreeable, standard form, strict joint order escrow agreement (the "Escrow Agreement"). The Escrow Agreement will contain mutually agreeable terms and shall govern the terms and conditions of the conveyance escrow (the "Conveyance Escrow"), wherein the City shall deposit the deeds that it has acquired for the Ancillary Property (the "Deeds"). The Conveyance Escrow shall be established at the Title Company and shall be and remain in effect from the Effective Date until Three Hundred Sixty-Six (366) calendar days after the Title Company has delivered the Deeds for all of the parcels comprising the Ancillary Property to the Developer for delivery, presentment and recordation of the same. If the City does not deposit all of the Deeds for all of the Ancillary Property into the Conveyance Escrow, at the option of the Developer: (a) the Conveyance Escrow may be extended until such time when all of the Deeds are deposited into the Conveyance Escrow; (b) the Developer may reject all of the Deeds and terminate the Real Estate Contract and declare the City in default under this Agreement; and/or (c) the Developer may accept only those Deeds that the Developer deems useful or necessary to the Developer. The Conveyance Escrow shall direct the Title Company to deliver the Deeds to the Developer within five (5) business days after the Title Company receives a written correspondence evidencing the Developer's commencement of Phase I(A) of

- the Plan and then the Title Company shall deliver any remaining Deeds to the Developer within five (5) business days after the Title Company receives the same. The cost and expense incurred in establishing and continuing the Conveyance Escrow shall be shared equally (50/50) by the Parties.
4. **Escrow Deposit.** No later than two (2) business days after the City acquires the Deeds, the City shall deposit the Deeds into the Conveyance Escrow.
 5. **Deeds.** The City shall cause the Deeds to be delivered to the Developer upon the Developer's commencement of Phase I(A) of the Plan and after the City takes all necessary steps to: demolish any unwanted structures (as determined solely by the Developer) and remove any debris on the Ancillary Property and abate any and all environmental issues located on the Ancillary Property (including abating for asbestos); and remove all liens placed on the Ancillary Property, which steps shall be undertaken in an expeditious manner. The Deeds shall be: (a) warranty deeds in a mutually agreeable and recordable form; (b) taxixed with all required municipal transfer stamps; (c) fully executed and attested to by all necessary City officials so as to enforce the validity of the same; and (d) subject only to real property taxes not yet due or owing and encumbrances directly caused or created by acts of the Developer. The costs incurred in clearing the title to the parcels shall be borne by the City.
- B. **Phase V; Acquisition of the City Property.** In consideration of the Developer undertaking the Redevelopment Plan, the City desires to and shall acquire and provide the Developer with a right of first refusal to purchase the City Property, which includes numerous residential parcels located within the corporate limits of the City, in accordance with the terms of the Right of First Refusal Contract. The Developer shall thereafter redevelop the City Property as a phased residential redevelopment.

ARTICLE V
FLOODPLAIN REMEDIATION, CONSTRUCTION, UTILITIES AND
INFRASTRUCTURE

- A. **Floodplain Management.** The Parties acknowledge and agree that a substantial portion of the Property has been designated a floodplain. The Federal Emergency Management Agency map, on file at City Hall, evidences the boundaries of the floodplain district and is incorporated herein by this reference. The Parties also acknowledge and agree that flooding has proven to be a substantial hindrance to the stabilization of the community and the development of the Property and that the management and/or mitigation of floodplain issues will be necessary to commence and complete the Redevelopment Plan. Accordingly, the Parties agree to consider entering into any necessary agreements with third party vendors to construct improvements to mitigate the damage caused by such flooding, seek all available

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local, state and federal assistance (and cooperate to obtain the same) to provide incentives to mitigate the City's or the Developer's costs regarding the floodplain remediation efforts to be undertaken pursuant to this Agreement and to ensure that all structures are erected and maintained in conformity with all validly adopted rules and regulations regarding the construction of structures in the floodplains. All expenses and costs necessary to be incurred for the mitigation of the floodplain issues shall be borne by the City. At the Developer's option, the Developer may undertake or select a third party to undertake the floodplain mitigation, in which case the Developer or third party shall be reimbursed for all of the costs incurred in connection with the floodplain mitigation within thirty (30) calendar days of providing the City with invoices setting forth the same. Prior to conveying the Ancillary Property to the Developer, the City shall abate all floodplain issues contained thereon, unless the Developer so chooses, in its sole and absolute discretion to undertake or select a third party to undertake the floodplain mitigation of the Ancillary Property. All agreements entered into pursuant to the terms and provisions of this Section shall be subordinate to this Agreement and if a conflict arises, the terms of this Agreement shall control and govern in all instances. Any agreement entered into pursuant to the provisions of this Section of this Agreement shall be affixed hereto as Exhibit ___ after the full execution of that agreement for reference purposes only.

- B. Temporary Offices and Structures.** Prior to the completion of the Redevelopment Plan, the Developer and its contractors, subcontractors, suppliers and representatives shall have the right to obtain building permits (if applicable) for and to maintain temporary offices, structures, trailers and facilities on any part of the Property and to use said facilities for sales purposes and for the storing of construction materials, supplies and equipment to be used upon or in conjunction with the Redevelopment Plan. The construction trailers and temporary buildings need not be connected to potable water so long as sanitary waste is disposed of in a lawful manner by the Developer. However, any temporary facility for sanitary waste disposal shall be removed within thirty (30) calendar days after a sanitary sewage system is available for use.
- C. Designation of the Developer.** The City hereby designates the Developer as the party authorized to construct, or to cause the construction of, any and all improvements related to the Redevelopment Plan (the "Plan Improvements") on behalf of the City, unless otherwise set forth herein. The Developer accepts such designation and agrees to construct, or to cause the construction of, the Plan Improvements in accordance with the terms of this Agreement.
- D. Construction Commencement.** The Developer shall commence, or cause the commencement of, construction of each of the Plan Improvements in accordance with the terms of this Agreement.
- E. Construction Requirement.** The Developer, to the extent it proceeds to construct

any portion of the Plan Improvements, shall construct such improvements, or cause them to be constructed, in substantial conformity with the applicable plans and all applicable federal, state and county laws, ordinances, rules and regulations.

- F. Construction Completion.** Subject to events of Force Majeure (as defined herein), the Developer shall complete each section of the Plan Improvements, or cause them to be completed, in accordance with the provisions of this Agreement and by the dates or times specified in any such timeline agreed upon by the Parties in writing. For purposes of this Agreement, "Force Majeure" shall mean any matter beyond the Developer's reasonable control. Events of Force Majeure may include, without limitation, delays caused or increased by acts or omissions of the City germane to the completion of the Redevelopment Plan; acts of God; damage or destruction caused by fire or other casualty; inclement weather; strikes; inability to procure or a general shortage of labor, equipment, facilities, materials or supplies; lockouts; acts of labor unions (whether legal or not); court orders, laws or orders of governmental or military authorities. Force Majeure shall also include (without limitation) any delays or interruption of the delivery of steel from the Developer's preferred steel provider. Delays caused by an act of the City germane to the completion of the Redevelopment Plan shall be considered Force Majeure, however, the designation of such an act as Force Majeure does not waive any claims, rights or remedies the Developer could make against the City for said act or omission.
- G. Governmental Approvals.** The City agrees to cooperate with the Developer in obtaining all applicable governmental approvals from the Illinois Department of Transportation, the Toll Highway Authority and all other applicable bodies of state, local and federal approval.
- H. Utilities and Infrastructure.** The City agrees to aid the Developer and to cooperate (including executing any and all necessary or required petitions) with the Developer in its dealings with any and all applicable governmental bodies, adjacent communities, agencies and utility companies having jurisdiction over the Property in obtaining utility and other governmental services (including, but not limited to, sanitary sewers and storm water management) and making infrastructure improvements to the Property. The costs of the installation of the utilities and the infrastructure improvements shall initially be borne by the Developer, with the City reimbursing the Developer for such costs in accordance with the terms of this Agreement.

ARTICLE VI

FINANCIAL ASSISTANCE

- A. Financial Assistance.** The Parties have determined that it is not economically viable or economically feasible for the Developer to undertake the Plan, including the Redevelopment Plan, without a commitment by the City to provide financial assistance to the Developer. The Parties acknowledge that certain aspects of the

Redevelopment Plan will be effectuated in part by the City reimbursing the Developer for certain costs. To induce the Developer to undertake the Plan, including the Redevelopment Plan, the City agrees to and shall reimburse the Developer the Reimbursement Amount. In addition to the foregoing, the City shall reimburse the Developer as set forth herein and provide the Developer with the Sales Tax Rebate in accordance with the terms and conditions contained herein. The City shall reimburse the Developer the Reimbursement Amount within _____ [To be determined by the Parties] years of commencing the Redevelopment Plan. To accomplish the City's obligation hereunder, the City desires to and shall take all steps, hold all hearings and pass all legislation necessary to establish the New Redevelopment Area. In accordance with the foregoing, the Corporate Authorities shall, after giving all notices, taking all steps and conducting all public hearings required by law, approve the New Redevelopment Plan by adopting the New TIF Ordinances, which shall allow for TIF to be used to redevelop the Property. Should the City fail to take all steps necessary to establish the New Redevelopment Area, the Developer shall have the right to declare the City in breach and terminate this Agreement, in which event the Developer shall have no further liability or obligations hereunder.

- B. Reimbursement Amount.** On or before June 30, 2010, (which date may be extended by mutual agreement of the Parties), the City shall issue an agreed to amount of no less than Twenty Million and No/100 U.S. Dollars (\$20,000,000.00) as the initial issuance of Bonds. The Parties agree that the time schedule for the issuance of the bonds can be amended by their mutual written assent. The City shall deposit the proceeds from the aforementioned bond issuance into an escrow account (the "Bond Escrow"), the terms of which shall be governed by a mutually agreeable, standard form, strict joint order escrow agreement. The Reimbursement Amount shall be paid to the Developer from the Bond Escrow in accordance with the provisions of this Agreement.
- C. TIF Reimbursement.** The Parties acknowledge that the Redevelopment Plan would not be feasible if the City did not reimburse the Developer for certain costs that the Developer incurs in connection therewith. If the City chooses to reimburse the Developer with TIF funds, the City shall reimburse the Developer in accordance with this Article.
- 1. Redevelopment Plan Costs.** Provided that the Developer submits written documentation to the City to support the costs incurred by the Developer relative to the Redevelopment Plan and the costs qualify as eligible redevelopment Plan costs as defined in Section 5/11-74.4-3(q) of the Act ("Redevelopment Plan Costs"), the City agrees to reserve adequate funds and shall reimburse the Developer in accordance with the terms of this Article. The City will reimburse the Developer for eligible Redevelopment Plan Costs that the Developer has incurred, which may include, without limitation, costs associated with: land acquisition, site preparation, grading,

demolition, storm water retention, environmental remediation, floodplain improvements, utility relocation, constructing public improvements, architecture, legal, engineering, zoning and surveying for the Redevelopment Plan. The Parties hereby agree that any TIF assistance pledged to the Developer shall not exceed the Reimbursement Amount.

The reimbursement of eligible Redevelopment Plan Costs shall be payable from the ad valorem real estate taxes that are attributable to the incremental real estate taxes levied on the New Redevelopment Area and any and all redevelopment areas (other than previously set Stand alone TIF districts) contiguous to the New Redevelopment Area and that, pursuant to the New TIF Ordinances, any other ordinances approved by the City and Section 5/11-74.4-8(b) of the Act, are collected by Cook County, Illinois and made available to the City Treasurer for deposit into the Plan Area TIF Fund (as defined below) (the "Plan Incremental Taxes"). Notwithstanding the foregoing, the Plan Incremental Taxes shall not include any monies previously pledged to bonded debt (the "Previous Bonded Debt"), which shall be superior to the Plan Incremental Taxes. The City hereby acknowledges and agrees that the Plan Incremental Taxes shall be superior to other debts or obligations of the City (excluding the Previous Bonded Debt) and the City shall not take any action, including issuing bonds pursuant to other agreements, that would subordinate the Plan Incremental Taxes to any other debt or obligation of the City. The Parties agree that the Developer shall be reimbursed at a rate of seventy percent (70%) of the annual Plan Incremental Taxes received by the City. Beginning on the Effective Date and continuing to and through the date on which the City establishes the New Redevelopment Area, the Developer shall be reimbursed at a rate of seventy percent (70%) of the annual ad valorem real estate taxes that are attributable to the incremental real estate taxes levied on the Redevelopment Area and any and all redevelopment areas contiguous to the Redevelopment Area and that are collected by Cook County, Illinois and made available to the City, subject to the Previous Bonded Debt. The City reserves the right, in its sole and absolute discretion, to increase the percentage paid to the Developer to accelerate the pay-off time or if the aforesaid percentage is insufficient to ensure reimbursement to the Developer within _____ years of the Developer commencing the Redevelopment Plan.

In order to complete the Redevelopment Plan, the City hereby authorizes the Developer to incur, or cause to be incurred, those Redevelopment Plan Costs for which reimbursement is permitted under the terms of the Act.

2. **Additional City Covenants.** Until such time as the City has provided the Developer the full Reimbursement Amount, the City: (i) will not, without the reasonable consent of the Developer, revoke or amend the New TIF Ordinances, unless so ordered by a court of competent jurisdiction or by state

legislative enactment; (ii) shall not pledge or apply any portion of the Plan Incremental Taxes deposited in the Plan Area TIF Fund to any other purpose or payment of any other obligation of the City other than as set forth in this Agreement, unless so ordered by a court of competent jurisdiction or by state legislative enactment; and (iii) shall endeavor to comply with all annual reporting requirements set forth in the Act. The City shall cause the TIF Bond Trustee (as defined below) or a City official, through written direction, to release funds on deposit to ensure that the Developer is reimbursed in

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accordance with the terms of this Agreement. The City shall file all necessary petitions or other documentation to reduce the assessed valuation of any property to be included in the New Redevelopment Area to increase the tax increment generated thereon.

3. **TIF Financial Statements.** The City agrees to provide, in a timely manner and to the extent required by law, all information required to demonstrate continued compliance with the requirements of the Act. Within fourteen (14) calendar days of a request by the Developer, the City shall provide the Developer with a copy of all such information submitted to the State of Illinois.
4. **Plan Area TIF Fund.** The City shall establish a segregated fund as a sub-account within the special tax allocation fund established or to be established for the New Redevelopment Area and any and all redevelopment areas (other than previously Stand-Alone TIF districts) contiguous to the New Redevelopment Area (the "Plan Area TIF Fund"), into which all Plan Incremental Taxes shall be deposited. Each year, seventy percent (70%) of the monies deposited in the Plan Area TIF Fund shall be used to reimburse the Developer for eligible Redevelopment Plan Costs in accordance with the terms set forth herein. Within ninety (90) calendar days of the City's receipt of the Plan Incremental Taxes from Cook County, the City shall provide the Developer with a report outlining the amount of funds collected for the New Redevelopment Area and any and all redevelopment areas contiguous to the New Redevelopment Area.
5. **Limitations Regarding the Reimbursement of the Redevelopment Plan Costs.** The City's obligations to reimburse the Developer for Redevelopment Plan Costs are limited as otherwise set forth in this Agreement and as follows:
 - a. The Redevelopment Plan Costs shall be limited to such costs that the Developer incurs in connection with or as a result of the Redevelopment Plan and as set forth under the Act; and
 - b. The reimbursement of such Redevelopment Plan Costs to the Developer shall be subject to and limited by the provisions of the Act and this Agreement.
6. **Request for Reimbursement.** Upon the Developer's request and after the Developer satisfies the requirements set forth in this Section, the City shall issue certificates to the Developer that acknowledge that the Developer has expended and is entitled to be reimbursed for certain Redevelopment Plan Costs ("TIF Certificates" and individually a "TIF Certificate"). Upon issuance of a TIF Certificate, the City's obligations to reimburse the

Developer for Redevelopment Plan Costs shall commence.

- a. **TIF Certificate(s).** The Developer may expend (or in certain cases, may have already expended) all funds and all costs necessary to: (a) carry out the Redevelopment Plan; and (b) undertake other matters and expend costs (eligible for reimbursement as Redevelopment Plan Costs) in connection with the Developer's use and occupancy of the Property. To establish its right to receive TIF Certificates (which entitle the Developer to be reimbursed for Redevelopment Plan Costs), the Developer shall submit to a person or department within the City (as the same is designated by the City) such documentation as may be reasonably requested by the City (which may include, without limitation, architects' certificates, real estate acquisition settlement statements, contractor affidavits, engineering certificates, lien waivers, cancelled checks, paid invoices and evidence of wires) verifying: (a) the costs that the Developer has incurred in connection with the Redevelopment Plan so as to permit the Parties to establish the total Redevelopment Plan Costs related to the Redevelopment Plan; and (b) the Redevelopment Plan Costs for which the Developer is seeking reimbursement from the City.

The City shall have ten (10) calendar days after receipt of such information to deny or approve (whether in part or in full) the Developer's request to issue a TIF Certificate, which approval shall not be unreasonably withheld, conditioned or delayed. If a request is denied, the City shall provide the Developer with a written and detailed explanation as to why the City will not or can not recommend the issuance of the TIF Certificate. In the event that the Developer fails to thereafter: (i) deliver to the City sufficient documentation to support the issuance of the requested TIF Certificate; (ii) remedy the objected to conditions as set forth in the aforementioned denial from the City; or (iii) identify and/or substitute other costs for which the Developer is requesting reimbursement, the City shall have no obligation to issue a TIF Certificate to the Developer for the denied costs. If the Developer does: (a) deliver to the City sufficient documentation to support the issuance of the requested TIF Certificate; (b) remedy the objected to conditions as set forth in the aforementioned denial from the City; or (c) identify and/or substitute other costs for which the Developer is requesting reimbursement, the City shall process the resubmission in the same manner as provided in this Section. In the event that the City denies the resubmission thereof, the Developer may appeal to the Corporate Authorities or to any court of law or equity. If a request to issue a TIF Certificate is denied and the Developer appeals the City's decision to a court of law and receives more than One and No/100 U.S. Dollar

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(\$1.00), the City shall pay the Developer for all costs incurred in connection with said lawsuit, including attorneys' fees, paralegal fees, witness fees and court costs, and the City shall also pay the Developer interest on the judgment in accordance with Illinois State law.

THE CITY, EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, SHALL NOT DENY THE ISSUANCE OF A TIF CERTIFICATE AND THE REIMBURSEMENT OF THE DEVELOPER FOR REDEVELOPMENT PLAN COSTS INCURRED BY THE DEVELOPER.

If a request or resubmission is approved, the Corporate Authorities shall issue a TIF Certificate to the Developer at their next regularly scheduled City Council Meeting and shall direct the TIF Bond Trustee or designated City official to reimburse the Developer in the amount set forth in the TIF Certificate.

- b. **Reimbursement.** Upon the issuance of a TIF Certificate, the City's obligations to reimburse the Developer shall commence and the Developer shall be entitled to receive reimbursement in the amount set forth on the TIF Certificate(s). After receiving a TIF Certificate, the Developer shall provide the TIF Certificate to the TIF Bond Trustee or an official designated by the City for reimbursement. When funds are available in the Plan Area TIF Fund to reimburse the Developer, the City shall reimburse the Developer (within thirty (30) calendar days of its receipt of a TIF Certificate) the total amount evidenced in the TIF Certificate. When insufficient funds are available in the Plan Area TIF Fund to reimburse the Developer the total amount set forth in a TIF Certificate, the City shall partially reimburse the Developer (within thirty (30) calendar days of receipt of a TIF Certificate) in an amount equal to the amount of funds that are available in the Plan Area TIF Fund. When no funds or insufficient funds are available in the Plan Area TIF Fund to reimburse the Developer the full amount contained in a TIF Certificate, the City shall inform the Developer of the same and shall reimburse the Developer as funds become available, until such time when the City has completely reimbursed the Developer for the amount set forth in all TIF Certificates presented to the City and until the Developer has been reimbursed the full Reimbursement Amount. When no funds or insufficient funds are available in the Plan Area TIF Fund to reimburse the Developer the full amount contained in a TIF Certificate, the City shall also pay the Developer interest on the deficiency, at the maximum allowable statutory rate for the term of the delinquency.

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**ARTICLE VII
ISSUANCE OF NOTES**

Upon the Effective Date, the City shall issue one or more notes ("Notes" and individually a "Note") in the aggregate amount equal to One Hundred Million and No/100 U.S. Dollars (\$100,000,000.00). The principal balance of the Note will be decreased as and to the extent it is paid off by making payments to the Developer. Each Note shall be dated as of the date of delivery, shall mature on the date of maturity as set forth on the Note, shall be a general obligation of the City, shall give rise to a lien upon, or be payable from, the general revenues of the City and shall be in the form set forth on Exhibit _____, attached hereto and incorporated herein. Eligible Redevelopment Plan Costs and other expenditures will be certified by the Developer and reviewed by the City as the same are incurred by the Developer, but in no event shall the Developer request reimbursement on more than a weekly basis. Interest on the Note(s) will accrue upon issuance at a rate equal to the median value of the ten (10) year Treasury rate published in the daily Federal Reserve Release for fifteen (15) business days prior to the issuance date, plus three hundred fifty (350) base points, and will compound semi-annually. The Note(s) shall be payable from the Plan Area TIF Fund and/or the general fund of the City and will have a first lien on the funds deposited into the Plan Area TIF Fund. Because the Plan Area TIF Fund is a special fund, the deposit of funds into the Plan Area TIF Fund shall not be subject to the appropriation process of the City and the amounts deposited therein shall be disbursed in accordance with this Agreement without further action by the Corporate Authorities. The Note(s) may be assigned or pledged as collateral by the Developer or sold or assigned by the Developer in its reasonable discretion. The City shall have the right to prepay the Note(s) at any time and in any amount without penalty.

**ARTICLE VIII
ISSUANCE OF TIF BONDS AND GENERAL OBLIGATION BONDS**

- A. **Issuance of Bonds.** To fulfill its obligations to reimburse the Developer the Reimbursement Amount and any other costs and fees due to the Developer pursuant to the terms of this Agreement, the City shall issue bonds on or prior to June 30, 2010, (which date may be extended by mutual agreement of the Parties) the initial issuance of Twenty Million and No/100 U.S. Dollars (\$20,000,000.00) of bonds may include, without limitation, TIF Bonds and any other bonds needed to reimburse the Developer the Reimbursement Amount (collectively, "Bonds") in the manner set forth below. **NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH HEREIN, IF THE ISSUANCE OF THE TIF BONDS IS INSUFFICIENT TO REIMBURSE THE DEVELOPER AS PROVIDED FOR HEREIN, THE CITY SHALL ISSUE ADDITIONAL GENERAL OBLIGATION BONDS, WHICH SHALL BE A GENERAL OBLIGATION OF**

THE CITY AND SHALL BE DEEMED SECURED BY THE FULL FAITH AND CREDIT OF THE CITY, SUFFICIENT IN AMOUNT TO PROVIDE THE DEVELOPER WITH ALL COSTS AND REIMBURSEMENTS DUE TO THE DEVELOPER HEREUNDER.

B. **Issuance of TIF Bonds; Disbursement.** Subject to the conditions set forth below, the City shall adopt such ordinances ("TIF Bond Ordinances") as are necessary to provide for the issuance of one or more series of general obligation alternate revenue tax increment financing bonds to be issued and sold by the City (in one or more series) (the "TIF Bonds"). The TIF Bonds shall be a general obligation of the City, shall give rise to a lien upon, or be payable from, the general revenues of the City, and the City shall secure the TIF Bonds with the full faith and credit of the City. The City shall thereafter promptly offer for sale, issue and deliver the TIF Bonds in an aggregate amount so as to provide the revenue generated from the issuance, sale and/or delivery of the TIF Bonds (the "Net TIF Bond Proceeds") to the Developer, provided that (i) the City's obligation to offer for sale and subsequently to issue and deliver the TIF Bonds is subject, in all cases, to the satisfaction of usual and customary conditions applicable in the municipal finance markets with respect to obligations, such as the TIF Bonds; and (ii) in the event that, despite the best efforts of the City, the sale, issuance and delivery of the TIF Bonds can not be accomplished because of the inability to satisfy such usual and customary conditions: (a) the Parties shall negotiate in good faith to develop and implement a revised financing plan and financing schedule designed to implement the offer, sale and issuance of the TIF Bonds as soon as reasonably practicable, and (b) the City's failure to sell, issue and deliver the TIF Bonds shall not constitute a default under this Agreement, provided that the City reimburses the Developer in accordance with the provisions of this Agreement. Within a reasonable time after receiving the proceeds from the sale of the TIF Bonds, the City shall place all Net TIF Bond Proceeds into the Plan Area TIF Fund to be held and subsequently disbursed in accordance with the terms of this Agreement.

I. **Issuance of Refunding Bonds.** After receiving the Developer's prior written consent, the City may issue bonds to redeem and refund the TIF Bonds (or subsequently continue the refunding of the same) (the "Refunding Bonds"). If issued, the Refunding Bonds may be: (i) obligations payable from an alternate revenue source; or (ii) obligations secured by the full faith and credit of the City and for the payment of which the City has levied a separate ad valorem real property tax levy. Provided that the Developer has been reimbursed in full or the Developer determines, in its sole and absolute discretion, that it is in its best interests for the City to issue Refunding Bonds, the Developer shall cooperate with all reasonable requests made by the City to facilitate the issuance of the Refunding Bonds, including submitting financial information concerning the Redevelopment Plan and the Developer's financial advisers, underwriters, credit rating agencies and providers of credit and credit enhancement.

2. **Disbursements to the Developer of Net TIF Bond Proceeds.** Prior to the date on which the City issues the TIF Bonds (the "TIF Bond Closing Date"), the Developer may deliver to the City TIF Certificate(s) identifying Redevelopment Plan Costs that the Developer has incurred and which have been approved by the City in accordance with the provisions of Article VI. If the Developer submits TIF Certificate(s) to the City at least ten (10) calendar days prior to the TIF Bond Closing Date, the City shall submit the TIF Certificate(s) to the trustee for the TIF Bonds (the "TIF Bond Trustee") with instructions to reimburse the Developer, or to pay the party designated by the Developer, the amount set forth on such TIF Certificate(s) on the TIF Bond Closing Date. To the extent Net TIF Bond Proceeds are not available at the TIF Bond Closing Date to make a payment, the City shall acknowledge and confirm an increase in the principal balance of the Note outstanding in an amount equal to the amount of the TIF Certificate(s). All other TIF Certificate(s) shall be submitted and handled in accordance with the provisions of Article VI hereof; provided that if the TIF Bonds are issued, the Developer may be reimbursed from either the Plan Incremental Taxes and/or Net TIF Bond Proceeds.
3. **Cooperation in the Issuance of the TIF Bonds.** The Parties shall cooperate with one another and take all reasonable actions necessary to issue the TIF Bonds. Such cooperation, with respect to the Developer, shall extend to assisting the City and bond counsel, a nationally recognized underwriter mutually acceptable to the Parties (the "Underwriter") and the City's financial advisors in the preparation of offering statements, private placement memoranda or other disclosure documents and all other documents necessary to market and sell the TIF Bonds.
- C. **Issuance of General Obligation Bonds.** If the issuance of the TIF bonds is insufficient to reimburse the Developer as provided for herein or if the Developer determines, in its sole and absolute discretion, that the furthering of the Redevelopment Plan would be best served by the issuance of general obligation bonds in lieu of other forms of bonds referenced herein or if the Parties otherwise agree that the City should provide for the issuance of one or more series of additional general obligation bonds to be issued and sold by the City pursuant to this Agreement (the "General Obligation Bonds"), the City shall take all steps necessary, including adopting all necessary bond ordinances, to issue and sell the General Obligation Bonds on the Effective Date or at such other time as is deemed reasonable by the Developer. The General Obligation Bonds shall be issued in an amount sufficient and in such manner to provide the Developer with all costs and reimbursements due to the Developer hereunder and shall be a general obligation of the City and shall be deemed secured by the full faith and credit of the City.

**ARTICLE IX
RECAPTURE**

- A. **Public Improvements.** Instead of undertaking the construction and/or improvement of the Public Improvements as set forth herein, the Developer may require that the City effectuate the construction and/or improvement of the Public Improvements. If the City undertakes the construction and/or improvement of the Public Improvements, the Developer shall be entitled to designate the construction company to be used in undertaking the same and the Developer shall not be entitled to receive reimbursement for costs and expenses related to the construction and/or improvement of the Public Improvements as otherwise provided for hereunder. The City, by a vote of not less than two-thirds (2/3) vote of the Corporate Authorities currently holding office and pursuant to the provisions of Section 5/8-9-1 of the Illinois Municipal Code (65 ILCS 5/8-9-1), hereby waives the requirement that the construction and/or improvements to the Public Improvements be bid out. If this condition is held to be invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid or unenforceable provision had never been contained herein.
- B. **Recapture.** The Parties acknowledge that some of the Public Improvements serving the Property will likely be inadequate to support the Redevelopment Plan. If the Developer undertakes to improve the Public Improvements serving the Property, at the Developer's option, the Developer may require the Parties to execute a recapture agreement pursuant to Section 9-5-1 of the Illinois Municipal Code (65 ILCS 5/9-5-1). The recapture agreement shall provide that the City agrees to reimburse the Developer for a portion of the costs and expenses that the Developer incurred in making the improvements to the Public Improvements ("Recapturable Expenses") constructed at the Developer's expense that benefit properties other than the Property (the "Recapturable Improvements"). The City shall agree to collect recapture fees from benefited properties in order to reimburse the Developer with monies collected for an equitable portion of the Recapturable Improvements, including an equitable and lawful allocation of costs and expenses incurred in the acquisition of any easement for said Recapturable Improvements, together with interest thereon from the date said Public Improvements have been accepted by the City until connection thereto is sought by the benefited third parties at a rate of six percent (6%) per annum, based on a three hundred sixty (360) day year, beginning upon the City's acceptance of the Public Improvements and running for twenty (20) years. Such recapture agreement shall describe the benefited properties outside of the Property, which may reasonably be expected to benefit from the Recapturable Improvements. The recapture agreement shall also provide that the City shall collect the recapture fees charged to the owners of the benefited properties not within the Property either: (i) as a condition of approval of a final plat of subdivision; or (ii) at the time application is made to connect to and use the Recapturable Improvements by the respective properties, whichever date is earlier. The Parties agree that no benefited property owner shall be permitted to connect onto and utilize said Recapturable

Improvements unless the City adopts a valid and binding ordinance authorizing recapture from such benefited property owner and such benefited property owner pays the recapture fees to the City and pays the City an additional fee of three percent (3%) per annum for the cost of administering the recapture agreement. The recapture agreement shall be filed with the Cook County Recorder of Deeds against the benefited properties. The Developer and the City shall reasonably determine *inter alia*: (i) the benefited properties; and (ii) the allocation of the benefit conferred upon such properties, all in accordance with the relevant statutes.

The City shall use its best efforts to collect from benefited property owners and shall place all funds collected with Team Collection, Inc. within ten (10) business days from the date of collection. In the event the City is unable to collect from a benefited property owner and the Developer desires to collect from the benefited property owner, the Developer agrees to bear the cost of enforcing the recapture agreement and pledges to hold the City, its officers, agents and employees harmless and to pay all expenses, costs, damages (including attorneys' fees, engineering fees, expert witness fees, accountants fees and all litigation expenses) and judgments incurred by or assessed against them as a result of the entry into or enforcement of said agreement.

The Developer and any subsequent owner(s) of the Property shall not be obligated to pay any recapture fees in the event the Property is serviced by connection to water lines, sanitary sewer lines or storm sewer lines constructed by adjacent property owners.

ARTICLE X SALES TAX REBATE

- A. **Findings.** In accordance with Section 8-11-20 of the Illinois Municipal Code (65 ILCS 5/8-11-20), the City desires to enter into this Agreement and the Corporate Authorities hereby make the following findings of fact: (1) the buildings located on the Property no longer comply with current building codes; (2) the buildings located at the Property have remained less than significantly unoccupied or underutilized for a period of at least one (1) year; (3) the Redevelopment Plan is expected to create or retain job opportunities within the City; (4) the Redevelopment Plan will serve to further the development of adjacent areas; (5) without this Agreement, the Redevelopment Plan would not be possible; (6) the Developer or its assignee, construction manager or contractor undertaking the construction of the Redevelopment Plan meets high standards of creditworthiness and financial strength; (7) the Redevelopment Plan will strengthen the commercial sector of the City; (8) the Redevelopment Plan will enhance the tax base of the City; and (9) this Agreement is made in the best interest of the City.

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B. Definitions. For purposes of this Agreement, the following terms shall have the meanings set forth below.

1. "Calendar Year" means any twelve (12) month period commencing on January 1st and ending on December 31st during the Sales Tax Repayment Period (as defined herein).
2. "Department" means the Illinois Department of Revenue, or any successor agency of the State of Illinois.
3. "Gross Receipts" shall have the same meaning as that which is ascribed to it in the Retailer's Occupation Tax Act (35 ILCS 120/1, *et seq.*).
4. "Municipal Sales Taxes" means all Sales Taxes (as defined below) that the City actually receives from the State of Illinois generated by any and all portions of the Property during the term of this Agreement, including any interest earned on Sales Taxes while held by the Department (to the extent actually received by the City).
5. "Quarter" means any three (3) month period ending March 31st, June 30th, September 30th or December 31st during the Sales Tax Repayment Period.
6. "Sales Taxes" means any and all sales, service and use taxes imposed and collected by the State of Illinois and remitted to the City including, without limitation, the local distributive share of the retailers' occupation tax (35 ILCS 120/1, *et seq.*), the City's home rule municipal retailers' occupation tax (65 ILCS 5/8-11-1), taxes imposed pursuant to the Service Use Tax Act (35 ILCS 110/1, *et seq.*), the Service Occupation Tax Act (35 ILCS 115/1, *et seq.*), the Use Tax Act (35 ILCS 105/1, *et seq.*), and any other tax that is a substitute for a portion or all of the foregoing.
7. "Sales Tax Rebate" means the rebate payment to the Developer of a portion of the Municipal Sales Taxes that the City is required to make pursuant to this Agreement, which amount shall be fifty percent (50%) of all Municipal Sales Taxes that the City receives from the Property, in each Calendar Year, during the Sales Tax Repayment Period.
8. "Sales Tax Repayment Period" means a period of ten (10) years commencing on thirty (30) calendar days after the first certificate of occupancy is issued by the City for a retail store located at the Property.

C. Payment of the Sales Tax Rebate. In consideration of the Developer redeveloping the Property and undertaking the Plan, the City shall pay the Sales Tax Rebate to the Developer during the Sales Tax Repayment Period. Based upon the Department's Sales Tax reports for the Property and the City's receipt of appropriate supporting

documentation, within thirty (30) calendar days following each Quarter, the City shall pay to the Developer (or to a party designated in writing by the Developer) the applicable Sales Tax Rebate for the immediately preceding Quarter. If, for any reason, the State of Illinois fails to distribute the Municipal Sales Taxes to the City in sufficient time for the City to make such Quarterly payments or the City does not receive appropriate supporting documentation, the City shall provide notice of such fact to the Developer. In that event, the City shall make the required Sales Tax Rebate payment within fifteen (15) calendar days after the date on which the City actually receives the Municipal Sales Taxes and all appropriate supporting documentation due to the City for the applicable Quarter. If, at that end of the Calendar Year, there is a need to adjust and reconcile the amount of any Quarterly Sales Tax Rebate payment to account for any provision of this Agreement or to account for the amount of the Municipal Sales Taxes actually paid by the State of Illinois, the City and the Developer do hereby agree to cooperate with each other to accomplish such reconciliation. Together with every Quarterly payment delivered to the Developer, the City shall deliver to the Developer copies of all Sales Tax information and other supporting documentation in the City's possession relating to such Quarterly payments (including, without limitation, documents received from the Department). The Developer shall maintain the confidentiality of such information and shall not disclose such information to third parties without the prior written consent of the City; provided that the Developer may disclose such information to its partners, lenders and other parties having a financial interest in the Redevelopment Plan.

Any payments determined to be due to the Developer from the City shall be reduced by the amount of any and all collection fees imposed upon the City by the State of Illinois or the Department for collection of the Sales Taxes (in proportion to the Property's share of such Sales Taxes).

D. Sales Tax Information.

1. The Developer agrees that it shall prepare and execute an Authorization to Release Sales Tax Information form, attached hereto as **Exhibit _____**, and deliver the same to the City and the Department to authorize the Department to directly report information on Municipal Sales Taxes to the City. If requested by the Department, the Developer shall use commercially reasonable efforts to cause each tenant on the Property to file a separate IDOR Form ST-1 (or any amended reporting form) with the Department in order to separately identify the Sales Taxes that result from retail sales on the Property. The Developer shall provide to the City copies of any and all Sales Tax returns, Sales Tax reports, amendments concerning Sales Tax, proof of payment or any other Sales Tax information filed with the Department, to the extent the same are within the control of the Developer. The Developer also agrees, upon the request of the City, to furnish such consents or waivers as may be required by the Department to provide the City

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- with Sales Tax information concerning the Property.
2. The City shall use its best efforts to obtain all pertinent information regarding the Municipal Sales Taxes (including, without limitation, the amount of Sales Taxes collected from the businesses operating on the Property) directly from the Department. To the extent permitted by law, the City shall endeavor to maintain the confidentiality of the information contained in the reports filed with the Department, but shall be permitted to disclose such information to such City employees and consultants as the City, in its reasonable discretion, deems appropriate in order to monitor compliance and audit this Agreement. The City may also disclose such information to the extent required by the Illinois Freedom of Information Act (5 ILCS 140/1, *et seq.*) or similar statute if, after diligent inquiry, the City's attorney determines that the request is not exempt.
 3. The receipt of Sales Taxes, either directly or indirectly through the Department, from the businesses operating on the Property shall be a condition precedent to any obligation of the City to pay the Sales Tax Rebate to the Developer and, as such, no debt for the Sales Tax Rebate shall exist unless the City has first received, during any Calendar Year, either directly or indirectly, Sales Tax revenues from the Property.
 4. All Gross Receipts generated by the Developer or any other business on the Property shall be deemed to be, and reported as, originating in the City for the purpose of Municipal Sales Taxes.
 5. To the extent the City is required to do so by law, the City shall take such actions as may be required from time to time to appropriate funds pursuant to Illinois law to satisfy its obligations to reimburse the Developer the Sales Tax Rebate in accordance with the provisions of this Agreement.
- E. **Liability.** No recourse under or upon any obligation or covenant of this Agreement or for any claim based thereon or otherwise in respect thereof shall be had against the Developer Indemnified Parties (as defined herein) in excess of their obligations to the City hereunder, subject to the terms and conditions herein, and no liability, claim or claim at law or in equity shall attach to or shall be incurred by the Developer Indemnified Parties in excess of their obligations hereunder.

ARTICLE XI
PAYMENT OF FEES AND COSTS

Except as expressly set forth in this Agreement, no fee or charge of any kind including, without limitation, building permit fees, tap-on or utility connection fees or other regulatory fees or charges shall be imposed by the City in connection with the Redevelopment Plan unless, as of the Effective Date, such fee or charge is in existence and being collected by the

City on a uniform basis from all owners and operators of commercial property within the City. After five (5) calendar years from the Effective Date, the City shall have the right to apply increases to the fees and charges applied to the Developer and the Redevelopment Plan, provided such increases are made generally applicable to all owners and users of commercial property within the City. Plan review fees and inspection fees that the City generally charges developers shall be paid by the Developer for the City's review or inspection and shall be reimbursed from Plan Incremental Taxes or the City's general fund.

ARTICLE XII INTERGOVERNMENTAL COOPERATION & GRANTS

The City agrees to cooperate with other governmental units and agencies to effectuate the terms of this Agreement. The City has affixed and hereby agrees to be bound by the terms of that certain intergovernmental agreement (the "Intergovernmental Agreement"), attached hereto and incorporated herein as Exhibit __, entered into by and between the City and the South Suburban Mayors and Managers Association regarding the award of certain grant monies to the South Suburban Mayors and Managers Association to be allocated to the environmental remediation of the Dixie Property as designated in the no further remediation letter. The City agrees to enter into all necessary agreements with other governmental units and agencies to effectuate the intent of this agreement, including entering into agreements with neighboring municipalities regarding subjects of local concern including, but not limited to, land use controls, the acquisition of real property and issues regarding rights of ways. The form of such agreements shall be similar to the form set forth on Exhibit ____, attached hereto and incorporated herein. The City agrees to use its best efforts to secure grant funds and other governmental subsidies to provide additional incentives to ensure the completion of the Redevelopment Plan and the environmental remediation of the Dixie Property.

ARTICLE XIII REPRESENTATIONS AND WARRANTIES; COVENANTS OF THE PARTIES

Representations and Warranties of the Developer. To induce the City to execute

A. this Agreement and perform the City's obligations hereunder, the Developer hereby represents and warrants to the City, as of the Effective Date, the following:

1. The Developer is a duly organized and existing limited liability company and is in good standing under the laws of the State of Illinois. The Developer is qualified to do business in the State of Illinois, authorized to conduct its business as it is presently being conducted, is not in violation of any provision of its organizational or operating agreements and has the power and authority to enter into this Agreement;
2. The execution, delivery and performance by the Developer of this Agreement does not constitute and will not, upon the giving of notice or lapse of time or both, constitute a breach or default under any other agreement to which the Developer is a party or may be bound under;

3. The Parties executing this Agreement on behalf of the Developer have the authority to bind the Developer and have been duly authorized by all appropriate action to enter into, execute and deliver this Agreement and perform the terms and obligations contained herein;
4. This Agreement has been duly and properly executed by the Developer, and it constitutes the valid and legally binding obligations of the Developer, enforceable against the Developer in accordance with its terms, except to such extent that enforceability may be limited by any bankruptcy or insolvency laws affecting the enforcement of creditors' rights and by the exercise of judicial discretion in accordance with general equitable principles;
5. The Redevelopment Plan requires financial assistance from the City in order to complete the same substantially in accordance with the cost estimates therefor and, but for the economic assistance to be given by the City, the Redevelopment Plan, as contemplated would not be economically viable;
6. To the best of the Developer's knowledge, the Developer is in compliance with all laws, ordinances, governmental rules and regulations to which it is subject, the failure to comply with which could materially and adversely affect the ability of the Developer to perform its obligations under this Agreement or otherwise conduct its activities, and to the extent lawfully obtainable as of the date hereof, the Developer has obtained all licenses, permits, franchises, certifications and other governmental authorizations necessary to carry out the Redevelopment Plan which, if not obtained, could materially and adversely affect the ability of the Developer to perform its obligations under this Agreement or otherwise carry out or complete the Redevelopment Plan. Furthermore, the Developer shall comply with all applicable laws, rules and regulations of the City, County of Cook, State of Illinois and the United States of America and all agencies and subdivisions thereof and shall use commercially reasonable efforts to cause its contractors, subcontractors, agents and assigns to do the same;
7. The Developer will attempt to obtain, or will cause to be obtained, as and when necessary, all licenses, permits, franchises, certifications and approvals that are or will be required under applicable laws and regulations by any governmental body or officer so that the Developer can carry out the Redevelopment Plan and complete its obligations under this Agreement. To the best of the Developer's knowledge, no consent, approval or authorization or filing, registration or qualification with or from any governmental authority (that has not been obtained) is required on the part of the Developer as a condition to the execution and delivery of this Agreement;

8. There are no proceedings pending or, to the knowledge of the Developer or any of its members, threatened against or affecting the Developer in any court or before any governmental authority, arbitration board or tribunal that, if adversely determined, would materially and adversely affect the ability of the Developer to perform its obligations hereunder;
9. No event has occurred and no condition exists that, upon the execution of this Agreement, would constitute a default or Event of Default (as defined herein). The Developer is not in violation, and has not received notice of any claimed violation, of any term of any agreement or other instrument to which it is a party or by which it or its property may be bound, which violation could materially and adversely affect the financial or legal condition of the Developer or the ability of the Developer to perform its obligations under this Agreement;
10. The financial information and other written data submitted by the Developer or to be submitted by the Developer to the City are true and correct in all material respects as of the dates of such statements and data. There have been no materially adverse changes to the business, operations, ownership or condition (whether financial or legal) of the Developer as disclosed in such statements and data, and the Developer has no knowledge of any liabilities, contingent or other, that might have a materially adverse effect upon its ability to perform its obligations under this Agreement, except as disclosed in writing to the City. The Developer has good, sufficient and legal title to all properties and assets disposed of in the ordinary course of business since the date of such statements and data. In the reasonable opinion of the Developer, the Developer has the financial wherewithal to perform its obligations under this Agreement;
11. Any financial projections provided to the City in writing by the Developer are the same in all material respects as the financial projections provided by the Developer to any and all providers of any private financing sought in connection with the Redevelopment Plan;
12. The Developer reasonably expects that after the execution of this Agreement, the implementation of the Redevelopment Plan will proceed with due diligence to completion;
13. The Developer is not barred from entering into this Agreement as a result of violations of either 5/33E-3 or 5/33E-4 of the Illinois Criminal Code of 1961 (720 ILCS 5/33E-3; 5/33E-4), the Developer has a written policy against sexual harassment in place in full compliance with 775 ILCS 5/2-105(A)(4),

the Developer is in compliance with the Illinois Drug Free Workplace Act (30 ILCS 580/1, et seq.) and the Developer will comply with the Illinois Prevailing Wage Act (820 ILCS 130/0.01, et seq.); and

14. The Developer has not made a general assignment for the benefit of creditors, filed any voluntary petition in bankruptcy or suffered the filing of an involuntary petition by its creditors, suffered the appointment of a receiver to take possession of all or part of its assets, suffered the attachment or other judicial seizure of all or part of its assets, admitted its inability to pay debts as they come due or made an offer of settlement, extension or composition to its creditors generally, and the Developer is not anticipating the occurrence of any of the abovementioned acts.

B. Representations and Warranties of the City. To induce the Developer to execute this Agreement and perform the Developer's obligations hereunder, the City hereby represents and warrants to the Developer, as of the Effective Date, the following:

1. The City has the authority as a home rule municipality located in Illinois to execute and deliver this Agreement and to perform its obligations hereunder. This Agreement is, and upon delivery of TIF Certificates will also be, valid and binding obligations of the City, enforceable against the City in accordance with their respective terms and in accordance with the terms of this Agreement. Attached hereto and incorporated herein as **Exhibit _____** are the legislative enactments of the City authorizing and inducing the Developer to proceed with the transaction contemplated hereunder.
2. The execution, delivery and performance by the City of this Agreement does not constitute and will not constitute, upon the giving of notice or lapse of time or both, a breach or default under any other agreement to which the City is a party or may be bound.
3. The Redevelopment Area generates incremental real property tax revenues sufficient to meet the current financial obligations thereon and the New Redevelopment Area will generate incremental real property tax revenues sufficient to meet the financial obligations thereon. As of the Effective Date, the City is not in default of any of its previously agreed to financial obligations and does not reasonably anticipate being in default of any such agreements or obligations based upon a reasonable inquiry into the same, conducted no more than sixty (60) days prior to the Effective Date.
4. There are no proceedings outstanding, pending or threatened against or affecting the City in any court or before any governmental authority that involves the possibility of materially altering the ability of the City to perform any of its obligations under this Agreement.

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5. The City warrants there is and will be or the City will cause there to be sufficient utility lines (including water and sanitary sewers) existing or constructed at the Property or near the perimeter of the Property sufficient to support the improvements made by the Developer or contemplated under this Agreement, except where specifically set forth in writing that such utility lines are insufficient to support that portion of the Redevelopment Plan.
6. The City represents that there are no recapture obligations or agreements recorded against or affecting the Property and there are no such agreements or obligations presently under consideration.
7. The financial information and other written data submitted by the City or to be submitted by the City to the Developer are true and correct in all material respects as of the dates of such statements and data. There have been no materially adverse changes to the business, operations, ownership or condition (whether financial or legal) of the City as disclosed in such statements and data, and the City has no knowledge of any liabilities, contingent or other, that might have a materially adverse effect upon its ability to perform its obligations under this Agreement, except as disclosed in writing to the Developer. The City has good, sufficient and legal title to all properties and assets disposed of in the ordinary course of business since the date of such statements and data. In the reasonable opinion of the City, the City has the financial wherewithal to perform its obligations under this Agreement.
8. The City represents that as of the Effective Date: (1) all outstanding litigation between the Parties has been dismissed or an agreed dismissal order has been executed by all litigating parties; and (2) the Developer has no further inspection requirements prohibiting it from commencing its obligations under this Agreement.
- C. Additional Representations and Acknowledgments. The Developer has relied and expended funds upon the basis of the veracity and accuracy of the representations and warranties made in this Agreement.
- D. Survival of Representations and Warranties. The Parties agree that all of their representations and warranties, set forth in this Article and elsewhere in this Agreement, are true as of the Effective Date and each Party agrees that it shall provide prompt written notice to the other Party in the event the representations and warranties set forth herein change for any reason.

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judgments by, to or on behalf of any person or entity: (i) arising from or in any way related to any breach or default on the part of the City in the performance of any of its obligations under this Agreement; (ii) arising from or in any way related to any negligent or willful act or omission of the City; (iii) arising from or in any way related to any acts, omissions or negligence of the City or any person or entity claiming through or under City or of the contractors, subcontractors, agents, servants, employees, guests, invitees or licensees of the City, or any person or entity claiming through or under such person; (iv) any City-sponsored or City-sanctioned event held at the Property before the completion of the Redevelopment Plan or any other use of the Property by the City or by others at the City's invitation and/or with the City's permission before the completion of the Redevelopment Plan; and/or (v) the legality of any payment made pursuant to this Agreement.

1. The obligations of the City under this Section shall include, without limitation, the burden and expense of defending all claims, suits and administrative proceedings (with counsel of the Developer's choice), even if such claims, suits or proceedings are groundless, false or fraudulent, and conducting all negotiations of any description, and paying and discharging, when and as the same become due, any and all judgments, penalties or other sums due against any of the Indemnified Developer Parties; provided that no settlement of any matter shall be entered without the City's written consent, which the City shall have the sole and absolute discretion to provide. In the event a suit is filed against the Developer, the Developer shall have the right to retain counsel of its own choice on its own behalf for which the City shall pay in accordance with the reasonable terms and conditions of the engagement arrangement entered into between the Developer and its chosen counsel.
2. The obligations of the City under this Agreement shall not be affected in any way by the absence or presence of insurance coverage (or any limitation thereon, including any statutory limitations with respect to workers' compensation insurance) or by the failure or refusal of any insurance carrier

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ARTICLE XIV
RISK MANAGEMENT

- A. Indemnification of the Developer. To the fullest extent permitted by law, the City shall indemnify, defend and hold harmless the Developer, its directors, officers, members, parents, employees, independent contractors, insurers, architects, attorneys, engineers, agents, representatives, consultants, financial analysts, subsidiaries, affiliates, contractors, subcontractors and the successors, predecessors, executors, administrators, heirs, beneficiaries, legatees and assigns of such persons and entities (the "**Indemnified Developer Parties**") from and against any and all claims, losses, demands, liabilities, penalties, liens, encumbrances, obligations, causes of action, costs and expenses, (including reasonable attorneys' fees, paralegal fees, witness fees and court costs), deaths, injuries and damages (whether actual or punitive), suits or

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to perform an obligation on its part under any insurance policies; provided, however, that if the Developer actually receives any proceeds of the City's insurance with respect to an obligation of City under this Section, the amount thereof shall be credited against and applied to reduce any amounts paid and/or payable hereunder by the City with respect to such obligation.

- B. Exculpation.** None of the Indemnified Developer Parties (exclusive of the Developer) shall have any liability (personal or otherwise) hereunder, and no property or assets of the Indemnified Developer Parties (exclusive of the Developer) shall be subject to enforcement procedures for the satisfaction of the City's remedies hereunder or any other liability of the Indemnified Developer Parties arising from or in connection with this Agreement.
- C. Survival.** Notwithstanding any other condition, covenant or term of this Agreement, the terms of this Article shall survive the termination of this Agreement.

ARTICLE XV AUDIT PROVISIONS

The Developer shall, at all times during the construction of the Redevelopment Plan, keep and maintain (separate from any of the Developer's other books, records and accounts) accurate and complete records pertaining to the Redevelopment Plan including, without limitation, financial statements, records and books of account reflecting Redevelopment Plan Costs and all other construction and redevelopment costs that it seeks reimbursement from the City pursuant to the terms of this Agreement. Said information shall be maintained in accordance with generally accepted accounting principles, with such exceptions as may be specifically provided for in this Agreement. The City shall have, during normal business hours and upon written notice provided no later than seven (7) calendar days prior to the intended inspection time, reasonable and supervised access to examine and photocopy such records, financial statements and other documentation if the Developer deems such examination reasonable. The City shall, at all times during the term of this Agreement, maintain and keep in good working order accurate and complete records pertaining to all funds applicable to the Redevelopment Plan including, without limitation, financial statements, records and books of account reflecting Redevelopment Plan Costs and all other construction and redevelopment costs. Said information shall be maintained in accordance with generally accepted accounting principles, with such exceptions as may be specifically provided for in this Agreement. The Developer shall have reasonable access to examine and photocopy such books and records. Each Party shall have the right to cause an independent audit by any nationally recognized independent certified public accounting firm (in accordance with generally accepted accounting principles) of such books and records to be made at any time within two (2) years after the end of the Developer's or the City's fiscal year to which such books and records relate (or for the last two (2) years of the construction of the Redevelopment Plan or for a period of one (1) full year after completion of the Redevelopment Plan), and the Developer and the City shall maintain all such books and records for at least such period of time. The City shall have the right to disclose financial

information about the Redevelopment Plan, as described above, to the Cook County Assessor and to others to the extent required by law including, without limitation, Rule 15c2-12, which was promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended.

ARTICLE XVI DEFAULT AND CURE

Defaults/Remedies. If the City fails to issue and sell the agreed to amount of Bonds on or prior to the date agreed to by the Parties, the Developer shall be entitled to receive the statutory rate of interest on the amount of proceeds that would be generated by the Bonds for each day that the City fails to issue and sell the same. If an Event of Default (as defined herein) occurs, or if any of the Parties shall fail to perform or keep any term or condition required to be performed or kept by such Party, the defaulting Party shall, upon written notice from the non-defaulting Party, proceed to cure or remedy such default or breach within one hundred twenty (120) calendar days after receipt of notice of a default; provided, however, that if such default is incapable of being cured within said one hundred twenty (120) calendar day period and the defaulting Party commences to cure the default within said one hundred twenty (120) calendar day period and proceeds with due diligence to cure the same, such cure period shall be extended (not unreasonably) for the length of time reasonably necessary to cure the default upon written request for the same by the defaulting Party. At any time during the cure period (or extension thereof), the non-defaulting Party may request a written report on the status of the steps taken to cure the alleged default or breach, which shall be complied with by the defaulting Party within ten (10) calendar days after receipt of the original request. At all times during a cure period or extension thereof, the defaulting Party shall diligently follow through to completion all such steps necessary to remedy the alleged default within the shortest possible time. Failure of a defaulting Party to respond to a request for information as set forth herein shall be considered a failure to diligently undertake the cure of the alleged default and shall be deemed a waiver of the defaulting Party's opportunity to cure. In case such action is not taken or diligently pursued or the default or breach is not cured or remedied within the aforementioned period, the aggrieved Party may institute such proceedings (at law or in equity) as may be necessary or desirable in its opinion to cure and remedy such default or breach. The rights and remedies of the Parties, whether provided by law or in this Agreement, shall be cumulative and the exercise by any Party of any one or more of such remedies shall not preclude the exercise by such Party at the same time or different times, of any other remedies for the same default or breach by the defaulting 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 with respect to any specific default by any other Party under this

Agreement shall be construed as a waiver of rights with respect to any other default except to the extent specifically waived in writing. Notwithstanding the foregoing, in the event the City fails to pay incentives or take any reasonable step to ensure incentives are paid in a timely manner to ensure compliance with the Redevelopment Plan Timeline, as determined by the Developer in its sole and absolute discretion, the Developer shall have the right to: (1) advance the payment such that the outstanding sum (or step to be taken) is due or satisfied thirty (30) calendar days after the dispatch of this specialized notice of default; or (2) without recourse, terminate this Agreement and have all its out of pocket expenses incurred by the Developer reimbursed by the City within thirty (30) calendar days after the termination date.

B. Event of Default. For purposes of this Agreement, the occurrence of any one (1) or more of the following, after any applicable cure period has expired, shall constitute an "Event of Default":

1. If, at any time, any material warranty, representation or statement made or furnished by the City or the Developer is not true and correct in any material respect;
2. If any petition is filed by or against the City or the Developer under the Federal Bankruptcy Code or any similar state or federal law, whether now or hereinafter existing, including any supervision by the Federal Deposit Insurance Corporation (and in the case of involuntary proceedings, failure to cause the same to be vacated, stayed or set aside within ninety (90) calendar days after said filing); and/or
3. If the City or the Developer fails (in whole or in part), breaches or otherwise defaults in fulfilling any of its obligations under this Agreement or fails to materially perform, observe or comply with any of the covenants, agreements or obligations hereunder.

C. Waiver and Estoppel. Any delay by the City or the Developer in instituting or prosecuting any actions or proceedings or otherwise asserting its rights shall not operate as a waiver of such rights or operate to deprive the City or the Developer of or limit such rights in any way. No waiver made by the City or the Developer with respect to any specific default shall be construed, considered or treated as a waiver of the rights of the City or the Developer with respect to any other default.

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ARTICLE XVII
LAND USE, SIGNAGE & CERTIFICATES OF OCCUPANCY

- A. Land Use and Signage.** The City has attached a duly authorized, certified and executed ordinance rezoning the Property to the Comprehensive Development Area Zoning District (the "**Land Use Ordinance**"). This district allows as permitted, special, accessory and other uses listed on **Exhibits** _____ and _____, attached hereto and incorporated herein. The Property shall be developed in accordance with the use restrictions and the density, height, architectural control, minimum lot area, front and rear yard depth and side yard width, landscape and signage requirements specifically enumerated on **Exhibits** _____ and _____, attached hereto and incorporated herein. All zoning and land use restrictions are subject to the terms, provisions and restrictions contained in this Agreement. The Land Use Ordinance allows for an amendment to any Planned Unit Development enacted under the Comprehensive Development Area Zoning District, if approved by the Corporate Authorities, without the consent of all the then current owners of the Property. The Land Use Ordinance grants approval of the Site Plan. Notwithstanding any contradictory language set forth in the Harvey Zoning Ordinance, all signage set forth in **Exhibit** _____, attached and incorporated herein, shall be deemed permitted in accordance with the Land Use Ordinance.
- B. Certificates of Occupancy.** The City shall issue certificates of occupancy in accordance with the provisions of the Harvey Municipal Code. Notwithstanding any contradictory provision contained in the Harvey Municipal Code or any other applicable ordinance (including changes to the Harvey Municipal Code after the Effective Date), the City shall issue certificates of occupancy within a reasonable time after the submission of completed occupancy permit applications by the Developer or a designee thereof. Notwithstanding the fact that certain provisions or requirements of the Harvey Municipal Code have not been fully met, in the event it is mutually determined by the Parties that the issuance of the conditional certificate of occupancy is in the best interests of the Developer and necessary for the Developer to meet any timelines agreed to by the Parties, the City shall issue such conditional certificates of occupancy as requested by the Developer. No certificate of occupancy shall be unreasonably withheld, conditioned or delayed by the City.

ARTICLE XVII
MASTER DEVELOPER

The City shall take all steps necessary to appoint the Developer as the "Master Developer" for the Master Development Area. In accordance with the foregoing, the Developer shall be permitted to direct the City to waive the applicable bidding requirements regarding the selection of contractors and thereafter award contracts regarding the Development of the Property to the most qualified contractors as determined by the Developer in its sole and absolute discretion as well as modifying the details regarding the incentives to be provided under this Agreement in addition to performing any duties or taking any actions as set forth

in that certain master development ordinance passed and executed by the City prior to March 31, 2010 (the "Master Development Ordinance"). The terms of the Master Development Ordinance are attached hereto and incorporated herein as Exhibit _____.

ARTICLE XIX
MISCELLANEOUS

A. **Miscellaneous.** The Parties agree to the following terms and provisions:

1. **Drafter Bias.** The Parties acknowledge and agree that the terms of this Agreement are the result of on-going and extensive negotiations between the Parties, both of which are represented by independent legal counsel, and that this Agreement is a compilation of said negotiations. As a result, in the event that a court is asked to interpret any portion of this Agreement, neither of the Parties shall be deemed the drafter hereof and neither shall be given the benefit of such presumption as may be set out by law.
2. **Partnership Not Intended Nor Created.** Nothing in this Agreement is intended nor shall be deemed to constitute a partnership or joint venture between the Parties.
3. **Entirety and Binding Effect.** This Agreement contains the entire Agreement between the Parties respecting the matters set forth herein and supersedes all prior agreements between the Parties hereto respecting such matters, if any. All previous communications and negotiations between the Parties, either written or oral, that are not contained herein are hereby withdrawn, nullified and void. The Parties expressly understand and acknowledge that there are no other oral or written promises, conditions, representations, understandings, warranties or terms of any kind as conditions or inducements to execute this Agreement and none have been relied upon by either Party, save the agreements attached hereto and any escrow agreements referenced herein. The provisions of this Agreement shall be binding upon the Parties and inure to the benefit of and be enforceable by and against their respective successors, personal representatives, heirs, legatees, and assigns.
4. **Time is of the Essence.** Time is of the essence of this Agreement.
5. **Use of Headings.** The headings appearing in this Agreement have been inserted for the purpose of convenience and ready reference. They do not purport to and shall not be deemed to define, limit or extend the scope or intent of the clauses to which they pertain.

6. **Notices.** Any and all notices, demands, requests, consents, approvals, communications or other instruments required or permitted to be given under this Agreement shall be in writing (unless otherwise set forth herein) and shall be executed by a Party or an officer, agent or attorney of the Party, and shall be deemed to have been duly received upon: (i) actual receipt if personally delivered and the sender received written confirmation of personal delivery; (ii) receipt as indicated by the written or electronic verification of delivery when delivered by overnight courier; (iii) receipt as indicated by the electronic transmission confirmation when sent via telecopy or facsimile transmission; (iv) three (3) calendar days after the sender posts notice with the U.S. Post Office when sent by certified or registered mail, return receipt requested; or (v) when delivery is refused. Notice shall be sent to the addresses set forth below, or to such other address as either Party may specify in writing.

To the Developer: MG Development South LLC
318 W. Adams, Suite 1401
Chicago, IL 60606
Attention: Joseph E. Miles
Facsimile: 312-768-6613

With a copy to: Planera Bresnahan Del Rio, Ltd.
4440 Lincoln Highway, Suite 301
Matteson, IL 60443
Attention: Thomas Planera II
Facsimile: 708-283-8857

To the City: Mayor Eric Kelloff
City of Harvey
15320 Broadway
Harvey, IL 60426-3305
Facsimile: 708-210-5366

With a copy to: Bettie Lewis, Esq.
City of Harvey
15320 Broadway
Harvey, IL 60426-3305
Facsimile: 708-210-5366

7. **Waiver and Delay.** Except as herein expressly provided, no waiver by a Party of any breach of this Agreement by the other Party shall be deemed to be a waiver of any other breach by such other Party (whether preceding or succeeding and whether or not of the same or similar nature), and no acceptance of payment or performance by a Party after any breach by the

other Party shall be deemed to be a waiver of any breach of this Agreement or of any representation or warranty hereunder by such other Party whether or not the first Party knows of such breach at the time it accepts such payment or performance. No failure or delay by a Party to exercise any right it may have by reason of a default by the other Party shall operate as a waiver of default or as a modification of this Agreement or shall prevent the exercise of any right by the first Party while the other Party continues to be in default.

8. **Approvals.** Except as otherwise expressly provided herein, any approval or consent to be given by a Party hereunder shall be given or withheld in the reasonable discretion of such Party. Unless otherwise set forth herein to the contrary, whenever any approval or consent of a Party is called for under this Agreement, the same shall not be unreasonably withheld, qualified or delayed.
9. **Severability.** The provisions of this Agreement shall be deemed to be severable. If any term, covenant or condition of this Agreement is held to be invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid or unenforceable provision had never been contained herein, and the remainder of this Agreement shall continue to be valid and enforceable to the fullest extent permitted by law. Notwithstanding the foregoing, if an invalid or unenforceable provision has the effect of relieving the City of any of its monetary obligations under this Agreement, then this Agreement shall terminate at the option of the Developer. The City agrees to defend any court action that may be brought attacking the City's power or authority to enter into this Agreement or perform any of its provisions, including any appeals therefrom, reasonably required by law.
10. **Amendments and Modification.** Except as otherwise provided for herein, this Agreement may not be amended, modified or terminated, nor may any obligation hereunder be waived orally, and no such amendment, modification, termination or waiver shall be effective for any purpose unless it is in writing and bears the signatures of all of the Parties hereto.
11. **Execution of Documents.** All documents to be delivered hereunder shall be fully executed prior to the presentation and delivery of each to ensure the enforceability and effectiveness of the same. The Parties agree to exchange all documents required for the Parties to effectively meet their obligations set forth herein.
12. **Computation of Days.** If the final day of any period or any date of performance under this Agreement falls on a Saturday, Sunday or legal holiday, then the final day of the period or the date of such performance shall be extended to the next business day. Unless otherwise specifically noted, the

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- term "Business Day" shall mean Monday through Friday exclusive of (state and federal) legal holidays.
13. **Effective Date.** The "Effective Date" of this Agreement shall be the later of the respective dates set forth next to the signatures of the Parties contained below.
14. **Counterparts and Facsimile Transmissions.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A signature affixed to this Agreement and transmitted by facsimile shall have the same effect as an original signature.
15. **Currency.** All sums set forth herein shall be paid in United States currency.
16. **Incorporation of Exhibits.** All exhibits and schedules attached hereto and/or referenced herein shall be incorporated herein by this reference.
17. **Representations.** No representation or warranty contained herein, and no statement or other information contained in any certificate or other instrument furnished or to be furnished to either Party hereunder or in connection with the transactions contemplated hereunder contains or at any closing date shall contain any untrue statement of a material fact nor shall it omit to state a material fact necessary to make the representation, warranty, statement or information not misleading.
18. **Additional Districts and Taxes.** Except as provided in this Agreement, no special service areas, business districts, redevelopment Plan areas or other similar areas or districts created by the City, whether acting alone or in cooperation with any other individual, party, governmental agency or unit of local government, and no additional costs, fees, or taxes levied, assessed or imposed pursuant thereto, shall be valid with respect to the Property, without the prior written consent of the owner(s) of the Property, or the portion thereof, to be included within such area or district.
19. **Recording.** This Agreement or a memorandum of this Agreement shall be recorded in the Office of the Cook County Recorder of Deeds.
20. **Prevailing Party.** In the event of a default and/or litigation arising out of the enforcement or construction of this Agreement, the Parties hereto acknowledge and agree that the prevailing Party shall be entitled to recover all costs, charges, expenses and reasonable attorneys' fees arising as a result thereof. Prevailing Party shall mean any defendant found not liable on any and all counts and/or any plaintiff recovering on any count.

21. **Best Interests; Cooperation.** It is understood and agreed that the successful consummation of this Agreement and the Redevelopment Plan proposed herein are in the best interests of the Parties and requires their continued cooperation. The Developer hereby evidences its intent to reasonably comply with all City requirements in effect on the Effective Date, its willingness to discuss any matters of mutual interest that may arise including, but not limited to, potential negotiations with any additional governmental entities and the Developer's willingness to assist the City, to the fullest extent possible, with all matters related to the redevelopment of the Property proposed herein. The City hereby evidences its intent to fully cooperate with the Developer and to cooperate, to the fullest extent possible, in the resolution of mutual problems and the City's willingness to facilitate the redevelopment of the Property as contemplated by the provisions of this Agreement and assist the Developer in carrying out the terms of this Agreement.

22. **Assignment.** The Developer shall be permitted to voluntarily sell, lease, assign, transfer, convey and/or otherwise dispose (collectively, the "Assignment") of this Agreement (in whole or in part) and its beneficial interest in this Agreement (in whole or in part), the Property or any portion thereof to another developer or developers, affiliate or affiliates of the Developer or any other third party or third parties without the City's prior written consent, but the Developer shall give notice to the City of the Assignment within ten (10) calendar days of the same. Upon the Assignment, all of the Developer's rights and obligations or the portions of the Developer's rights and obligations that were assigned under this Agreement, including the Developer's right to financial assistance if so assigned, shall transfer to the assignee. Any payments due by the Developer to the City at the date of the Assignment shall be paid by the Developer and any obligations under this Agreement in all other respects shall be performed by the Developer until the full acceptance of the Assignment. The Developer shall not be required to serve as guarantor of assignee's obligations under this Agreement.

23. **Term.** This Agreement shall remain in full force and effect from the Effective Date until the earlier of: (a) twenty-three (23) years from the date of adoption of the ordinance establishing the New Redevelopment Area or such later date as may be subsequently authorized by the TIF Act, unless extended or earlier terminated by the mutual consent of the Parties; (b) the Developer has been fully compensated as provided for herein; or (c) terminated by the Developer pursuant to the terms of this Agreement. The term may be extended by the Developer for so long as principal and interest remains outstanding on any Bonds including, without limitation, the TIF Bonds, Notes, any obligation the City may have issued to payoff or refund a previously issued Redevelopment Plan obligation or any obligation the City may have issued pursuant to the provisions of this Agreement.

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06/24/2010 18:44 FAX 703 283 8957

T. PLANERA & ASSOCIATES

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Notwithstanding the foregoing, the Developer's construction obligations hereunder shall terminate once the City issues certificates of completion for the Redevelopment Plan.

24. **Estoppel Certificates.** Within thirty (30) calendar days of a request by the Developer, the City agrees to provide to the Developer an estoppel certificate (the "Estoppel Certificate") certifying that this Agreement is in full force and effect (unless such is not the case, in which case the City shall specify the basis for such claim), that the Developer is not in default of any term, provision or condition of this Agreement beyond any applicable notice or cure provision (or specifying each such claimed default) and certifying such other matters reasonably requested by the Developer, provided that the reasonableness of such requests shall be subject to the approval of the City Attorney. If either Party fails to comply with this provision within the time limit specified, it shall be deemed to have appointed the other as its attorney-in-fact for the execution of the same on its behalf as to that specific request only.
25. **The Developer's Right to Terminate.** At the later of the following: prior to the commencement of Phase I(B) of the Redevelopment Plan or a period of one hundred eighty (180) calendar days after the Effective Date of this Agreement, the Developer shall have the right, in its sole and absolute discretion and for cause or no cause, to abandon the Redevelopment Plan and terminate this Agreement by giving written notice to the City. In the event this Agreement is terminated pursuant to the foregoing, the City shall reimburse the Developer for all expenditures made in connection with this Agreement. Upon termination of this Agreement, the Parties shall have no further rights or obligations hereunder, except those that expressly survive termination.
26. **Required Parties.** The City and the Developer may, by mutual consent, agree to amend the terms and conditions of this Agreement, which amendment must be in writing and signed by the Parties hereto. The grant of any land use relief shall not be revoked, amended or modified during the term of this Agreement without the consent of both the Developer and the City.
27. **Authority to Execute.** The Parties hereby acknowledge and agree that all required notices, meetings and hearings have been properly given and held by the City with respect to the approval of this Agreement and agree not to challenge this Agreement or any of the obligations created by it on the grounds of any procedural infirmity or any denial of any procedural right. The City hereby warrants and represents to the Developer that the person executing this Agreement on its behalf has been properly authorized to do so by the Corporate Authorities of the City. The Developer hereby warrants and represents that the Developer has the full and complete right, power and

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authority to enter into this Agreement and that the person executing this Agreement on its behalf has been properly authorized to do so by the Developer.

28. **Class 8 Classification**. The City shall support and consent to and take all necessary steps to evidence its support of the Developer's application for a Cook County Class 8 Real Estate Tax designation (as defined in the Cook County, Illinois Real Property Assessment Classification Ordinance, as amended (the "Assessment Ordinance")) for the Property. The Parties acknowledge and agree that the Corporate Authorities holding office as of the Effective Date cannot bind future boards and that no representations have been made by the City regarding the renewal of any previously granted Class 8 designation or renewals on any to be granted in the future. The Developer acknowledges that the designation is, in fact, granted by Cook County and the City cannot unilaterally grant or deny the proposed Class 8 designation.

[SIGNATURE PAGE TO FOLLOW]

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IN WITNESS WHEREOF, THE PARTIES HERETO HAVE VOLUNTARILY SET THEIR HANDS AND SEALS ON THIS AGREEMENT, AND BY DOING SO HAVE ACKNOWLEDGED THAT THEY HAVE READ THE FOREGOING INSTRUMENT IN ITS ENTIRETY AND ACKNOWLEDGE THAT THE SAME IS A LEGALLY BINDING AGREEMENT, THAT THEY HAVE CONSCIOUSLY EXECUTED THE SAME AS THEIR OWN FREE AND VOLUNTARY ACT AND DO HEREBY SUBMIT TO AND ACKNOWLEDGE THE TERMS AND CONDITIONS HEREIN.

Date: _____

Developer: MG Development South LLC, an Illinois limited liability company

By: [Signature]

Name: JOSEPH E. MILES

Title: MANAGER

Date: _____

City: The City of Harvey, Illinois, an Illinois municipal corporation

By: [Signature]

Name: _____

Title: Mayor

ATTEST: CITY CLERK

By: [Signature]

Property of Cook County Clerk's Office

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06/24/2010 16:44 FAX 704 283 8957

T. PLANERA & ASSOCIATES

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LIST OF EXHIBITS

Exhibit	Legal description of the Dixie Property
Exhibit	General description and depiction of the Ancillary Property
Exhibit	The Real Estate Contract, which governs the terms under which the City will acquire and convey the Ancillary Property to the Developer
Exhibit	Right of First Refusal Contract, which governs the terms under which the City will acquire and give the Developer the right to purchase the City Property
Exhibit	Legal Description of the current Redevelopment Area
Exhibit	Depiction of the Master Development Area
Exhibit	Definition of "Hazardous Substances"
Exhibit	Environmental Remediation Action Plan
Exhibit	Definition of "Environmental Laws"
Exhibit	Demolition Order
Exhibit	Any agreement entered into between the Parties regarding floodplain mitigation
Exhibit	Form of the Note
Exhibit	Authorization to Release Sales Tax Information form
Exhibit	Intergovernmental Agreement entered into by and between the City and the South Suburban Mayors and Managers Association
Exhibit	Form of any additional agreements with other governmental units to effectuate the intent of this Agreement
Exhibit	Legislative enactments of the City authorizing and inducing the Developer to enter in this Agreement
Exhibit ___ & ___	The permitted, special, accessory and other uses allowed in Comprehensive Development Area Zoning Districts
Exhibit ___ & ___	The use restrictions and the density, height, architectural control, minimum lot area, front and rear yard depth and side yard width requirements set forth in Comprehensive Development Area Zoning Districts
Exhibit	Signage
Exhibit	Terms of the Master Development Ordinance

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Legal Description

LOT 12 IN ARTHUR T. MCINTOSH'S SUBDIVISION OF LOTS 4 AND 5 IN GEORGE WESELOH'S SUBDIVISION IN SECTION 18, TOWNSHIP 36 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

29-18-300-021-0000

PIN: - - - - -

15400 Dixie Highway, Harvey, Illinois 60426

Commonly Known As:

Property of Cook County Clerk's Office

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Legal Description

RECORDED OCTOBER 10, 2013
LOTS A, B & C OF THE RESUBDIVISION OF LOTS 1 TO 7, INCLUSIVE OF C.A. KING'S SUBDIVISION OF LOTS 25, 26 & 27 OF BLOCK 70 & LOT 28 OF BLOCK 70 OF HARVEY, A SUBDIVISION IN SECTION 17, TOWNSHIP 36 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, TOGETHER WITH

PIN: 28-17-211-018-0000

Commonly Known As: 175 E 154th St, Harvey, IL 60426

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Legal Description

LEGAL DESCRIPTION BELOW - COMBINED LEGAL DESCRIPTION FOR PIN 29-17-211-022-0000 AND 29-17-211-055-0000.

COMBINED LEGAL DESCRIPTION FOR PIN 29-17-211-022-0000 AND 29-17-211-055-0000 - LOTS 1, 2, 3, 4 AND 5 IN HARVEY, A SUBDIVISION OF THAT PART OF SECTION 17, TOWNSHIP 36 NORTH, RANGE 14, LYING WEST OF THE ILLINOIS CENTRAL RAILROAD, TOGETHER WITH BLOCKS 53, 54, 55 AND 62 TO 66, 68 TO 85 AND THAT PART OF BLOCK 67 LYING SOUTH OF THE C> RAILROAD, ALL OF SOUTH LAWN, A SUBDIVISION IN SECTIONS 17 AND 18, TOWNSHIP 36 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 29-17-211-022-0000 AND 29-17-211-055-0000

Commonly Known As: 15308 Broadway Ave, Harvey, IL 60426

Property of Cook County Clerk's Office

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Legal Description

THAT PART OF LOT 6 LYING WEST OF CENTERLINE OF DIXIE HIGHWAY IN THE SUBDIVISION OF THE NORTHWEST ¼ OF THE NORTHWEST ¼ OF SECTION 18, TOWNSHIP 36 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, A PLAT OF SUBDIVISION RECORDED APRIL 8, 1902. AS DOCUMENT 3227313 IN COOK COUNTY, ILLINOIS.

MOATDIE TITLE SERVICES

Pin: 29-18-106-002-0000

Commonly known as: 15240 Dixie Highway, Harvey, IL 60426

Property of Cook County Clerk's Office

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AFFIDAVIT FOR RECORDER'S LABELING OF SIGNATURES AS COPIES

REQUEST TO RECORD PHOTOCOPIED DOCUMENTS PURSUANT TO §55 ILCS 5/3-5013

I, Nick Scannicchio, being duly sworn, state that I have access to the copies of the attached
(print name above)

document(s), for which I am listing the type(s) of document(s) below:

City of Harvey - Resolution 2530

(print document types on the above line)

which were originally executed by the following parties whose names are listed below:

Eric J. Kellogg, mayor

(print name(s) of executor/grantor)

Nancy L Clark, City clerk

(print name(s) of executor/grantee)

for which my relationship to the document(s) is/are as follows: (example - Title Company, Agent, Attorney, etc.)

manager of MG Development South LLC
(print your relationship to the document(s) on the above line)

OATH REGARDING ORIGINAL

I state under oath that the original of this document is now LOST or NOT IN POSSESSION of the party seeking to now record the same. Furthermore, to the best of my knowledge, the original document was NOT INTENTIONALLY destroyed, or in any manner DISPOSED OF for the purpose of introducing this photo to be recorded in place of original version of this document. Finally, I, the Affiant, swear I have personal knowledge that the foregoing oath statement contained therein is both true and accurate.

Nick Scannicchio
Affiant's Signature Above

10/8/20

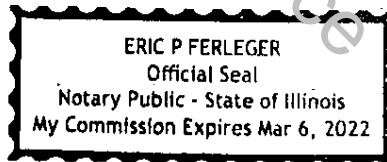
Date Affidavit Executed/Signed

THE BELOW SECTION IS TO BE COMPLETED BY THE NOTARY THIS AFFIDAVIT WAS SUBSCRIBED AND SWORN TO BEFORE

10/8/20

Date Document Subscribed & Sworn Before Me

[Signature]
Signature of Notary Public



SPECIAL NOTE: This is a courtesy form from the CCRD, and while a similar affidavit is necessary for photocopied documents, you may use your own document so long as it includes substantially the same information as included in the above document. Additionally, any customer seeking to record a facsimile or other photographic or photostatic copy of a signature of parties who had executed such a document has the option to include this Affidavit in the recording, at their own expense if such expense is incurred, as an "EXHIBIT" and NOT the coverpage. However, this affidavit is NOT required to be recorded, only presented to the CCRD as the necessary proof required before the recorder may record such a document. Finally, the recorded document WILL be stamped/labeled as a copy by the CCRD prior to its recording.