

5TH AMENDMENT TO REDEVELOPMENT AGREEMENT

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This 5th Amendment to Redevelopment Agreement ("5th Amendment") is made and entered into as of this 25th day of March, 1993, by and among the Village of Crestwood, Illinois, an Illinois municipal corporation ("Village"), The American National Bank and Trust Company of Chicago, not personally, but solely as Trustee under Trust Agreement dated July 15, 1989 and known as Trust No. 108951-00 ("Trust" or "Trustee"), and Opus North Corporation, an Illinois corporation ("Opus").

RECITALS

A. The Village, pursuant to Ordinance No. 1094 (1988), implemented tax increment allocation financing pursuant to the Tax Increment Allocation Redevelopment Act, Sections 11-74.4-1 et. seq. of Chapter 24 Ill. Rev. Stat. as amended ("Act"), in connection with the redevelopment project ("Redevelopment Project") within the redevelopment project area ("Redevelopment Project Area") designated by Ordinance No. 1093 (1988) of the Village, all established in accordance with the conditions and requirements set forth in the Act.

B. Pursuant to Ordinance No. 1095 (1988), the Village issued \$19,250,000 aggregate principal amount of its Crestwood Tax Increment Revenue Bonds, Series 1988 ("Bonds").

C. The Village entered into a Redevelopment Agreement ("Agreement") dated December 15, 1988, by and between the Village and First National Realty & Development Company ("Developer") pursuant to which the Developer would build or cause to be built a retail shopping center ("Retail Center") within the Redevelopment Project Area as part of the Redevelopment Project of which the real estate described on Exhibit A attached hereto and made a part hereof forms a part. The Trust is the successor of the Developer in respect to title ownership of portions of the Redevelopment Project Area.

D. The Village authorized certain amendments to the Agreement pursuant to Ordinance No. 1218 (1990) ("Amendment No. 1"), Ordinance No. 1253 (1991) ("Amendment No. 2"), Ordinance No. 1315 (1993) and Ordinance No. 1321 (1993). All of the foregoing amendments are deemed a part of the Agreement.

E. In the Agreement, the Developer covenanted not to contest the assessed valuation of the property underlying the Retail Center within the Redevelopment Project Area, except to the extent permitted by the Agreement. The Developer's covenant not to contest taxes was recorded with the Cook County Recorder of Deeds and became a covenant running with the land, binding against successors.

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F. Opus is or will become a title holder of another portion of the Retail Center.

G. The Village, Trustee and Opus have agreed to further amend the Agreement by entering into this 5th Amendment which has been submitted to the appropriate authorities of the Village for consideration and review and the Village authorities have taken all actions required to be taken prior to the execution of this 5th Amendment in order to make the same effective.

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

## ARTICLE I

### RECITALS

The recitations set forth in the foregoing recitals are material to this 5th Amendment and are hereby incorporated into and made a part of this 5th Amendment as though they were fully set forth in this Article I and constitute undertakings of the parties hereto according to the tenor and import thereof.

## ARTICLE II

### MUTUAL ASSISTANCE

The parties agree to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications (and, in the Village's case, the adoption of such ordinances and resolutions), supplemental hereto, as may be necessary or appropriate to carry out the terms, provisions and intent of this 5th Amendment and to aid and assist each other in carrying out said terms, provisions and intent.

## ARTICLE III

### REDEVELOPMENT AGREEMENT

The parties hereto agree that the provisions of the Agreement shall remain in full force and effect except as specifically heretofore amended and as amended herein. Any obligation or right provided for in the Agreement which is not specifically modified by this 5th Amendment shall continue to be a binding right or obligation of the party charged. However, to the extent of any conflict between provisions of this 5th Amendment and the Agreement as previously modified, the provisions of this 5th Amendment shall be controlling. Unless the context requires otherwise, all terms defined in the Agreement shall have the identical meaning in this 5th Amendment.

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The paragraph numbers of this 5th Amendment are for convenience of the parties and are not intended to limit, vary, define or expand the terms and provisions contained in the Agreement unless specifically so stated in the text of this 5th Amendment. Notwithstanding anything contained in the Agreement to the contrary, the provisions of Amendment No. 1 and Amendment No. 2 do not affect or encumber the Opus Tract (as hereafter defined) or Lot 8 in Rivercrest of Crestwood Subdivision nor do said Amendments No. 1 and 2 impose any obligation on the owners or occupants from time to time of the Opus Tract or said Lot 8.

**ARTICLE IV**

**CONSTRUCTION OF THE OPUS STORES**

Opus has entered into the (i) Crestwood Purchase Agreement - Lot 23 with the Village and (ii) Real Estate Purchase Agreement - Lot 5 pursuant to the respective terms of which Opus will acquire Lot 23 and purchase Lot 5 (respectively, "Lot 23," and "Lot 5" and collectively, "Opus Tract") in the Rivercrest of Crestwood Subdivision within the Redevelopment Project Area. Opus is about to commence construction of buildings on the Opus Tract containing approximately 175,000 square feet of retail space.

**ARTICLE V**

**COVENANTS NOT TO CONTEST**

5.1 AGREEMENT NOT TO CONTEST. The parties acknowledge that certain assumptions have been made relative to the future assessed valuation of the land underlying the Retail Center and that said assumptions were based on the specific retail use to be built as part of the Retail Center. In order to insure the equitable enforcement of the covenants not to contest taxes contained in the Agreement, Trustee and Opus agree that the projected assessed value for the Opus Tract shall be those equalized assessed values contained in Exhibit B to this 5th Amendment, and any previous covenants regarding projected assessed values for the Opus Tract are hereby repealed. Neither the Trustee nor Opus nor their respective agents, representatives, successors, assigns or transferees shall initiate, take or perform any acts attempting to reduce the assessed valuation of the Opus Tract below what has been projected in any year to be the future assessed valuation of the Opus Tract as described in Exhibit B attached hereto for so long as the Bonds are outstanding. The parties agree that the restriction contained herein is a covenant running with the land and may be recorded by the Village with the Cook County Recorder of Deeds. Notwithstanding anything to the contrary contained in the Agreement or in this 5th Amendment, Opus, its successors and assigns, shall have the right to contest real estate taxes for

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the Opus Tract so long as such contest would not reduce real estate taxes below \$3.50 per square foot of floor area in buildings located on the Opus Tract per year; provided, however, that the Cook County proposed assessed valuation for the Opus Tract for 1992 of \$450,889 will not be appealed; provided, further, however, that if no buildings are constructed on the Opus Tract on or before December 31, 1993, then with respect to real estate taxes assessed for 1994 through the calendar year during which the construction of buildings on the Opus Tract is completed, Opus, its successors and assigns, shall have the right to contest real estate taxes for the Opus Tract so long as such contest would not reduce real estate taxes for the Opus Tract below \$16,000.

5.2 AMENDMENT TO REMAINING COVENANT. The parties hereto acknowledge that Exhibit D of the Agreement contained projected assessed valuations for the entire Redevelopment Project Area; and that since the projected assessed values for the Opus Tract have been extrapolated and specifically assigned to the portions of the Opus Tract, Exhibit D of the Agreement is hereby repealed in respect to the Opus Tract and in lieu thereof, Exhibits B and C attached hereto are hereby inserted in respect to and only in respect to the Opus Tract. Neither the Trustee nor Opus nor their respective agents, representatives, successors, assigns or transferees shall initiate, take or perform any acts attempting to reduce the values for the Opus Tract contained in the Exhibits attached hereto. The parties agree that the restriction contained herein is a covenant running with the land and may be recorded by the Village with the Cook County Recorder of Deeds.

ARTICLE VI

MISCELLANEOUS

6.1 Counterparts. This 5th Amendment may be executed in several counterparts, each of which shall be deemed an original. The signatures to this 5th Amendment may be executed and notarized on separate pages and when attached to this 5th Amendment shall constitute one complete document.

6.2 Trustee's Exculpation. This 5th Amendment is executed by The American National Bank and Trust Company of Chicago, not personally, but as Trustee under Trust No. 108951-00, in the exercise of the power and authority conferred upon and vested in it as such Trustee (and said Trustee hereby warrants that it possesses full power and authority to execute this 5th Amendment). It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, covenants, undertakings and agreements herein made on the part of the Trustee while in form purporting to be the representations, covenants, undertakings and agreements of said Trustee are

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nevertheless made and intended not as personal representations, covenants, undertakings and agreements by the Trustee or for the purpose or with the intention of binding the Trustee personally, but are made and intended for the purpose of binding only the trust property and this 5th Amendment is executed and delivered by said Trustee not in its own right, but solely in the exercise of the power conferred upon it as said Trustee; and that no personal liability or personal responsibilities assumed by or shall at any time be asserted or enforceable against said Trustee on account of this 5th Amendment or on account of any representations, covenants, undertakings or agreements of said Trustee in this 5th Amendment contained either expressed or implied, all such personal liability, if any, being expressly waived and released.

IN WITNESS WHEREOF, the Village has caused this 5th Amendment to the Agreement to be duly executed in its name and on behalf of its Mayor and its seal to be hereunto duly affixed and attested by the Village Clerk, and the Developer, Trustee and Opus have signed and sealed the same on and as of the day and year first above written.

VILLAGE OF CRESTWOOD

OPUS NORTH CORPORATION

By:

Chester Stranysz  
Its Mayor

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

ATTEST:

Nancy C. Benedetto  
Village Clerk

THE AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally, but solely as Trustee aforesaid

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

ATTEST: \_\_\_\_\_

This document was prepared by and after recording return to:

Frederic G. Hogan  
O'Brien, O'Rourke, Hogan & McNulty  
135 South LaSalle Street  
Suite 830  
Chicago, Illinois 60603

PIN: 24-33-404-001;  
24-33-202-008;  
24-33-403-039;  
24-33-403-017;  
24-33-403-008;  
24-33-403-003  
~~24-33-408-006~~

Redevelopment Project Area:  
13200 S. Cicero, Crestwood, IL

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nevertheless made and intended not as personal representations, covenants, undertakings and agreements by the Trustee or for the purpose or with the intention of binding the Trustee personally, but are made and intended for the purpose of binding only the trust property and this 5th Amendment is executed and delivered by said Trustee not in its own right, but solely in the exercise of the power conferred upon it as said Trustee; and that no personal liability or personal responsibilities assumed by or shall at any time be asserted or enforceable against said Trustee on account of this 5th Amendment or on account of any representations, covenants, undertakings or agreements of said Trustee in this 5th Amendment contained either expressed or implied, all such personal liability, if any, being expressly waived and released.

IN WITNESS WHEREOF, the Village has caused this 5th Amendment to the Agreement to be duly executed in its name and on behalf of its Mayor and its seal to be hereunto duly affixed and attested by the Village Clerk, and the Developer, Trustee and Opus have signed and sealed the same on and as of the day and year first above written.

VILLAGE OF CRESTWOOD

OPUS NORTH CORPORATION

By: \_\_\_\_\_  
Its Mayor

By: James S. Neumann  
CEO

ATTEST: \_\_\_\_\_  
Village Clerk

THE AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally, but solely as Trustee aforesaid

By: [Signature]  
Anita H. Larkin  
CHIEF OF STAFF  
ATTEST: \_\_\_\_\_  
ASSISTANT SECRETARY

This document was prepared by and after recording return to:

Frederic G. Hogan  
O'Brien, O'Rourke, Hogan & McNulty  
135 South LaSalle Street  
Suite 830  
Chicago, Illinois 60603

PIN: 24-33-404-001;  
24-33-202-008;  
24-33-403-039;  
24-33-403-017;  
24-33-403-008;  
24-33-403-003

Redevelopment Project Area:  
13200 S. Cicero, Crestwood, IL

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STATE OF ILLINOIS )  
 ) SS.  
COOK COUNTY )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that CHESTER STRANCZEK, and NANCY C. BENEDETTO, Mayor and Village Clerk of the Village of Crestwood, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Mayor and Clerk, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary acts and as the free and voluntary act of said Village, for the uses and purposes set forth therein.

Witness my hand and Notarial Seal this 24<sup>th</sup> day of MARCH, 1993.

Rita A. Marker  
Notary Public

My Commission Expires: \_\_\_\_\_



STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that \_\_\_\_\_ personally known to me to be the Vice President of the American National Bank and Trust Company of Chicago and \_\_\_\_\_ personally known to me to be the Assistant Secretary of the Bank, personally known to me to be the same persons whose namers are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Vice President and Assistant Secretary of the Bank, they signed and delivered said instrument, and caused the corporate seal of the Bank to be affixed thereto, pursuant to authority given by the Board of Directors of the Bank as their free and voluntary act, and as the free and voluntary act of the Bank, as Trustee, for the uses and purposes therein set forth.

Witness my hand and Notarial Seal this \_\_\_ day of \_\_\_\_\_, 1993

\_\_\_\_\_  
Notary Public

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STATE OF ILLINOIS )  
 ) SS.  
COOK COUNTY )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that \_\_\_\_\_, and \_\_\_\_\_, Mayor and Village Clerk of the Village of Crestwood, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Mayor and Clerk, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary acts and as the free and voluntary act of said Village, for the uses and purposes set forth therein.

Witness my hand and Notarial Seal this \_\_\_\_ day of \_\_\_\_\_, 1993.

\_\_\_\_\_  
Notary Public

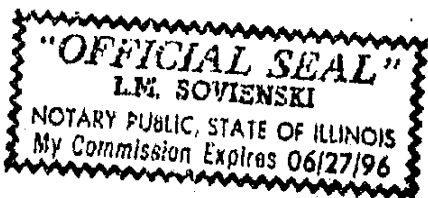
My Commission Expires: \_\_\_\_\_

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Anita M. Lutkus personally known to me to be the **TRUST OFFICER** President of the American National Bank and Trust Company of Chicago and Gregory S. Kaspryk personally known to me to be the Assistant Secretary of the Bank, personally known to me to be the same persons whose namers are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such **TRUST OFFICERS** Vice President and Assistant Secretary of the Bank, they signed and delivered said instrument, and caused the corporate seal of the Bank to be affixed thereto, pursuant to authority given by the Board of Directors of the Bank as their free and voluntary act, and as the free and voluntary act of the Bank, as Trustee, for the uses and purposes therein set forth.

Witness my hand and Notarial Seal this \_\_\_\_ day of \_\_\_\_\_, 1993

MAR 25 1993



L.M. Sovienski  
Notary Public

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## EXHIBIT A

### LEGAL DESCRIPTION

LOTS 5, 8 and 33 OF RIVERCREST OF CRESTWOOD SUBDIVISION, ACCORDING TO THE PLAT OF SURVEY FILED AS DOCUMENT NUMBER 31661848 IN THE OFFICE OF THE RECORDER OF DEEDS OF COOK COUNTY, ILLINOIS, ON DECEMBER 17, 1991, ALL BEING A PART OF SECTION 33, TOWNSHIP 37 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

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## EXHIBIT B

### PROJECTED ASSESSED VALUATION FOR THE OPUS TRACT OF THE RIVERCREST OF CRESTWOOD SUBDIVISION

<u>YEAR</u>	<u>EQUALIZED ASSESSED VALUATION</u>
1992	\$ 7,866,173
1993	\$ 8,459,070
1994	\$ 8,459,070
1995	\$ 9,520,758
1996	\$ 9,520,758
1997	\$ 9,520,758
1998	\$ 9,520,758
1999	\$ 10,715,697
2000	\$ 10,715,697
2001	\$ 10,715,697
2002	\$ 10,715,697
2003	\$ 12,060,611
2004	\$ 12,060,611
2005	\$ 12,060,611
2006	\$ 12,060,611
2007	\$ 12,060,611
2008	\$ 12,060,611

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## EXHIBIT C

### PROJECTED ASSESSED VALUATION FOR THE REDEVELOPMENT PROJECT AREA EXCLUSIVE OF LOT 8 AND THE OPUS TRACT OF THE RIVERCREST OF CRESTWOOD SUBDIVISION

#### YEAR

#### EQUALIZED ASSESSED VALUATION

1992	\$ 12,319,787
1993	\$ 13,248,366
1994	\$ 13,248,366
1995	\$ 14,911,153
1996	\$ 14,911,153
1997	\$ 14,911,153
1998	\$ 14,911,153
1999	\$ 16,782,634
2000	\$ 16,782,634
2001	\$ 16,782,634
2002	\$ 16,782,634
2003	\$ 18,889,002
2004	\$ 18,889,002
2005	\$ 18,889,002
2006	\$ 18,889,002
2007	\$ 18,889,002
2008	\$ 18,889,002

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## JOINDER

The undersigned, as successors in interest to the property subject to that certain Crestwood Redevelopment Agreement referred to in the foregoing Fifth Amendment to Redevelopment Agreement ("Fifth Amendment"), hereby join in the execution of the Fifth Amendment solely for the purpose of consenting to the amendments to the Agreement contained in Article V of the foregoing Fifth Amendment. Nothing in this Joinder shall be deemed to constitute an assumption by any of the undersigned of any of the obligations or liabilities of the Developer under the Agreement, nor to constitute an acknowledgement or agreement on the part of any of the undersigned that any of the provisions of the Agreement are binding upon the undersigned as successor owners of portions of the Redevelopment Project Area (as defined in the Agreement), except as expressly provided by the Agreement and as required by law.

This Joinder is executed by American National Bank and Trust Company of Chicago, not personally but solely as Trustee under Trust No. 108929-09, Trust No. 108950-01, and Trust No. 115845-05, in the exercise of the power and authority conferred upon and vested in it as such Trustee. It is expressly understood and agreed that all of the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the Trustee are undertaken by it solely in the capacity as Trustee and not personally. No personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Trustee on account of any warranty, indemnity, representation, covenant, undertaking or agreement of the Trustee herein contained.


Dated as of the 25<sup>th</sup> day of March, 1995.

AMERICAN NATIONAL BANK AND TRUST  
COMPANY OF CHICAGO, not personally,  
but solely as Trustee under Trust  
No. 108929-09

By:

Name:

Title:

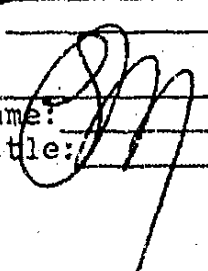
  
JUDITH E. CRAVEN

TRUST OFFICER

Attest:

Name:

Title:

  
GREGORY E. KARP

ASSISTANT SECRETARY

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AMERICAN NATIONAL BANK AND TRUST  
COMPANY OF CHICAGO, not personally,  
but solely as Trustee under Trust  
No. 108950-01

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Attest: \_\_\_\_\_  
Name: **Gregory S. Kasprzyk**  
Title: **ASSISTANT SECRETARY**

AMERICAN NATIONAL BANK AND TRUST  
COMPANY OF CHICAGO, not personally,  
but solely as Trustee under Trust  
No. 115845-05

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Attest: \_\_\_\_\_  
Name: **Gregory S. Kasprzyk**  
Title: **ASSISTANT SECRETARY**

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STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, MICHELLE M. TRIGO, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that J. MICHAEL WIGGLAN, personally known to me to be the VICE President of American National Bank and Trust Company of Chicago, and Gregory S. Kasprzyk, personally known to me to be the Assistant Secretary of said Bank, whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they signed and delivered the said instrument as their free and voluntary act and as the free and voluntary act and deed of said Bank, as Trustee under Trust No. 108929-09 and not personally, for the uses and purposes therein set forth. 108950-01 and 115745-05

MAR 25 1993

Given under my hand and notarial seal this \_\_\_ day of \_\_\_\_\_, 1993.

Michelle M. Trigo  
Notary Public

My Commission expires: \_\_\_\_\_



~~STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )~~

~~I, \_\_\_\_\_, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that \_\_\_\_\_, personally known to me to be the \_\_\_\_\_ President of American National Bank and Trust Company of Chicago, and \_\_\_\_\_, personally known to me to be the \_\_\_\_\_ Secretary of said Bank, whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they signed and delivered the said instrument as their free and voluntary act and as the free and voluntary act and deed of said Bank, as Trustee under Trust No. 108950-01 and not personally, for the uses and purposes therein set forth.~~

~~Given under my hand and notarial seal this \_\_\_ day of \_\_\_\_\_, 1993.~~

~~\_\_\_\_\_  
Notary Public~~

~~My Commission expires: \_\_\_\_\_~~

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