

UNOFFICIAL COPY

STATE OF ILLINOIS)
)SS
COUNTY OF COOK)

97577624

CLERK'S CERTIFICATE

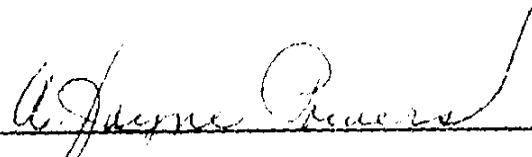
I, A. Jayne Powers, Clerk of the Village of Oak Lawn, in the County of Cook and State of Illinois, do hereby certify that attached hereto is a true and correct copy of A REDEVELOPMENT AGREEMENT FOR THE HARRIS BANK/GENERAL RETAIL DEVELOPMENT COMPRISING A PART OF THE TRIANGLE T.I.F. DISTRICT OF THE VILLAGE OF OAK LAWN, COOK COUNTY, ILLINOIS ADOPTED BY THE VILLAGE BOARD ON FEBRUARY 25, 1997 BY THE FOLLOWING VOTE:

AYES: JOY, KEANE, STANCIK, WALSH

NAYS: STREIT

ABSENT: HOLESHA

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Village of Oak Lawn this 6th day of August, 1997.



VILLAGE CLERK, VILLAGE OF OAK LAWN

MAIL TO
RECORDER'S BOX 324
(en)

4/6/97

1/15/97

97577624

UNOFFICIAL COPY

**REDEVELOPMENT AGREEMENT FOR THE
HARRIS BANK/GENERAL RETAIL DEVELOPMENT
COMPRISING A PART OF THE TRIANGLE T.I.F. DISTRICT
OF THE
VILLAGE OF OAK LAWN, COOK COUNTY, ILLINOIS**

THIS AGREEMENT is between the VILLAGE OF OAK LAWN, Cook County, Illinois, a municipal corporation (hereinafter referred to as the "Village") and HARRIS BANK ARGO, an Illinois banking corporation (hereinafter referred to as "Harris"), dated this 25th day of February, 1997.

W I T N E S S E T H:

IN CONSIDERATION of the Preliminary Statements, the mutual covenants herein contained, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

I. PRELIMINARY STATEMENTS

Among the matters of mutual inducement which have resulted in this Agreement are the following:

- A. The Village is a home rule municipality pursuant to Section 6(a) of Article VII of the Constitution of the State of Illinois and is authorized to exercise and perform any function pertaining to its government and affairs.
- B. The State of Illinois has adopted tax increment financing pursuant to the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq., as from time to time amended (hereinafter referred to as "Act").
- C. Pursuant to its home rule powers and in accordance with the requirements of the Act, on October 10, 1995, the corporate authorities of the Village adopted an "Ordinance Approving the Village of Oak Lawn Triangle Tax Increment Redevelopment Area Redevelopment Plan and Project," which sets forth a plan (the "TIF Plan") for the redevelopment and revitalization of property legally

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

described on Exhibit 1, being located within the corporate boundaries of the Village, which property is currently zoned commercial (the "Redevelopment Project Area").

- D. Pursuant to its home rule powers and in accordance with the Act, on October 10, 1995, the corporate authorities of the Village adopted an "Ordinance Designating the Village of Oak Lawn Triangle Tax Increment Redevelopment Project Area," by which the property legally described on Exhibit 1 was designated as the Redevelopment Project Area.
- E. Pursuant to its home rule powers and in accordance with the Act, on October 10, 1995, the corporate authorities of the Village adopted "An Ordinance Adopting Tax Increment Financing for the Village of Oak Lawn," by which tax increment financing was adopted pursuant to the Act for the TIF Plan for the Redevelopment Project Area.
- F. Harris desires to acquire ownership or control of the entire Redevelopment Project Area, exclusive of any right-of-way areas that are not vacated by the Village, and intends to develop a two story banking facility with approximately five (5) drive-through lanes and automatic teller machines (the "Bank Facility") on a lot consisting of approximately 31,854 square feet at the west end of the Redevelopment Project Area (the "Bank Parcel"), as shown on the Site Plan attached hereto as Exhibit 2, and made a part hereof, and Harris intends to assign to Mill Creek Development, Inc. ("Mill Creek"), or to another entity approved by the Village (Mill Creek or such other entity being hereafter referred to as the "Retail Developer"), the rights under this Agreement to develop approximately 11,500 square feet of additional grade level retail space on a lot (the "Retail Parcel") consisting of approximately 49,633.9 square feet of the Redevelopment Project Area as shown on Exhibit 2 and to sell and convey, or cause to be conveyed, the Retail Parcel to the Retail Developer. Harris has submitted to the Village information and projections with regard to such development, all as set forth on Exhibit 3 attached hereto and made a part hereof (the "Project"). Until such time as Harris assigns such rights to the Retail Developer and the Retail Developer assumes all of the obligations of the Retail Developer, subject to and in accordance with the terms and provisions of this Agreement, Harris will be deemed the Retail Developer for purposes of this Agreement. Harris shall be released from all of its obligations as the Retail

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Developer at such time as the assignee Retail Developer has, by written document filed with the Village, agreed to accept and be bound by such obligations.

G. The Village is desirous of having the Redevelopment Project Area rehabilitated, developed and redeveloped in accordance with the TIF Plan, and particularly the Project as a part thereof, in order to serve the needs of the Village, arrest physical decay and decline in the Redevelopment Project Area, increase employment opportunities, stimulate commercial growth and stabilize the tax base of the Village and in furtherance thereof, the Village is willing to undertake certain incentives, under the terms and conditions hereinafter set forth, to assist such development.

H. On the date of this Agreement, Harris has entered into a Sale Agreement, a copy of which is attached hereto as Exhibit 4, to sell the Retail Parcel to Mill Creek. Pursuant to such Sale Agreement, Harris has assigned all rights of the Retail Developer to Mill Creek, and Mill Creek has assumed all of the obligations of the Retail Developer, subject to and in accordance with the terms and provisions of this Agreement. Mill Creek has, by written document, a copy of which is attached hereto as Exhibit 5 and filed with the Village, agreed to accept and be bound by such obligations.

II. CONDITIONS PRECEDENT TO THE UNDERTAKINGS ON THE PART OF HARRIS, THE RETAIL DEVELOPER AND THE VILLAGE

- A. The VILLAGE shall have obtained marketable fee simple title to all of the Redevelopment Project Area and all necessary easements.
- B. Harris shall promptly order an updated ALTA/ACSM 1992 topographical survey of the Redevelopment Project Area, describing each of the Bank Parcel and Retail Parcel, made in compliance with ALTA and Land Survey Standards in the jurisdiction where the Redevelopment Project Area is located, prepared by the same surveyor who prepared the most recent survey obtained by the Village and dated subsequent to the date of this Agreement, certified in favor of the Village, Harris, the Retail Developer and the title insurer, depicting the land, improvements, manholes, structures and utility lines in, over, under or upon the land, the locations of all easements upon the land or appurtenant thereto (identified by the Recorder's Document Number) and showing encroachments, if any, from or upon adjoining property or upon any easements located on the land, certifying the number of

UNOFFICIAL COPY

square feet (or the number of acres to not less than two decimal points) of each of such parcels, and further certifying that the land is not located within a federal flood plain (the "Survey"). The Village shall reimburse Harris for the cost of said updated Survey at the closing referred to in Section III.F. below.

- C. Within ninety (90) days after the date of this Agreement, Harris and the Retail Developer shall have each satisfied themselves that their respective portions of the Property are not located within a federal flood plain and that the soil, underground and environmental conditions of the Property shall be suitable for their respective intended developments.
- D. Within ninety (90) days after the date of this Agreement, Harris shall have obtained approval of the acquisition of the Bank Parcel by its corporate authority and its holding company's corporate authority
- E. Within ninety (90) days after the date of this Agreement, Harris shall have obtained such banking regulatory approvals as may be necessary to establish and operate its proposed banking facilities, including drive-through facilities and automatic teller machines, on the Bank Parcel.
- F. Within ninety (90) days after the date of this Agreement, Harris and the Retail Developer shall have each obtained approval of the final development plan for their respective portions of the Project, including the approval of a subdivision of the Redevelopment Project Area into separate lots, i.e. the Bank Parcel and Retail Parcel in accordance with the rules, regulations and ordinances of the Village, and in accordance with the second sentence of this subsection F, it being understood that the Village in its capacity as a municipal corporation has sole discretion to approve all plans for development within the Village and the Village shall not be deemed to have caused a default hereunder or hold any liability for its failure to approve the final development plan for the Project. In the event that, based on the nature of the final development plans that are submitted by Harris and the Retail Developer for their respective portions of the Project, the rules, regulations and ordinances of the Village do not require final development plan approval for the Project from the President and Board of Trustees of the Village, said final development plan for the Project shall still be subject to the review of, and final approval by, the President and Board of Trustees of the Village.

97577624

UNOFFICIAL COPY

- G. Harris and the Retail Developer shall have each delivered to the Village an itemized list of any and all costs to complete their respective portions of the Project (the "Project Budget"), in accordance with the final development plan approved by the Village, certified to the Village, including the source of payment for each and every item contained in said Project Budget.
- H. Harris and the Retail Developer shall have each provided evidence in a form reasonably satisfactory to the Village of their respective ability to pay for their respective costs of their respective portions of the Project as itemized in their respective Project Budgets.
- I. Harris and the Retail Developer shall have each delivered to the Village a construction schedule, including the projected date of actual occupancy and date of opening for their respective portions of the Project, subject only to delays caused by acts of God or "force majeure" the latter term being defined as causes which are outside the control of the parties and could not be avoided by exercise of due care.
- J. The Village will assist each of Harris and the Retail Developer in securing and obtaining, in an expeditious manner, all necessary governmental approvals, consents, permits, licenses, authorizations and easements reasonably necessary or required for their respective portions of the Project. However, Harris and the Retail Developer shall each remain primarily responsible for securing all of their respective permits.
- K. The Village shall issue, where appropriate and will reasonably assist each of Harris and the Retail Developer to obtain such building permits, driveway permits, curb cuts, licenses and other permits as each of them may require to cause the construction of their respective portions of the Project and other improvements as shown on the final site plan therefor approved by the Village, provided the Project and such improvements comply with the applicable ordinances of the Village and other governmental bodies having jurisdiction.
- L. The Village will assist each of Harris and the Retail Developer in obtaining all necessary driveway permits and curb cuts as may be required by each of them from any and all public agencies for their respective portions of the Project. Harris and the Retail

97577624

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Developer shall each be primarily responsible for obtaining their respective permits and curb cuts.

- M. The Retail Developer shall have submitted to the Village letters of intent and/or signed lease agreements relative to the tenants that will occupy the Retail Parcel.
- N. Harris shall have submitted to the Village the final site plan for the Bank Facility on the Bank Parcel, and the Retail Developer shall have submitted to the Village the final site plans for the retail development on the Retail Parcel, and the Village shall have approved such site plans.
- O. The Village shall be prepared to satisfy all of the conditions in Section III below and convey marketable fee simple title to the Bank Parcel and Retail Parcel as provided in Section III.F. below no later than June 30, 1997, subject to extension as provided in Section II.P. below.
- P. The conveyance of the Bank Parcel and Retail Parcel as provided in Section III.F. below shall not occur until after the Shell Oil Company has obtained approval from the Illinois Environmental Protection Agency of its clean-up plans for the Retail Parcel. If such condition is not satisfied by June 30, 1997, then such outside date for the conveyance of the Bank Parcel and Retail Parcel referred to in Section II.O. above shall be extended until such approval is obtained.
- Q. The Village, Harris and the Retail Developer shall each use reasonable efforts to timely satisfy the above conditions, but if such conditions are not so satisfied or waived by Harris and the Retail Developer, then the Village, Harris or the Retail Developer may terminate this Agreement by giving written notice thereof to the other parties. In the event of such termination, this Agreement shall be deemed null and void and of no force of effect and the Village, Harris and the Retail Developer shall not have any obligations or liability with respect thereto.

97577624

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

III. UNDERTAKINGS ON THE PART OF THE VILLAGE

Upon complete satisfaction of all conditions itemized in Section II above, the Village shall undertake the following:

- A. The Village will demolish all buildings and structures located within such parcels, and remove all improvements and debris from such parcels. The Village will also use reasonable efforts to remove the billboard sign located on the adjoining METRA right-of-way.
- B. The Village will vacate those portions of Yourell Drive and Tully Avenue which are located within the Redevelopment Project Area.
- C. The Village will cause all of the utility easements located in the Redevelopment Project Area and the facilities located within such easements to be relocated, placed underground and/or eliminated to facilitate Harris' and the Retail Developer's construction of their respective buildings and other improvements on their respective parcels in accordance with the Site Plan attached hereto as Exhibit 2.
- D. The Village agrees that Harris and the Retail Developer shall each have the right for their respective portions of the Project to connect for reasonable and customary tap-on fees all water lines, sanitary and storm sewer lines constructed on the Redevelopment Project Area to Village utility lines existing on the Redevelopment Project Area or near the perimeter of the Redevelopment Project Area, provided that Harris and the Retail Developer each comply with all requirements of general applicability promulgated by the Village for such connection.
- E. The Village will remediate, without cost, expense or liability to Harris or the Retail Developer (except as otherwise agreed to in writing between the Village and the Retail Developer), all existing environmental problems, if any, within such parcels and provide Harris and the Retail Developer with written confirmation of such remediation in a form reasonably acceptable to each of Harris and the Retail Developer for their respective portions of the Project. Except as hereafter provided in this paragraph all such remediation will be completed prior to the time that each parcel is conveyed to Harris or the Retail Developer. The Village shall complete the ground water remediation in the Retail Parcel after it is conveyed to the Retail Developer. It is anticipated

97577624

UNOFFICIAL COPY

that such ground water remediation will be completed in 4 to 6 years. The Village shall retain easements in the Retail Parcel to operate and maintain monitoring wells at the locations shown on Exhibit 2, or such other locations as may be required by any governmental agency having jurisdiction relative to the oversight of such remediation, until such time as the ground water remediation is complete. The Village agrees to indemnify, save harmless and defend Harris from and against any and all claims, suits, proceedings, liabilities, cost and expense, including but not limited to court costs and attorneys' fees, caused directly or indirectly or occasioned by the migration of ground water contamination on the Bank Parcel or on any other part of the Redevelopment Project Area which Harris may have a right to use for parking, driveways or utilities or the remediation of such ground water contamination.

- F. Notwithstanding the Village's acquisition costs or the fair market value of the property located within the Redevelopment Project Area, within thirty (30) days of the satisfaction of Harris' and the Retail Developer's waiver of the conditions precedent set forth in Section II above and the performance of the undertakings to be performed by the Village set forth at paragraphs A through E of this Section III, the Village shall convey marketable fee simple title to the Bank Parcel to Harris and the Retail Parcel to Harris or its designees for a purchase price of ONE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$1,500,000), pursuant to recordable Warranty Deeds, subject only to any appropriate prorations for real estate taxes not yet due or payable, based on the last ascertainable real estate tax bill(s), and to the title exceptions listed on Exhibit 6 attached hereto (the "Permitted Exceptions"), and shall cause the issuance of a title insurance policy or policies issued by a title insurance company licensed to do business in the State of Illinois (the "Title Company") showing marketable fee simple title to the Bank Parcel in Harris and the Retail Parcel in Harris or its designees, subject only to the Permitted Exceptions. The Village shall pay for the cost of such title insurance policy and the Survey at closing. Harris may, at its option, direct the Village to convey the Retail Parcel directly to the Retail Developer.
- G. The Village will comply with the disclosure requirements of the Illinois Responsible Property Transfer Act by (i) furnishing a certificate to Harris and the Retail Developer that such Act does not apply to the transactions contemplated by this Agreement, or (ii) if

97577624

UNOFFICIAL COPY

such Act does apply, the Village will execute and deliver to Harris and the Retail Developer such disclosure documents as may be required, and the Village will timely file copies of such disclosure documents with the appropriate governmental authorities.

IV. UNDERTAKINGS ON THE PART OF HARRIS AND THE RETAIL DEVELOPER

- A. Within 120 days of Harris' and the Retail Developer's acquisition of the Bank Parcel and Retail Parcel, respectively, and acquisition of all permits required for the development of such parcels, Harris and the Retail Developer shall each commence construction of their respective portions of the Project and shall cause construction of the same to be completed in substantial compliance with the final approved development plans as soon as possible, but in no event later than fifteen (15) months after such commencement, subject only to delays caused by acts of God or force majeure. If Harris or the Retail Developer fails to do so, the Village shall have the options to purchase from Harris if it is the defaulting party the Bank Parcel for a price of \$950,000 and/or from the Retail Developer if it is the defaulting party, the Retail Parcel for a price of \$550,000.
- B. Harris agrees to amend the site plan attached hereto as Exhibit 2, during the final plan submittal process, to add additional landscaping improvements at the Northwest corner of the Bank Parcel as approved by the Village.
- C. The final plans for the development of the Project shall include not less than eleven thousand five hundred (11,500) square feet of retail space, (exclusive of the Bank Facility) unless the Retail Developer requests and the Village, in its sole discretion, approves a different amount.

V. COVENANTS OF HARRIS AND THE RETAIL DEVELOPER REGARDING TAX INCREMENT FINANCING

- A. Harris and the Retail Developer each hereby covenant and agree that, with regard to the assessed value as proposed by the Assessor of Cook County, Illinois for its respective portion of the Project and located within the Redevelopment Project Area for the Triangle Tax Increment Financing District, during the life of the Triangle Tax Increment Financing District, it shall not, except as herein provided:

9757762A

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

1. Apply for, seek or authorize any special classification of its portion of such property or any exemption from the imposition or paying of any or all real property taxes extended for collection without first obtaining prior written approval of the VILLAGE.
 2. Directly or indirectly, seek to lower the assessed valuation of its portion of such property below the Minimum Assessed Valuation for the property as shown on Exhibit 7 attached hereto and made a part hereof, to the extent that the assessed valuation of the property for any year is determined by the Cook County Assessor to be greater than the Minimum Assessed Valuation shown for such year on such Exhibit.
- B. The foregoing covenants and agreements contained in this Section V shall be construed and interpreted as an express agreement between Harris and/or the Retail Developer, as the case may be, and the Village in that a major incentive inducing the VILLAGE to enter into this Agreement is to increase the assessed valuation of and the general real estate taxes payable with respect to the Project. This Agreement may be used by the Village, in the Village's discretion as an admission against Harris' interest and/or the Retail Developer's interest, as the case may be, in any proceeding.

VI. ADDITIONAL COVENANTS, UNDERTAKINGS AND AGREEMENTS OF THE PARTIES

- A. This Agreement incorporates all agreements and understandings of the parties hereto as of the date of its execution, concerning the Project. Each party acknowledges that no representations or warranties have been made which have not been set forth herein.
- B. Time is of the essence in the performance of this Agreement.
- C. For the purposes of any of the provisions of this Agreement, neither the Village, Harris, the Retail Developer nor any of their respective successors and assigns, as the case may be, shall be considered in breach of, or default in, its obligations under this Agreement in the event of any delay caused by acts of God, acts of public enemy, acts of Federal or state government, acts of the other party, fires, floods, epidemics, quarantine or restriction, strike, shortage

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

of materials, embargoes, and delays due to weather conditions or delays of construction contractors and subcontractors due to such causes; nor shall any of the Village, Harris, nor the Retail Developer be considered in breach of or default in its obligations under this Agreement in the event of any delay resulting from the conduct of any judicial, administrative or legislative proceedings, or caused by litigation or proceedings challenging the authority or right of the Village to act under the Tax Increment Plan, any of the ordinances referenced herein, or perform under this Agreement or challenging the authority of the Village to vacate any streets or alleys as herein provided. The Village shall diligently contest any such proceedings and any appeals therefrom. The Village may settle a contested proceeding at any point, so long as the settlement results in the Village's ability to perform pursuant to this Agreement and so long as any such settlement does not impose additional obligations on Harris or the Retail Developer or increase either of their respective obligations under this Agreement. It is the purpose and intent of this provision that in the event of the occurrence of any such delay, the time or times for performance of the obligations of the parties shall be extended for the period of the delay.

- D. Harris and the Retail Developer each recognize and agree that the Village has sole discretion with regard to all approvals and permits relating to the Project, including but not limited to approval of the final development plan, excavation permits, grading permits, building permits and occupancy permits, and failure on the part of the Village to grant or issue any required permit shall not be deemed as the cause of a default by Harris or the Retail Developer under this Agreement or give rise to any claim against or liability to the Village pursuant to this Agreement. The Village agrees, however, that such approvals and permits shall not be unreasonably withheld.
- E. The Village agrees to permit each of Harris and the Retail Developer to construct, install and maintain signs on their respective portions of the Redevelopment Project Area in accordance with the signage plans which are part of the final development plan for the Project to be approved by the Village, which approval shall not be unreasonably withheld. All signage will be in compliance with the applicable provisions of the Village Code.

97577624

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

F. The Village shall upon application by Harris or the Retail Developer, as the case may be, and in accordance with the terms of the Village's Zoning Ordinance grant any necessary variances or special use permits for signage, lighting and parking which are reasonable and customary and reasonably required to implement and complete their respective portions of the Project as shown on the final site plans approved by the Village. The final site plans shall be substantially the same as the preliminary site plan attached to this Agreement as Exhibit 2.

G. The Project shall be completed substantially in accordance with the final approved development plans and in accordance with all applicable ordinances, rules and regulations of the Village in existence as of the date of such approval.

H. All notices and requests, if any, required pursuant to this Agreement shall be sent by certified mail return receipt requested, or by personal service, addressed as follows:

If to Harris: Larry Kreczmer
President
Harris Bank Argo
7549 West 63rd Street
Summit, IL 60501

with copies to: Hettie B. Ensign
Vice President
Corporate Real Estate
Harris Trust and Savings Bank
200 W. Monroe St., Suite 1600
Chicago, IL 60603
and
Robert C. Bailey
Bailey, Borlack, Nadelhoffer &
Carroll
135 South LaSalle Street
Suite 2000
Chicago, Illinois 60603

If to the Village: Village Manager
Village of Oak Lawn
9446 South Raymond Avenue
Oak Lawn, Illinois 60453

UNOFFICIAL COPY

with copy to:

Thomas P. Bayer
Klein, Thorpe & Jenkins, Ltd.
180 North LaSalle Street
Suite 1600
Chicago, Illinois 60601

- I. This Agreement shall be construed and enforced in accordance with the laws of the State of Illinois.
- J. Any assignee by accepting an assignment of the rights hereunder with respect to the Retail Parcel shall be deemed the Retail Developer and shall be entitled to all rights under this Agreement with respect to the Retail Developer and Retail Parcel and be bound by all obligations hereunder with respect to the Retail Developer and Retail Parcel. Upon Harris or the Retail Developer filing a written document with the Village in which the Retail Developer agrees to accept and be bound by all of the obligations of the Retail Developer under this Agreement, Harris shall be released from any and all obligations and liability with respect to the Retail Developer and Retail Parcel from and including the date of such assignment.
- K. Harris shall not otherwise assign this Agreement to any person or entity without the prior written consent of the Village, which consent shall not be unreasonably withheld provided, however, at the time of such assignment, there is no default under this Agreement by Harris.
- L. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereof.
- M. No recourse under or upon any obligation, covenant, or agreement of this Agreement or for any claim based thereon or otherwise in respect thereof shall be had against the Village, its officers, agents and/or employees, in any amount or in excess of any specific sum, agreed by the Village to be paid to Harris or the Retail Developer hereunder, subject to the terms and conditions herein, and no liability, right or claim at law or in equity shall attach to or shall be incurred by the Village, its officers, agents and/or employees in excess of such amounts and all and any such rights or claims of Harris or the Retail Developer against the Village, its officers, agents and/or employees are hereby expressly waived and released as a condition of

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

and as consideration for the execution of this Agreement by the Village.

- N. Subject to the provisions of Section VI above, Harris and the Retail Developer each hereby covenant and agree to promptly pay or cause to be paid as the same become due, any and all taxes and governmental charges of any kind that may at any time be lawfully assessed against their respective portions of the Project.
- O. This Agreement shall be binding upon all the parties hereto and their respective grantees, heirs, successors, administrators, permitted assigns or other successors in interest. All of the terms and provisions of this Agreement shall survive the closing of the transactions contemplated herein.
- P. The parties shall record a certified (by the Village Clerk) copy of this Agreement in the office of the Recorder of Deeds of Cook County, Illinois and upon recordation hereof, the covenants and conditions of the parties hereto shall be binding upon their successors in title and shall be deemed covenants which shall run with the land until the termination of this Agreement.

VII. REPRESENTATIONS AND WARRANTIES OF HARRIS AND RETAIL DEVELOPER

- A. Harris hereby represents and warrants that it is an Illinois banking corporation in good standing with proper authority to execute this Agreement pursuant to its Articles of Incorporation, By-Laws and the laws of its State of incorporation. Mill Creek by its acceptance of an assignment of the rights of the Retail Developer under this Agreement hereby represents and warrants that it is an Illinois corporation in good standing with proper authority to accept an assignment of the rights, and assume the obligations of the Retail Developer under this Agreement pursuant to its Articles of Incorporation, By-Laws and the laws of its State of incorporation.
- B. Harris and Mill Creek by its acceptance of an assignment of the rights of the Retail Developer under this Agreement each hereby represent and warrant that their respective portions of the Project require economic assistance from the Village, including, but not necessarily limited to, an underwriting of the property acquisition and demolition costs associated with the Project, in order for Harris and the Retail Developer to complete their respective acquisition and construction

UNOFFICIAL COPY

in accordance with the approved final development plans and, but for the economic assistance to be given by the Village as herein stated, the Project as contemplated would not be economically viable nor eligible for the financing necessary for its completion.

- C. Harris and Mill Creek by its acceptance of an assignment of the rights of the Retail Developer under this Agreement each hereby represent and warrant that their respective portions of the Project shall be constructed and fully completed in a good and workmanlike manner in accordance with the approved final redevelopment plans and all plans and specifications pertaining thereto including any amendments, as approved by the Village.
- D. Harris and Mill Creek by its acceptance of an assignment of the rights of the Retail Developer under this Agreement each hereby represent and warrant that at all times it shall comply with respect to its portion of the Project with all applicable local zoning ordinances and regulations, the building code, fire code and all other applicable Village ordinances, resolutions and regulations in existence as of the date of approval of the Project.
- E. Harris and Mill Creek by its acceptance of an assignment of the rights of the Retail Developer under this Agreement each hereby represent and warrant that it shall comply with all applicable laws, rules and regulations of the State of Illinois and the United States and all agencies thereof, having jurisdiction over it or its portion of the Project.
- F. Harris and Mill Creek by its acceptance of an assignment of the rights of the Retail Developer under this Agreement each represent and warrant that it shall comply with all terms, provisions and conditions and shall not default or knowingly permit a default under any document or agreement relating to the Project or the financing of the Project to which it is a party, including but not limited to this Agreement, and all agreements and documentation in connection with any loan to it on the Project.
- G. Harris and Mill Creek by its acceptance of an assignment of the rights of the Retail Developer under this Agreement each hereby covenant and agree that, except as provided above, it will not, directly or indirectly, sell, transfer, assign or otherwise dispose of its portion of the Project (including the beneficial interest or power of direction over any land trust

UNOFFICIAL COPY

holding legal title thereto) without the prior written consent of the Village, which consent will not be unreasonably withheld. The Village will not withhold such consent if the proposed use by the purchaser, transferee or assignee would not lower the assessed valuation of its portion of such property below the Minimum Assessed Valuation for the property as shown on Exhibit 6 attached hereto.

VIII. REPRESENTATIONS AND WARRANTIES OF THE VILLAGE

The Village hereby represents and warrants to Harris and the Retail Developer that subject to its compliance with the Act, it has the power and authority to execute, deliver and perform the terms and obligations of this Agreement, including, without limitation, the right and power to vacate streets and alleys located within the Redevelopment Project Area and to acquire property located within the Redevelopment Project Area through eminent domain proceedings.

IX. DEFAULTS AND REMEDIES.

- A. In the event of any non-monetary default and/or breach of this Agreement or any terms or conditions by any party hereto or bound by this Agreement, such party shall upon written notice proceed promptly to cure or remedy such default or breach within sixty (60) days after receipt of such notice, provided, however, that in the event such default is incapable of being cured within said sixty (60) day period and the defaulting party commences to cure within said sixty (60) day period and proceeds to cure with due diligence, such party shall not be deemed to be in default under this Agreement. In case such action is not taken or not diligently pursued or the default or breach shall not be cured or remedied within the above time or in the event of a monetary default (time being of the essence with respect to the payment of any sums required hereunder), the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach including but not limited to proceedings to compel specific performance by the party in default or breach of its obligations, but not specific performance of any obligations to construct any buildings or other improvements. The rights of the parties to this Agreement whether provided by law or this Agreement shall be cumulative and the exercise by any party of any one or more of such remedies shall not

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

preclude the exercise by it of any one or more of such remedies at the same default or breach by any other party. 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 by the defaulting party under this Agreement or with respect to the particular default except to the extent specifically waived in writing. Notwithstanding anything contained herein to the contrary, all monetary damages resulting from a breach of this agreement shall be limited to the non-defaulting parties actual out of pocket costs and expenses resulting from such breach along with all costs and expenses, including reasonable attorneys fees, incurred by the non-defaulting party in enforcing this Agreement. In the event of any litigation between the parties hereto resulting from a breach of this Agreement, the prevailing party in such litigation, as determined by final judgement, shall be entitled to an award of its attorneys fees and costs incurred in such litigation.

- B. Notwithstanding anything to the contrary contained in this Agreement, Harris shall not, except as provided in the last two sentences of paragraph I.F. of this Agreement, have any liability or obligations of any kind whatsoever with respect to the Retail Parcel or the covenants, undertakings, agreements, warranties or representations of the Retail Developer, and the Retail Developer shall not have any liability or obligations of any kind whatsoever with respect to the Bank Parcel or the covenants, undertakings, agreements, warranties or representations of Harris. A default by the Retail Developer under this Agreement will not constitute a default by Harris under this Agreement or have any effect on any of the rights of Harris under this Agreement, and a default by Harris under this Agreement will not constitute a default by the Retail Developer under this Agreement or have any effect on any of the rights of the Retail Developer under this Agreement.

X. AGREEMENT TERM

The term of this Agreement shall commence as of the date of its execution after approval by the corporate authorities of the Village and expire at the termination

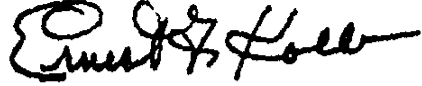
UNOFFICIAL COPY

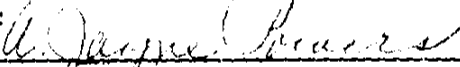
Property of Cook County Clerk's Office

UNOFFICIAL COPY

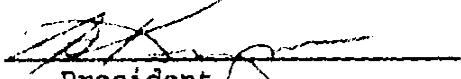
of the Triangle Tax Increment Financing District as required by the Act.

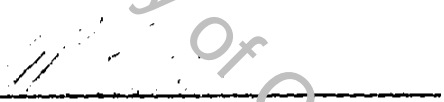
VILLAGE OF OAK LAWN,
a municipal corporation

By: 
Village President

ATTEST: 
Village Clerk

HARRIS BANK ARGO, an Illinois
banking corporation

By: 
President

ATTEST: 
Secretary

Property of Cook County Clerk's Office

97577624

UNOFFICIAL COPY

EXHIBIT 1

Legal Description of Redevelopment Project Area

LOTS 1, 2 AND 3 (EXCEPT THE NORTH 17 FEET THEREOF TAKEN FOR STREET WIDENING), LOTS 4 AND 5 (EXCEPT THE NORTH 16 FEET THEREOF TAKEN FOR STREET WIDENING), LOT 6, AND THE 20 FEET EAST/WEST VACATED ALLEY LYING SOUTH OF AN ADJACENT TO LOTS 2, 3, 4 AND 5 AND NORTH OF AN ADJACENT TO LOT 6; ALL IN BLOCK 9 IN OAK LAWN, LOCATED ON A PORTION OF THE EAST 1/2 OF THE SOUTHWEST 1/4 AND A PORTION OF THE NORTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 9, TOWNSHIP 37 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS;

AND

LOTS 39 THROUGH 44, INCLUSIVE, (EXCEPT THE NORTH 17 FEET THEREOF TAKEN FOR STREET WIDENING), AND THE 10 FOOT EAST/WEST VACATED ALLEY LYING SOUTHEASTERLY OF AND ADJACENT THERETO; ALL IN BLOCK 1 IN CAMPBELL'S FIRST ADDITION TO OAK LAWN, A SUBDIVISION OF THE EAST 378.18 FEET OF THE WEST 720.93 FEET OF THE NORTHEAST 1/4 OF SECTION 9, TOWNSHIP 37 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS;

AND

THE 66 FOOT WIDE WABASH AVENUE (YOURELL DRIVE) RIGHT-OF-WAY FROM THE EAST RIGHT-OF-WAY LINE OF 52ND AVENUE EAST TO THE WEST RIGHT-OF-WAY LINE OF TULLY AVENUE; AND THE 66 FOOT WIDE TULLY AVENUE RIGHT-OF-WAY FROM THE SOUTH RIGHT-OF-WAY LINE OF WABASH AVENUE (YOURELL DRIVE) NORTH TO THE SOUTH RIGHT-OF-WAY LINE OF 95TH STREET; ALL IN SECTION 9, TOWNSHIP 37 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS;

PIN's 24-09-200-001, -002, -003, -004, -006, -007, -008 and
24-09-202-001, -002, -003, -004, -005 and -006

Legal Description of Bank Parcel

A TRACT OF LAND BEING THE WEST 18.65 FEET (EXCEPT THE NORTH 17 FEET) OF LOT 3, AND LOTS 4 AND 5 (EXCEPT THE NORTH 16 FEET OF SAID LOTS 4 AND 5) (END TRACT); AND THE WEST 124.25 FEET OF LOT 6; AND THAT PART OF VACATED 20 FOOT WIDE EAST AND WEST ALLEY LYING SOUTH OF AND ADJACENT TO SAID TRACT; ALL IN BLOCK 9; TOGETHER WITH THAT PORTION OF 66 FOOT WIDE VACATED YOURELL DRIVE LYING EAST OF THE SOUTH EXTENSION OF THE WEST LINE OF SAID LOT 6 AND LYING WEST OF THE SOUTH EXTENSION OF THE EAST LINE OF SAID WEST 124.25 FEET OF LOT 6, SAID VACATED YOURELL DRIVE LYING SOUTHEASTERLY OF SAID BLOCK 9; ALL IN OAK LAWN A SUBDIVISION OF PART OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 4 AND A PART OF THE NORTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 9, TOWNSHIP 37 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

97577624

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Legal Description of Retail Parcel

A TRACT OF LAND BEING LOTS 1 AND 2 (EXCEPT THE NORTH 17 FEET OF SAID LOTS 1 AND 2), AND LOT 3 (EXCEPT THE NORTH 17 FEET AND EXCEPT THE WEST 18.65 FEET) (END TRACT); AND LOT 6 (EXCEPT THE WEST 124.25 FEET), ALL IN BLOCK 9; AND THAT PART OF VACATED 20 FOOT WIDE EAST AND WEST ALLEY LYING EAST OF THE NORTH EXTENSION OF THE EAST LINE OF SAID WEST 124.25 FEET OF LOT 6, AND LYING WESTERLY OF THE NORTHWESTERLY LINE OF VACATED YOURELL DRIVE, AND LYING SOUTH OF THE SOUTH LINE OF SAID TRACT, AND LYING NORTH OF THE NORTH LINE OF SAID LOT 6; TOGETHER WITH THAT PORTION OF 66 FOOT WIDE VACATED YOURELL DRIVE AND 33 FOOT WIDE WEST 1/2 OF VACATED TULLY AVENUE LYING WEST OF THE CENTER LINE OF SAID VACATED TULLY AVENUE BEING A LINE 33 FEET EAST OF AND PARALLEL WITH THE EAST LINE AND SOUTH EXTENSION THEREOF OF SAID LOT 1, AND LYING NORTHWESTERLY OF THE SOUTHEASTERLY LINE OF SAID VACATED YOURELL DRIVE AND NORTHEASTERLY EXTENSION THEREOF, AND LYING EAST OF THE SOUTH EXTENSION OF THE EAST LINE OF SAID WEST 124.25 FEET OF LOT 6, AND LYING SOUTH OF THE EAST EXTENSION OF THE SOUTH LINE OF SAID NORTH 17 FEET OF LOT 1, SAID VACATED YOURELL DRIVE LYING SOUTHEASTERLY OF SAID BLOCK 9, AND SAID VACATED TULLY AVENUE LYING EAST OF SAID BLOCK 9; ALL IN OAK LAWN A SUBDIVISION OF PART OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 4 AND A PART OF THE NORTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 9, TOWNSHIP 37 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

AND

LOTS 39 THROUGH 44, INCLUSIVE (EXCEPT THE NORTH 17 FEET OF SAID LOTS) ALONG WITH THE 10 FOOT EAST/WEST VACATED ALLEY LOCATED SOUTHEASTERLY THEREOF, IN BLOCK 1 IN CAMPBELL'S FIRST ADDITION TO OAK LAWN, A SUBDIVISION OF THE EAST 378.18 FEET OF THE WEST 720.93 FEET OF THE NORTHEAST 1/4 OF SECTION 9, TOWNSHIP 37 NORTH, RANGE THIRTEEN EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS; TOGETHER WITH 33 FOOT WIDE EAST 1/2 OF VACATED TULLY AVENUE LYING EAST OF THE CENTER LINE OF SAID VACATED TULLY AVENUE, LYING NORTH OF THE SOUTHWESTERLY EXTENSION OF THE SOUTHEAST LINE OF SAID VACATED 10 FOOT ALLEY, LYING SOUTH OF THE WEST EXTENSION OF THE SOUTH LINE OF SAID NORTH 17 FEET OF LOT 39, AND LYING WEST OF THE WEST LINE AND SOUTH EXTENSION THEREOF OF SAID LOT 39.

97577624

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Exhibit 2

SITE PLAN FOR BANK FACILITY AND RETAIL FACILITY
LOCATION OF MONITORING WELLS ON RETAIL PARCEL

Property of Cook County Clerk's Office

97577624

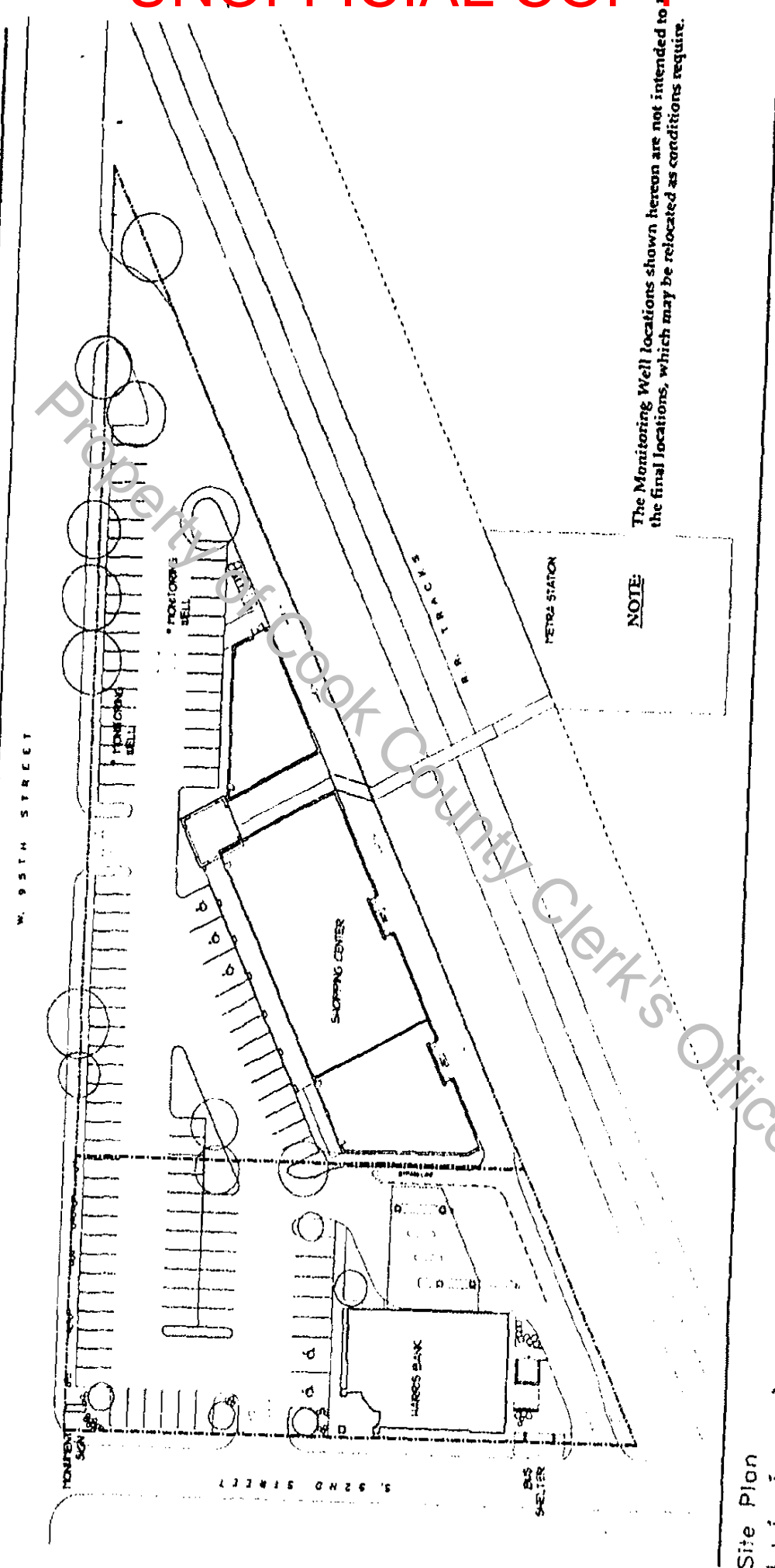
UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Exhibit 2

The Monitoring Well locations shown hereon are not intended to be the final locations, which may be relocated as conditions require.



Griskelis & Smith Architects, Ltd.
July 17, 1997

Site Plan
111

HARRIS BANK
OAK LAWN

97577624

UNOFFICIAL COPY

Exhibit 3

INFORMATION AND PROJECTIONS REGARDING THE PROJECT

Property of Cook County Clerk's Office

97577624

UNOFFICIAL COPY

Northern Realty Group, Ltd.

Three First National Plaza

Suite 3750

Chicago, Illinois 60602

Fax (312) 346-4398

(312) 346-4080

Exhibit 3

January 22, 1996

Hand Delivered

Mr. Joseph J. Faber
Village Manager
Village of Oak Lawn
5252 West Dumke Drive
Oak Lawn, IL 60453

Re: Proposed Development
95th Street & 52nd Avenue
Oak Lawn, Illinois

Dear Joe:

I am pleased to present the following proposal on behalf of Harris Bank.

Development Site: Approximately 1,858 square feet at the southeast corner of 95th Street and 52nd Avenue (inclusive of the former Shell station).

Proposed Improvements: An approximate 8,000 square foot 2-story Harris Bank facility with five (5) drive-thru lanes, and approximately 11,500 square feet of additional grade level retail space (Exhibit "A" attached).

Purchase Price: One million five hundred thousand dollars (\$1,500,000.00).

Potential TIF Benefits: \$630,000 to \$775,000 (see Exhibit "B" attached).

Condition of Development Site: The Village of Oak Lawn shall deliver the site cleared of all existing improvements, and all existing environmental problems shall be remediated.

Closing: To be determined.

As you know, it is the intent of Harris to sell, for the purpose of retail development, that portion of the Development Site not utilized by the Bank. Harris has received a letter from Mill Creek Development which outlines a retail development plan consistent with the general site plan approved by the Blue Ribbon Committee, and which provides a purchase price acceptable to Harris Bank, (Exhibit "C" attached).

97577624

UNOFFICIAL COPY

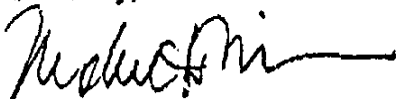
January 22, 1996
Mr. Joseph J. Faber
Page Two

While the targeted retail tenant mix is comprised of sound retail categories which will generate significant sales tax revenue, to project a revenue stream at this time is not appropriate. Nevertheless, you will note that the letter from Mill Creek lists specific types of retailers with which Mill Creek is currently in discussions, and the list does not include quasi-retail uses such as insurance agencies or real estate offices.

This letter also provides an anticipated construction cost which reflects the quality of the planned retail project and which should provide a degree of assurance to the Village. Further, while the Village is well aware of Mill Creek Development, I have attached for your review a list of developments they have undertaken over the last seven years.

I believe we have addressed all the pertinent issues, and look forward to answering any questions the Village may have.

Sincerely,



Michael J. Shields
Executive Vice President

MJS/kh/a:2456

attachments

cc: Larry Kreczmer
Hettie Ensign
Michael Ford - Mill Creek Development
Robert Aranyi

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Harris Bank Proposal for 95th and 52nd Avenue, Oak Lawn

19-Jan-96

Estimate of Tax Increment Value

Assumptions	Size(sq)	Tax \$s	Tax \$s/sf
Taxes on Existing Site Configuration	N/A	105,000	N/A
Taxes on Proposed Shopping Center	19,500	146,250	7.50
Annual Tax Escalation	3.50%		

Analysis		R. E. Taxes On Proposed Development	Existing R. E. Taxes	Variance
Period	Year			
1	1996	\$146,250	\$105,000	\$41,250
2	1997	151,369	108,675	42,694
3	1998	156,667	112,479	44,188
4	1999	162,150	116,415	45,735
5	2000	167,825	120,490	47,335
6	2001	173,699	124,707	48,992
7	2002	179,779	129,072	50,707
8	2003	186,071	133,589	52,482
9	2004	192,583	138,265	54,318
10	2005	199,324	143,104	56,220
11	2006	206,300	148,113	58,187
12	2007	213,521	153,297	60,224
13	2008	220,994	158,662	62,332
14	2009	228,729	164,215	64,513
15	2010	236,734	169,963	66,771
16	2011	245,020	175,912	69,108
17	2012	253,595	182,069	71,527
18	2013	262,471	188,441	74,030
19	2014	271,658	195,036	76,621
20	2015	281,166	201,863	79,303
21	2016	291,007	208,928	82,079
22	2017	301,192	216,240	84,952
23	2018	311,734	223,809	87,925

Net Present Value of Incremental Tax Payment Variance:

Discount Rates	5.00%	6.00%	7.00%
NPV of Variance	\$774,819	\$697,035	\$630,096

975-77624

UNOFFICIAL COPY

Mill Creek Development, Inc.

5620 West 95th Street
Oak Lawn, Illinois 60453
Phone (708) 424-7979
FAX (708) 424-8614

January 9, 1996

Mr. Michael J. Shields
Northern Realty Group, Ltd.
Three First National Plaza
Suite 5750
Chicago, Illinois 60602

RE: 95th Street and 52nd Avenue - Oak Lawn, Illinois

Dear Mike:

In regard to the above referenced property, I am willing to pay \$550,000 for the balance of land to be developed for retail use based on the figure of 11,500 square feet of rental space. This would be contingent upon an agreement being reached between myself and Harris Bank regarding cross easements and parking assignments.

I look forward to hearing from you in the near future.

Sincerely,
MILL CREEK DEVELOPMENT, INC.

John M. Ford
John M. Ford
President

JMF/bj

97577624

UNOFFICIAL COPY

Mill Creek Development, Inc.

5620 West 95th Street
Oak Lawn, Illinois 60453
Phone (708) 424-7979
FAX (708) 424-8814

January 22, 1996

Mr. Michael J. Shields
Northern Realty Group, Ltd.
Three First National Plaza
Suite 5750
Chicago, Illinois 60602

RE: Chart of Projects

Below is a list of Mill Creek Development projects over the last 7 years, both complete and in progress:

1989	Single Family Development Mount Greenwood Area of Chicago, IL
1989-1991	100 Acre Site Development-Multi Use 70 Acres Residential - 30 Acres Commercial Joliet Area, IL
1991-1992	Residential Development 36 Condominium Units - 7 Single Family Homes Hickory Hills, IL
1992-1993	Residential Development 28 Townhome Units Hickory Hills, IL
1993	Residential Development 200 Townhomes & Condominium Units Oak Lawn, IL
1993-1994	Commercial Development 5600 Square Foot Shopping Center Burbank, IL
1994-Present	Residential Development 34 Townhomes - 70 Single Family Homes Oak Forest, IL
1994-Present	Residential Development 90 Townhomes on Broken Arrow Golf Course Lockport, IL

If there are any further questions, please feel free to call.

Sincerely,
MILL CREEK DEVELOPMENT, INC.

John M. Ford
John M. Ford
President

JMF/bj

97577624

UNOFFICIAL COPY

Exhibit 4

SALE AGREEMENT BETWEEN HARRIS AND MILL CREEK
FOR SALE OF RETAIL PARCEL

Property of Cook County Clerk's Office

97577624

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

REAL ESTATE SALE AGREEMENT

THIS AGREEMENT (this "Agreement") is dated as of the 25th day of February, 1997, between HARRIS BANK ARGO, an Illinois banking corporation ("Harris") and MILL CREEK DEVELOPMENT, INC., an Illinois corporation ("Purchaser"). The addresses of the parties are:

Harris:
Harris Bank Argo
7549 West 63rd Street
Summit, IL 60501
Attention: Larry Kreczmer, President
Facsimile: 708/458-5123

Purchaser:
Mill Creek Development, Inc.
5620 West 95th Street
Oak Lawn, IL 60453
Attention: John M. Ford, President
Facsimile: 708/424-8614

1. SUBJECT OF PURCHASE AND SALE. Harris shall cause to be conveyed to Purchaser or to a land trust under which Purchaser is the beneficiary and Purchaser shall purchase from Harris and take title by a recordable deed from the Village of Oak Lawn (the "Village"), the property, consisting of approximately 49,633.9 square feet, as more particularly described on Exhibit A attached hereto, comprising a part of the Triangle T.I.F. District in the Village of Oak Lawn, County of Cook, State of Illinois, together with all rights, privileges, interests, easements and appurtenances belonging or in any way pertaining thereto (the "Retail Parcel"). The exact legal description of the Retail Parcel as set forth in the survey to be provided by the Village pursuant to the Redevelopment Agreement referred to below shall be substituted for the description on said Exhibit A.

2. THE PROJECT. Harris has entered into a Redevelopment Agreement dated the same date as this Agreement (the "Redevelopment Agreement") with the Village for the redevelopment of the property defined in the Redevelopment Agreement as "the Redevelopment Project Area". A copy of the Redevelopment Agreement is attached hereto as Exhibit B. Terms used in this Agreement not otherwise defined shall have the meanings ascribed to them in the Redevelopment Agreement. Harris intends to construct the Bank Facility on the Bank Parcel at the west end of the Redevelopment Project Area. Purchaser intends to construct the retail portion of the development on the Retail Parcel. Harris' Bank Facility and the such retail portion of the development Phase I Retail are each shown on the Site Plan attached to the Redevelopment Agreement.

3. PURCHASE OF PROPERTY. Purchaser understands that Harris intends to acquire the Bank Parcel and assign to Purchaser all of the right, title and interest of the Retail Developer under the Redevelopment Agreement. If any of the conditions of the Redevelopment Agreement with respect to the development of the Retail Parcel are not timely satisfied or waived by Purchaser or the Village is unable to convey marketable fee simple title to the Bank Parcel and Retail Parcel pursuant to the Redevelopment Agreement on or before June 30, 1997, then either party hereto may terminate this Agreement by giving written notice thereof to the

97577624

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

other party. Upon such termination, the earnest money referred to in Section 4 below shall be returned to Purchaser and neither party shall have any obligation to the other party in connection with this Agreement.

4. PURCHASE PRICE AND EARNEST MONEY. The purchase price for the Retail Parcel (the "Purchase Price") will be \$550,000.00 payable to Harris by certified check or cashier's check. Upon execution of this Agreement, Purchaser will deliver to Northern Realty Group, Ltd. its check in the amount of \$55,000.00 payable to the order of Chicago Title and Trust Company, as escrow trustee, representing Purchaser's earnest money deposit subject to the terms and conditions of this Agreement. Such earnest money check shall be deposited in the escrow to be created with Chicago Title and Trust Company as provided in Section 13 of this Agreement, shall be invested by the escrow trustee in a money market account, or Treasury Bills or other U.S. government obligations, as designated by the Purchaser, and shall be paid as provided for in the Deed and Money Escrow Agreement to be prepared by the parties consistent with all of the applicable requirements of this Agreement. The Deed and Money Escrow shall provide for coordination of the simultaneous closings of Harris' acquisition of the Bank Parcel and Purchaser's acquisition of the Retail Parcel. All earnest money deposited by Purchaser at any time under this Agreement shall be credited to Purchaser as payment of part of the purchase price upon closing. All net interest earned on the earnest money shall be deemed additional earnest money for all purposes under this Agreement.

5. BROKERAGE COMMISSION. Harris' broker is Northern Realty Group, Ltd. Harris agrees to pay a broker's commission to Northern Realty Group, Ltd. pursuant to a separate agreement. Each party hereto hereby represents and warrants to the other party that, except for the broker set forth herein, no broker, salesperson or finder was the procuring cause, in part or in whole, of this transaction or is entitled to any commission, fee or other compensation by reason of this transaction, and agrees to indemnify, save harmless and defend the other party from and against any and all claims, commissions and finders' fees by reason of such indemnitor's representation and warranty not being true.

6. TITLE COMMITMENT AND SURVEY.

(a) Chicago Title Insurance Company and Chicago Title and Trust Company shall act as the title insurer and escrow agent, respectively, for the sale of the Retail Parcel pursuant to the terms of this Agreement.

(b) At the time of closing, Purchaser will receive the title insurance policy and plat of survey to be provided by the Village pursuant to the Redevelopment Agreement evidencing title in Purchaser or its land trust subject only to the Permitted Exceptions defined in the Redevelopment Agreement.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

7. ASSIGNMENT UNDER REDEVELOPMENT AGREEMENT. Harris hereby assigns and transfers to Purchaser all of the Retail Developer's right, title and interest under the Redevelopment Agreement, effective as of the date of the Redevelopment Agreement. Harris shall have no liability with respect to the Retail Parcel. Purchaser, its agents, contractors, employees, executors, heirs, partners, representatives, and successors do hereby release and discharge Harris, and any agent, beneficiary, contractor, director, employee, officer, partner, shareholder, successor, and trustee and their respective representatives, successors and assigns (each a "Related Party") from any and all actions, agreements, claims, controversies, damages, debts, demands, judgments, liabilities, promises and suits whatsoever, whether at law or in equity, and whether known or unknown, absolute or contingent or asserted or unasserted, which Purchaser now has or may have against Harris or a Related Party with respect to the Retail Parcel. In consideration of the foregoing Assignment, Purchaser hereby assumes and agrees to perform and keep all promises, covenants, conditions, agreements and obligations of the Redevelopment Agreement to be made, kept and performed by the Retail Developer. Upon signing this Agreement, Harris and Purchaser shall file a written document with the Village in which Purchaser agrees to accept and be bound by all of the obligations of the Retail Developer under the Redevelopment Agreement effective as of the date of the Redevelopment Agreement.

8. DECLARATION OF EASEMENTS, CONDITIONS, COVENANTS AND RESTRICTIONS.

(a) Prior to closing, Harris and Purchaser will prepare and execute a Declaration of Easements, Conditions, Covenants and Restrictions (the "Declaration"), which will provide for the following perpetual easements: (i) reciprocal easements will be established to use the common service drives shown on the Site Plan for ingress to and egress from the Bank Parcel and the Retail Parcel; (ii) reciprocal easements will be established to construct and maintain signs in accordance with the signage plans which are part of the final development plan for the Bank Parcel and the Retail Parcel; and (iii) reciprocal easements will be established for all utilities needed to service the Bank Parcel and the Retail Parcel.

(b) As a material inducement to Harris to sell the Retail Parcel, Purchaser agrees that the Declaration shall contain a restrictive covenant which provides that so long as the Bank Parcel is developed and used primarily as a Financial Institution, no other property in the Redevelopment Project Area, including any outlots, shall be used as a Financial Institution or for automatic teller machines. The term "Financial Institution" shall be defined in such restrictive covenant as any bank, savings and loan association, credit union, currency exchange, registered broker dealer or consumer finance company. Such restrictive covenant shall further provide that (i) it will be valid and effective only to the extent permitted by law, (ii) it is a covenant running with the land both as to benefit and burden, (iii)

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Harris, its successors, assigns or successors in interest, may bring action only against the party violating the restrictions, (iv) in no event will Purchaser, its successors, assigns or successors in interest, be required to enforce the restriction against the party violating the same, (v) Harris, its successors, assigns or successors in interest, may specifically enforce the restriction and enjoin any violation by appropriate equitable proceedings without the requirement to post a bond, (vi) during any periods of time that the Bank Parcel is not being used as a Financial Institution because of fire, casualty or any other acts of God or any other causes outside the direct control of Harris, its successors, assigns or successors in interest, the Bank Parcel shall be deemed developed and used primarily as a Financial Institution and (vii) if the Bank Parcel is not used primarily as a Financial Institution (subject to the provisions of clause (vi) above) for a period of one year or more such restrictive covenant shall thereupon terminate.

9. CONDITIONS TO CLOSING. Closing under this Agreement is subject to each of the following conditions precedent, except to the extent expressly waived in writing by Harris:

(a) Prior to closing, the Village shall have approved the site plan, building design, including but not limited to building elevations, signage and other aspects of Purchaser's proposed retail development.

(b) Prior to the closing, the parties shall have mutually agreed as to all of the terms and provisions of the Declaration.

(c) Harris' acquisition of marketable fee simple title to the Bank Parcel from the Village pursuant to the Redevelopment Agreement at the same time as the Village conveys title to the Retail Parcel to Purchaser.

(d) Prior to the closing the Village will be prepared to convey title to the Retail Parcel to the Purchaser in accordance with the terms and provisions of the Redevelopment Agreement.

Both parties agree to cooperate with each other and with the Village to satisfy the above conditions.

10. TERMINATION. In the event of termination of this Agreement without the fault of Purchaser, this Agreement and the assignment and assumption of the rights under the Redevelopment Agreement pursuant to Section 7 hereof shall be null and void, and the earnest money shall be promptly refunded to Purchaser, and neither party shall have any further liability to the other.

11. REPRESENTATIONS AND WARRANTIES OF HARRIS. Harris represents and warrants to the best of its knowledge (without examination and with no duty to

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

investigate) to Purchaser that the following statements are, and at the time of closing, will be, true:

(a) Harris is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code and will furnish Purchaser at closing the Exemption Certificate set forth in said Section.

(b) The disclosure requirements of the Illinois Responsible Property Transfer Act (or similar environmental disclosure law) of the jurisdiction in which the Retail Parcel is located either: (i) do not apply to the transaction contemplated by this Agreement, or (ii) if such requirements apply, the Village will be obligated to execute and deliver to Purchaser such disclosure documents as may be required, and the Village will be obligated to timely file copies of such disclosure documents with the appropriate governmental authorities.

All representations and warranties of Harris contained in this Agreement shall survive the closing and consummation of the transactions contemplated by this Agreement and shall not be deemed to be merged into the deed to be delivered by Harris to Purchaser hereunder.

12. NO ASSUMPTION OF LIABILITIES AND RELATIONSHIP OF THE PARTIES.

The parties acknowledge and agree that this Agreement does not create and shall not be construed as a partnership or joint venture between Harris and Purchaser and that neither party is an agent for the other party.

13. CLOSING.

(a) The closing of the sale of the Retail Parcel shall be closed through a "New York" style deed and money escrow with Chicago Title and Trust Company in Chicago, Illinois, in accordance with the general provisions of the usual form of Deed and Money Escrow Agreement then in use by Chicago Title and Trust Company, with such special provisions inserted in the escrow agreement as may be required to conform with this Agreement. Upon the creation of such an escrow, anything herein to the contrary notwithstanding, payment of purchase price and delivery of the deeds shall be made through the escrow and this Agreement, and the earnest money shall be deposited in the escrow. The balance of the purchase price will be deposited by Purchaser in the escrow on the date the escrowee disburses. The parties shall each pay fifty percent (50%) of the cost of the escrow. The escrow shall be opened as soon as possible after acceptance of this Agreement and in no event later than thirty (30) days after such acceptance. The appropriate Deed, Real Estate Transfer Declaration(s), and other closing documents consistent with the terms of this Agreement, shall be deposited in said escrow within ten (10) days of execution of the escrow trust instructions.

97577624

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

(b) Within thirty (30) days of notice from Harris to Purchaser that Harris has scheduled a closing to acquire the Retail Parcel from the Village and has satisfied its conditions of closing as elsewhere set forth in this Agreement, and if there is no pending or threatened withdrawal or revocation of or judicial challenge to the Bank Facility or the Phase I Retail or any other such previously satisfied condition of closing, Purchaser and Harris shall cause to be closed, through the escrow, the acquisition by Purchaser of the Retail Parcel. Such closing is contingent upon, and shall be coordinated with, the closing of Harris' acquisition of the Bank Parcel.

(c) All net proceeds due from the closing of the sale of the Retail Parcel shall at closing be paid to the order of Harris.

(d) Subject to satisfaction of the terms and conditions of this Agreement, the closing shall be no later than June 30, 1997. If the closing does not occur by such date, either party, provided it is not then in default under this Agreement, may terminate this Agreement by giving written notice thereof to the other party. In the event of such termination, the earnest money shall be promptly refunded to Purchaser, and neither party shall have any further liability to the other.

14. PRORATIONS. General taxes and other similar items shall be adjusted ratably as of the time of closing in accordance with the provisions of the Redevelopment Agreement.

15. EXPENSES. Except as herein specifically provided to the contrary, each of the parties hereto shall bear its own expenses in connection herewith, and no party shall be liable to any other party for the payment of such expenses, whether or not the transactions contemplated by this Agreement are consummated. Purchaser shall pay the fee for recording the deed to Purchaser and the cost of later dating the commitment to cover the date of such recording.

16. CONDITION OF PROPERTY. At closing, Purchaser agrees to accept the Retail Parcel in "AS-IS" condition, and hereby releases and discharges Harris, its agents, contractors, directors, employees, officers, representatives, shareholders, and successors (each a "Related Party") from any and all actions, agreements, claims, controversies, damages, debts, demands, judgments, liabilities, promises and suits whatsoever, whether at law or in equity, and whether known or unknown, absolute or contingent, or asserted or unasserted, which Purchaser now has or may have against Harris or a Related Party, with respect to the condition of the Retail Parcel.

17. NOTICES. All notices and other communications in connection with this Agreement shall be in writing and will be deemed to have been duly given when hand delivered, or sent by registered or certified United States mail, postage prepaid, return receipt requested, or if deposited cost paid with a nationally recognized overnight carrier, or by use of a facsimile machine with proof of transmission and a

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

copy of the notice with proof of transmission being sent by regular mail on the date of transmission. Notices to Purchaser shall be sent to the address or facsimile number for Purchaser first set forth above. Notices to Harris shall be sent to the address or facsimile number for Harris first set forth above, with copies to:

Harris Trust and Savings Bank
200 West Monroe Street
Corporate Real Estate, Suite 1600
Chicago, Illinois 60603
Attention: Hettie B. Ensign
Vice President
Facsimile: (312) 765-8061

and Bailey, Borlack, Nadelhoffer & Carroll
135 South LaSalle Street, Suite 2000
Chicago, Illinois 60603
Attention: Robert C. Bailey, Esq.
Facsimile: (312) 629-0174

Either party may change its address for the giving of notice by giving written notice of such change to the other party as provided above, but such change of address will not be effective until five (5) days after notice of such change is so given.

18. ATTORNEYS' FEES. The non-prevailing party shall pay the prevailing party's reasonable legal costs and attorneys' fees incurred in successfully enforcing against the non-prevailing party any covenant, term or condition of this Agreement.

19. MISCELLANEOUS.

(a) This Agreement shall be construed under and in accordance with the laws of the state of Illinois.

(b) This Agreement shall be binding upon and shall inure to the benefit of Harris and Purchaser and their respective successors and assigns.

(c) In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

(d) This Agreement constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the transactions contemplated by this Agreement and cannot be changed except by a written instrument signed by the party to be charged.

(e) This Agreement may be executed simultaneously or 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.

97577624

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

(f) The duties and obligations imposed by this Agreement and the rights and remedies available hereunder, except as expressly limited in this Agreement, shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available at law or in equity; provided, however, that in no event will either party be liable to the other for any consequential damages arising out of any breach of this Agreement. No action or failure to act by any party hereto shall constitute a waiver of any right or duty afforded to any of them under this Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach hereunder, except as may be specifically agreed in writing.

(g) No provision contained in this Agreement shall create or give to any third parties any claim or right of action against any of the parties.

(h) Neither Purchaser nor Harris may assign, by transfer or operation of law voluntarily or involuntarily any or all of its rights or obligations under this Agreement without the written consent of the other party, which consent shall not be unreasonably withheld.

(i) If either party is alleged to be in breach of this Agreement, then the other party shall give such party written notice specifying the nature of the alleged default and the manner in which it may be cured. The party receiving such notice shall have five days to cure such alleged default.

(j) Each party disclaims any responsibility to the other with regard to the Matanky Realty lawsuit.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

SELLER:
HARRIS BANK ARGO

PURCHASER:
MILL CREEK DEVELOPMENT, INC.

By: _____

President

By: _____

President

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT A

LEGAL DESCRIPTION OF RETAIL PARCEL

A TRACT OF LAND BEING LOTS 1 AND 2 (EXCEPT THE NORTH 17 OF SAID LOTS 1 AND 2), AND LOT 3 (EXCEPT THE NORTH 17 FEET AND EXCEPT THE WEST 18.65 FEET) (END TRACT); AND LOT 6 (EXCEPT THE WEST 124.25 FEET), ALL IN BLOCK 9; AND THAT PART OF VACATED 20 FOOT WIDE EAST AND WEST ALLEY LYING EAST OF THE NORTH EXTENSION OF THE EAST LINE OF SAID WEST 124.25 FEET OF LOT 6, AND LYING WESTERLY OF THE NORTHWESTERLY LINE OF VACATED YOURELL DRIVE, AND LYING SOUTH OF THE SOUTH LINE OF SAID TRACT, AND LYING NORTH OF THE NORTH LINE OF SAID LOT 6; TOGETHER WITH THAT PORTION OF 66 FOOT WIDE VACATED YOURELL DRIVE AND 33 FOOT WIDE WEST 1/2 OF VACATED TULLY AVENUE LYING WEST OF THE CENTER LINE OF SAID VACATED TULLY AVENUE BEING A LINE 33 FEET EAST OF AND PARALLEL WITH THE EAST LINE AND SOUTH EXTENSION THEREOF OF SAID LOT 1, AND LYING NORTHWESTERLY OF THE SOUTHEASTERLY LINE OF SAID VACATED YOURELL DRIVE AND NORTHEASTERLY EXTENSION THEREOF, AND LYING EAST OF THE SOUTH EXTENSION OF THE EAST LINE OF SAID WEST 124.25 FEET OF LOT 6, AND LYING SOUTH OF THE EAST EXTENSION OF THE SOUTH LINE OF SAID NORTH 17 FEET OF LOT 1, SAID VACATED YOURELL DRIVE LYING SOUTHEASTERLY OF SAID BLOCK 9, AND SAID VACATED TULLY AVENUE LYING EAST OF SAID BLOCK 9; ALL IN OAK LAWN A SUBDIVISION OF PART OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 4 AND A PART OF THE NORTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 9, TOWNSHIP 37 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

AND

LOTS 39 THROUGH 44, INCLUSIVE (EXCEPT THE NORTH 17 FEET OF SAID LOTS) ALONG WITH THE 10 FOOT EAST/WEST VACATED ALLEY LOCATED SOUTHEASTERLY THEREOF, IN BLOCK 1 IN CAMPBELL'S FIRST ADDITION TO OAK LAWN, A SUBDIVISION OF THE EAST 378.18 FEET OF THE WEST 720.93 FEET OF THE NORTHEAST 1/4 OF SECTION 9, TOWNSHIP 37 NORTH, RANGE THIRTEEN EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS; TOGETHER WITH 33 FOOT WIDE EAST 1/2 OF VACATED TULLY AVENUE LYING EAST OF THE CENTER LINE OF SAID VACATED TULLY AVENUE, LYING NORTH OF THE SOUTHWESTERLY EXTENSION OF THE SOUTHEAST LINE OF SAID VACATED 10 FOOT ALLEY, LYING SOUTH OF THE WEST EXTENSION OF THE SOUTH LINE OF SAID NORTH 17 FEET OF LOT 39, AND LYING WEST OF THE WEST LINE AND SOUTH EXTENSION THEREOF OF SAID LOT 39.

97577624

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT B

COPY OF REDEVELOPMENT AGREEMENT BETWEEN HARRIS BANK ARGO AND THE VILLAGE OF OAK LAWN

Property of Cook County Clerk's Office

97577624

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Exhibit 5

AGREEMENT OF MILL CREEK TO ACCEPT AND BE BOUND BY
THE OBLIGATIONS OF THE RETAIL DEVELOPER
UNDER THE REDEVELOPMENT AGREEMENT

Property of Cook County Clerk's Office

97577624

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

ACCEPTANCE AND AGREEMENT OF RETAIL DEVELOPER

THIS ACCEPTANCE AND AGREEMENT is executed as of February 25, 1997 by Mill Creek Development, Inc., an Illinois Corporation ("Mill Creek") in favor of the Village of Oak Lawn, a municipal corporation ("Village") and Harris Bank Argo, an Illinois banking corporation ("Harris").

RECITALS:

R-1. The Village and Harris have entered into a Redevelopment Agreement dated as of February 25, 1997 ("Redevelopment Agreement") pursuant to which Harris has the right to acquire ownership or control of property known as the Oak Lawn Triangle Tax Increment Redevelopment Area. All terms used herein shall have the meanings ascribed to them in the Redevelopment Agreement.

R-2. Harris and Mill Creek have entered into a Sale Agreement dated as of February 25, 1997 pursuant to which Harris has sold to Mill Creek the Retail Parcel and assigned to Mill Creek all rights of the Retail Developer under the Redevelopment Agreement.

R-3. Mill Creek is executing this instrument and filing it with the Village to evidence that Mill Creek has assumed all of the obligations of the Retail Developer under the Redevelopment Agreement and has accepted and agreed to be bound by such obligations.

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Mill Creek hereby agrees that it has accepted and is bound by all of the obligations of the Retail Developer under the Redevelopment Agreement.

IN WITNESS WHEREOF, Mill Creek has executed this instrument as of the day and year first above written.

MILL CREEK DEVELOPMENT, INC.

By: _____
____ President

97577624

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Exhibit 6

PERMITTED EXCEPTIONS

1. Current general real estate taxes not yet due and payable as of the date of closing
2. Acts of grantee
3. Lis Pendens filed by Matanky
4. Covenants, conditions and restrictions of record, if any, including grants of easement and drainage tiles, ditches, feeders and laterals, which are accepted in writing by grantee, and which do not, in the sole discretion of grantee, prohibit or impair grantee's proposed development
5. An easement for a Pace bus shelter along the west boundary of the Bank Parcel, but not at a location that would block the driveway ingress to or egress from the Bank Parcel

Clerk of Cook County Clerk's Office

97577624

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Exhibit 7

MINIMUM ASSESSED VALUATION

The Minimum Assessed Valuations of the Bank Parcel and the Retail Parcel shall each be such that, taking into account the then current equalization factors and tax rates, such assessed valuation would yield the minimum amount of real estate taxes set forth below for the applicable Year:

<u>Period</u>	<u>Year</u>	<u>Minimum Real Estate Taxes</u>		
		<u>Bank Parcel</u>	<u>Retail Parcel</u>	<u>Total</u>
1	1996	\$57,169	\$89,081	\$146,250
2	1997	59,170	92,199	151,369
3	1998	61,241	95,426	156,667
4	1999	63,384	98,766	162,150
5	2000	65,603	102,222	167,825
6	2001	67,899	105,800	173,699
7	2002	70,276	109,503	179,779
8	2003	72,735	113,336	186,071
9	2004	75,281	117,302	192,583
10	2005	77,916	121,408	199,324
11	2006	80,643	125,657	206,300
12	2007	83,465	130,056	213,521
13	2008	86,387	134,607	220,994
14	2009	89,410	139,319	228,729
15	2010	92,539	144,195	236,734
16	2011	95,778	149,242	245,020
17	2012	99,130	154,465	253,595
18	2013	102,600	159,871	262,471
19	2014	106,191	165,467	271,658
20	2015	109,908	171,258	281,166
21	2016	113,755	177,252	291,007
22	2017	117,736	183,456	301,192
23	2018	121,857	189,877	311,734

97577624

UNOFFICIAL COPY

Property of Cook County Clerk's Office