
REDEVELOPMENT AGREEMENT

between

VILLAGE OF OAK PARK, COOK COUNTY, ILLINOIS

and

OP SOUTH BOULEVARD LLC

dated as of the

18th day of February, 2015

**VILLAGE OF OAK PARK, ILLINOIS
REDEVELOPMENT PLAN AND PROJECT
GREATER MALL TAX INCREMENT AREA
SOUTH BOULEVARD AND HARLEM SITE**

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**REDEVELOPMENT AGREEMENT
SOUTH BOULEVARD AND HARLEM SITE**

This Redevelopment Agreement (this “**Agreement**”) is made and entered into as of the 18th day of February, 2015 (“**Effective Date**”) by and between the Village of Oak Park, Cook County, Illinois, an Illinois municipal home rule corporation (the “**Village**”), and OP South Boulevard LLC, a Delaware limited liability company, with a principal office located at 1110 Jorie Boulevard, Suite 300, Oak Brook, Illinois 60523 (the “**Developer**”). (The Village and the Developer are sometimes referred to individually as a “**Party**” and collectively as the “**Parties.**”)

RECITALS

The following Recitals are incorporated herein and made a part hereof.

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

B. **WHEREAS**, the Village has the authority, pursuant to the laws of the State of Illinois, to promote the health, safety and welfare of the Village and its inhabitants, to prevent the presence of blight, to encourage private development in order to enhance the local tax base, to increase additional tax revenues realized by the Village, foster increased economic activity within the Village, to increase employment opportunities within the Village, and to enter into contractual agreement with third parties for the purpose of achieving the aforesaid purposes, and to otherwise further the best interests of the Village, and

C. **WHEREAS**, among other powers and authority, the Village has the authority to expend funds for economic development that the Village deems necessary or desirable for the promotion of economic development within the Village, pursuant to Section 8-1-2.5 of the Illinois Municipal Code, 65 ILCS 5/8-1-2.5; and

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

E. **WHEREAS**, the Village authorized the preparation of a report entitled Redevelopment Plan and Project dated September 28, 1983 (the “**Redevelopment Plan**”) concerning the redevelopment of the Greater Mall Tax Increment Area (the “**TIF District**”); and

F. **WHEREAS**, in accordance with the Act, the Village conducted a public hearing with respect to the Redevelopment Plan and the redevelopment of the Area at a meeting of the President and the Board of Trustees of the Village (“**Corporate Authorities**”) held on November 14, 1983; and

G. **WHEREAS**, as part of the study of the redevelopment of the Area, the Village found that the improvements in the Area, suffer from the following factors: age, obsolescence, depreciation of physical maintenance, deterioration, excessive vacancies, deleterious land use or layout, and excessive land coverage; and

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

1. Ordinance No. 1983-0-91, adopted December 12, 1983, entitled “Ordinance Approving the Village of Oak Park, Cook County, Illinois, Greater Mall Tax Increment Area Project Area Development Plan and Project;

2. Ordinance No. 1983-0-92, adopted December 12, 1983, entitled “Ordinance Designating the Village of Oak Park, Illinois, Greater Mall Tax Increment Area Tax Increment Redevelopment Project Area”;

3. Ordinance No. 1983-0-93, adopted December 12, 1983, entitled “Ordinance Adopting Tax Increment Financing for the Village of Oak Park Greater Mall Tax Increment Area Tax Increment Redevelopment Project Area in the Village of Oak Park, Cook County, Illinois”; and

4. Ordinance No. 1988-0-36, adopted June 6, 1988, amending the Redevelopment Plan and Project for the Oak Park Greater Mall Tax Increment Area;

5. Ordinance No. 1992-0-36, adopted July 6, 1992, further amending the Redevelopment Plan and Project for the Oak Park Greater Mall Tax Increment Area;

6. Ordinance No. 2005-0-21, adopted on March 21, 2005, amending the boundaries of the TIF District and extending its life until December 31, 2018 (collectively, the “**Enabling Ordinances**”).

I. **WHEREAS**, the Village owns real property located within the Area, generally located at the southeast corner of Harlem Avenue and South Boulevard, all as generally depicted and legally described in **Exhibit 1** (the “**Property**”), which Property was purchased by the Village utilizing TIF funds; and

J. **WHEREAS**, during the month of August, 2013 the Village published a notice of opportunity to submit alternative proposals pursuant to Section 11-74.4-4(c) of the Act seeking alternative development proposals (the “**RFP**”) for the Property; and

K. **WHEREAS**, the Developer’s general proposal was selected by the Village as the project best suited for the needs of the Village; and

L. **WHEREAS**, the Property is to be conveyed to the Developer by the Village in the development process pursuant to the terms and conditions of this Agreement; and

M. **WHEREAS**, the Property shall be part of a mixed use development in accordance with plans to be prepared by the Developer and approved by the Village and as further described in this Agreement; and

N. **WHEREAS**, the Developer desires to cause the redevelopment of the Property to create a mixed-use development that will include a building containing approximately 10,000

square feet of ground floor retail, and 250 luxury rental apartments, together with other public and private improvements to the adjacent streets, alleys, and streetscape, and Developer will be making a contribution of \$1,100,000 to the Village for site, streetscape and utility improvements and/or other related costs, and will also pay for all costs to replace the streetscape on the Property's Harlem Avenue frontage that, at a minimum, matches existing streetscape conditions and palate (collectively, the "**Project**"); and

O. **WHEREAS**, subject to the terms and conditions of this Agreement, the Village will (i) convey the Property to the Developer so that the Developer is able to build and complete the Project, (ii) will complete streetscape improvements on South Boulevard from Marion Street to Harlem Avenue, such improvements to include the right-of-way to the property line, (iii) will include the vacation of Maple Street within the limits of the Property, (iv) will complete all utility relocation and/or related demolition and construction on South Boulevard, Maple Street and an adjacent alley (all Village utilities and power lines to be located underground), (v) will convey the parcels to be developed pursuant to the provisions of Sections 7.6 and 7.7 hereof, and (vi) will provide surveys, title reports and property access after the effective date of this Agreement; and

P. **WHEREAS**, the Developer has represented and warranted to the Village that Developer, and its principals, are skilled in the business of development and redevelopment and are able to provide to the Village skill, knowledge and expertise; and

Q. **WHEREAS**, it is necessary for the successful completion of the Project that the Village enter into this Agreement with Developer to provide for the development of the Property and construction of the Project, thereby implementing and bringing to completion a portion of the Redevelopment Plan; and

R. **WHEREAS**, the Village, in order to stimulate and induce development of the Oak Park Greater Mall Tax Increment Area, intends to convey the Property in accordance with the terms and provisions of the TIF Act, to the extent applicable, and this Agreement; and

S. **WHEREAS**, the Developer has been and continues to be unable and unwilling to undertake the redevelopment of the Property but for certain municipal incentives in accordance with the Act, to the extent applicable, and the home rule powers of the Village, which the Village is willing to provide under the terms and conditions contained herein. The parties acknowledge and agree that but for the economic development incentives to be provided in accordance with this Agreement, the Developer cannot successfully and economically develop the Property and construct the Project in a manner satisfactory to the Village. The Village has determined that it is desirable and in the Village's best interests to assist Developer in the manner set forth herein and as this Agreement may be supplemented and amended; and

T. **WHEREAS**, the Village, in order to stimulate and induce development of the Property, has agreed to finance its obligations hereunder through the use of lawfully available Village funds, all in accordance with the terms and provisions of this Agreement and the Act, to the extent applicable, and otherwise to provide the economic development incentives to the Developer pursuant to the terms of this Agreement; and

U. **WHEREAS**, this Agreement has been submitted to the Corporate Authorities of the Village for consideration and review, the Corporate Authorities have taken all actions required to be taken prior to the execution of this Agreement in order to make the same binding upon the Village according to the terms hereof, and any and all actions of the Corporate Authorities of the Village precedent to the execution of this Agreement have been undertaken and performed in the manner required by law; and

V. **WHEREAS**, this Agreement has been submitted to the Developer for consideration and review, and the Developer has taken all actions required to be taken prior to the execution of this Agreement in order to make the same binding upon the Developer according to the terms hereof, and any and all actions precedent to the execution of this Agreement by the Developer have been undertaken and performed in the manner required by law:

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

ARTICLE 1

INCORPORATION OF RECITALS

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

ARTICLE 2

DEFINITIONS

For the purposes of this Agreement, unless the context clearly requires otherwise, words and terms used in this Agreement shall have the meanings provided from place to place herein, including above in the recitals hereto and as follows:

“Act” means the Tax Increment Allocation Redevelopment Act found at 65 ILCS 5-11-74.4-1, et seq., as supplemented by the Local Government Debt Reform Act, as amended, and the home rule powers of the Village.

“Agreement” means this “Redevelopment Agreement-South Boulevard and Harlem Site.”

“Change in Law” means the occurrence, after the Effective Date, of an event described in Section (a) below, provided (x) such event materially changes the costs or ability of the Party relying thereon to carry out its obligations under this Agreement or otherwise necessitates material changes to the Project and (xx) such event is not caused by the Party relying thereon:

(a) Change in Law means any of the following: (i) the enactment, adoption, promulgation or modification of any federal, state or local law, ordinance, code, rule or regulation; (ii) the order or judgment of any federal or state court, administrative agency or other governmental body; or (iii) the adoption, promulgation, modification or interpretation in writing of a written guideline or policy statement by a governmental agency. Change in Law, for purposes of this Agreement, shall also include the imposition of any conditions on, or delays in, the issuance or renewal of any governmental license, approval or permit (or the suspension, termination, interruption, revocation, modification, denial or failure of issuance or renewal thereof) necessary for the undertaking of the Project under this Agreement.

“Code” means the United States Internal Revenue Code of 1986, as amended.

“Collector” means the officer or officers of The County of Cook, Illinois, who is or are at the time obligated under applicable law to collect and pay over to the Village the Incremental Property Taxes pursuant to and in accordance with the Act.

“Concept Plan” means the concept plan entitled “Concept Plan,” dated as of January 9, 2015, and attached hereto as **Exhibit 2**.

“Corporate Authorities” means the President and Board of Trustees of the Village of Oak Park, Cook County, Illinois.

“Developer” means OP South Boulevard LLC, a Delaware limited liability company, permitted assigns as provided in accordance with this Agreement, or any successors in interest thereof.

“Developer Affiliate” means an entity controlled by, or under common control with Developer such that it has either the same manager, members, partners or shareholders who shall own in aggregate, more than fifty percent (50%) of the ownership interests in Developer and also own more than fifty percent (50%) of the ownership interests in said Affiliate or an institutional investor(s) or a fund investing such investors assets; and as used herein, “control” shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person or entity, whether through the ownership of voting securities or rights, by contract, or otherwise.

“Eligible Improvements” means, among others, the Property and the various public improvements provided by the Village as part of the Project, including without limitation, the Public Improvements.

“Final Plans” means the PD Approved Plans and Elevations for the Planned Development as referenced in Subsection 6.2A of this Agreement and the Final Construction Plans and Specifications referenced in Subsection 6.2B of this Agreement containing the detailed plans for the Project (in its entirety including all public and private improvements and not merely the building(s) themselves) as approved by the Village prior to the issuance of any building or other permits for the Project, and any amendments thereto as approved by the Developer and the Village.

“Incremental Property Taxes” means that portion of the ad valorem taxes, if any, arising from the taxes levied upon the Property, which taxes are actually collected and which are attributable to the increases in the then current equalized assessed valuation (“**EAV**”) of the taxable lot, block, tract or parcel of all portions of the Property in the TIF District over and above the total Initial EAV of the Property, all as determined by the County Clerk of the County of Cook, Illinois, pursuant to and in accordance with the Act, the TIF Ordinances and this Agreement, which is attributable to the Property and includes any replacement, substitute or amended taxes.

“Initial EAV” means the initial calendar year equalized assessed value of the Property certified by the County Clerk of Cook County.

“Net Incremental Property Taxes” means that portion of the Incremental Property Taxes remaining after those payments required to be made to the applicable public school districts based upon State law and/or any agreements entered into between the Village and said school district or school districts, payments to any other taxing jurisdictions which are required under applicable State law, payments on any applicable debt obligations (i.e., payable from Greater Mall Tax Increment Area revenues), and after deduction of allowable administrative expenses of the Village.

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

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

“Project” means the development of the Property as generally described in Recital N, more specifically in the Final Plans, and all as provided pursuant to this Agreement.

“Project Schedule” means the schedule for the development and construction of the Project as provided in Section 6.1 of this Agreement.

“Property” means those parcels generally described in Recital I and depicted and legally described on **Exhibit 1**, upon which the Project will be implemented and constructed. **“Public Property”** means the parcels lying adjacent to or in the vicinity of the Property on which public improvements will be located and constructed.

“Real Estate Conveyance Provisions” means those provisions relating to the conveyance of the Property as part of the Project as set forth in Section 7.6 of this Agreement.

“Redevelopment Plan” means the “Redevelopment Plan” (as identified in Paragraph D of the Recitals) for the TIF District as approved by Village.

“Redevelopment Project Costs” means those qualified redevelopment project costs authorized by the Act and this Agreement, including without limitation, the costs of the Eligible Improvements.

“State” means the State of Illinois.

“TIF District” means the Greater Mall Tax Increment Area of the Village.

“TIF Fund” means the special allocation fund of the Village consisting solely of the Incremental Property Taxes of the Greater Mall Tax Increment Area.

“TIF Ordinances” means all Ordinances adopted by the Village relating to the establishment or amendment of the Greater Mall Tax Increment Area as further delineated in the Recitals to this Agreement.

“Uncontrollable Circumstance” means any event which.

- (a) is beyond the reasonable control of and without the fault of the Party relying thereon; and
- (b) is one or more of the following events:
 - (i) a Change in Law;
 - (ii) insurrection, riot, civil disturbance, sabotage, act of the public enemy, explosion, fire, nuclear incident, war or naval blockade;
 - (iii) epidemic, hurricane, tornado, landslide, earthquake, lightning, fire, windstorm, other extraordinary or ordinary weather conditions or other similar act of God;
 - (iv) governmental condemnation or taking;
 - (v) strikes or labor disputes, or work stoppages not initiated by the Developer;
 - (vi) shortage or unavailability of essential materials, which materially change the ability of the Party relying thereon to carry out its obligations under this Agreement;
 - (vii) unknown or unforeseeable geo-technical or environmental conditions;
 - (viii) major environmental disturbances;
 - (ix) vandalism; or
 - (x) terrorist acts.

Uncontrollable Circumstance shall not include: economic hardship; unavailability of materials (except as described in b(vi) above); or a failure of performance by a contractor (except as caused by events which are Uncontrollable Circumstances as to the contractor).

For each day that the Village or Developer is delayed by an Uncontrollable Circumstance, the dates set forth in this Agreement shall be extended by one (1) day for each day of the resulting delay.

“Village” means the Village of Oak Park, Cook County, Illinois, an Illinois home rule municipal corporation.

“Village Code” means the Oak Park Village Code, as amended from time to time.

“Zoning Ordinance” means the Village of Oak Park Zoning Ordinance, as amended from time to time.

ARTICLE 3

CONSTRUCTION

This Agreement, except where the context by clear implication shall otherwise require, shall be construed and applied as follows:

- (a) Definitions include both singular and plural.
- (b) Pronouns include both singular and plural and cover all genders.
- (c) The word “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.”
- (d) Headings of Articles and Sections herein are solely for convenience of reference and do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.
- (e) All exhibits attached to this Agreement shall be and are operative provisions of this Agreement and shall be and are incorporated by reference in the context of use where mentioned and referenced in this Agreement. In the event of a conflict between any exhibit and the terms of this Agreement, the Agreement shall control.
- (f) Any certificate, letter or opinion required to be given pursuant to this Agreement means a signed document attesting to or acknowledging the circumstances, representations, opinions of law or other matters therein stated or set forth. Reference herein to supplemental agreements, certificates, demands, requests, approvals, consents, notices and the like means that such shall be in writing whether or not a writing is specifically mentioned in the context of use.
- (g) The Village Manager, or the Manager’s designee, unless applicable law requires action by the Corporate Authorities, shall have the power and authority to make or grant or do those things, certificates, requests, demands, notices and other actions required that are ministerial in nature or described in this Agreement for and on behalf of the Village and with the effect of binding the Village as limited by and provided for in this Agreement. Developer and Village are entitled to rely on the full power and authority of the Persons executing this Agreement on behalf of the Developer and Village as having been properly and legally given by the Developer or Village as the case may be. In addition, the Village reserves the right to designate an “Owner’s Representative” at the Village’s sole cost with regard to the Project.
- (h) In connection with the foregoing and other actions to be taken under this Agreement, and unless applicable documents require action by Developer in a

different manner, Developer hereby designates Brian Byrne as its authorized representative who shall individually have the power and authority to make or grant or do all things, supplemental agreements, certificates, requests, demands, approvals, consents, notices and other actions required or described in this Agreement for and on behalf of Developer and with the effect of binding Developer in that connection (such individual being an “**Authorized Developer Representative**”). Developer shall have the right to change its authorized Developer Representative by providing the Village with written notice of such change which notice shall be sent in accordance with Section 19.3.

ARTICLE 4

DEVELOPMENT PLAN

The Developer has proposed and the Village has agreed that the development of the Project on the Property shall proceed in accordance with this Agreement and the Final Plans.

ARTICLE 5

DESIGNATION OF DEVELOPER

The Village hereby designates Developer as the exclusive developer for the Project on the Property, subject to the terms of this Agreement. The Village hereby represents to Developer that the Village has, to the best of its knowledge, taken in good faith, all necessary actions and has complied with all requirements of law necessary to authorize the Village to comply with this Agreement, including, without limitation, the requirements of Section 5/11-74.4-4 (c) of the Act required for the designation of Developer as the exclusive developer for the Project on the Property.

ARTICLE 6

DEVELOPMENT OF THE PROPERTY

Section 6.1 Project Schedule.

The Village and Developer agree that the development and construction of the Project will be undertaken in accordance with the following general schedule, so that the events set forth below occur by the outside dates set forth below (“**Project Schedule**”):

- I. RDA Effective Date – February 18, 2015
- II. Environmental/Title/Survey Review – August 17, 2015
- III. Planned Development Application Submittal – December 19, 2015
- IV. Planned Development Approval – June 18, 2016
- V. Building Permit and Final Engineering Submittal – October 17, 2016
- VI. Letter Approval of Final Engineering and Issuance of Building Permit(s) – January 17, 2017
- VII. Evidence of Financial Support – January 31, 2017
- VIII. Real Estate Closing – February 14, 2017

- IX. Commencement of Construction – April 17, 2017
- X. Issuance of Certificate of Occupancy / Project Opening – August 14, 2018

The Village and Developer agree to undertake all actions respectively necessary by each Party, including without limitation, the application, review, and approvals related to the Final Plans, to allow for the development and construction of the Project in accordance with the Project Schedule. The Parties acknowledge that the Project Schedule is based on the Parties best understanding of the Project and related milestones as of the Effective Date. The Parties may amend the Project Schedule as necessary to ensure that it accurately reflects the key milestones in the development and construction of the Project, and the Parties specifically agree that the milestone dates will be automatically extended by (a) the number of days after the date in the Project Schedule that the Planned Development or any other Village required action is accomplished and (b) the duration of any Uncontrollable Circumstance. Each Party agrees to not unreasonably withhold approval of a request by the other Party to amend the Project Schedule for such purposes.

Section 6.2 Concept and Preliminary Plans.

Exhibit 1 generally depicts and legally describes the real estate comprising the Property. The Project to be approved by the Village and constructed by the Developer on the Property shall be substantially in conformity with the Concept Plan (as defined and identified in Article Two above) attached hereto and hereby made a part hereof as **Exhibit 2**, except as otherwise authorized by the Final Plans to be approved by the Village. All parking for the Project shall be provided both on-site and off-site by the Developer, in general conformity with the Preliminary Parking Plan attached hereto and hereby made a part hereof as **Exhibit 3**. A minimum of 398 new parking spaces will be provided. **Exhibit 4** lists the real estate parcels to be improved and developed by the Developer and the Village to complete the Project, including a general depiction of the parcels to be dedicated for the Public Improvements and the Garage. **Exhibit 5** lists and describes the Public Improvements and the related cost estimates. **Exhibit 6** describes the Property and the real estate to be conveyed between the Village and to Developer for the private improvements. **Exhibit 7** is a non-exclusive list the Easement Agreements for Public Way that may be required with adjoining landowners to the Property. **Exhibit 8** is the Affordable Housing Compliance Report and Certification. **Exhibit 9** is reserved. **Exhibit 10** describes the projected Project analysis of real estate and sales tax revenues. **Exhibit 11** provides the Developer's pro forma estimate of costs. **Exhibit 12** is the Garage Operating Agreement. It is understood that the Project must not only be constructed in conformity with the Concept Plan, the Final Plans and also the aforesaid **Exhibits 3 through 12**, but also all applicable codes, ordinances and regulations of the Village (except as to zoning and building code provisions that the Village has granted variations and waivers from) and the ordinance granting all approvals as required by the Village Code and other ordinances of the Village in effect as of the filing of the application for the issuance of the building permit for the Project. In the event of a conflict between this Agreement, including any of the Exhibits to this Agreement, and the Final Plans, the requirements of the Final Plans shall control.

A. Submission of Plans and the Planned Development Application. The Village Zoning Ordinance requires that the Project be authorized by Ordinance as a Planned Development (the "**Planned Development**"). In accordance with the Project

Schedule, Developer shall submit a complete application for, and the Village will review, a Planned Development for the Project, pursuant to the requirements of the Village Zoning Ordinance relating to Planned Developments for processing by the Village, consistent in all material respects with this Agreement and the Project Schedule. The plans and elevations as approved by the Village pursuant to and included in the Ordinance approving the Planned Development shall be the “**PD Approved Plans and Elevations**” for the Project.

B. Submittals for Building and Construction Permits. Final building and construction plans and specifications for the construction of the Project, including final engineering plans and specifications (the “**Final Plans**”) shall be prepared in substantial accord with the PD Approved Plans and Elevations and submitted to the Village Building Department for review and approval prior to construction and within the time period provided in the Project Schedule. Approval by the Village Board of the PD Approved Plans and Elevations shall not be deemed to preclude any necessary review and approval of the Final Plans by the Building Department prior to the issuance of required building permits in accordance with this Agreement and the Village Code.

Section 6.3 Residential Management Office.

Developer shall maintain a residential management office on the Property.

Section 6.4 Public Improvements.

The Final Plans shall provide for all Public Improvements, including, to the extent applicable, general site improvements, streets, parking, street and parking lot and/or parking structure lighting, architecture, sign requirements, streetscape and street furniture, stormwater facilities, alleys and driveways, parking facilities, landscaping, together with all general engineering plans for the entire Project. All site and building improvements must be in accordance with the Final Plans and applicable codes and ordinances of the Village as they exist at the time of the filing of the application for the permit for the issuance of the building permit for the Project except as to zoning and building code provisions that the Village has granted variations from as part of the approval of the Planned Development.

Section 6.5 Permitted Uses.

The uses permitted for the Project shall be as set forth in the Final Plans, and as defined in the Zoning Ordinance.

The Developer and the Village agree that the Developer, and any successor operator of the commercial component of the Project, shall maintain a mix of uses consistent with the Final Plans.

The Village and the Developer acknowledge and agree that as part of the Final Plans the Developer will likely request certain additional special uses and the Village agrees to reasonably review these requests for incorporation into the Final Plans.

Section 6.6 Prohibited Uses.

The Developer agrees to not lease to or otherwise sell or allow to operate on the Property or in the Project any use specifically prohibited by the Zoning Ordinance. This restriction on prohibited uses shall be a covenant running with the land and binding on all future owners, successors in interest, tenants and assignees of any kind, subject to the requirements of the Final Plans.

ARTICLE 7

VILLAGE COVENANTS AND AGREEMENTS

Section 7.1 Village's Redevelopment Obligations.

A. General Obligations. In addition to its other covenants and obligations set forth in this Agreement, the Village shall have the obligations set forth in this Article Seven with regard to the development, construction, financing, completion and furtherance of the Project, all subject to the Developer's financial commitments and compliance with the terms of this Agreement.

B. Public Improvements. Subject to the conditions and terms set forth in this Agreement, the Village shall construct all of the public improvements and perform all the work designated on **Exhibit 5** including, but not limited to, streetscape improvements, utility relocation and environmental remediation (the "**Public Improvements**"). Other than the payment by the Developer of \$1,100,000 as set forth in Section 8.9 hereof, the Developer shall not pay or otherwise reimburse the Village for any portion of the Village's costs in constructing the Public Improvements as identified in **Exhibit 5**. The Developer's reimbursement to the Village for the Village's construction of those portions of the Public Improvements shall be limited to the sum of the costs for such items comprising those portions of the Public Improvements on Exhibit 5, and if the final cost of the those portions of the Public Improvements is less than that shown on Exhibit 5, the Village shall be entitled to be paid by the Developer only the lesser actual cost.

C. Village Responsibilities. The Village:

- (i) Will complete streetscape improvements on South Boulevard from Marion Street to Harlem Avenue as described on Exhibit 5;
 - (1) Improvements will include right-of-way up to property line;
- (ii) Will vacate and convey to Developer at the Real Estate Closing Maple Street within the limits of the Property, subject to required Village easements for pedestrian access and utilities;

- (iii) Will complete all utility relocation and/or related demo/construction on South Boulevard, Maple Street and the alley as shown on Exhibit 5 prior to the Real Estate Closing;
- (iv) Will convey the Property to Developer in accordance with the provisions of this Agreement;
 - (1) Will remove/remediate visible and underground obstructions and environmental issues, as the same are identified pursuant to Section 7.7 hereof; and
- (v) Will provide surveys, title report and property access upon execution of this development agreement.

D. Garage Parking Agreement. Prior to commencement of operations of the Garage, the Village and Developer will enter into a Garage Parking Agreement in the form attached hereto as **Exhibit 12**. In the event of any conflicts between the Garage Parking Agreement and any other provision of this Agreement, the terms and conditions of the Garage Parking Agreement shall control. In accordance with their own respective terms, the Garage Parking Agreement will survive the expiration of the term of this Agreement. The Garage Parking Agreement shall contain the following:

- 148 public spaces will be available via monthly permit or hourly rates
- Public spaces to be owned and operated by the Developer
- The Developer will collect and retain all revenue generated by public spaces
- The Developer will maintain and manage the public spaces
- The Developer will establish monthly / hourly rates for public spaces

Section 7.2 Village Cooperation.

The Village agrees to cooperate with Developer in Developer's attempts to obtain all necessary approvals from any governmental or quasi-governmental entity and upon request of Developer, will promptly execute any applications or other documents (upon their approval by the Village) which Developer intends to file with such other governmental or quasi-governmental entities in respect of the Project. The Village shall further promptly respond to, and/or process, and consider reasonable requests of Developer for: applicable excavation and foundation permits; shell permits; other building permits; driveway permits; curb cuts or other permits necessary for the construction of the Project. Approval of any building permit applications and/or engineering plans shall be contingent on the Developer providing all required and requested documentation for each such permit, including but not limited to engineering reports, calculations and plans required to substantiate that said improvements fully conform with all applicable state statutes and also all Village ordinances and codes, as well as receipt of all required approvals from any federal, state, regional or county agencies having applicable jurisdiction.

Section 7.3 Reserved.

Section 7.4 Village Incentive.

A. Conveyance. In addition to approval of the Planned Development and the Final Plans, the Village is obligated under this Agreement to convey the Property, vacate a portion of Maple Avenue and provide infrastructure and streetscape improvements, all collectively referred to as the “**Village Incentive.**”

B. No Condition on Funding Source. The Village’s obligation to provide the Village Incentive is not subject to, conditioned or otherwise contingent upon any particular funding source. The Parties acknowledge that the Village has several options on how to fund the Village Incentive, including without limitation, the authority provided under the Village’s home rule powers, Section 8-1-2.5 of the Illinois Municipal Code, 65 ILCS 5/8-1-2.5, and, potentially, under the TIF Act. Notwithstanding any provision of this Agreement to the contrary, including without limitation any provision of this Agreement with regard to TIF funding, the Village’s obligation to provide the Village Incentive to the Developer as provided under this Agreement is not subject to, conditioned or otherwise contingent upon the availability of funding that may be authorized under the TIF Act.

Section 7.5 PIN Notification.

The Developer shall notify the Village from time to time of all new property index numbers (PINs) as they are issued by the Cook County Clerk, it being understood that without such information the Village will be unable to calculate and determine an amount of Net Incremental Property Taxes.

Section 7.6 Conveyance of Land.

A. The Village will convey the Property as set forth in the Project Schedule to the Developer so that the Developer is able to build and complete the Project.

B. Real Estate Closing. The Closing of the sale and conveyance of the Property from the Village to the Developer shall take place at the office of the Title Company no earlier than the 30th day, and not later than the 90th day, following Developer’s receipt of all governmental approvals and permits, Village entitlements, NFR Letters and the required MWRD approvals for storm water retention for the Project, or on such other date as the parties may agree upon. The Closing shall be what is commonly called a "New York Style" Closing, at which Developer receives its final owner's title insurance policy. It shall be a condition precedent to the Closing that Developer shall have received a letter from the Village stating that the Village will issue a building period for construction of the Project. At the Closing, the Village shall deliver the following items (duly executed, and notarized, where appropriate):

- (i) A Warranty Deed conveying fee simple title to the Property to Developer, subject only to the Permitted Exceptions, reciting only nominal consideration.

- (ii) A completed ALTA Statement.

At the Closing, the parties shall execute a Closing Statement in customary form, listing all sums payable by the Developer hereunder as the Purchase Price, and such other documents as the Title Company may require for the Closing of the transaction.

The Developer shall pay the amount of the recording fee for the recording of the deed, and the Village shall pay the full premium for the base Owner's Title Insurance Policy (without endorsements, unless required to clear title) and the cost of the Survey.

All escrow and closing costs shall be allocated to and paid by the Village and the Developer in accordance with the manner in which such costs customarily are paid by such parties in sales of similar property in the county in which the Property is located; provided, however, each party shall pay its own attorneys' fees.

Any proratable items of income and expense shall be prorated as the Closing Date.

The Village shall cause all contracts and agreements relating to the operation, use, maintenance, repair and replacement of the Property or any portion thereof to be terminated, at the Village's sole cost and expense, as of the Closing Date.

Section 7.7 Environmental Review Period.

For the purposes of this Section, the following terms have the following meanings:

(a) “**Environmental Law**” includes, without limitation, any federal or State law relating to pollution or pertaining to health, industrial hygiene, or protection of the environment, including, without limitation, CERCLA (Comprehensive Environmental Response, Compensation and Liability Act), RCRA (Resources Conservation and Recovery Act), the Clean Air Act, the Clean Water Act and similar state statutes and regulations.

(b) “**ESA**” means collectively a Phase I ESA and/or a Phase II ESA, as applicable.

(c) “**Phase I ESA**” means a non-intrusive Phase I Environmental Site Assessment conducted in accordance with the United States Environmental Protection Agency (EPA) All Appropriate Inquiry (AAI) standard and requirements set forth in 40 CFR 312, and consistent with American Society for Testing and Materials (ASTM) E-1527-05 or the most current ASTM standard.

(d) “**Phase II ESA**” means an invasive environmental inspection or sampling of soils, groundwater, subsurface conditions, water, air, soil gas or other media, including, without limitation, building and construction materials.

Remediation Action Plan – On or before the Effective Date, the Village shall deliver to Developer the Reports referenced in Section 14.4 of this Agreement, the Village and Developer shall commence a one hundred twenty (120) day period after the Effective Date (the “**Environmental Review Period**”) to perform (i) one or more ESAs and other appropriate environmental analysis of the Property, and (ii) inspections and tests to determine the presence of

any underground tanks at the Property, and (iii) such investigations and tests as Developer reasonably deems appropriate concerning soil conditions at the Property and such development feasibility issues as may be required for its construction lender (“**Environmental Review**”). All environmental and underground inspections, tests, studies, investigations, borings and the like shall be performed by environmental or other engineers and consultants employed by Developer, each such to be approved by the Village. The costs of the Environmental Review (except for the costs of (iii), above) will be billed directly to and paid by the Village. Prior to commencing a Phase II ESA of the Property, Developer and Village will consult on the proposed scope of work for such Phase II ESA, which shall include (i) the number, location and depth of proposed borings, (ii) the proposed environmental engineer to be engaged to perform the Phase II ESA, (iii) the chemical parameters proposed for analysis, (iv) the estimated time for Developer to complete both its Phase II ESA and written report thereof, (v) the proposed backfilling of boreholes and restoration of the Property, and (vi) the cost of the Environmental Review, including any ESAs. The Village will fully cooperate with the Developer in these undertakings and will provide the Developer and the environmental and other consultants with any rights of access and other permits or approvals necessary to undertake the environmental and underground analysis of the Property. The Parties will be allowed to observe the Phase II ESA and other environmental investigations on the Property and the Village shall have the right to have a consultant at the Property to observe the Phase II ESA and approve the backfilling of boreholes and restoration of the Property, which consultant shall be at the Village’s sole cost and expense. The Village’s consultant shall have the right to collect split samples, at the Village’s sole cost and expense. Prior to commencing the Environmental Review, the Village will approve the Review and specifically agree that it will be responsible for the costs of the Environmental Review.

Developer shall comply with the following terms and conditions in conducting any ESA:

- (a) The ESA shall be conducted pursuant to standard quality control/quality assurance procedures and in compliance with all applicable Environmental Laws.
- (b) Developer, and Developer’s consultants, representatives and agents, shall obtain all necessary permits, licenses and authorizations to conduct the ESA and shall comply with any and all obligations under applicable Environmental Laws.
- (c) Prior to the commencement of any Phase II ESA, Developer shall be responsible to timely notify any utility company or applicable governmental authority of its intended inspections.
- (d) Developer shall obtain, maintain and provide to the Village, and shall cause any consultant, contractor or other person entering the Property to obtain, maintain and provide to the Village, proof of comprehensive general liability insurance in the amount of at least \$1,000,000.00 combined, single limit coverage, naming the Village as an additional insured and with coverages reasonably satisfactory to the Village.
- (e) Any samples, waste materials, soil cuttings, hazardous wastes, hazardous substances, pollutants, contaminants (including contaminated soils or groundwater) or free product which is discovered through the Phase II ESA at the Property shall be handled, stored,

treated, transported and disposed of at the Village's sole cost and in accordance with all applicable Environmental Laws.

(f) The cost of the Environmental Review for which the Village will be responsible shall include, but not be limited to, the costs to restore the Property to substantially the same condition existing prior to its Phase II ESA.

(g) Within three (3) days after the completion of any ESA as part of the Environmental Review, the Parties will ensure that both Parties shall receive a complete copy of the relevant report, including without limitation any Phase II ESA report, including boring logs and laboratory analytical reports.

Developer shall keep the information obtained from any ESA confidential and shall not disclose it to any person or entity without the Village's prior written consent, except for the Developer's members, lenders, contractors, agents and attorneys and except as otherwise required by law. Notwithstanding the foregoing, if Developer, or Developer's consultant or other representative or agent, (1) discovers an adverse environmental condition on the Property that requires disclosure to a governmental authority or (2) becomes legally compelled to disclose any information under applicable law arising from an ESA or other investigation of the Property, Developer shall, and shall cause its consultant or other representative or agent to, immediately upon discovery (i) notify the Village of the adverse environmental condition or legal obligation and the applicable disclosure requirement, and (ii) furnish only to such governmental authority requiring disclosure such information, which Developer (or Developer's consultant or other representative or agent) is advised by counsel, it is legally required to disclose under such applicable law.

At the end of the Environmental Review Period, Developer and the Village shall analyze all of the results of the Environmental Review and attempt to mutually agree on the nature and scope of the remediation based on the results of the ESA and other environmental or underground investigations of the Property, or any portions thereof, and the associated costs to the Village for that remediation. (As used herein, "**remediation**" means and includes remediation of environmental conditions, as well as removal and disposal of underground tanks.) This review and consultation shall include consideration of any reasonable alterations to the Project that may lessen or otherwise make more manageable for the Village and the Developer the remediation and costs of remediation in the context of the Project. If the parties reach an agreement on the nature and scope of the remediation and the associated costs to the Village for that remediation, the Parties shall execute a written Environmental Remediation Agreement incorporating all of the agreed upon terms and conditions relating thereto. The Environmental Remediation Agreement shall require that, prior to the Real Estate Closing Date, a "No Further Remediation" letter (an "**NFR Letter**") shall have been issued to Developer by the United States Environmental Protection Agency or the Illinois Environmental Protection Agency, or both (as designated by Developer's environmental consultant). If the Village and the Developer are unable to agree on the nature and scope of the remediation required for the Project and the associated costs to the Village of that remediation, or if the results of Developer's investigations and tests concerning soil conditions or feasibility issues are not acceptable to Developer, then either party may terminate this Agreement by giving written notice thereof to the other party and in such event neither party shall have any further obligation or liability hereunder except as shall

specifically survive. If this Agreement is so terminated, all ESA reports shall become the property of the Village, although the Developer will have the right to retain copies.

Developer, for itself and any entity affiliated with Developer, waives and releases the Village from and against any liability or claim arising under any Environmental Law related to the Developer's completion of an ESA on the Property. Developer, for itself and any entity affiliated with Developer, hereby agrees to indemnify, defend and forever hold the Village harmless from and against any and all liability, damage, loss, injury, cost or expense, including reasonable attorneys' fees, suffered or incurred by or asserted against the Village arising from or relating to the conduct by the Developer or the Developer's consultant of the ESA or Developer's failure to comply with any applicable Environmental Laws with regard to the conduct of the ESA. The provisions of this paragraph shall survive the Closing or any earlier termination of this Agreement. Notwithstanding anything to the contrary set forth in the Agreement, the Developer shall not be responsible for any environmental condition, and any related liabilities or costs related thereto, existing on the Property as of the Effective Date of this Agreement or at any time prior to the conveyance of the Property to the Developer, except only as specifically provided in the Real Estate Conveyance Provisions or other documents used to consummate the conveyance of the Property to the Developer.

All remediation to be performed as set forth in the Environmental Remediation Agreement shall be performed at the direction of the Developer, and the NFR Letter(s) to be obtained and delivered to Developer shall be obtained and delivered by the Village, in each case at the Village's sole cost and prior to the Real Estate Closing Date.

Section 7.8 Title and Survey Review Period.

The Village and Developer shall commence a (90) day period after the Effective Date (the "**Title and Survey Review Period**") to identify, review, and approve all title and survey matters related to the development of the Property for the Project. Within 10 business days after the Effective Date, if not sooner, Developer shall order and provide the Village with a current title commitment for the issuance of an owner's title insurance policy in the amount of \$1,100,000.00 (the "**Title Commitment**"), covering title to the Property along with copies of all documents referred to therein, from Chicago Title Insurance Company (the "**Title Company**"). Developer shall also order a survey of the Property (the "Survey") from a licensed Illinois land surveyor. The Survey shall be prepared in accordance with ALTA/ACSM 2011 Minimum Standard Detail Requirements containing Table A Items 1, 2, 3, 4, 5, 6, 8, 11, 18, 19 and 20(b), and shall be certified in favor of Developer, the Village and the Title Company. The Title Commitment, the title policy to be issued pursuant thereto and the Survey shall be at the Village's expense. Unless the Developer and/or Developer's counsel objects (and such objection being a "**Title Objection**") to any matter shown in the Title Commitment or Survey on or before the fifth business day after receipt of the last of the Title Commitment and the Survey, then all of same shall be deemed approved by Developer (all items approved or deemed approved by Developer are "**Permitted Exceptions**"). If Developer does give such notice, the Village shall have ten (10) business days after receipt thereof to notify the Developer that the Village (a) will cause or (b) elects not to cause any or all of the Title Objections disclosed therein to be removed or insured over by the Title Company. The Village's failure to notify the Developer within such ten (10) business day period as to any Title Objection shall be deemed an election by the Village

not to cause the Title Company to remove or insure over such Title Objection. If the Village notifies the Developer that the Village shall not remove or insure over any or all of the Title Objections, the Developer shall have five (5) business days after receipt of such notice from the Village to (i) terminate this Agreement, in which event neither party shall have any further obligation or liability hereunder, except for those items that specifically survive a termination of this Agreement or (ii) waive such Title Objections and to not raise such waived Title Objections as a cause to not proceed with the Project under the terms of this Agreement. If the Developer does not give such notice within said period, the Developer shall be deemed to have elected to waive such Title Objections. Notwithstanding the foregoing, the Village acknowledges and agrees that if there are any mortgagee or deed of trust liens, mechanic's liens, or security interests currently against the Property then the Village will cause such liens to be removed.

Section 7.9 Village Permit Fees.

The Village agrees to reduce or waive all Village building permit fees, tap-in fees, internal review fees, impact fees, demolition fees and meter fees to the agreed sum of \$311,709.00 which shall be due and payable as follows: \$50,000.00 to be paid by Developer at the time of submission of building plans for review and \$261,709.00 at the time of the issuance of the first building permit by the Village for any portion of the Project. Such fees to not include the cost of "Special Inspections" as described under Section 1704 of the International Building Code, the additional cost of which shall be paid by Developer and shall not be ordered or billed by the Village. Such fees shall be based on, and shall not be increased as long as there is no substantial increase in, the following:

- Construction type
 - Type I B
- Height
 - 135 feet
- Retail (floor 1)
 - 15,000 square feet
- Leasing / Amenity / Service Space (floor 1)
 - 35,000 square feet
- Parking (floors 2-4)
 - 175,000 square feet
- Residential (floors 5-11)
 - 270,000 square feet

Section 7.10 Parking Lot Closure.

The Developer shall notify the Village of the date for the closing of the parking lots no less than thirty (30) days prior to such closure thereof.

ARTICLE 8

DEVELOPER'S COVENANTS AND AGREEMENTS

Section 8.1 Developer's Development Obligations.

Developer shall have the obligations set forth in this Article Eight for the development, construction, financing, completion and furtherance of the Project, all subject to the terms and conditions of this Agreement, including without limitation, the Village's financial commitments and compliance with the terms set forth in this Agreement.

Section 8.2 Developer's Commitments.

(a) Developer will construct the Project in compliance with the terms of this Agreement and the Final Plans in all material respects.

(b) The Developer must construct all public works (as defined in the Act, hereafter defined) in full compliance with the Prevailing Wage Act (for purposes of this section, the "Act") of the State of Illinois, 820 ILCS 130/0.01 et seq., as amended. The Developer shall indemnify, hold harmless, and defend the Village, its governing body members, officers, agents, including independent contractors, consultants and legal counsel, servants and employees thereof ("Indemnified Parties"), in all instances against all regulatory actions, complaints, damages, claims, suits, liabilities, liens, judgments, costs and expenses, including reasonable attorney's fees, which may in any way arise from or accrue against the Indemnified Parties as a consequence of compliance or alleged noncompliance with the Act or which may in any way result therefrom, including, but not limited to, a complaint by the Illinois Department of Labor under Section 4(a-3) of the Act, 820 ILCS 130/4(a-3) that any or all of the Indemnified Parties violated the Act by failing to give proper notice to the Developer or any other party performing work on such public works that not less than the prevailing rate of wages shall be paid to all laborers, workers and mechanics performing work on such public works, including interest, penalties or fines under Section 4(a-3). The indemnification obligations of this section on the part of the Developer shall survive the termination or expiration of this Agreement. In any such claim, complaint or action against the Indemnified Parties, the Developer shall, at its own expense, appear, defend and pay all charges of reasonable attorney's fees and all reasonable costs and other reasonable expenses arising therefrom or incurred in connection therewith, and, if any judgment or award shall be rendered against the Indemnified Parties in any such action, the Developer shall at its own expense, satisfy and discharge such judgment or award in all instances.

(c) Developer shall grant, dedicate or convey all rights-of-way and easements on the Property in order to provide for all required Project improvements, as shown in the Final Plans, including but not limited to streets, sidewalks, street lights, water mains, storm and sanitary sewer mains, detention or retention ponds, gas, electricity, and cable television. The Village shall coordinate said conveyances with all applicable utility companies and other applicable governmental bodies and/or agencies.

(d) Developer shall grant the Village or appropriate utility companies an easement or easements for pedestrian access and the maintenance, repair or replacement of utility facilities on and under the Property at locations to be agreed upon pursuant to the terms of this Agreement.

(e) Developer shall park and stage all construction equipment, materials and vehicles at such site(s) as may be reasonably designated by the Village from time to time in consultation with the Developer, including but not limited to on the South Boulevard right of way.

(f) The Developer and the Village shall at all times cooperate with each other as to site improvements to minimize required franchise fees to public utilities.

Section 8.3 General Management of Property.

It is understood that the Developer's current intention is to not sell, but instead lease, both the residential and the commercial/retail space portions of the Project. The Developer is hereby prohibited from selling any portion of the commercial/retail space to individual owners without first requiring in any recorded condominium declaration(s) or restrictive covenants or other legally binding document that the owner(s) must hire a professional commercial real estate manager experienced in managing commercial/retail space of the size of the space to be individually owned, unless the owner(s) is an individual experienced in commercial real estate leasing and management. Nothing herein shall be construed to prohibit the sale of all the commercial/retail space to an individual owner experienced in commercial real estate leasing and management. Developer must also ensure that all residential units are professionally managed as is customary for residential apartment complexes.

Section 8.4 Construction Financing Deadline.

In accordance with the Project Schedule, the Developer shall demonstrate to the Village's reasonable satisfaction that Developer has sufficient funds to pay the costs of the Project. To evidence that fact, Developer shall obtain and provide to the Village a letter of assurance from Developer's lender reasonably satisfactory to the Village evidencing the necessary construction financing for the Project. The Village shall accept or reject such letter within 5 business days of receipt thereof.

Alternatively, Developer may in its discretion submit written evidence to the Village in a form and substance reasonably satisfactory to the Village that Developer has access to sufficient funds to pay the cost of the Project, without obtaining third party financing.

Notwithstanding the provisions of Article 17 hereof, if Developer fails to meet any of the material requirements of this Section 8.4, the Village shall be relieved of its obligations under this Agreement after Developer is given written notice from the Village of the nature and extent of such failure and Developer has not cured such failure within sixty (60) days after receiving such notice from the Village.

Section 8.5 Timing of Developer's Obligations.

Subject to Uncontrollable Circumstances, Developer will complete construction of the Project pursuant to the Project Schedule. Construction shall be deemed to have begun on the day the first building permit (regardless of type) is issued.

If Developer fails to complete the Project within the time period set forth in the Project Schedule, such will constitute an Event of Default under this Agreement (subject to the cure provisions hereof) unless caused by Uncontrollable Circumstances.

Section 8.6 Compliance with Applicable Laws.

Developer shall at all times acquire, install, construct, operate and maintain the Project in conformance with all applicable laws, rules, ordinances and regulations. Except as to Village Code provisions that the Village has granted variations from, all work with respect to the Project shall conform to all applicable federal, state and local laws, regulations and ordinances, including, but not limited to, zoning, subdivision and planned development codes, building codes, environmental laws (including any law relating to public health, safety and the environment and the amendments, regulations, orders, decrees, permits, licenses or deed restrictions now or hereafter promulgated thereafter), life safety codes, property maintenance codes and any other applicable codes and ordinances of the Village, or any of its rules or regulations or amendments thereto, which are in effect at the time of issuance of each building permit.

Section 8.7 Progress Meetings.

Developer shall meet with the Corporate Authorities or Village staff, or both (as determined by the Village) as reasonably requested and make presentations to the Corporate Authorities up to four (4) times a year as reasonably requested by the Village President in order to keep the Village apprised of the progress of the construction of the Project.

Section 8.8 Developer's Cooperation and Coordination.

During the construction of the Project, the Developer shall provide such notices and attend such community and neighborhood meetings as may be necessary or desirable, as reasonably determined by the Village and the Developer in consultation, to keep the residents and local businesses in the immediate vicinity of the Property fully informed of progress on the Project and any measures that the Village and Developer believe prudent for the residents to take to minimize construction-related inconvenience. The Developer shall also stage its construction of the Project to avoid to the fullest extent reasonably possible any such community disruption. During construction the Developer shall also keep all streets in the vicinity of the Project clean on a daily basis of any construction-related debris. Within three hours after notice from the Village that one or more streets within the Project are not satisfactorily clean during a 24-hour period, the Developer will take steps to remedy the complaint. In the event that the Developer fails three times to the remedy a complaint under this Section with regard to properly cleaning a street, the Developer, upon the fourth violation, shall pay the Village the sum of \$250 for each such subsequent violation. The Developer also agrees to coordinate all construction with any special events planned by the Village, particularly including, but not limited to, special

marketing events, including those utilizing the Metra train station and the Metra commuter parking lots, and any other celebrations located in the vicinity of the Project in general and specifically along South Boulevard and Harlem Avenue. In the event of any such special events, such coordination with the Village shall include a specific traffic plan approved by the Village for both vehicles and pedestrians during the special event.

Section 8.9 Developer Contribution.

On the Real Estate Closing Date, the Developer shall make a contribution of \$1,100,000 to the Village for the site (including Maple Street), streetscape on South Boulevard and utility relocations and improvements and/or other related costs. In addition, the Developer shall pay for all costs to replace the streetscape on the Property's Harlem Avenue frontage that, at a minimum, substantially matches or compliments existing streetscape conditions and palate along Harlem Avenue.

Section 8.10 Reserved.

Section 8.11 Employment Opportunity.

The Developer, on behalf of itself and its successors, assigns and Developer Affiliates, hereby agrees, and shall contractually obligate its or their various contractors, subcontractors or any Developer Affiliate operating on the Property (collectively, with the Developer, the “**Employers**” and individually an “**Employer**”) to agree, that for the term of this Agreement with respect to Developer and during the period of any other party's provision of services in connection with the construction of the Project or occupation of the Property, as follows:

A. No Discrimination in Employment. No Employer shall discriminate against any employee or applicant for employment based upon race, religion, color, sex, national origin or ancestry, age, disability, sexual orientation, military discharge status, marital status, parental status or source of income. Each Employer shall take affirmative action to ensure that applicants are hired and employed without discrimination based upon race, religion, color, sex, national origin or ancestry, age, disability, sexual orientation, military discharge status, marital status, parental status or source of income and are treated in a non-discriminatory manner with regard to all job-related matters, including without limitation: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Employers, in all solicitations or advertisements for employees, shall state that all qualified applicants shall receive consideration for employment without discrimination based upon race, religion, color, sex, national origin or ancestry, age, disability, sexual orientation, military discharge status, marital status, parental status or source of income.

B. Training Opportunities. To the greatest extent feasible, each Employer is required to present opportunities for training and employment of low-and moderate-income residents of the Village and preferably of the Redevelopment Area; and to provide that contracts for work in connection with the construction of the Project be

awarded to business concerns that are located in, or owned in substantial part by persons residing in, the Village and preferably in the Redevelopment Area.

C. Compliance with Employment Laws. Each Employer shall comply with all federal, state and local equal opportunity employment Laws, statutes, rules and regulations, including but not limited to the Village's Human Rights Ordinance, codified as Chapter 13 of the Village Code, the Cook County Human Rights Ordinance and the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. (1993), and any subsequent amendments and regulations promulgated thereto.

D. Response to Village Inquiries. Each Employer, in order to demonstrate compliance with the terms of this Section, shall cooperate with and promptly and accurately respond to inquiries by the Village, which has the responsibility to observe and report compliance with equal employment opportunity regulations of federal, state and municipal agencies.

E. Employment Terms to be Included in Subcontracts. To the extent feasible, each Employer shall include the foregoing provisions of subparagraphs (A) through (D) in every contract entered into in connection with the Project, and shall require inclusion of these provisions in every subcontract entered into by any subcontractors, and every agreement with any Affiliate operating on the Property, so that each such provision shall be binding upon each contractor, subcontractor or Affiliate, as the case may be.

F. Remedies for Violation of Employment Obligations. Failure to comply with the employment obligations described in Sections 8.11 through 8.13 shall be a basis for the Village to pursue remedies under the default provisions of this Agreement.

Section 8.12 No Discrimination in Sale or Lease.

The Developer shall not discriminate based upon race, color, religion, sex, national origin or ancestry, age, disability, marital status, parental status or sexual orientation in the sale, lease or rental, or in the use or occupancy of the Project or any improvements located or to be erected thereon, or any part thereof.

Section 8.13 Advertisements.

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

ARTICLE 9

ADDITIONAL COVENANTS OF DEVELOPER

Section 9.1 Developer Existence.

Developer will do or cause to be done all things necessary to preserve and keep in full force and effect its existence and standing as a Delaware limited liability company, so long as Developer maintains an interest in the Property or has any other remaining obligation pursuant to the terms of this Agreement.

Section 9.2 Construction of Project.

Developer shall diligently pursue obtaining all required permits and Developer shall cause construction of the Project on the Property to be prosecuted and completed pursuant to the terms hereof with due diligence, in good faith and without delay, subject to Uncontrollable Circumstances and the other provisions of this Agreement.

Section 9.3 Further Assistance and Corrective Instruments.

The Village and Developer agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may be reasonably required for carrying out the intention of or facilitating the performance of this Agreement to the extent legally permitted and within the Village's and the Developer's sound legal discretion.

Section 9.4 No Gifts.

Developer and the Village covenant that no officer, member, manager, stockholder, employee or agent of either Party, or any other Person connected with Developer or the Village, has knowingly made, offered or given, either directly or indirectly, to any member of the Corporate Authorities or the principals of the Developer, as the case may be, or any officer, employee or agent of the Village, or any other Person connected with the Village or the Developer, any money or anything of value as a gift or bribe or other means of influencing his or her action in his or her capacity with the Developer or the Village, to the extent prohibited under applicable law.

Section 9.5 Disclosure.

Concurrently with execution of this Agreement, Developer shall disclose to the Village the names, business addresses and ownership interests of all Persons with a controlling interest in the Developer. Developer further agrees to notify the Village throughout the term of this Agreement of the names, business addresses and ownership interests of any changes to such Persons. These materials shall be marked confidential and shall to the maximum extent permitted under applicable law, not be subject to public disclosure. The Village shall notify the Developer as soon as the Village receives a request for this information and agrees to consult with the Developer with regard to any possible disclosure.

ARTICLE 10

COVENANTS AND REPRESENTATIONS

Section 10.1 Village Benefits.

The Village is desirous of having the Property improved in order to service the needs of the Village and its residents, and the Project will increase employment opportunities in the Village, arrest decline in economic conditions existing in the Village, stimulate residential and commercial growth and stabilize the tax base of the Village, and, in furtherance thereof, the Village contemplates certain incentives and continuing economic incentives under the terms and conditions hereinafter set forth to assist in such.

Section 10.2 Need for Economic Assistance.

The parties hereto acknowledge, and the Developer represents and warrants, that it requires economic assistance from the Village as provided in this Agreement in order to commence and complete the Project, and that, but for said economic assistance, the Project as contemplated would not be economically viable nor would the funds necessary for its commencement and completion be available.

Section 10.3 Reserved.

Section 10.4 Conditions Precedent to the Undertakings on the Part of the Village.

All undertakings on the part of the Village pursuant to this Agreement are subject to satisfaction of the following conditions by the Developer, or as otherwise specifically hereinafter stated:

(a) The Developer shall have obtained final approvals relating to the Project, it being understood and agreed that the Village has the discretion established by law to approve all such work and the Village shall not be deemed to have caused a default hereunder or have any liability for its failure to approve such work.

(b) The Developer shall have obtained any other final approvals necessary from any other governmental unit or agency which has jurisdiction or authority over any portion of the Project.

(c) The Developer shall have certified to the Village that there exists no material default by Developer under this Agreement, beyond any applicable cure period set forth herein, or any agreement, guaranty, mortgage or any other document which the Developer has executed in connection with the Project, beyond any applicable cure period set forth therein, that affects or that may affect the Developer's ability to complete the Project on the Property, and that the Developer has not received any notice of any violation of any Village ordinances, rules and regulations, or of any applicable laws of the State of Illinois or the United States of America, and/or any agency or subdivision thereof, as well as any ordinances and resolutions of the Village pertaining to the Project which by their respective terms are to have been complied with prior to the completion of the Project.

(d) The Developer agrees that in the event there is an assignment that does not comply with the provisions of Section 19.20 of this Agreement, the Village shall have the right to declare an Event of Default under Article 17 of this Agreement.

(e) If a land trust or limited partnership shall become the owner of the Property, the sole beneficiaries of the Trust or the partners in the limited partnership shall have delivered to the land trustee or general partners as the case may be an irrevocable letter of direction indicating that any notice received by the land trustee or limited partnership which adversely impacts the Developer's title to or interest in the Property, including but not limited to any notice of failure to pay real estate taxes, notice of foreclosure or notice of mechanic's lien(s) on the Property, will be sent to the Village within three (3) business days following receipt thereof. Such letter of direction shall be irrevocable for so long as the Village is required to make payments under this Agreement. The Developer also agrees to send to the Village any such notice received by either of them within three (3) days of receipt.

Section 10.5 Payment of Real Estate Taxes

Notwithstanding any other provision contained herein, if the Developer and/or Owner of the Property, if different than the Developer, fails in any year to timely pay any or all of the real estate taxes on the Property within 30 days of when they become due, the Village may, at its sole discretion, declare an Event of Default under Article 17 of this Agreement. The Developer and/or Owner, if different than the Developer, shall provide evidence to the Village that such taxes were paid when due within sixty (60) days after the date when due. Notwithstanding the foregoing, the Developer shall have the right to contest in good faith the assessed valuation of the Property and the improvements thereon from time to time without affecting this Agreement.

Section 10.6 Undertakings on the Part of the Developer.

(a) The Developer shall commence construction of the Project in accordance with the Project Schedule, subject to Section 10.13, and shall not cause or permit the existence of any violation of Village ordinances, including but not limited to the Village's Building Code, Zoning Ordinance and Variation Ordinance, Fire Code, Sign Ordinance, Landscaping Ordinance, and any and all rules and regulations thereunder. The Developer shall have substantially completed the entire Project in accordance with the Project Schedule, subject to Section 10.13 of this Agreement, or by such later time as may be agreed by and between the Village and the Developer, with such substantial completion to be evidenced by 1) copies of all paid invoices for the portions of the Project to be financed by the Village, 2) a certificate of substantial completion signed by the Developer's architect or project manager, and 3) all such inspections and approvals as may be required by the Village. If requested by the Developer, the Village shall provide to Developer a written statement confirming such substantial completion for the purposes of this Agreement.

(b) Prior to any Real Estate Closing, the Village shall disclose to the Developer any and all existing conditions on the Property that are not in compliance with applicable provisions of the Village's Building Code, Zoning Ordinance, Fire Code, Sign Ordinance, Landscaping Ordinance, or any and all other rules and regulations thereunder ("**Existing Violations**"). The

Village agrees that the Developer shall in no way be responsible for any of the Existing Violations, even after the Property is conveyed to the Developer under this Agreement.

(c) The Developer shall comply with all of the requirements set forth in Sections 10.4 and 10.6 of this Agreement.

(d) The Developer shall require the title holder of record (if at any time different from the Developer) of the Property to give the Village notice regarding any forfeiture on the financing documents by the Developer for the financing of the Project or its subsequent purchase if an assignment is approved hereunder, and any tax and/or “scavenger” sales of the Property, or any portion thereof.

(e) The Developer covenants that it shall furnish or cause the tenants of any retail business to submit to the Village copies of the retail tenants’ monthly and annual sales tax reports as filed with the Illinois Department of Revenue. The terms of this Section shall be incorporated in the leases for such retail business and shall survive the issuance of the Certificate of Completion. To the extent the documents submitted to the Village pursuant to this paragraph are not considered public documents pursuant to Illinois Freedom of Information Act or other laws, they shall be deemed confidential and proprietary. This covenant shall survive the issuance of the Certificate of Completion.

(f) The Developer hereby covenants and agrees 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 finally assessed with respect to the Project and/or the Property.

(g) The Developer and the Village each represent to the other that it has not engaged the services of any finder or broker with respect to the purchase of any land related to the Project and that it is not liable for any real estate commissions, broker’s fees, or finder’s fees which may accrue by means of the acquisitions of any portion of the Property, and each agrees to hold the other harmless from such commissions or fees as are found to be due from the party making such representations.

(h) Following final approval of the Planned Development and the Final Plans by the Village, if the Developer elects not to proceed with the Project, then the Developer shall reimburse the Village for all reasonable staff costs incurred by the Village staff with respect to such review process, upon presentment of reasonably detailed statement of costs.

Section 10.7 Representations and Warranties of the Developer.

(a) The Developer hereby represents and warrants that the Project requires economic assistance from the Village in order to commence and complete the Project and, but for the economic assistance to be given by the Village as heretofore stated, the Project as contemplated would not be economically viable nor would the funds necessary for its completion be made available.

(b) The Developer hereby represents and warrants that at all times it shall comply with all applicable local zoning ordinances and regulations, all building and fire code regulations and all other applicable Village ordinances, resolutions and/or regulations.

(c) The Developer hereby represents and warrants that it shall comply with all applicable laws, rules and regulations of the State of Illinois, The County of Cook and the United States of America, and any and all agencies or subdivisions thereof.

(d) The Developer represents and warrants that it shall comply in all material respects with all terms, provisions and conditions, and that it shall not default or permit a continuing default under any document or agreement relating to the Project or the financing and development of the Project, including but not limited to this Agreement, and all agreements and documentation executed and delivered in connection with any financing or loans for the Project, a default under which would have a material adverse effect on the sales tax revenue generated thereby to the Village.

(e) The Developer hereby represents and warrants that it shall comply with all applicable Village ordinances concerning unlawful employment practices and consumer protection.

(f) The Developer hereby represents and warrants that it is a Delaware limited liability company in good standing under the laws of the State of Illinois.

(g) The Developer hereby represents and warrants that, as of the date of this Agreement, the cost of the Project is anticipated to be at least \$59,000,000.

Section 10.8 Reserved.

Section 10.9 Reserved.

Section 10.10 Reserved.

Section 10.11 Limitation of Liability.

No recourse under or upon any obligation, covenant or condition of Article Ten of this Agreement, or for any claim based thereon or otherwise related thereto, shall be had against the Village, or its officers, officials, agents and/or employees, in any amount in excess of any specific sum agreed by the Village to be paid to the Developer hereunder, subject to the terms and conditions set forth herein, and no liability, right or claim at law or in equity shall attach to, or shall be incurred by, the Village, or its officers, officials, agents and/or employees, in excess of such amounts and any and all such rights or claims of the Developer against the Village, or its officers, officials, agents and/or employees are hereby expressly waived and released as a condition of and as consideration for the execution of this Agreement by the Village.

Section 10.12 Curing Default.

In the event of any default under or violation of this Agreement, the party not in default or violation shall serve written notice upon the party or parties in default or violation, which notice shall be in writing and shall specify the particular violation or default. The parties reserve the right to cure any violation of this Agreement or default hereunder within thirty (30) days following written notice of such default. If such default is so cured within said thirty (30) day period, all terms and conditions of this Agreement shall remain in full force and effect. If the

parties cannot cure a default or violation hereof within said thirty (30) day period, then the other party shall grant a reasonable extension of the cure period, said extension not to exceed ninety (90) days, provided that the party in default or violation is diligently pursuing completion and/or cure and tenders proof of such diligence to the non-defaulting party upon request. The non-defaulting party may, at its sole discretion, grant such additional extensions beyond the aforementioned ninety (90) day extension period as may, in the sole discretion of the non-defaulting party, be reasonably necessary to cure said default. Notwithstanding anything herein to the contrary, the aforesaid time periods shall be extended pursuant to Section 10.13, if applicable.

Section 10.13 Uncontrollable Circumstance.

In the event that either party hereto is delayed, hindered or prevented in performing any act required hereunder by reason of an Uncontrollable Circumstance, the party so delayed, hindered or prevented shall, if reasonably practicable hereunder, be excused from performance only for the period of such delay, hindrance and/or prevention and shall immediately tender said performance upon the removal and/or reconciliation of said interference.

ARTICLE 11

AFFORDABLE HOUSING

Upon receiving a Certificate of Occupancy, the Developer agrees to initially market five one bedroom units as designated by Developer at rents that are \$70 per month less than the rents that are being offered by Developer for similar one bedroom units. Initially, the units will be available to residents earning at or below \$58,400 annually, provided that they meet the Developer's leasing criteria. Preference will first be given to Village of Oak Park Residents, then persons who work in Oak Park and then anyone else. Developer agrees to work with the Oak Park Regional Housing Center to market the units to persons qualifying. After 90 days of actively marketing a unit and no application from an income eligible tenant having been received that has been accepted or is pending, then Developer may at its option rent the unit at Developer's full market rate. However, if five one-bedroom units are not being rented under the terms hereof at one time by income eligible tenants, the next one-bedroom unit that comes available must be marketed for a period of 90 days as aforesaid to income eligible households who live in Oak Park and then income eligible households that work in Oak Park and then income eligible households in general. During the initial lease up period, upon successful rental of each unit, Developer will prepare the reports and certifications attached as Exhibit 8. Thereafter, the reports and certifications will be completed annually. The affordable housing program will continue for a period of 5 years after the issuance of the initial Certificate of Occupancy.

In addition, the Developer will contribute to the Village \$1,056,000 less the total amount of fees set forth in Section 7.9 hereof (excluding Special Inspection fees) to support affordable housing activities within the Village and the Village has sole authority to determine how such funds will be used for affordable housing purposes, but in no event shall the aggregate amount of this contribution and the total amount of fees and costs set forth in Section 7.9 exceed \$1,056,000.00.

ARTICLE 12

ADHERENCE TO VILLAGE CODES AND ORDINANCES

Except as to Code provisions that the Village has granted variations from, all development and construction of the Project shall comply in all respects with the provisions in the Building Code of the Village and all other germane codes and ordinances of the Village in effect from time to time at the time of issuance of each building permit during the course of construction of the Project. Furthermore, Developer agrees that the ongoing maintenance and operation of the Project shall comply with all codes and ordinances of the Village, specifically including but not limited to the Village's business license procedures. Developer has examined and is familiar with all the covenants, conditions, restrictions, building regulations, zoning ordinances, property maintenance regulations, environmental laws (including any law relating to public health, safety and the environment and the amendments, regulations, orders, decrees, permits, licenses or deed restrictions now or hereafter promulgated thereafter) and land use regulations, codes, ordinances, federal, state and local ordinances, and the like, currently in effect.

ARTICLE 13

REPRESENTATIONS AND WARRANTIES OF DEVELOPER

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

Section 13.1 Organization and Authorization.

Developer is a limited liability company duly organized and existing under the laws of the State of Delaware, and is authorized to and has the power to enter into, and by proper action has been duly authorized to execute, deliver and perform, this Agreement. Developer is solvent, able to pay its debts as they mature and financially able to perform all the terms of this Agreement. To Developer's knowledge, there are no actions at law or similar proceedings which are pending or threatened against Developer which would result in any material and adverse change to Developer's financial condition, or which would materially and adversely affect the level of Developer's assets as of the date of this Agreement or that would materially and adversely affect the ability of Developer to proceed with the construction and development of the Project.

Section 13.2 Non-Conflict or Breach.

Neither the execution and delivery of this Agreement by Developer, the consummation of the transactions contemplated hereby by Developer, nor the fulfillment of or compliance with the terms and conditions of this Agreement by Developer conflicts with or will result in a breach of any of the terms, conditions or provisions of any offerings or disclosure statement made or to be made on behalf of Developer (with Developer's prior written approval), any organizational documents, any restriction, agreement or instrument to which Developer or any of its partners or venturers is now a party or by which Developer or any of its partners or its venturers is bound, or

constitutes a default under any of the foregoing, or results in the creation or imposition of any prohibited lien, charge or encumbrance whatsoever upon any of the assets or rights of Developer, any related party or any of its venturers under the terms of any instrument or agreement to which Developer, any related party or any of its partners or venturers is now a party or by which Developer, any related party or any of its venturers is bound.

Section 13.3 Financial Resources.

Developer has sufficient financial and economic resources to implement and complete Developer's obligations contained in this Agreement. Developer has or will obtain a firm commitment from a financial institution providing all monies needed through third party financing or alternatively will provide proof of access to sufficient funds pursuant to the terms of Section 8.4 hereof.

Section 13.4 Reserved.

ARTICLE 14

REPRESENTATIONS AND WARRANTIES OF THE VILLAGE

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

Section 14.1 Organization and Authority.

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

Section 14.2 Authorization.

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

Section 14.3 Litigation.

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

Section 14.4 Environmental.

To the actual knowledge of the Village, the Village represents and warrants that it has delivered to Developer copies of all environmental reports relating to the Property that the Village has in its files or the files of any Village consultants (the “**Reports**”). The Reports are listed on **Exhibit 9** attached hereto. The Village makes no warranties or representations regarding the contents of such Reports, except to the extent that the Village has actual knowledge that the Reports contain material, substantive factual errors. The Village also covenants and represents that it has provided to the Developer any and all notices or other communications from any governmental agencies with jurisdiction with regard to the environmental conditions of the Property. Developer acknowledges that it shall not rely on the Reports or the information contained, except as provided herein, and shall conduct its own due diligence with respect to the Reports and with respect to all matters and information referred to in the Reports or otherwise relating to the Property and the environmental condition thereof. Developer hereby waives and releases the Village from and against any liability or claim related to the Reports and the accuracy or completeness of the information contained therein, except as specifically provided herein. The Village makes no warranties or representations regarding, nor does it indemnify the Developer with respect to, the existence or nonexistence on or in the vicinity of the Property or anywhere within the TIF District of any toxic or hazardous substances or wastes, pollutants or contaminants (including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products, or any hazardous substance as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“**CERCLA**”), 42 U.S.C. §§ 961-9657, as amended) (collectively, the “**Hazardous Substances**”). The foregoing disclaimer relates to any Hazardous Substance allegedly generated, treated, stored, released or disposed of, or otherwise placed, deposited in or located on or in the vicinity of the Property or within the TIF District, as well as any activity claimed to have been undertaken on or in the vicinity of the Property that would cause or contribute to causing (1) the Property to become a treatment, storage or disposal facility within the meaning of, or otherwise bring the Redevelopment Agreement within the ambit of, the Resource Conservation and Recovery Act of 1976 (“**RCRA**”), 42 U.S.C. §691 et. seq., or any similar state law or local ordinance, (2) a release or threatened release of toxic or hazardous wastes or substances, pollutants or contaminants, from the Property within the meaning of, or otherwise bring any Property within the ambit of, CERCLA, or any similar state law or local ordinance, or (3) the discharge of pollutants or effluents into any water source or system, the dredging or filling of any waters or the discharge into the air of any emissions, that would require a permit under the Federal Water Pollution Control Act, 33 U.S.C. §1251 et seq. or any similar state law or local ordinance. Further, the Village makes no warranties or representations regarding, nor does the Village indemnify the Developer with respect to, the existence or nonexistence on or in the vicinity of the Project or anywhere within the TIF District of any substances or conditions in or on the Property that may support a claim or cause of action under RCRA, CERCLA, or any other federal, state or local environmental statutes, regulations, ordinances or other environmental regulatory requirements. The Village makes no representations or warranties regarding the existence of any above ground or underground tanks in or about the Property, or whether any above or underground tanks have been located under, in or about the Property and have subsequently been removed or filled. Subject to the provisions of Section 7.7 hereof, as far as any properties to be conveyed by the Village to the Developer, the Developer agrees to accept

any such conveyance on an “as-is” basis and waives and releases any or all claims Developer may have against the Village for any violation of any federal, state or local environmental law or regulation, except only as the Parties may otherwise agree.

Section 14.5 Waiver of Certain Claims.

Subject to the provisions of Section 7.7 hereof, the Developer waives any claims against the Village, and its members and boards, for indemnification, contribution, reimbursement or other payments arising under federal, state and common law or relating to the environmental condition of the land comprising the Property.

ARTICLE 15

INSURANCE

Section 15.1 Project Insurance.

The Developer, and any successor in interest to the Developer, shall, after conveyance of the portions of the Property to be conveyed to the Developer under this Agreement, until construction of the Project is complete, obtain or cause to be obtained and continuously maintain insurance on the Project and, from time to time at the request of the Village, furnish proof to the Village that the premiums for such insurance have been paid and the insurance is in effect. The insurance coverage described below is the minimum insurance coverage that the Developer must obtain and continuously maintain, provided that the Developer shall obtain the insurance described in clause (i) below prior to the commencement of construction of the Project (excluding excavation and footings):

(a) Builder’s risk insurance, written on the so-called “Builder’s Risk - Completed Value Basis,” in an amount equal to one hundred percent (100%) of the insurable value of the Project at the date of completion, and with coverage available in non-reporting form on the so-called “all risk” form of policy.

(b) As to all work other than the construction of the Public Improvements, comprehensive general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations and contractual liability insurance) together with an Owner’s/Contractor’s Policy naming the Village, its officers, employees, agents and volunteers as additional insureds, with limits against bodily injury and property damage of not less than \$1,000,000 for each occurrence (to accomplish the above-required limits, an umbrella excess liability policy may be used), written on an occurrence basis, and not less than \$2,000,000 aggregate. As to the construction and installation of Village Improvements, the per occurrence limit shall be \$1,000,000.

(c) Workers compensation insurance, with statutory coverage, only to the extent applicable.

Section 15.2 Insurer Ratings.

All insurance required in this Article shall be obtained and continuously maintained in responsible insurance companies selected by the Developer or its successors and approved by the Village having at a minimum of a Best rating of “A” and a financial size category of Class m or better in Bests Insurance Guide that are authorized under the laws of the State to assume the risks covered by such policies. Unless otherwise provided in this Article, each policy must contain a provision that the insurer will not cancel nor materially modify the policy without giving written notice to the insured and the Village at least thirty (30) days before the cancellation or modification becomes effective. Not less than fifteen (15) days prior to the expiration of any policy, the Developer, or its successor or assign, must renew the existing policy or replace the policy with another policy conforming to the provisions of this Article. In lieu of separate policies, the Developer or its successor or assign, may maintain a single policy, blanket or umbrella policies, or a combination thereof, having the coverage required herein.

ARTICLE 16

INDEMNIFICATION

The Developer releases from and covenants and agrees that the Village, its governing body members, officers, agents, including independent contractors, consultants and legal counsel, servants and employees thereof (hereinafter, for purposes of this Article, collectively the “**Indemnified Parties**”) shall not be liable for and agrees to indemnify and hold harmless the Indemnified Parties against any loss, damage, claims, demands, suits, costs, expenses (including reasonable attorney’s fees), actions or other proceedings whatsoever by any person or entity whatsoever arising or purportedly arising from the actions or inactions of the Developer and its officers, employees, agents and/or contractors (or if other persons acting on its behalf or under its direction or control) under this Agreement, or the transactions contemplated hereby or the acquisition, construction, installation, ownership, and operation of the Project (“**Indemnified Claims**”); provided, however, that Developer’s indemnity under this Article shall be reduced to the extent the Indemnified Claims are caused, if at all, by the willful misconduct or gross negligence on the part of the Indemnified Parties or to the extent the Indemnified Claims are caused, if at all, by the Village’s failure to comply with any material requirement of this Agreement or other applicable law.

ARTICLE 17

EVENTS OF DEFAULT AND REMEDIES

Section 17.1 Developer Events of Default.

The following, after expiration of any applicable notice and cure periods, including but not limited to those set forth in Section 10.12 hereof, shall be Events of Default with respect to this Agreement:

(a) If any material representation made by Developer in this Agreement, or in any certificate, notice, demand or request made by a party hereto, in writing and delivered to the

Village pursuant to or in connection with any of said documents, shall prove to be untrue or incorrect in any material respect as of the date made.

(b) Failure of the Developer to comply with any material covenant or obligation contained in this Agreement, or any other agreement, financing or otherwise, concerning the Project, the Property, or the existence, structure or financial condition of Developer.

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

(d) The Developer: (i) becomes insolvent; or (ii) is unable, or admits in writing its inability to pay, its debts as they mature; or (iii) makes a general assignment for the benefit of creditors or to an agent authorized to liquidate any substantial amount of its or their property; or (iv) is adjudicated a bankrupt; or (v) files a petition in bankruptcy or to effect a plan or other arrangement with creditors; or (vi) files an answer to a creditor's petition (admitting the material allegations thereof) for an adjudication of bankruptcy or to effect a plan or other arrangement with creditors; or (vii) applies to a court for the appointment of a receiver for any asset; or (viii) has a receiver or similar official appointed for any of its assets, or, if such receiver or similar official is appointed without the consent of the Developer and such appointment shall not be discharged within sixty (60) days after his appointment or the Developer has not bonded against such receivership or appointment; or (ix) a petition described in (v) is filed against the Developer and remains pending for a period of sixty (60) consecutive days, unless the same has been bonded, and as a result thereof, the Developer ceases to operate; or (x) files any lawsuit, claim and/or legal, equitable or administrative action affecting the Village's ability to collect any such sales tax revenue hereunder.

(e) Failure to have funds to meet Developer's obligations.

(f) Developer abandons the Project on the Property. Abandonment shall be deemed to have occurred when work stops on the Property for more than sixty (60) consecutive days for any reason other than: (i) Uncontrollable Circumstances, (ii) if Developer is ahead of its planned construction schedule on the Project Schedule, or (iii) work stoppage caused by an action or inaction of the Village that is not in compliance with the terms of this Agreement.

(g) Developer materially fails to comply with applicable governmental codes and regulations in relation to the construction and maintenance of the buildings contemplated by this Agreement.

(h) Subject to the cure provisions of Section 10.12 hereof, failure to timely pay when due all real estate property taxes on the Property.

Section 17.2 Village Events of Default.

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

(a) If any representation made by the Village in this Agreement, or in any certificate, notice, demand or request made by a Party hereto, in writing and delivered to Developer pursuant to or in connection with any of said documents, shall prove to be untrue or incorrect in any material respect as of the date made; provided, however, that such default shall constitute an Event of Default only if the Village does not remedy the default within sixty (60) days after written notice from Developer.

(b) Default by the Village in the performance or breach of any material covenant contained in this Agreement concerning the existence, structure or financial condition of the Village; provided, however, that such default or breach shall constitute an Event of Default only if the Village does not, within sixty (60) days after written notice from Developer, initiate and diligently pursue appropriate measures to remedy the default, or if the Village fails to cure such default within ninety (90) days of written notice of such default.

(c) Failure of the Village to comply with any of its obligations under this Agreement, including without limitation its obligations to make any payment to the Developer, including without limitation, provide the Village Incentive, as and when due, under this Agreement.

Section 17.3 Remedies for Default.

In the case of an Event of Default hereunder:

(a) The defaulting party shall, upon written notice (in accordance with the provisions of Section 19.3 of this Agreement) from the non-defaulting party, take immediate action to cure or remedy such Event of Default. If, in such case, any monetary Event of Default is not cured within thirty (30) days, or if in the case of a non-monetary Event of Default, action is not taken or not diligently pursued, or if action is taken and diligently pursued but such Event of Default or breach shall not be cured or remedied within a reasonable time, but in no event more than ninety (90) additional days after receipt of such notice, unless extended by mutual agreement, the non-defaulting party may institute such proceedings as may be necessary or desirable in its opinion to cure or remedy such default or breach, including, but not limited to, proceedings to compel specific performance of the defaulting party's obligations under this Agreement.

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

(c) In the case of an Event of Default by Developer, and its failure to cure such default after due notice and within the time frames provided for in this Agreement, in addition to any other remedies at law or in equity, the Village may terminate this Agreement and upon such termination shall be relieved of its obligations under this Agreement, including but not limited to its obligations to accord Developer, "exclusive" developer status as set forth in Article Five, its

obligation to pay any further incentive amounts to the Developer and its obligations to convey any land to Developer.

(d) In the case of an Event of Default by the Village and its failure to cure such default after due notice and within the time period provided for in this Agreement, in addition to any other remedies at law or in equity, the Developer may terminate this Agreement and upon such termination shall be relieved of its obligations under this Agreement.

(e) In the case of an Event of Default by the Developer occurring prior to the commencement of construction, the Village agrees that it shall have no remedy of specific performance to force the Developer to commence construction.

Section 17.4 Third-Party Litigation; Reimbursement of Village for Legal and Other Fees and Expenses

Subject to the limitations on the Developer's hold harmless and indemnification obligations set forth in Article 16 of this Agreement, in the event that any third party or parties institutes any legal proceedings against the Village, and related to the terms of this Agreement, then, in that event, the Developer shall indemnify and hold harmless the Village from any and all such proceedings. Further, the Developer, upon receiving notice from the Village of such legal proceedings, shall assume, fully and vigorously, the entire defense of such lawsuit or proceedings and any and all costs and expenses of whatever nature relating thereto; provided, however, that the Developer may not at any time settle or compromise such proceedings without advance written notice to the Village. If such settlement or compromise involves any admission of wrongdoing on the part of the Village, or any liability imposed on the Village, monetary or otherwise, then the Developer shall be required to obtain the Village's consent to such settlement or compromise in advance.

In any such litigation, if Illinois Rules of Professional Conduct prohibit the Village and the Developer from being represented by the same counsel or if the positions of the Village and the Developer in such litigation will necessarily be in conflict, then the Village shall have the option of being represented by its own legal counsel. In the event that the Village exercises such option, then the Developer shall reimburse the Village from time to time on written demand from the Village President and notice of the amount due for any and all reasonable out-of-pocket costs and expenses, including but not limited to court costs, reasonable attorneys' fees, witnesses' fees and/or other litigation expenses incurred by the Village in connection therewith.

Section 17.5 No Waiver by Delay or Otherwise.

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

or time thereof, of any obligation or any condition under the Agreement shall be considered a waiver of any rights except if expressly waived in writing.

Section 17.6 Rights and Remedies Cumulative.

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

ARTICLE 18

RESERVED

ARTICLE 19

MISCELLANEOUS PROVISIONS

Section 19.1 TIF Provisions.

A delineation of the TIF qualified costs for the Project are set forth on **Exhibit 5** attached hereto and hereby made a part hereof. Attached hereto and hereby made a part hereof as **Exhibit 10** is the Project Analysis which sets forth estimated and projected real estate and sales tax revenue. Attached hereto and hereby made a part hereof as **Exhibit 11** is the Developer's Pro Forma estimate of costs to acquire and construct the Project.

Section 19.2 Cancellation.

In the event Developer or the Village shall be prohibited, in any material respect, from performing covenants and agreements or enjoying the rights and privileges herein contained, or contained in the Redevelopment Plan, including Developer's duty to build the Project, by the order of any court of competent jurisdiction, or in the event that all or any part of the Act or any ordinance adopted by the Village in connection with the Project, shall be declared invalid or unconstitutional, in whole or in part, by a final decision of a court of competent jurisdiction and such declaration shall materially affect the Redevelopment Plan or the covenants and agreements or rights and privileges of Developer or the Village, then and in any such event, the Party so materially affected may, at its election, cancel or terminate this Agreement in whole (or in part with respect to that portion of the Project materially affected) by giving written notice thereof to the other within sixty (60) days after such final decision or amendment, and in such event neither party shall have any further obligation or liability hereunder (except with respect to any portion of the Project as to which this Agreement is not terminated). If either party terminates this Agreement pursuant to this Section 19.2, to the extent it is then appropriate, such party, at its option, may also terminate its duties, obligation and liability under all or any related documents and agreements provided. Further, the cancellation or termination of this Agreement shall have no effect on the authorizations granted to Developer for buildings permitted and under construction to the extent permitted by said Court order; and the cancellation or termination of

this Agreement shall have no effect on perpetual easements contained in any recorded, properly executed document.

Section 19.3 Notices.

Except for notices required under Section 8.10, all notices, certificates, approvals, consents or other communications desired or required to be given hereunder shall be given in writing at the addresses set forth below, by any of the following means: (a) personal service, (b) electronic communications, whether by telex, telegram or telecopy, (c) overnight courier, (d) registered or certified first class mail, postage prepaid, return receipt requested, or (e) priority mail with delivery confirmation.

If to Village:	Village President Village of Oak Park 123 Madison Street Oak Park, IL 60302
With a copy to:	Village Manager Village of Oak Park 123 Madison Street Oak Park, IL 60302
And:	Village Attorney Village of Oak Park 123 Madison Street Oak Park, IL 60302
If to Developer:	OP South Boulevard LLC c/o Lincoln Property Company 1110 Jorie Boulevard Suite 300 Oak Brook, IL 60523 Attn: Brian Byrne
With a copy to:	Walter J. Starck, Esq. Arnstein & Lehr LLP 120 South Riverside Plaza Suite 1200 Chicago, IL 60606
And:	Kim McCormick Lincoln Property Company 2000 McKinney Suite 1000 Dallas, TX 75201

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

Section 19.4 Time of the Essence.

Time is of the essence of this Agreement.

Section 19.5 Integration.

Except as otherwise expressly provided herein, this Agreement supersedes all prior agreements, negotiations and discussions relative to the subject matter hereof and is a full integration of the agreement of the Parties.

Section 19.6 Counterparts.

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same Agreement.

Section 19.7 Recordation of Agreement.

The Parties agree to record a Memorandum of this Agreement, executed by the then current owners of the Property in the appropriate land or governmental records. Developer shall pay the recording charges.

Section 19.8 Severability.

If any provision of this Agreement, or any Section, sentence, clause, phrase or word, or the application thereof, in any circumstance, is held to be invalid, the remainder of this Agreement shall be construed as if such invalid part were never included herein, and this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

Section 19.9 Choice of Law, Venue and Waiver of Trial By Jury.

This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois. Venue for any legal proceeding of any kind arising from this Agreement shall be in the Circuit Court of Cook County, Illinois. The Parties hereto waive trial by jury in any action, proceeding or counterclaim brought by either of the Parties against the other on any matters whatsoever arising out of or in any way connected with this Agreement, or for the enforcement of any remedy.

Section 19.10 Entire Contract and Amendments.

This Agreement (together with the Exhibits attached hereto) is the entire contract between the Village and Developer relating to the subject matter hereof, supersedes all prior and contemporaneous negotiations, understandings and agreements, written or oral, between the Village and Developer (specifically including but not limited to the Oak Park Economic Development Corporation Term Sheet dated July 21, 2014 approved by the Village during July, 2014), and may not be modified or amended except by a written instrument executed by the Parties hereto, unless otherwise provided in this Agreement.

Section 19.11 Third Parties.

Nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any other person other than the Village and Developer or permitted assign, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third persons to either the Village or Developer, nor shall any provision give any third parties any rights of subrogation or action over or against either the Village or Developer. This Agreement is not intended to and does not create any third party beneficiary rights whatsoever, except as specifically provided otherwise herein.

Section 19.12 Waiver.

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

Section 19.13 Cooperation and Further Assurances.

The Village and Developer each covenant and agree that each will do, execute, acknowledge and deliver or cause to be done, executed and delivered, such agreements, instruments and documents supplemental hereto and such further acts, instruments, pledges and transfers as may be reasonably required for the better clarifying, assuring, mortgaging, conveying, transferring, pledging, assigning and confirming unto the Village or Developer or other appropriate persons all and singular the rights, property and revenues covenanted, agreed, conveyed, assigned, transferred and pledged under or in respect of this Agreement.

Section 19.14 Successors in Interest.

At any time, the Developer may assign its rights or obligations under this Agreement for the purpose of obtaining financing for the Project or any portion thereof, or to any entity in which the Developer owns a controlling interest. Developer may not otherwise assign its rights or obligations under this Agreement to any other person or entity without prior written consent of the Village pursuant to Section 19.20 of this Agreement.

Section 19.15 No Joint Venture, Agency or Partnership Created.

Nothing in this Agreement, or any actions of the Parties to this Agreement, shall be construed by the Parties or any third person to create the relationship of a partnership, agency or joint venture between or among such Parties.

Section 19.16 No Personal Liability of Officials of Village or Developer.

No covenant or agreement contained in this Agreement shall be deemed to be the covenant or agreement of the Corporate Authorities, Village Manager, any elected official, officer, partner, member, director, agent, employee or attorney of the Village or Developer, in his or her individual capacity, and no elected official, officer, partner, member, director, agent, employee or attorney of the Village or Developer shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of or in connection with or arising out of the execution, delivery and performance of this Agreement, or any failure in that connection.

Section 19.17 Repealer.

To the extent that any ordinance, resolution, rule, order or provision of the Village's code of ordinances, or any part thereof, is in conflict with the provisions of this Agreement, the provisions of this Agreement shall be controlling, to the extent lawful.

Section 19.18 Term.

The provisions of this Agreement shall run with and bind the Property and shall inure to the benefit of, be enforceable by, and obligate the Village, Developer, and any of their respective grantees, successors, assigns, and transferees, including all successor legal or beneficial owners of all or any portion of the Property commencing with the Effective Date and expiring upon the fifth anniversary of the issuance of the initial Certificate of Occupancy ("**Term**"). The expiration of the Term of this Agreement will not affect the Parties' respective obligations under the Final Plans or the Garage Parking Agreement.

Section 19.19 Estoppel Certificates.

Each of the Parties hereto agrees to provide the other, upon not less than ten (10) business days prior request, a certificate ("**Estoppel Certificate**") certifying that this Agreement is in full force and effect (unless such is not the case, in which such Parties shall specify the basis for such claim), that the requesting Party is not in default of any term, provision or condition of this Agreement beyond any applicable notice and cure provision (or specifying each such claimed default) and certifying such other matters reasonably requested by the requesting Party. If either Party fails to comply with this provision within the time limit specified, it shall be deemed to have appointed the other as its attorney-in-fact for execution of same on its behalf as to that specific request only.

Section 19.20 Nature, Survival and Transfer of Obligations.

A. Successors and Transferees. During the Term of this Agreement and to assure that all grantees, successors, assigns, and transferees of Developer and all successor owners of all or any portion of the Property (except for the conveyance by the Developer to the Village of the Public Property) have notice of this Agreement and the obligations created by it, Developer shall:

- (i) Deposit with the Village Clerk, concurrent with the Village's approval of this Agreement, any consents or other documents necessary to authorize the Village to record this Agreement in the office of the Cook County Recorder of Deeds;
- (ii) Notify the Village in writing at least 30 days prior to any date on which Developer transfers a legal or beneficial interest in any portion of the Property to a third party, other than the granting of a mortgage or deed in trust; and
- (iii) Require, prior to the transfer of all or any portion of the Property or any legal or equitable interest therein, to any third party, the transferee of said portion or interest in the Property to execute an enforceable written agreement agreeing to be bound by the provisions of this Agreement ("**Transferee Assumption Agreement**") and to provide the Village, upon request, with such reasonable assurance of the financial ability of the transferee to meet those obligations as the Village may require. The Village agrees that upon a successor becoming bound to the obligation created in the manner provided in this Agreement and providing the financial assurances required pursuant to this Agreement, the liability of Developer shall be released to the extent of the transferee's assumption of the liability. The failure of Developer to provide the Village with a copy of a Transferee Assumption Agreement fully executed by the transferee and, if requested by the Village, with the transferee's proposed assurances of financial capability before completing any transfer, shall result in Developer remaining fully liable for all of its obligations under this Agreement but shall not relieve the transferee of its liability for all such obligations as a successor to Developer.

B. Transfer Defined. For purposes of this Agreement, the term "transfer" shall be deemed to include any assignment, sale, transfer to a receiver or to a trustee in bankruptcy, transfer in trust, or other disposition of the Property, or any beneficial interest in the Property, in whole or in part, by voluntary or involuntary sale, foreclosure, merger, sale and leaseback, consolidation, or otherwise; provided, however, that notwithstanding anything to the contrary set forth in this Agreement, the term "transfer" shall not be deemed to include any assignment, sale, transfer, or any other disposition of the Property or the rights and obligations under this Agreement as or by Developer to

(i) a Lincoln Property Company entity, (ii) an entity owned or otherwise controlled by Mack Pogue or Tim Byrne, or (iii) an institutional investor or lender that is providing capital to the Project for or on behalf of Developer or any of the entities described in (i) or (ii) of this Subsection.

C. Mortgagees of Property. This Agreement shall be binding on all mortgagees of the Property or other secured parties automatically upon such mortgagee assuming title to the Property, in whole or in part, by a foreclosure or a deed in lieu of foreclosure without the necessity of entering into a Transferee Assumption Agreement. Until such time, however, a mortgagee or other secured party shall have no personal liability hereunder.

D. Term of this Agreement. Developer, its successors and assigns shall have no obligation in accordance with this Section subsequent to the expiration of the Term of this Agreement as set forth in Section 19.18 of this Agreement.

Section 19.21 Collateral Assignment.

It is understood and acknowledged that Developer intends to obtain construction financing (the “**Construction Loan**”) for the Project and that the construction lender (“**Lender**”) typically requires a collateral assignment of any relevant development agreement. If such financing is obtained and if the Lender requires such a collateral assignment, the Village hereby consents to the assignment of this Agreement to the Lender as collateral security for the Construction Loan.

Developer shall provide the Village with a written notice stating the name, address and background of any proposed Lender for the Village’s review at least ten (10) business days prior to the recording of any mortgage. If the Village has any reasonable objections to the proposed Lender, the Village shall inform Developer in writing the nature of the Village’s objections. Developer shall cooperate with the Village in resolving the objections. If the Village fails to provide a written response to Developer within ten (10) business days after the Village’s written receipt of the name and identify of Developer’s proposed Lender, the Village shall be deemed to have consented to such proposed Lender. The Village shall not object to (and agrees to consent to) any proposed Lender who has at least ten billion dollars’ worth of assets.

In the event that any Lender to whom the Village consents is to succeed to Developer’s interest in the Property, or any portion thereof, pursuant to the collateral assignment and in conjunction with such succession accepts an assignment of Developer’s interest in this Agreement, the Village shall recognize such party as the successor in interest to Developer with respect to the Property or the portion acquired by such Lender. However, notwithstanding any other provision of this Agreement to the contrary, it is understood and agreed that if the Lender accepts an assignment of Developer’s interest under this Agreement, it automatically accepts not only the Developer’s rights hereunder but also all of Developer’s obligations hereunder. However, if such Lender does not expressly accept an assignment of Developer’s interest hereunder, such Lender shall be entitled to no rights and benefits under this Agreement. The foregoing (Lender’s lack of expressly accepting an assignment) shall apply whether the

succession is by foreclosure or deed in lieu of foreclosure or any other remedy. Under all such circumstances, the Property may only be developed in accordance with this Agreement.

With respect to a Lender to which the Village has not consented, if that Lender shall succeed to Developer's interest in the Property or any portion of it and in conjunction with such succession accepts an assignment of Developer's interest in the Property, the Village shall not be obligated to recognize such party as the successor in interest to Developer under this Agreement. Unless and until the Village accepts, in writing, such Lender as the successor in interest, such party shall be entitled to no rights or benefits under this Agreement and the foregoing shall apply whether the succession is by foreclosure or deed in lieu of foreclosure or any other remedy.

The exercise of any remedy by a Lender and the transfer of title to the Property or any portion of it to a Lender or any other party in connection with such exercise shall not be subject to the consent of the Village.

Neither Developer's making of a collateral assignment of its interest under this Agreement to a Lender, nor the exercise by a Lender of any of its remedies, shall constitute an acceptance by such Lender or any other party of such assignment. Such Lender or other party shall not be deemed to have accepted such assignment until such time as such Lender or other party has executed and delivered to the Village a written acceptance of such assignment. In the absence of such acceptance, such Lender or other party shall have no rights or benefits under this Agreement.

For so long as the Property is the subject of a TIF District, neither the Property nor any improvements on it may be collaterally assigned or otherwise encumbered for any purpose other than to finance the ownership, development or operation of the Project pursuant to this Agreement.

If a default by Developer under this Agreement occurs and Developer does not cure it within the cure period that applies to Developer under this Agreement, then the Village shall promptly give the Lender, a notice of expiration of such cure period (the "**Cure Period Expiration Notice**"). The Lender shall have the right, but not the duty, to perform any obligation of Developer under this Agreement and to cure any default. Such Lender shall have thirty days after receipt of the Cure Period Expiration Notice to cure such default. However, with respect to any default by Developer, the cure of which requires the Lender to possess and control the Property, if such Lender undertakes, by written notice to the Village within thirty days after receipt of the Cure Period Expiration Notice, to exercise reasonable efforts to cure such default, such Lender's cure period shall continue for such additional time as may reasonably be required to obtain possession and control of the Property and thereafter cure the default within one hundred and twenty days. Such Lender may abandon exercise of its cure rights without liability to the Village or any other party provided it gives the Village express written notice that it is so abandoning exercise of its cure rights. The Village shall accept cure by such Lender in fulfillment of Developer's obligations, for the account of Developer and with the same force and effect as if performed by Developer.

It is understood and acknowledged that, irrespective of any Lender remedies, the Property may not be developed, redeveloped, completed or maintained except in accordance with this

Agreement. This restriction shall attach to and run with the land whether or not a Lender or any other entity holding an interest in the Property accepts the assignment of this Agreement. Notwithstanding anything in this Agreement or any other document to the contrary and irrespective of the underlying zoning of the Property, it is the intent of the Parties that any successor in interest to Developer shall have only the development rights accorded by this Agreement and any approvals or permits issued pursuant to it. Further, each and every covenant, dependent or independent, and each and every obligation of this Agreement shall encumber such development.

Moreover, if any such Lender, mortgagee or other party thereafter seeks to sell, transfer, assign, or otherwise dispose of the Property and/or the Project, any such sale, transfer, assignment or disposition shall be governed by the provisions of Section 19.20 above.

ARTICLE 20

EFFECTIVENESS

The Effective Date for this Agreement shall be 18th day of February, 2015.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on or as of the day and year first above written.

Village of Oak Park,
Cook County, Illinois
an Illinois municipal corporation

ATTEST:

By: _____
Teresa Powell, Village Clerk

By: _____
Cara Pavlicek, Village Manager

[VILLAGE SEAL]

ATTEST:

By: _____
Its: _____

DEVELOPER:
OP South Boulevard LLC, a Delaware
limited liability company

By: _____
Its: _____

ACKNOWLEDGMENTS

STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, **DO HEREBY CERTIFY** that Cara Pavlicek, personally known to me to be the Village Manager of the Village of Oak Park, Cook County, Illinois, and Teresa Powell, personally known to me to be the Village Clerk of said municipal corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Village President and Village Clerk, they signed and delivered the said instrument and caused the corporate seal of said municipal corporation to be affixed thereto, pursuant to authority given by the President and Board of Trustees of said municipal corporation, as their free and voluntary act, and as the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this ____ day of February, 2015.

Notary Public

STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, **DO HEREBY CERTIFY** that _____, personally known to me to be the _____ of OP South Boulevard LLC, and _____, personally known to me to be a _____ of said Delaware limited liability company, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such _____ and _____, they signed and delivered the said instrument, pursuant to authority given by the _____ of said Delaware limited liability company, as their free and voluntary act, and as the free and voluntary act and deed of said Delaware limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this ____ day of February, 2015.

Notary Public

INDEX OF EXHIBITS

- Exhibit 1 - General Description of Property
- Exhibit 2 - Concept Plan
- Exhibit 3 - Preliminary Parking Plan
- Exhibit 4 - Real Estate Parcels (Developer/Village)
- Exhibit 5 - Public Improvements
- Exhibit 6 - Legal Descriptions of Properties to be conveyed by the Village
- Exhibit 7 - Easement Agreements for Public Way
- Exhibit 8 - Affordable Housing Compliance Report and Certification
- Exhibit 9 - Reserved
- Exhibit 10 - Project Analysis
- Exhibit 11 - Developer's Pro Forma Estimate of Costs
- Exhibit 12 - Garage Operating Agreement

EXHIBIT 1

GENERAL DESCRIPTION OF PROPERTY

(Dated October 27, 2014)

Lot 108 Legal Description

Lots 1, 2 and Lot 3 (except the south 35.00 feet of the east 105.00 feet thereof) in Block 2 in Scoville and Niles Addition to Oak Park, a Subdivision of the West Half of the West Half of the Southwest Quarter of Section 7, Township 39 North, Range 39 North, Range 13 East of the Third Principal Meridian, Cook County, Illinois.

Containing 21,933 square feet, more or less, or 0.504 acres, more or less.

Commonly known as 323-329 S. Harlem Avenue, Oak Park, Illinois.

Lot 115 Legal Description

Lots 2, 3 and 4 in Block 1 in Scoville and Niles Addition to Oak Park, a Subdivision of the West Half of the West Half of the Southwest Quarter of Section 7, Township 39 North, Range 39 North, Range 13 East of the Third Principal Meridian, Cook County, Illinois.

Containing 25,582 square feet, more or less, or 0.587 acres, more or less.

Commonly known as 100 S. Maple Street, Oak Park, Illinois.

EXHIBIT 2
CONCEPT PLAN

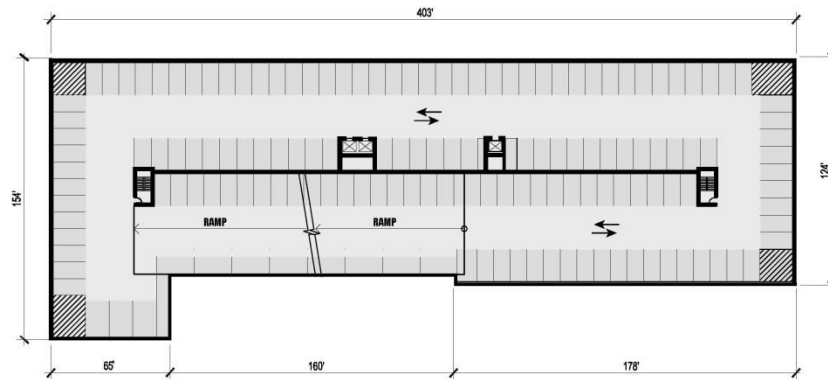


OAK PARK MIXED USE
1.9.15

GRADE LEVEL PLAN

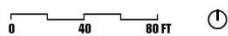
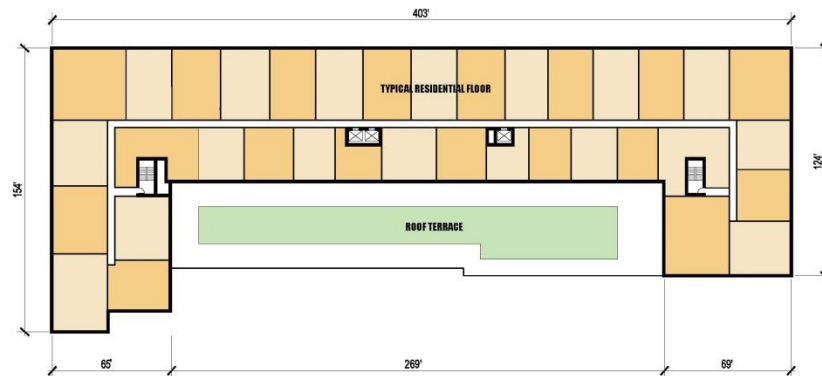
LINCOLN
PROPERTY
COMPANY
a company for people. a company about people.

RTKL
AN ARCADIS COMPANY



OAK PARK MIXED USE TYPICAL PARKING LEVEL PLAN
1.9.15

LINCOLN
PROPERTY
COMPANY
a company for people. a company about people.



OAK PARK MIXED USE RESIDENTIAL LEVEL PLAN
1.9.15

LINCOLN
PROPERTY
COMPANY
a company for people. a company about people.

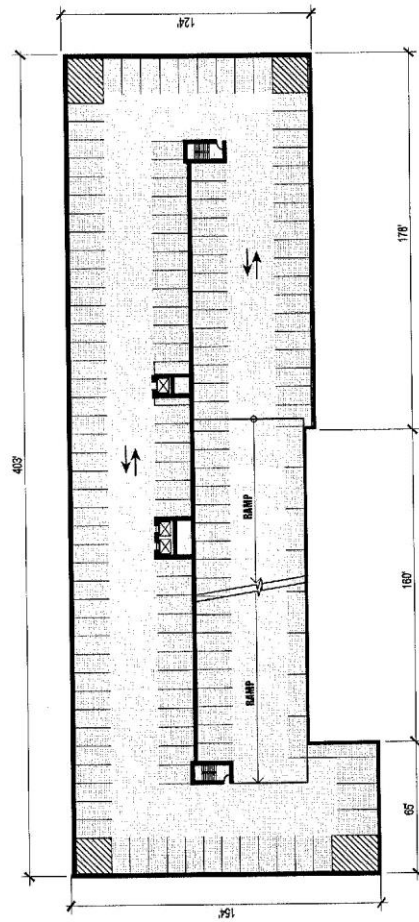




OAK PARK MIXED USE MASSING VIEW LOOKING SE
1.9.15

EXHIBIT 3

PRELIMINARY PARKING PLAN



0 40 80 FT ①

OAK PARK MIXED USE TYPICAL PARKING LEVEL PLAN

1.9.15

HPK
AN ARCADE COMPANY

LINCOLN
PROPERTY
COMPANY
a company for people, a company of great people.

EXHIBIT 4

REAL ESTATE PARCELS (DEVELOPER/VILLAGE)

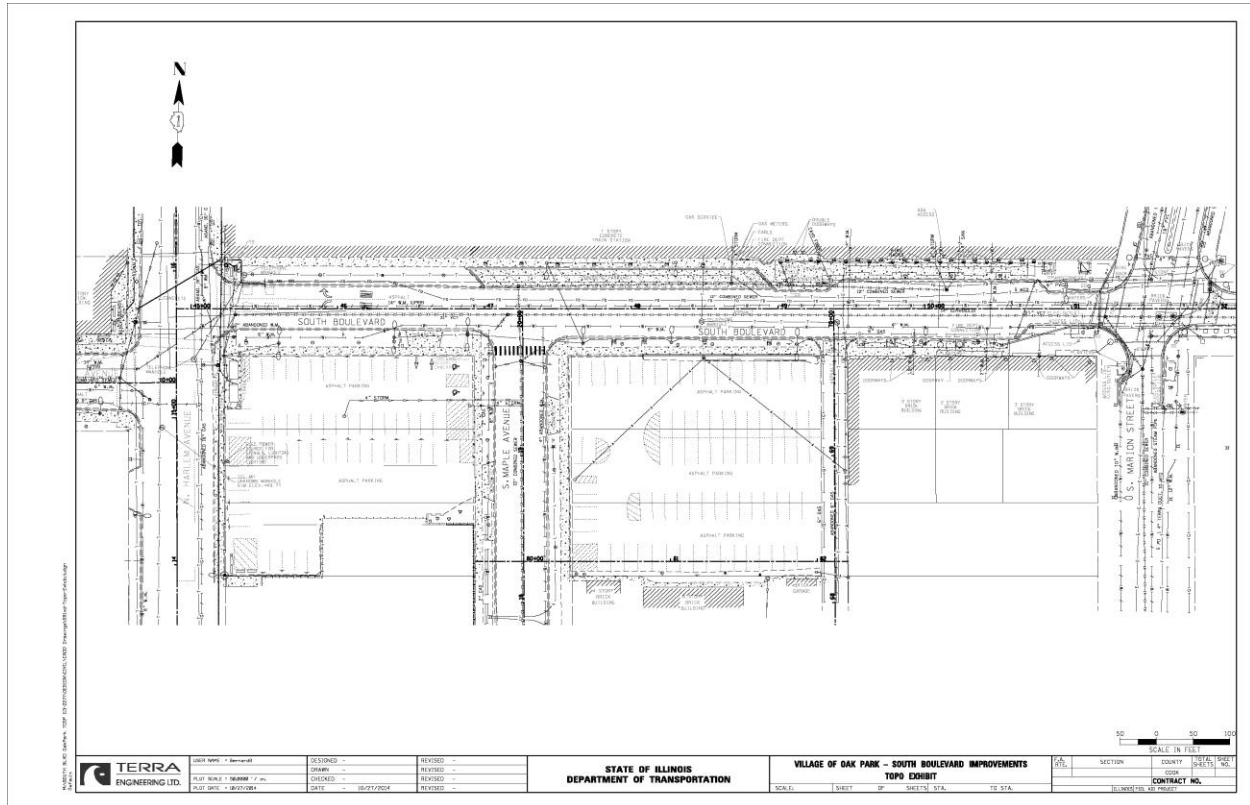
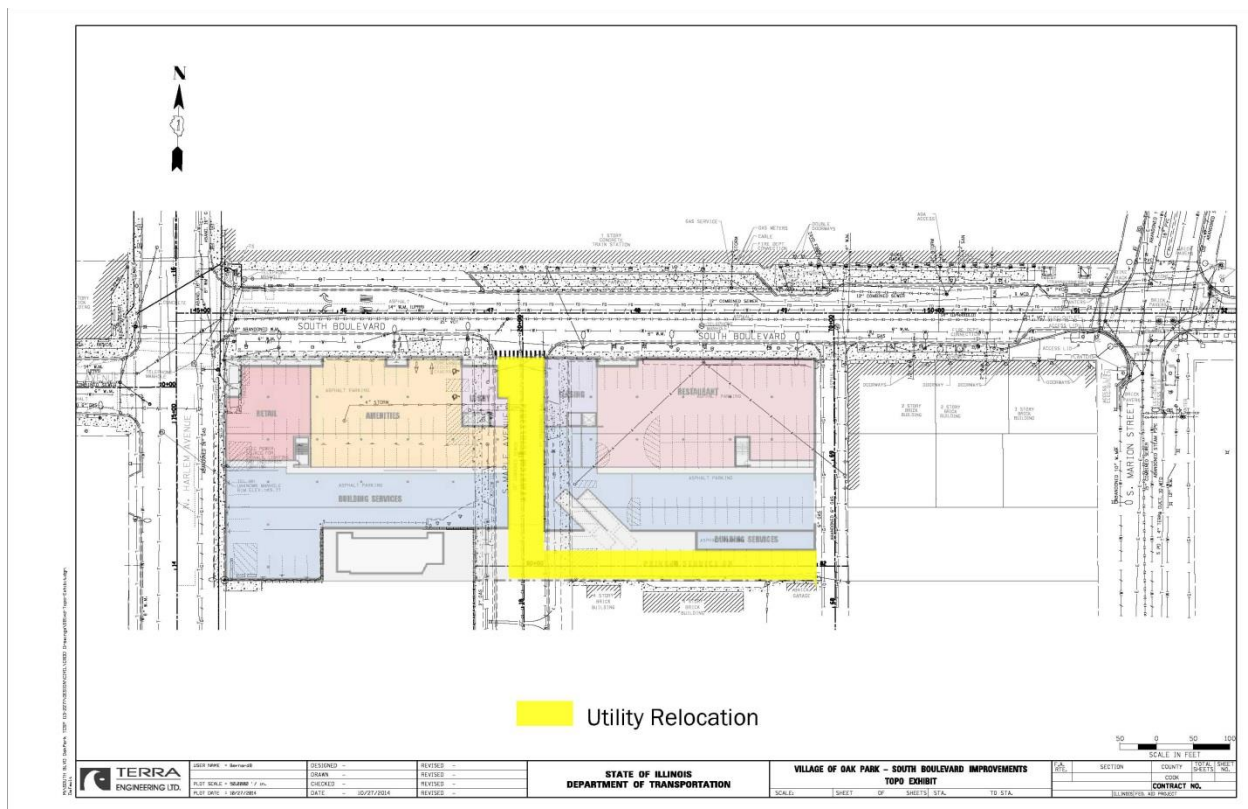


EXHIBIT 5

PUBLIC IMPROVEMENTS

- I. Complete streetscape improvements on South Boulevard from Marion Street to Harlem Avenue to match existing streetscape on Marion Street, such improvements to include the right-of-way to the property line.
- II. The vacation of Maple Street within the limits of the Property.
- III. Complete all utility relocation and/or related demolition and construction on South Boulevard, Maple Street and an adjacent alley.
- IV. Convey the parcels to be developed in “ready to build” condition, having removed and/or remediated visible and underground obstructions and environmental issues.
- V. Provide surveys, title reports and property access after the effective date of this Agreement.
- VI. The attached map, “Topo Exhibit,” is included as a part of Exhibit 5.



VII. The attached map, “Streetscape Improvements,” is included as a part of Exhibit 5.



EXHIBIT 6

LEGAL DESCRIPTIONS OF PROPERTIES TO BE CONVEYED BY THE VILLAGE

Lot 108 Legal Description

Lots 1, 2 and Lot 3 (except the south 35.00 feet of the east 105.00 feet thereof) in Block 2 in Scoville and Niles Addition to Oak Park, a Subdivision of the West Half of the West Half of the Southwest Quarter of Section 7, Township 39 North, Range 39 North, Range 13 East of the Third Principal Meridian, Cook County, Illinois.

Containing 21,933 square feet, more or less, or 0.504 acres, more or less.

Commonly known as 323-329 S. Harlem Avenue, Oak Park, Illinois.

Lot 115 Legal Description

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Containing 25,582 square feet, more or less, or 0.587 acres, more or less.

Commonly known as 100 S. Maple Street, Oak Park, Illinois.

EXHIBIT 7

EASEMENT AGREEMENTS FOR PUBLIC WAY

Developer will provide an easement for public access and a public utility easement under private service drive so that public utilities can be conveyed from the Maple Street ROW to the public alley east of the site and then north to South Boulevard.

EXHIBIT 8

AFFORDABLE HOUSING COMPLIANCE REPORT AND CERTIFICATION



Property Compliance Report

The Village of Oak Park 708.358.5420
Development Customer Services Fax 708.358.5114
123 Madison Street www.oak-park.us
Oak Park, Illinois 60302-4272 development@oak-park.us

This form must be completed annually:

OP South Boulevard LLC
Address

Unit Characteristics – to be completed by the Owner/Applicant

List each unit separately in the chart below. Include ALL units eligible for rent reduction pursuant to the Redevelopment Agreement

Unit Number							
Tenant Name							
Persons in Household							
Tenant Annual Income							
Maximum Fair Market Rent							
Tenant's Current Rent							
Date of Last Income Verification							

CERTIFICATION

The undersigned certifies that the information contained herein is true and accurate, and that the information has been collected in accordance with the terms and conditions of the Redevelopment Agreement between Village of Oak Park and OP South Boulevard LLC.

Signature

Date

Printed Name and Title

Preparer's Name and Telephone Number

February 18, 2015



Tenant Income Certification

The Village of Oak Park
Development Customer Services
123 Madison Street
Oak Park, Illinois 60302-4272

708.358.5420
Fax 708.358.5114
www.oak-park.us
development@oak-park.us

Applicant

Property Address

Unit Number

Annual Income Certification

The adults over 18 years old listed below are certifying that they have any income from any source in the amount of \$_____.

The above persons by signing this document certify and attest that the Annual Income stated above is accurate and that they reside 50% or more of the time at the address indicated

Signature of Affiant

Date

February 18, 2015

EXHIBIT 9
RESERVED

EXHIBIT 10
PROJECT ANALYSIS

Restaurant

- 7,000 square feet at \$400 per square foot equals annual revenue of \$2,800,000
 - Sales Tax Revenue of \$56,000

General Retail

- 3,000 square feet at \$300 per square foot equals annual revenue of \$900,000
 - Sales Tax Revenue of \$18,000

Residential annual property tax revenue of \$800,000

Retail annual property tax revenue of \$25,000

- Total property tax of \$825,000

EXHIBIT 11

DEVELOPER'S PRO FORMA ESTIMATE OF COSTS

Hard Cost - \$47,762,142

Soft Cost - \$10,048,844

Land and Permits (Village) - \$2,156,000

EXHIBIT 12

GARAGE OPERATING AGREEMENT

This Garage Parking Agreement is entered into as of the ____ day of _____, 2015 between the Village of Oak Park, Cook County, Illinois, a municipal home rule corporation (the “Village”) and OP South Boulevard LLC, a Delaware limited liability company (the “Developer”).

WHEREAS, the Village and the Developer entered into a certain Redevelopment Agreement dated _____, 2015, pursuant to which, among other things, Developer acquired, developed and constructed a multi-story residential apartment building with ground floor retail space (the “Building”) on the real estate located at the southeast corner of Harlem Avenue and South Boulevard in Oak Park, Illinois and legally described on Exhibit A attached hereto.

WHEREAS, a parking garage (the “Garage”) is located within the Building; and pursuant to the Redevelopment Agreement, Developer has agreed to provide certain parking spaces within the Garage that may be used by the general public; and the parties are entering into this Garage Parking Agreement for purposes of documenting the terms and conditions on which Developer will make such parking spaces available to the general public.

NOW, THEREFORE, in consideration of the reciprocal agreements herein contained, and other good and valuable consideration, the adequacy and receipt whereof hereby is acknowledged, the parties agree as follows:

1. The above recitals are incorporated in and made an express part of this Garage Parking Agreement.
2. Developer shall make at least 148 of the total parking spaces located within the Garage available for use by the general public. The location of such public spaces shall be as determined by Developer, subject to the Village’s prior approval which shall not unreasonably be withheld. The Developer shall make every effort to locate hourly public spaces closest to street level and public pedestrian access points.
3. Developer may charge a fee to the users of such public spaces, which fee may be payable on a monthly basis (in exchange for a monthly parking permit) or on a daily basis at hourly rates. The monthly fee and hourly rates for usage of the public spaces shall be as established by Developer from time to time. All sums collected by Developer for the use of the public spaces shall be retained by Developer as Developer’s sole property.

4. Developer shall manage, operate and maintain the Garage, including the public spaces, in compliance with all applicable federal, state and local, including Village and Cook County, statutes, laws, codes, regulations and ordinances.
5. If the Garage is damaged or destroyed by fire or other casualty and, as a result thereof, access to or use of all or some of the total parking spaces located in the Garage is prevented, Developer shall cause the affected portions of the Garage to be repaired or otherwise restored to at least the same number of parking spaces, in a timely manner; and until the repairs and/or restoration is completed so that all of the parking spaces in the Garage are again accessible and useable, the number of parking spaces that shall be made available for use by the general public shall be reduced from 148 by the percentage of all parking spaces that were rendered inaccessible or unusable (for example, if 50% of the total parking spaces located in the Garage are rendered inaccessible or unusable, the number of public spaces shall be temporarily reduced to 74).
6. The terms and conditions for the use of the public parking spaces shall be as established by Developer from time to time, and use of the public spaces shall be subject to such rules and regulations as Developer may post in and around the Garage from time to time, subject to Section 4 above.
7. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective grantees, successors and assigns.
8. This Agreement may only be modified or amended pursuant to another instrument in writing signed by both of the parties hereto.
9. This Agreement shall be interrupted under and construed pursuant to the laws of the State of Illinois without regard to conflict of law principles. Any claim or dispute relating hereto shall be resolved exclusively by a Court sitting in Cook County, Illinois.
10. Developer's failure to comply with any provisions of this Agreement shall be an "Event of Default" pursuant to Section 17.1 of the Redevelopment Agreement dated February 18, 2015, between the parties.
11. In the event the Village imposes a tax or user fee on the Garage, such tax or user fee will be assessed on a rational basis and without a discriminatory impact or effect on the operations and finances of the Garage.
12. This effective date of this Agreement shall be the date it is executed its by the Village Manager on behalf of the Village as set forth below.
13. The individuals executing this Agreement on behalf of the Developer and the Village represent that they have the legal power, right, and actual authority to bind their respective parties to the terms and conditions of this Agreement.

In witness whereof, the parties have executed this Agreement as of the date set forth above.

By: _____

Its: _____

Date: _____, 2015

By: _____

Its: _____

Date: _____, 2015

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