

Name of Municipality:	Morton Grove	Reporting Fiscal Year:	2016
County:	Cook	Fiscal Year End:	12/31/2016
Unit Code:	016/365/32		

First Name: <u>Ralph</u>	Last Name: <u>Czerwinski</u>	
Address: <u>6101 Capulina</u>	Title: <u>Village Administrator</u>	
Telephone: <u>847-965-4100</u>	City: <u>Morton Grove</u>	Zip: <u>60053</u>
Mobile _____	E-mail-required: <u>rczerwinski@mortongroveil.org</u>	
Mobile Provider _____	Best way to contact: <u>  X  </u> Email	<u>  X  </u> Phone
	<u>          </u> Mobile	<u>          </u> Mail

I attest to the best of my knowledge, this report of the redevelopment project areas in: City/Village of Morroin Grove is complete and accurate at the end of this reporting Fiscal year under the Tax Increment Allocation Redevelopment Act [65 ILCS 5/11-74.4-3 et. seq.] Or the Industrial Jobs Recovery Law [65 ILCS 5/11-74.6-10 et. seq.]

105 F.R. 3-71-74.4-3 et. seq.] Of the Industrial J

Harold E. Gunt

8/31/17

Written signature of TIF Administrator

Date \_\_\_\_\_

**FILL OUT ONE FOR EACH TIF DISTICT**

[illegible]

\*All statutory citations refer to one of two sections of the Illinois Municipal Code: the Tax Increment Allocation Redevelopment Act [65 ILCS 5/11-74.4-3 et. seq.] or the Industrial Jobs Recovery Law [65 ILCS 5/11-74.6-10 et. seq.]

**SECTION 2 [Sections 2 through 5 must be completed for each redevelopment project area listed in Section 1.]**

**FY 2016**

<b>Name of Redevelopment Project Area:</b>	Dempster Waukegan RPA
<b>Primary Use of Redevelopment Project Area*:</b>	
<b>If "Combination/Mixed" List Component Types:</b>	
<b>Under which section of the Illinois Municipal Code was Redevelopment Project Area designated? (check one):</b>	
<b>Tax Increment Allocation Redevelopment Act</b> _____	<b>Industrial Jobs Recovery Law</b> _____

	No	Yes
Were there any amendments to the redevelopment plan, the redevelopment project area, or the State Sales Tax Boundary? [65 ILCS 5/11-74.4-5 (d) (1) and 5/11-74.6-22 (d) (1)] <b>If yes, please enclose the amendment labeled Attachment A</b>	X	
Certification of the Chief Executive Officer of the municipality that the municipality has complied with all of the requirements of the Act during the preceding fiscal year. [65 ILCS 5/11-74.4-5 (d) (3) and 5/11-74.6-22 (d) (3)] <b>Please enclose the CEO Certification labeled Attachment B</b>		X
Opinion of legal counsel that municipality is in compliance with the Act. [65 ILCS 5/11-74.4-5 (d) (4) and 5/11-74.6-22 (d) (4)] <b>Please enclose the Legal Counsel Opinion labeled Attachment C</b>		X
Were there any activities undertaken in furtherance of the objectives of the redevelopment plan, including any project implemented in the preceding fiscal year and a description of the activities undertaken? [65 ILCS 5/11-74.4-5 (d) (7) (A and B) and 5/11-74.6-22 (d) (7) (A and B)] <b>If yes, please enclose the Activities Statement labeled Attachment D</b>	X	
Were any agreements entered into by the municipality with regard to the disposition or redevelopment of any property within the redevelopment project area or the area within the State Sales Tax Boundary? [65 ILCS 5/11-74.4-5 (d) (7) (C) and 5/11-74.6-22 (d) (7) (C)] <b>If yes, please enclose the Agreement(s) labeled Attachment E</b>		X
Is there additional information on the use of all funds received under this Division and steps taken by the municipality to achieve the objectives of the redevelopment plan? [65 ILCS 5/11-74.4-5 (d) (7) (D) and 5/11-74.6-22 (d) (7) (D)] <b>If yes, please enclose the Additional Information labeled Attachment F</b>	X	
Did the municipality's TIF advisors or consultants enter into contracts with entities or persons that have received or are receiving payments financed by tax increment revenues produced by the same TIF? [65 ILCS 5/11-74.4-5 (d) (7) (E) and 5/11-74.6-22 (d) (7) (E)] <b>If yes, please enclose the contract(s) or description of the contract(s) labeled Attachment G</b>	X	
Were there any reports or meeting minutes submitted to the municipality by the joint review board? [65 ILCS 5/11-74.4-5 (d) (7) (F) and 5/11-74.6-22 (d) (7) (F)] <b>If yes, please enclose the Joint Review Board Report labeled Attachment H</b>	X	
Were any obligations issued by municipality? [65 ILCS 5/11-74.4-5 (d) (8) (A) and 5/11-74.6-22 (d) (8) (A)] <b>If yes, please enclose the Official Statement labeled Attachment I</b>	X	
Was analysis prepared by a financial advisor or underwriter setting forth the nature and term of obligation and projected debt service including required reserves and debt coverage? [65 ILCS 5/11-74.4-5 (d) (8) (B) and 5/11-74.6-22 (d) (8) (B)] <b>If yes, please enclose the Analysis labeled Attachment J</b>	X	
Cumulatively, have deposits from any source equal or greater than \$100,000 been made into the special tax allocation fund? 65 ILCS 5/11-74.4-5 (d) (2) and 5/11-74.6-22 (d) (2) <b>If yes, please enclose Audited financial statements of the special tax allocation fund labeled Attachment K</b>	X	
Cumulatively, have deposits of incremental taxes revenue equal to or greater than \$100,000 been made into the special tax allocation fund? [65 ILCS 5/11-74.4-5 (d) (9) and 5/11-74.6-22 (d) (9)] <b>If yes, please enclose a certified letter statement reviewing compliance with the Act labeled Attachment L</b>	X	
A list of all intergovernmental agreements in effect to which the municipality is a part, and an accounting of any money transferred or received by the municipality during that fiscal year pursuant to those intergovernmental agreements. [65 ILCS 5/11-74.4-5 (d) (10)] <b>If yes, please enclose list only, not actual agreements labeled Attachment M</b>	X	

\* Types include: Central Business District, Retail, Other Commercial, Industrial, Residential, and Combination/Mixed.

**SECTION 3.1 - (65 ILCS 5/11-74.4-5 (d) (5) and 65 ILCS 5/11-74.6-22 (d) (5))**  
**Provide an analysis of the special tax allocation fund.**

**FY 2016**

**TIF NAME: Dempster Waukegan RPA**

Fund Balance at Beginning of Reporting Period

\$ (291,128)

Revenue/Cash Receipts Deposited in Fund During Reporting FY:	Reporting Year	Cumulative*	% of Total
Property Tax Increment	\$ 23,713	\$ 23,713	100%
State Sales Tax Increment			0%
Local Sales Tax Increment			0%
State Utility Tax Increment			0%
Local Utility Tax Increment			0%
Interest			0%
Land/Building Sale Proceeds			0%
Bond Proceeds			0%
Transfers from Municipal Sources			0%
Private Sources			0%
Other (Identify source _____; if multiple other sources, attach schedule)			0%

\*must be completed where current or prior year(s) have reported funds

**Total Amount Deposited In Special Tax Allocation Fund During Reporting Period**

\$ 23,713

**Cumulative Total Revenues/Cash Receipts**

\$ 23,713 100%

**Total Expenditures/Cash Disbursements (Carried forward from Section 3.2)**

\$ 78,962

**Distribution of Surplus**

**Total Expenditures/Disbursements**

\$ 78,962

**NET INCOME/CASH RECEIPTS OVER/(UNDER) CASH DISBURSEMENTS**

\$ (55,249)

**FUND BALANCE, END OF REPORTING PERIOD\***

\$ (346,377)

\* if there is a positive fund balance at the end of the reporting period, you must complete Section 3.3

**SURPLUS\*/(DEFICIT)(Carried forward from Section 3.3)**

\$ (346,377)

**FY 2016**

**ITEMIZED LIST OF ALL EXPENDITURES FROM THE SPECIAL TAX ALLOCATION FUND**  
(by category of permissible redevelopment cost, amounts expended during reporting period)

Category of Permissible Redevelopment Cost [65 ILCS 6/11-74.4-3 (q) and 65 ILCS 6/11-74.6-10 (o)]	Amounts	Reporting Fiscal Year
<b>1. Costs of studies, administration and professional services—Subsections (q)(1) and (o) (1)</b>		
Administration Cost (salaries, taxes, benefits)	2,622	
Professional Services - TIF Analysis	19,700	
Legal Services	56,361	
Subscriptions	279	
		\$ 78,962
<b>2. Cost of marketing sites—Subsections (q)(1.6) and (o)(1.6)</b>		
		\$ -
<b>3.Property assembly: property acquisition, building demolition, site preparation and environmental site improvement costs. Subsections (q)(2), (o)(2) and (o)(3)</b>		
		\$ -
<b>4.Costs of rehabilitation, reconstruction, repair or remodeling of existing public or private buildings. Subsection (q)(3) and (o)(4)</b>		
		\$ -
<b>5. Costs of construction of public works and improvements. Subsection (q)(4) and (o)(5)</b>		
		\$ -
<b>6.Costs of removing contaminants required by environmental laws or rules (o)(6) - Industrial Jobs Recovery TIFs ONLY</b>		
		\$ -



## SECTION 3.2 A

## PAGE 2

7. Cost of job training and retraining, including "wellfare to work" programs Subsection (q)(5), (o)(7) and (o)(12)

\$ -

8. Financing costs related to obligations issued by the municipality. Subsection (q) (6) and (o)(8)

\$ -

9. Approved taxing district's capital costs. Subsection (q)(7) and (o)(9)

\$ -

10. Cost of Reimbursing school districts for their increased costs caused by TIF assisted housing projects. Subsection (q)(7.5) - Tax Increment Allocation Redevelopment TIFs ONLY

\$ -

11. Relocation costs. Subsection (q)(8) and (o)(10)

\$ -

12. Payments in lieu of taxes as defined in Subsections 11-74.43(m) and 11-74.6-10(k). Subsection (q)(9) and (o)(11)

\$ -

13. Costs of job training, retraining advanced vocational or career education provided by other taxing bodies. Subsection (q)(10) and (o)(12)

\$ -

SECTION 3.2 A		
PAGE 3		
14. Costs of reimbursing private developers for interest expenses incurred on approved redevelopment projects. Subsection (q)(11)(A-E) and (o)(13)(A-E)		
		\$ -
15. Costs of construction of new housing units for low income and very low-income households. Subsection (q)(11)(F) - Tax Increment Allocation Redevelopment TIFs ONLY		
		\$ -
16. Cost of day care services and operational costs of day care centers. Subsection (q) (11.5) - Tax Increment Allocation Redevelopment TIFs ONLY		
		\$ -
TOTAL ITEMIZED EXPENDITURES		\$ 78,962

PAGE 3

14. Costs of reimbursing private developers for interest expenses incurred on approved redevelopment projects. Subsection (q)(11)(A-E) and (o)(13)(A-E)		
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15. Costs of construction of new housing units for low income and very low-income households, Subsection (q)(11)(F) - Tax Increment Allocation Redevelopment TIFs ONLY		
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16. Cost of day care services and operational costs of day care centers. Subsection (q) (11.5) - Tax Increment Allocation Redevelopment TIFs ONLY		
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TOTAL ITEMIZED EXPENDITURES	\$	78,962
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### Section 3.2 B

**FY 2016**

**TIF NAME: Dempster Waukegan RPA**

List all vendors, including other municipal funds, that were paid in excess of \$10,000 during the current reporting year.

\_\_\_\_\_ There were no vendors, including other municipal funds, paid in excess of \$10,000 during the current reporting period.

[illegible]

**SECTION 3.3 - (65 ILCS 5/11-74.4-5 (d) (5) 65 ILCS 11-74.6-22 (d) (5))**

**Breakdown of the Balance in the Special Tax Allocation Fund At the End of the Reporting Period**

**FY 2016**

**TIF NAME: Dempster Waukegan RPA**

**FUND BALANCE, END OF REPORTING PERIOD**

\$ (346,377)

	Amount of Original Issuance	Amount Designated
<b>1. Description of Debt Obligations</b>		

**Total Amount Designated for Obligations**

\$ - \$ -

**2. Description of Project Costs to be Paid**


**Total Amount Designated for Project Costs**

\$ -

**TOTAL AMOUNT DESIGNATED**

\$ -

**SURPLUS\*/(DEFICIT)**

\$ (346,377)

\* NOTE: If a surplus is calculated, the municipality may be required to repay the amount to overlapping taxing



**SECTION 4 [65 ILCS 5/11-74.4-5 (d) (6) and 65 ILCS 5/11-74.6-22 (d) (6)]**

**FY 2016**

**TIF NAME: Dempster Waukegan RPA**

Provide a description of all property purchased by the municipality during the reporting fiscal year within the redevelopment project area.

  X   No property was acquired by the Municipality Within the Redevelopment Project Area

**Property Acquired by the Municipality Within the Redevelopment Project Area**

Property (1):	
Street address:	
Approximate size or description of property:	
Purchase price:	
Seller of property:	

Property (2):	
Street address:	
Approximate size or description of property:	
Purchase price:	
Seller of property:	

Property (3):	
Street address:	
Approximate size or description of property:	
Purchase price:	
Seller of property:	

Property (4):	
Street address:	
Approximate size or description of property:	
Purchase price:	
Seller of property:	

**SECTION 5 - 65 ILCS 5/11-74.4-5 (d) (7) (G) and 65 ILCS 5/11-74.6-22 (d) (7) (G)**  
**PAGE 1**

**FY 2016**

**TIF NAME: Dempster Waukegan RPA**

\*Page 1 is to be included with TIF Report. Pages 2-3 are to be included ONLY if projects are listed.

**Box below must be filled in with either a check or number of projects, not both**

Check if <u>NO</u> projects were undertaken by the Municipality Within the Redevelopment Project Area: <u>  X  </u>			
<b>ENTER</b> total number of projects undertaken by the Municipality Within the Redevelopment Project Area and list them in detail below*.			
<b>TOTAL:</b>	<b>11/1/99 to Date</b>	<b>Estimated Investment for Subsequent Fiscal Year</b>	<b>Total Estimated to Complete Project</b>
Private Investment Undertaken (See Instructions)	\$ -	\$ -	\$ -
Public Investment Undertaken	\$ -	\$ -	\$ -
Ratio of Private/Public Investment	0		0

**Project 1: \*IF PROJECTS ARE LISTED NUMBER MUST BE ENTERED ABOVE**

Private Investment Undertaken (See Instructions)			\$ -
Public Investment Undertaken			
Ratio of Private/Public Investment	0		0

**Project 2:**

Private Investment Undertaken (See Instructions)			
Public Investment Undertaken			
Ratio of Private/Public Investment	0		0

**Project 3:**

Private Investment Undertaken (See Instructions)			
Public Investment Undertaken			
Ratio of Private/Public Investment	0		0

**Project 4:**

Private Investment Undertaken (See Instructions)			
Public Investment Undertaken			
Ratio of Private/Public Investment	0		0

**Project 5:**

Private Investment Undertaken (See Instructions)			
Public Investment Undertaken			
Ratio of Private/Public Investment	0		0

**Project 6:**

Private Investment Undertaken (See Instructions)			
Public Investment Undertaken			
Ratio of Private/Public Investment	0		0

Optional: Information in the following sections is not required by law, but would be helpful in evaluating the performance of TIF in Illinois. \*even though optional MUST be included as part of complete TIF report

#### SECTION 6

FY 20156

TIF NAME: Dempster Waukegan RPA

Provide the base EAV (at the time of designation) and the EAV for the year reported for the redevelopment project area

Year redevelopment project area was designated	Base EAV	Reporting Fiscal Year EAV
2012	\$ 30,579,764	\$ 24,936,614

List all overlapping tax districts in the redevelopment project area.

If overlapping taxing district received a surplus, list the surplus.

☒ The overlapping taxing districts did not receive a surplus.

Overlapping Taxing District	Surplus Distributed from redevelopment project area to overlapping districts
	\$ -
	\$ -
	\$ -
	\$ -
	\$ -
	\$ -
	\$ -
	\$ -
	\$ -
	\$ -
	\$ -
	\$ -
	\$ -
	\$ -
	\$ -
	\$ -

#### SECTION 7

Provide information about job creation and retention

Number of Jobs Retained	Number of Jobs Created	Description and Type (Temporary or Permanent) of Jobs	Total Salaries Paid
N/A	N/A		\$ -
			\$ -
			\$ -
			\$ -
			\$ -
			\$ -
			\$ -

#### SECTION 8

Provide a general description of the redevelopment project area using only major boundaries:

--

Optional Documents	Enclosed
Legal description of redevelopment project area	X
Map of District	X

ATTACHMENT E

THIS INSTRUMENT PREPARED BY:

Barbara A. Adams  
Holland & Knight LLP  
131 S. Dearborn Street  
30th Floor  
Chicago, Illinois 60603

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**REDEVELOPMENT AGREEMENT**

**BY, BETWEEN AND AMONG**

**THE VILLAGE OF MORTON GROVE,**

**8700 MG, LLC**

**AND**

**HEARTLAND REAL ESTATE PARTNERS-MG, LLC**

**(8700 Waukegan Road)**

**DATED AS OF APRIL 11, 2016**

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## REDEVELOPMENT AGREEMENT

(8700 WAUKEGAN ROAD)

THIS REDEVELOPMENT AGREEMENT ("**Agreement**") is made as of the 11 day of APRIL, 2016, and is by, between and among the **VILLAGE OF MORTON GROVE**, an Illinois home rule municipal corporation ("**Village**"); **8700 MG, LLC**, an Illinois limited liability company ("**8700 MG**"); and **HEARTLAND REAL ESTATE PARTNERS-MG, LLC**, an Illinois limited liability company ("**Developer**").

IN CONSIDERATION OF the recitals and the mutual covenants and agreements set forth in this Agreement, and pursuant to the Village's home rule powers, the parties hereto agree as follows:

### **SECTION 1. RECITALS.**<sup>1</sup>

A. The Village is a home rule unit by virtue of the provisions of the 1970 Constitutions of the State of Illinois.

B. 8700 MG is, as of the Effective Date, the beneficial owner of the Property and intends to become the fee simple title owner of the Property and holder of the Access and Parking Easement.

C. The Developer is, as of the Effective Date, under contract [*or other agreement?*] with 8700 MG to redevelop the Property.

D. 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 spread of blight, to encourage private development to enhance the local tax base, to increase employment, and to enter into contractual agreements with third parties for the purpose of achieving these purposes.

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

F. To stimulate and induce redevelopment pursuant to the TIF Act, the Village has, after giving all notices required by law and after conducting all public hearings required by law, adopted the TIF Ordinances (as defined herein).

G. The Village is authorized, pursuant to Business District Development and Redevelopment Law, 65 ILCS 5/11-74.3-1 *et seq.*, ("**BD Law**") to finance redevelopment in accordance with the conditions and requirements set forth in the BD Law.

H. To stimulate and induce redevelopment pursuant to the BD Law, the Village has, after giving all notices required by law and after conducting all public hearings required by law, adopted the BD Ordinance (as defined herein).

I. The Property is located within the redevelopment project area that is subject of the TIF Ordinances (the "**TIF District**") and the business district that is the subject of the BD Ordinance.

J. The Property is located entirely within the corporate limits of the Village and is in

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<sup>1</sup> All capitalized words and phrases throughout this Agreement shall have the meanings set forth in the Preamble above, this Section 1 and in Section 2 of this Agreement.

the C1 General Commercial District.

K. 8700 MG will be, as of the Evidence of Title Date, the legal title owner of the Property and the holder of the Access and Parking Easement Agreement.

L. Developer desires and seeks relief to develop the Property with a mixed use residential and retail project consisting of two buildings to be constructed with a total of approximately 184 residential units and 14,000 square feet of retail space in accordance with the plans and specifications described in this Agreement ("**Development**").

M. 8700 MG and the Developer seek approval of, and have filed an application for, a planned unit development ("**PUD**") for the Property and associated waivers to allow the Development as a PUD.

N. Pursuant to public notice published in the *Chicago Tribune* on December 28, 2015, a public hearing was held by the Plan Commission on January 18, 2016, to consider the Developer's request for (i) approval of a PUD; and (ii) any such other variations, waivers and zoning relief as may be necessary to accomplish the development and use of the Property as requested by 8700 MG and the Developer (collectively, "**Requested Relief**"). The Plan Commission made its recommendation to approve the Requested Relief on January 18, 2016.

O. The Village, 8700 MG and the Developer propose to provide for the joint financing of certain Redevelopment Project Costs (as defined here, in the TIF Act, 65 ILCS 5/11-74.4-3(q), and in the BD Law, 65 ILCS 5/11-74.3-5), namely, certain costs of property acquisition, site preparation, environmental remediation, demolition, and construction of certain Improvements, all of which will serve a public purpose and are necessary to foster redevelopment of the Property.

P. It is necessary for the successful completion of the Development that the Village enter into this Agreement with 8700 MG and the Developer.

Q. It is economically infeasible for the Developer and 8700 MG to undertake the Development, and the Developer and 8700 MG thus are unable to undertake the redevelopment of the Property, without certain assistance from the Village pursuant to the TIF Act and the BD Law, which the Village has been, and continues to be, willing to provide under the terms and conditions contained in this Agreement.

R. 8700 MG and the Developer, after due and careful consideration and with advice and input from their own legal counsel, have agreed to subject the Property to the terms, provisions, and conditions of this Agreement.

S. The Corporate Authorities, after due and careful consideration, have concluded that granting the requested relief for the Development on the Property pursuant to and in accordance with this Agreement would further enable the Village to control the development of the area and would serve the best interests of the Village.

T. The Village, 8700 MG and the Developer desire that the Property be developed, used, operated and maintained only in compliance with this Agreement.

## **SECTION 2. DEFINITIONS; RULES OF CONSTRUCTION.**

A. **Definitions.** Whenever used in this Agreement, the following terms shall have the following meanings unless a different meaning is required by the context:

**"Access and Parking Easement Agreement"**: That certain Easement Agreement dated March 15, 1973, by and between American National Bank, not individually but as Trustee of Trust No. 77639 under Trust Agreement dated March 1, 1973 and American National Bank, not individually but as Trustee of Trust No. 77641 under Trust Agreement dated March 1, 1973, filed in the Office of (Torrens) Titles on August 15, 1973 as Document No. 2710918.

**"Access and Parking Easement Area"**: That certain tract of land consisting of approximately 0.81 acres, located immediately south of and adjacent to the Property that is governed by the Access and Parking Easement Agreement and legally described therein.

**"BD Certification Request"**: Defined in Section 12.E.1 of this Agreement.

**"BD Costs Certification Resolution"**: Defined in Section 12.E.2 of this Agreement.

**"BD Law"**: The Business District Development and Redevelopment Law, as amended, 65 ILCS 5/11-74.3-1 *et seq.*

**"BD Ordinance"**: Village of Morton Grove Ordinance No. 12-28.

**"BD Sales Taxes"**: Tax revenues generated by retail sales from Eligible Stores through the imposition of the retailers' occupation tax and service occupation tax (pursuant to 65 ILCS 5/11-74.3-3(10)).

**"Bonds"**: The Performance Bond and Construction Performance Bond Developer is required to provide to the Village pursuant to Section 10 of this Agreement.

**"Business District Project Costs"**: Costs defined as "Business District Project Costs" in the BD Law.

**"Certificate of Completion"**: Defined in Section 7.E.1 of this Agreement.

**"Certified BD Costs"**: Defined in Section 12.E.2 of this Agreement.

**"Certified TIF Costs"**: Defined in Section 11.E.2 of this Agreement.

**"Common Improvements"**: Those certain Improvements that will be privately owned but of common or general benefit to the Development, including parking lots and vehicular access ways in accordance with approved engineering plans; Storm Water Facilities, private water system (pipes, valves, fire hydrants, and related system improvements including hook-ups to the public water system), private sanitary sewer system (pipes, manholes, lift stations, and related system improvements, including hook up to the public sewer), private walkways, landscaping, grading and related site preparation work, erosion and sediment controls during the various phases of site development (including site and lot grading, construction entrances, diversion dikes, silt fences, sediment traps, seeding and site stabilization); and other special environmental protection measures which are a component of the engineering Final Plans.

**"Completion Conditions"**: Defined in Section 7.E.1 of this Agreement.

**"Corporate Authorities"**: The President and Board of Trustees of the Village.

**"Development"**: Defined in Section 1.L of this Agreement.



**"Eligible Store"**: Each commercial establishment generating Sales Taxes and located within the Property, excluding any commercial establishment within the Property at which the owner or operator of the commercial establishment operates the same or substantially the same type of business that the owner or operator operated at another location within the Village, but closed within one year prior to the opening of the new establishment within the Property.

**"Effective Date"**: The date of execution of this Agreement by all parties hereto, which date shall be deemed to be the date set forth in the first paragraph of Page 1 of this Agreement.

**"Events of Default"**: Defined in Section 20.A of this Agreement with respect to the Developer and in Section 20.B of this Agreement with respect to the Village

**"Evidence of Title Date"**: The date on which 8700 MG provides a title report issued by a reputable title insurance company acceptable to the Village Corporation Counsel and provided by 8700 MG or the Developer to the Village Clerk evidencing that fee simple title to the Property has been conveyed to 8700 MG.

**"Final Plans and Elevations"**: Those building plans, elevations, lighting plan, engineering plans, landscaping plans and tree removal plan and any related and supporting documents that receive the approval of the Village Administrator or his designee pursuant to Section 3.B of this Agreement and in accordance with the Requirements of Law, including the PUD Ordinance. After that approval, the Final Plans shall, automatically and without further action by the Corporate Authorities, be deemed to be incorporated in, and made a part of, this Agreement and shall, for all purposes in this Agreement, replace and supersede the Preliminary Plans.

**"Guarantee"**: Defined in Section 10.A of this Agreement.

**"Home Rule Sales Taxes"**: Tax revenues generated by retail sales from Eligible Stores through the imposition of the Village's home rule municipal retailers' occupation tax (pursuant to 65 ILCS 5/8-11-1) or the Village's home rule municipal service occupation tax (pursuant to 65 ILCS 5/8-11-5).

**"Improvements"**: Except as specifically excepted in this definition, all of the public and private improvements and facilities necessary to serve the Property, including, without limitation, all other stormwater detention facilities, water mains, storm sewers, sanitary sewers, parking lots, lighting, sidewalks, access driveways, parkways, rough and final grading, trees, sod, seeding, and other landscaping, and all other improvements required pursuant to this Agreement, the Preliminary Plans or the Final Plans, and the Requirements of Law. The definition of "Improvements" does not include the Residential Facility or Retail Facilities to be constructed on the Property.

**"Incremental Property Taxes"**: An amount equal to (i) the ad valorem taxes, if any, arising from the taxes levied upon the Property, which taxes are attributable to the increases in the then current equalized assessed valuation ("**EAV**") of each taxable lot, block, tract, or parcel in the Property over and above the total Initial EAV of each such lot, block, tract, or parcel of real property, all as determined by the County Clerk of Cook County, Illinois, pursuant to and in accordance with the TIF Act, the TIF Ordinances and this Agreement, minus (ii) any required payments to other taxing districts, including those made pursuant to 65 ILCS 5/11-74.4-3(q)(7.5 and 7.7) and further minus (iii) any amounts returned (or which would be subject to return) to 8700 MG or Developer pursuant to any appeal, objection or other proceeding that reduces the

assessed valuation of the Property or the amount of ad valorem taxes paid on the Property during the Term, and minus (iv) any other amounts required to be paid by Requirements of Law, when such taxes are collected and paid to and received by the Treasurer of the Village for deposit in the TIF Fund.

**"Initial EAV"**: The "initial equalized assessed value" (as defined in Section 11-74.4-9 of the TIF Act) of the Property.

**"Issuance Date"**: The date on which the Village shall deliver the Notes to Developer as further defined in Section 11.A of this Agreement.

**"Letter of Credit"**: Defined in Section 10.A of this Agreement.

**"Maintenance Obligation"**: Defined in Section 7.G of this Agreement.

**"Municipal Code"**: The Municipal Code of Morton Grove, as the same has been and may, from time to time hereafter, be amended.

**"Notes"**: The TIF Notes and the Sales Tax Note.

**"Person"**: Any corporation, partnership, limited liability company, individual, joint venture, trust, estate, association, business, enterprise, proprietorship, or other legal entity of any kind, either public or private, and any legal successor, agent, representative, or authorized assign of the above.

**"Pledged TIF Taxes"**: Defined in Section 11.B of this Agreement.

**"Pledged Sales Taxes"**: Defined in Section 12.B of this Agreement.

**"Plan Commission"**: The Plan Commission of the Village, established by Section 2-5-1 of the Municipal Code.

**"Preliminary Plans"**: The following preliminary plans and elevations, prepared by Built Form Architecture, except as otherwise noted:

- A. Site Plan, Sheet A-100, dated 1/18/2016;
- B. Site Plan (Colored rendering), Sheet A-100, dated 1/18/2016;
- C. Street View Looking Southeast, dated 11/30/2015;
- D. Street View Looking Northeast, dated 11/30/2015;
- E. North Elevation, dated 11/30/2015;
- F. East Elevation, dated 11/30/2015;
- G. South Elevation, dated 11/30/2015;
- H. West Elevation, dated 11/30/2015;
- I. Convenient Store-West, East, South and North Elevation, dated 11/30/2015;
- J. Basement Plan, Sheet A-100.5, dated 11/19/2015;
- K. First Floor Plan, Sheet A-101, dated 11/19/2015;
- L. Second Floor Plan, Sheet A-102, dated 11/19/2015;
- M. Third Floor Plan, Sheet A-103, dated 11/19/2015;



- N. Fourth Floor Plan, Sheet A-104, dated 11/19/2015;
- O. Fifth Floor Plan, Sheet A-105, dated 11/19/2015;
- P. Sixth Floor Plan, Sheet A-106, dated 11/19/2015;
- Q. Seventh Floor Plan, Sheet A-107, dated 11/19/2015;
- R. Roof Plan, Sheet A-108, dated 11/19/2015;
- S. Building Elevations, Sheet A-200, dated 11/19/2015;
- T. Building Elevations, Sheet A-201, dated 11/19/2015;
- U. Building Sections, Sheet A-202, dated 11/19/2015;
- V. Enlarged Elevations and Wall Sections, Sheet A-400, dated 11/19/2015;
- W. Enlarged Floor Plans, Sheet A-600, dated 11/19/2015;
- X. Enlarged Floor Plans, Sheet A-601, dated 11/19/2015;
- Y. Partition Types, Sheet A -800, dated 11/19/2015;
- Z. Lighting Plan, prepared by CREE, dated 11/18/2015;
- AA. Preliminary Landscape Plan, Sheet L0.1 prepared by Dickson Design Studio dated 12/1/15;
- BB. Preliminary Landscape Plan, Sheet L1.1, prepared by Dickson Design Studio dated 1/18/16;
- CC. Preliminary Landscape Plan, Sheet L1.2, prepared by Dickson Design Studio dated 1/18/16;
- DD. Tree Removal Plan, prepared by Dickson Design Studio dated 12/1/15; and
- EE. Preliminary Engineering, Sheet 2 of 2, prepared by Pearson, Brown & Associates, dated 12/09/15.

**"Project Year"**: Each of the first four twelve-month periods after the Effective Date.

**"Property"**: That certain tract of land consisting of approximately 2.8 acres, located at 8700 Waukegan Road in the Village of Morton Grove, and legally described in ***Exhibit A*** attached to this Agreement.

**"Public Improvements"**: Those certain Improvements located or to be located on public property or public rights-of-way or within easements to the Village or another governmental entity.

**"PUD Ordinance"**: Defined in Section 3.B of this Agreement.

**"QIB"**: An accredited investor, as defined in Rule 501 of Regulation D of the Federal Securities Act of 1933.

**"Redevelopment Project Costs"**: Costs defined as "Redevelopment Project Costs" in the TIF Act, 65 ILCS 5/11-74.4-3(q).

**"Requirements of Law"**: All applicable federal, state, and Village laws, statutes, codes, ordinances, resolutions, rules and regulations.

**"Residential Facility"**: The residential building to be constructed on the Property, consisting of 184 rental dwelling units or such lesser number as the Village Administrator may approve pursuant to the PUD Ordinance.

**"Retail Facilities"**: The retail facilities to be constructed on the Property, consisting of one building with a total of approximately 14,000 square feet of commercial or retail space for occupancy by retail or commercial uses acceptable to the Village Administrator pursuant to the PUD Ordinance.

**"Sales Taxes"**: State Sales Taxes, Home Rule Sales Taxes, and BD Sales Taxes.

**"Sales Tax Account"**: Defined in Section 12.B of this Agreement.

**"Sales Tax Fund"**: Defined in Section 12.B of this Agreement.

**"Sales Tax Note"**: A note to provide for the reimbursement to the Developer of Business District Project Costs that Developer will pay or has paid, the terms of which shall be consistent with this Agreement and otherwise mutually agreed to by the Parties.

**"Sales Tax Note Ordinance"**: Defined in Section 12.A of this Agreement.

**"Site Restoration"**: Defined in Section 7.D.1 of this Agreement.

**"State Sales Taxes"**: Tax revenues generated by retail sales from Eligible Stores through the imposition of the State's retailers' occupation tax (pursuant to 35 ILCS 120/1 *et seq.*) or the State's service occupation tax (pursuant to 35 ILCS 115/1 *et seq.*)

**"Stormwater Facilities"**: The following specific Improvements, as depicted on the Preliminary Engineering Plan: the stormwater detention basin, and private storm sewers, related equipment, appurtenances, and structures installed and maintained on the Property to ensure adequate stormwater drainage and management and to collect and direct stormwater into the Village's storm sewer system.

**"Taxable TIF Note"**: A note to provide for the reimbursement to the Developer of Redevelopment Project Costs that Developer will pay or has paid, the terms of which shall be consistent with this Agreement and otherwise mutually agreed to by the Parties.

**"Taxable TIF Note Interest Rate"**: Defined in Section 11.D.3 of this Agreement.

**"Tax Exempt Bonds"**: Tax exempt debt obligations issued by the Village.

**"Tax-Exempt TIF Note"**: A note to provide for the reimbursement to the Developer of Redevelopment Project Costs that Developer will pay or has paid, the terms of which shall be consistent with this Agreement and otherwise mutually agreed to by the Parties.

**"Tax-Exempt TIF Note Interest Rate"**: Defined in Section 11.D.2 of this Agreement.

**"Third Lien Incremental Property Tax"**: Defined in Section 11.D.4 of this Agreement.

**"Third Lien Taxable TIF Note"**: A note to provide for the reimbursement to the Developer of Redevelopment Project Costs that Developer will pay or has paid, the terms of which shall be consistent with this Agreement and otherwise mutually agreed to by the Parties.

**"TIF"**: Tax increment financing, as further defined and described in the TIF Act.

**"TIF Account"**: Defined in Section 11.B of this Agreement.

**"TIF Act"**: The Tax Increment Allocation Redevelopment Act, as amended, 65 ILCS 5/11-74.4-1 et seq.

**"TIF Certification Request"**: Defined in Section 11.E.1 of this Agreement.

**"TIF Costs Certification Resolution"**: Defined in Section 11.E.2 of this Agreement.

**"TIF Fund"**: The special fund to be established and held in accordance with the provisions of Section 11 of this Agreement.

**"TIF Note Ordinance"**: Defined in Section 11.A of this Agreement.

**"TIF Notes"**: The Tax-Exempt TIF Note, the Taxable TIF Note, and the Third Lien Taxable TIF Note.

**"TIF Ordinances"**: Village of Morton Grove Ordinance Nos. 12-34, 12-35 and 12-36.

**"Uncontrollable Circumstance"**: Any of the following events and circumstances that materially change the costs or ability of the Developer to carry out its obligations under this Agreement:

- a. a change in the Requirements of Law;
- b. insurrection, riot, civil disturbance, sabotage, act of public enemy, explosion, nuclear incident, war, or naval blockade;
- c. epidemic, hurricane, tornado, landslide, earthquake, lightning, fire, windstorm, other extraordinary weather condition, or other similar act of God;
- d. governmental condemnation or taking other than by the Village; or
- e. strikes or labor disputes, other than those caused by the unlawful acts of the Developer, its partners, or affiliated entities.

Uncontrollable Circumstance shall not include economic hardship, impracticability of performance, commercial, economic, or market conditions, or a failure of performance by a contractor (except as caused by events which are Uncontrollable Circumstances as to the contractor).

**"Unified Development Code"**: The Village of Morton Grove Unified Development Code, as the same has been and may, from time to time hereafter, be amended.

**"Waivers and Parking"**: Defined in Section 3.B of this Agreement.

**B. Rules of Construction.**

1. **Grammatical Usage and Construction.** In construing this Agreement, pronouns include all genders, and the plural includes the singular and vice versa.
2. **Headings.** The headings, titles, and captions in this Agreement have been inserted only for convenience and in no way define, limit, extend, or describe the scope or intent of this Agreement.
3. **Calendar Days.** Unless otherwise provided in this Agreement, any reference in this Agreement to "day" or "days" shall mean calendar days and not business days. If the date for giving of any notice required to be given, or the performance of any obligation, under this Agreement falls on a Saturday, Sunday, or federal holiday, then the notice or obligation may be given or performed on the next business day after that Saturday, Sunday, or federal holiday.
4. **Other Defined Terms.** Capitalized terms not defined in this Agreement shall have the meanings set forth in the Unified Development Code.

**SECTION 3. EXPIRATION OF AGREEMENT; APPROVAL OF ZONING RELIEF AND DEVELOPMENT.**

**A. Expiration.** In the event that the Evidence of Title Date does not occur on or before 12:00 noon on June 1, 2016, the Village shall have the right, at any time thereafter, to terminate this Agreement, by delivering to the other parties to this Agreement a notice of termination.

**B. Approval of PUD and Waivers and Parking.** Immediately after the Effective Date of this Agreement, the Village shall adopt a valid and binding ordinance governing the Development of the Property, substantially in the form of ***Exhibit B*** to this Agreement, (i) approving a PUD; and (ii) certain waivers from the requirements of the Unified Development Code and establishing required parking and loading (collectively, the ***"Waivers and Parking"***) as described in that certain ordinance to be adopted by the Corporate Authorities and which Ordinance shall become effective only after the Evidence of Title Date (***"PUD Ordinance"***). In the event the Evidence of Title Date does not occur as provided in the PUD Ordinance, or by such later date or dates as the Corporate Authorities may approve by resolution duly adopted, the PUD Ordinance shall provide that it may be repealed and made null and void and of no force or effect following the process stated in the PUD Ordinance.

**C. Final Plans Approval.** Prior to submitting an application for a building permit for the construction of any of the Improvements, the Developer shall submit to the Village Administrator or his designee for review, acceptance, and approval, in the Village Administrator's or his designee's sole and absolute discretion, final building plans, elevations, lighting plan, engineering plans, landscaping plans and tree removal plan and any related and supporting documents for the development of the Property. Such plans shall be in substantial compliance with the Preliminary Plans and all applicable Village codes, ordinances, rules, and regulations, and the Requirements of Law, including the PUD Ordinance. Upon approval, those plans shall be the Final Plans.

**D. Access and Parking Approvals.** If 8700 MG and the legal title owner of the Access and Parking Easement Area ("Easement Area Owner") amend the Access and Parking Easement Agreement to reconfigure and/or reassign the parking spaces and/or reconfigure the vehicular access to and from Waukegan Road, then prior to the issuance of any building permits, the Developer shall provide the Village Administrator with:

1. A fully executed and recorded amendment to the Access and Parking Easement Agreement or such other agreement between the Easement Area Owner and 8700 MG confirming the Developer and 8700 MG have the legal right to make improvements to and use the Access and Parking Easement Area in substantial conformance with the terms and conditions of this Agreement and the PUD Ordinance;

2. A title insurance policy issued by a reputable title insurance company acceptable to the Village Corporation Counsel evidencing that the 8700 MG holds such an easement interest in the Access and Parking Easement Area; and

3. If the amended Access and Parking Easement Agreement allows 8700 MG to make improvements to the Access and Parking Easement Area, including the widening of the shared vehicular access way at Waukegan Road, 8700 MG and the Developer shall apply for all necessary approvals from the Illinois Department of Transportation ("IDOT") to widen the curb cut for the Access and Parking Easement Area vehicular access way to/from Waukegan Road. Upon completion of the review of such application by IDOT, 8700 MG and the Developer shall provide the Village with a copy of IDOT's approvals or denials of such application. Further, if final, IDOT-approved plans and any associated conditions of approval for the widening of the curb cut are acceptable to 8700 MG, the Developer and the Easement Area Owner, then 8700 MG and the Developer shall file with the Village: (i) a copy of the approved plans, the IDOT permit and any associated conditions and (ii) consent from the Easement Area Owner authorizing 8700 MG and the Developer to proceed with such improvements. 8700 MG and the Developer shall complete the widening of the curb cut and any other proposed and mutually agreed upon improvements to the Access and Parking Easement Area, prior to the issuance of any Certificates of Occupancy for the Development.

**E. Future Subdivision of Property.** Any proposed subdivision of the Property shall comply in all respects with the Requirements of Law, including without limitation Section 12-8-1 *et seq.* of the Unified Development Code, and may require an amendment to the PUD Ordinance and the Redevelopment Agreement. No part of the Property may be withdrawn from the PUD Ordinance or this Agreement nor transferred to another party, without express approval of the Corporate Authorities.

#### **SECTION 4. DEVELOPMENT OF PROPERTY.**

**A. Retail and Residential Uses.** The Property shall be constructed and operated in accordance with the terms and conditions of this Agreement and the PUD Ordinance. The Development shall consist of two buildings, as follows:

1. The Residential Facility, consisting of one building of seven (7) stories in height and 184 rental dwelling units or such lesser number approved by the Village Administrator pursuant to the PUD Ordinance; and



2. The Retail Facilities, consisting of one building of one story in height and a total of approximately 14,000 square feet of commercial or retail space for occupancy by retail or commercial uses acceptable to the Village Administrator pursuant to the PUD Ordinance.

**B. General Use and Development Restrictions.** Development of the Property, except for minor alterations due to final engineering and site work approved by the Village Administrator or his designee shall be pursuant to and in accordance with the following (upon their respective approval, adoption, and effective date):

1. This Agreement;
2. The PUD Ordinance, and all documents and plans incorporated in the PUD Ordinance;
3. The Final Plans;
4. The Unified Development Code; and
5. The Requirements of Law.

Unless otherwise provided in this Agreement, in the event of a conflict between or among any of the above plans or documents, the plan or document that provides the greatest control and protection for the Village, as determined by the Village Administrator, shall control. All of the above plans and documents shall be interpreted so that the duties and requirements imposed by any one of them are cumulative among all of them, unless otherwise provided in this Agreement.

## **SECTION 5. IMPROVEMENTS.**

**A. Description of Improvements.** The Developer shall, at its sole cost and expense, construct, install, or perform all of the Improvements on the Property as set forth in the Final Plans.

**B. Dedication and Maintenance of the Improvements.**

1. **Final Inspection and Approval of the Improvements.** The Developer shall notify the Village when it believes that any or all of the Improvements have been fully and properly completed and shall request final inspection, approval, and, where appropriate, acceptance of the Improvement or Improvements by the Village. Such notice and request shall comply with, and include, all requirements of Section 12-9-4 of the Unified Development Code and shall be given far enough in advance to allow the Village time to inspect the Improvements and to prepare a punch list of items requiring repair or correction and to allow the Developer time to make all required repairs and corrections prior to the scheduled completion date. The Developer shall promptly make all necessary repairs and corrections as specified on the punch list. The Village shall not be required to approve or accept any portion of the Improvements until all of the Improvements for the Development, including all punch list items, have been fully and properly completed.

2. **Dedication and Acceptance of Specified Improvements.** The execution of this Agreement shall not constitute an acceptance by the Village of any public facilities that are depicted as "dedicated" on the engineering sheets of the Final Plans, if any, or of any

Improvements. The acceptance of all Improvements shall be made only in compliance with the requirements of the Unified Development Code, including, without limitation, Section 12-9-4 of that Code.

C. Transfer of Ownership of Public Improvements and Easements to the Village. Upon the approval of, and prior to acceptance of, any Public Improvements to be accepted by the Village pursuant to Subsection 5.B of this Agreement, the Developer shall execute, or cause to be executed, such documents as the Village shall request to transfer ownership of such Public Improvements to, and to evidence ownership of such Public Improvements by, the Village, free and clear of all liens, claims, encumbrances, and restrictions unless otherwise approved by the Village in writing. The Developer shall, at the same time, grant, or cause to be granted, to the Village all such easements or other property rights as the Village may require to install, operate, maintain, service, repair, and replace any Public Improvements that have not previously been granted to the Village, free and clear of all liens, claims, encumbrances, and restrictions unless otherwise approved by the Village in writing.

D. Two-Year Warranty of Improvements. Pursuant to Section 12-8-3 of the Unified Development Code, the Developer hereby guarantees the prompt and satisfactory correction of all defects and deficiencies in the Improvements, including, without limitation, any landscaping installed by the Developer on public lands or within public rights-of-way or easements, that occur or become evident within two years after approval and, where appropriate, acceptance of the Improvements by the Village pursuant to this Agreement. If any such defect or deficiency occurs or becomes evident during such period, then the Developer shall, after 10 days' prior written notice from the Village (subject to Uncontrollable Circumstances), correct it or cause it to be corrected. In the event any Improvement is repaired or replaced pursuant to such a demand, the warranty provided by this Subsection 5.D shall be extended, as to such repair or replacement, for two full years from the date of such repair or replacement. Any Public Improvements under the jurisdiction of IDOT shall have a warranty of at least two years or longer, if an extended warranty period is required by IDOT.

## SECTION 6. CONSTRUCTION.

### A. Design and Construction.

1. General Standards. The Development shall be designed and constructed pursuant to and in accordance with the Final Plans, the PUD Ordinance and Requirements of Law. All work performed on the Development shall be conducted in a good and workmanlike manner and with due dispatch in accordance with the schedule established in Subsection 7.C.2 of this Agreement. All materials used for construction of the Development shall be new and of first quality.

3. Improvements. The design and construction of the Improvements shall be subject to the reasonable written satisfaction of the Village Administrator or his designee in accordance with the Unified Development Code.

4. Contract Terms; Prosecution of the Work. The Developer shall include in every contract for work on the Development terms requiring the contractor to prosecute the work diligently, continuously, in full compliance with, and as required by or pursuant to, this Agreement, the Final Plans, the PUD Ordinance, and the Requirements of Law, until the work is properly completed, and terms providing that the Developer may take over and prosecute the work if the contractor fails to do so in a timely and proper manner.

5. Architect or Engineering Services. The Developer shall provide, at its sole cost and expense, all engineering services for the design and construction of the Development by a professional architect or engineer responsible for overseeing the construction of the Development. The Developer shall promptly provide the Village with the name of the construction project manager and a telephone number or numbers at which the construction project manager can be reached at all times.

6. Village Inspections and Approvals. All work on the Development shall be subject to inspection and approval by Village representatives at all times.

7. Other Approvals. Where the construction and installation of the Development requires the consent, permission, or approval of any public agency other than the Village or private party, the Developer shall promptly file all applications, enter into all agreements, post all security, pay all fees and costs, and otherwise take all steps that may be reasonably required to obtain the required consent, permission, or approval.

**B. Construction Traffic and Parking.**

1. Designated Traffic Routes. Prior to or concurrent with the Developer's application for the first work to be performed on the Property, the Developer shall submit a construction management traffic and parking plan for review and approval by the Village Administrator or his designee. Such plan shall include all designated traffic routes, construction fencing and construction sequencing plans, and shall provide that all construction traffic shall enter and exit the Property from the north exit at Waukegan Road. Notwithstanding the plan, the Village may designate alternate routes of access to the Property for construction traffic to protect pedestrians and to minimize disruption of traffic and damage to paved street surfaces; provided, however, that the designated routes shall not unduly hinder or obstruct direct and efficient access to the Property for construction traffic. The plan shall include the proposed methods by which the Developer will keep all routes used for construction traffic free and clear of mud, dirt, debris, obstructions, and hazards. The Developer shall repair all damage caused by the construction traffic.

2. Parking. The construction management plan shall show the location where all construction vehicles, including passenger vehicles, and construction equipment shall be parked within the Property. Any proposed parking area located outside the Property shall be identified and subject to approval by the Village Administrator or his designee.

**C. Issuance of Permits and Certificates.** The Village has the right to withhold the issuance of certificates of occupancy for any building or structure located on the Property, including specifically, the Residential Facility and the Retail Facilities, until the Improvements for that phase of construction are completed by the Developer in accordance with the schedule established pursuant to Subsection 7.C.2 of this Agreement or until other arrangements satisfactory to the Village Administrator or his designee, in his reasonable sole and absolute discretion, shall have been made. The issuance of any building permit or certificate of occupancy by the Village at any time prior to completion of all the Improvements for a particular phase of construction and approval and, where appropriate, acceptance thereof by the Village shall not confer on the Developer any right or entitlement to any other building permit or certificate of occupancy. Any amendment to the Village's local building codes solely related to new construction, which is approved after a complete building permit application has been filed with the Village, shall not require changes in the Final Plans.



D. **Damage to Public Property.** The Developer shall maintain the Property and all streets, sidewalks and other public property in and adjacent to the Property in a good and clean condition at all times during development of the Property and construction of each phase of the Development. Further, the Developer shall (1) promptly clean all mud, dirt, or debris deposited on any street, sidewalk, or other public property in or adjacent to the Property by the Developer or any agent of or contractor hired by, or on behalf of, the Developer; and (2) repair any damage that may be caused by the activities of the Developer or any agent of or contractor hired by, or on behalf of, the Developer.

E. **Burial of Public Utility Lines.** In connection with its construction of the Development, Developer shall, at its expense, bury at the locations approved by the Village Engineer, all overhead public utility lines that are newly constructed and installed within the Property to serve the Development.

F. **Compliance with Prevailing Wage.** The Developer shall comply, and shall cause all contractors constructing the Development to comply, with the Illinois Prevailing Wage Act (820 ILCS 130/0.01 *et seq.*), as it may be applicable. Without limiting anything in prior sentence, the Developer acknowledges and agrees, and will take all necessary steps to insure, that the Illinois Prevailing Wage Act applies to each contract pursuant to which Developer will construct, or cause the construction of, an Improvement that will be dedicated or transferred to the Village or other public entity upon its completion and acceptance.

G. **Open Book Project.** The Development shall be an "open book" project, and the Developer and 8700 MG will ensure regular and continuing access, at all times during construction and the making of any payments under this Agreement, by the Village Administrator or his designee, for the purpose of reviewing and auditing the records of the Developer and 8700 MG relating to any item necessary to determine the costs of the Development. These Village review and audit rights with respect to the Development shall terminate two years after the last of the last TIF Certification Request and last BD Certification Request submitted by the Developer under this Agreement for any portion of the Development. To the extent allowable by the Requirements of Law, the Developer's financial records, under this "open book" provision, shall not be considered public or Village records.

## **SECTION 7. COMMENCEMENT AND COMPLETION OF CONSTRUCTION.**

A. **Prohibition of Demolition or Construction of Any Kind Prior to All Approvals.** The Developer acknowledges and agrees that, unless specifically authorized in writing by the Village Administrator, in his sole and absolute discretion, no demolition, grading, site work, tree or landscape removal, construction, improvement, or development of any kind shall be permitted on any portion of the Property unless and until the Final Plans have all been approved by the Village Administrator or his designee. Notwithstanding the provisions of this Section 7.A, the Developer may apply for and the Village Administrator may issue demolition and/or limited site work permits prior to the approval of the Final Plans.

B. **Commencement of Construction.** In addition to the restriction set forth in Section 7.A of this Agreement, the following shall apply to the construction of the Residential Facility and Retail Facilities:

1. Foundation Construction. No construction of any kind shall be permitted on or with respect to the foundation portion of the Residential Facility or Retail Facilities unless and until the Developer obtains written approval from the Village Administrator or his designee.

2. Vertical Construction. No vertical construction of any kind shall be permitted on the Residential Facility or Retail Facilities unless and until the Developer delivers to the Village Administrator evidence of a written financial commitment(s) from one or more reputable lending institution(s) agreeing to make a loan to the Developer that, together with the Developer's equity, is sufficient to cover the costs of construction of the Residential Facility and the Retail Facilities and of all Improvements related to the first phase of construction. The form, substance, and adequacy of the written financing commitment shall be acceptable to the Village Administrator in his reasonable determination.

**C. Diligent Pursuit of Construction.**

1. Once commencement of construction for each phase is authorized pursuant to this Agreement, the Developer shall pursue the construction of that phase of the Development in a diligent and expeditious manner.

2. The Developer shall complete and make ready the Improvements for inspection, approval and, where appropriate, acceptance by the Village within the time prescribed in the applicable building permits. The Developer shall be allowed extensions of time beyond the completion dates set forth in such permits only for unavoidable delay caused by Uncontrollable Circumstances or as may be approved by the Village Administrator.

**D. Failure to Complete Construction.**

1. Removal of Partially Constructed Structures and Improvements. Subject to Uncontrollable Circumstances, if the Developer fails to diligently pursue all construction as required within the time period prescribed in the building permit or permits issued by the Village for the construction or in accordance with the schedule approved by the Village Administrator or his designee pursuant to Subsection 7.C.2, and if a perfected application to renew the building permit or permits is not filed within 30 days after the expiration of the permit or permits, the Developer shall, subject to the rights of the project lenders within 60 days after notice from the Village: (a) remove or commence to remove any partially constructed or partially completed buildings, structures, or Improvements for that phase from the Property; and (b) perform site restoration and modification activities to establish a passive park-like setting on the affected portion of the Property in accordance with plans approved by the Village ("**Site Restoration**").

2. Removal and Restoration by Village. In the event the Developer fails or refuses to remove the buildings, structures, and Improvements, or to perform the Site Restoration, as required pursuant to Section 7.D.1 of this Agreement, the Village shall have, and is hereby granted, the right, at its option (but subject to the rights of the project lenders), to enter upon the Property to: (a) demolish and/or remove any of the buildings, structures and Improvements from any and all portions of the Property, and to perform the Site Restoration; or (b) cause the Improvements to be completed in accordance with the plans submitted and any of the buildings or structures to be secured and weather tight. The Developer shall fully reimburse the Village for all costs and expenses, including legal and administrative costs, for such work within 30 days after a request therefor. If the Developer does not fully reimburse the Village for all such costs and expenses, and the Bonds described in Section 10 of this Agreement have no funds remaining in them or are otherwise unavailable to finance such work, then, subordinate to the project lenders, the Village shall have the right to place a lien on Property for all such costs



and expenses in the manner provided by law. The rights and remedies provided in this Section shall be in addition to, and not in limitation of, any other rights and remedies otherwise available to the Village at law and/or in equity.

**E. Certificate of Completion.**

1. Conditions for Certificate of Completion. The Village will issue Developer a certificate of completion ("***Certificate of Completion***") upon the Developer's satisfaction of the following conditions ("***Completion Conditions***"):

a. All rental residential units in the Development have been constructed and the Village has issued a final certificate of occupancy for the Residential Facility;

b. No fewer than 25 percent of the rental residential units in the Residential Facility are rented and occupied by tenants;

c. The Retail Facilities have been constructed and satisfy the following conditions: (i) the construction of the roofs of both retail buildings are completed; (ii) all construction of exterior finishes are complete; (iii) all storefront glass and doors are properly installed; and (iv) all underground plumbing and electric service have been constructed and installed. The Village, 8700 MG and Developer acknowledge and agree that this condition does not include the completion of interior construction to the Retail Facilities which would customarily be custom improvements made by a tenant to satisfy the end use of the retail buildings, or any part thereof, including, without limitation, the construction of interior walls, floor finishes, ceilings, certain interior partitions, air conditioning and heating improvements, light fixtures, and final fire protection and security improvements; and

d. The Development conforms to this Agreement, the PUD Ordinance, and Requirements of Law.

2. Request for Certificate of Completion. The Developer shall notify the Village when it believes that the Completion Conditions have been satisfied and shall request an inspection and a Certificate of Completion. The Village shall respond to the Developer's request for the Completion Certificate within 30 days by issuing either the Completion Certificate or a written statement detailing the ways in which the Completion Conditions have not been satisfied and the measures which must be taken by the Developer to obtain the Completion Certificate.

**F. Other Transactions.** Developer shall not enter into any transaction prior to the issuance of the Certificate of Completion that materially or adversely affects its ability to finance or complete the Development.

**G. Maintenance of the Development Upon Completion.** Upon the issuance of the Certificate of Completion, Developer shall maintain the Development in accordance with the PUD Ordinance, the Final Plans, and the Requirements of Law ("***Maintenance Obligation***"). If (i) Developer defaults on its Maintenance Obligation and fails to cure such default after ninety (90) days' written notice from the Village, or as soon as practicable after written notice in the case of a default that creates a hazard to public health and safety, and (ii) the Village

substantially prevails in a judicial action regarding such default, Developer shall post a letter of credit in an amount not less than the cost of six months of maintenance for the Property, as determined by the Village Administrator, based on generally acceptable maintenance standards for properties of similar size and use, within ninety (90) days of a final order issued in the judicial action, which letter of credit the Village may draw upon to cure any future or continued breach of the Maintenance Obligation. The Village's remedies pursuant to this Section 7.G are in addition, and without prejudice, to any other rights and remedies available to the Village for Developer's breach of its Maintenance Obligation. This Section 7.G runs with the land.

#### **SECTION 8. RECAPTURES.**

The Village has no recapture fees that the Developer is required to pay pursuant to this Agreement. There are no costs for which the Developer is entitled to recapture under this Agreement.

#### **SECTION 9. PAYMENT OF VILLAGE FEES AND COSTS.**

**A. Village Impact Fees.** The Village has no Village impact fees in effect that will be caused by the Development

**B. General Requirements.** In addition to any other costs, payments, fees, charges, contributions, or dedications required by this Agreement, the Developer shall pay to the Village, as and when due, all application, inspection, and permit fees, all water and sewer general and special connection fees, tap-on fees, charges and contributions, and all other fees, charges, and contributions required by applicable Village codes, ordinances, resolutions, rules, or regulations.

**C. Special Requirements.** In addition to any other costs, payments, fees, charges, contributions, or dedications required by this Agreement or by applicable Village codes, ordinances, resolutions, rules or regulations, the Developer shall pay to the Village, immediately upon presentation of a written demand or demands therefor, all reasonable legal, engineering, and other consulting or administrative fees, costs, and expenses incurred or accrued in connection with the review and processing of plans for the development of the Property and in connection with the negotiation, preparation, consideration, and review of this Agreement and all of its exhibits subject to Section 9.D below. Payment of all such fees, costs, and expenses for which demand has been made, but payment has not been received, by the Village prior to execution of this Agreement shall be made by a certified or cashier's check immediately upon execution of this Agreement by the Village President. Further, the Developer agrees that it will continue to be liable for and to pay, immediately upon presentation of a written demand or demands therefor, such fees, costs, and expenses incurred in connection with any applications, documents, or proposals, whether formal or informal, of whatever kind submitted by the Developer during the term of this Agreement in connection with the development and use of the Property. Further, the Developer agrees that it shall be liable for and shall pay upon demand all costs incurred by the Village for publications and recordings required in connection with the aforesaid matters.

**D. Cap on Village Fees and Costs.** Notwithstanding anything to the contrary in this Section 9, the any fees and costs owed to the Village by Developer pursuant to this Section 9 shall not exceed \$350,000 in the aggregate for all fees including school, park, village attorney fees, Village TIF and Bond consultant fees, engineering review and inspections, building permits and inspections, Villages third party costs and other costs. Any architectural or engineering plan reviews beyond the initial plan review and two (2) subsequent re-reviews of such plans are



not included in the \$350,000 cap and such additional review fees shall be paid by the Developer.

#### **SECTION 10. PERFORMANCE SECURITY.**

A. **Performance and Payment Bonds.** As security to the Village for the performance by the Developer of the Developer's obligations to construct and complete the Public Improvements and the Common Improvements pursuant to and in accordance with this Agreement, the Developer hereby irrevocably elects, on behalf of itself and its successors, and agrees to provide the Village, no later than the date of the approval of the Final Plans, performance and payment security for the Public Improvements and the Common Improvements ("***Guarantee***") in the form of irrevocable surety bonds ("***Bonds***") in the amount set forth in Section 12-8-3.C of the Unified Development Code, and in accordance with the terms set forth therein. The Bonds shall be in form and substance substantially conforming with ***Exhibit C*** and satisfactory to the Village's Corporation Counsel, from a surety company licensed to do business in the State of Illinois with a general rating of A and a financial size category of Class X or better in Best's Insurance Guide. The Guarantee shall be administered pursuant to Section 12-8-3.C of the Unified Development Code.

B. **Use of Funds in the Event of Breach of Agreement.** If the Developer fails or refuses to complete the Public Improvements, the Common Improvements, or both in accordance with this Agreement, or fails or refuses to correct any defect or deficiency in the Public Improvements, the Common Improvements, or both, or remove partially completed buildings or structures as required by this Agreement, or fails or refuses to perform Site Restoration in accordance with a demand made pursuant to his Agreement, or fails or refuses to pay any amount demanded by the Village as and when required pursuant to this Agreement, or in any other manner fails or refuses to meet fully any of its obligations under this Agreement, then the Village in its reasonable discretion may draw on and retain all or any of the funds remaining in the Bonds. The Village thereafter shall have the right, subject to 30 days notice and opportunity for cure, to exercise its rights under this Agreement, to take any other action it deems reasonable and appropriate to mitigate the effects of any failure or refusal, and to reimburse itself from the proceeds of the Bonds for all of its costs and expenses, including legal fees and administrative expenses, resulting from or incurred as a result of the Developer's failure or refusal to fully meet its obligations under this Agreement. If the funds remaining in the Bonds are insufficient to repay fully the Village for all costs and expenses, then the Developer shall upon demand of the Village therefor deposit with the Village any additional funds as the Village determines are necessary, within 30 days of a request therefor, to fully repay such costs and expenses.

#### **SECTION 11. TIF FINANCING.**

A. **Approval of TIF Notes; Redevelopment Project Costs Eligible for Reimbursement.** The parties acknowledge that Developer will pay, or has paid, for some or all of the Redevelopment Project Costs. To provide for the reimbursement to Developer of certain Redevelopment Project Costs pursuant to this Agreement and the TIF Notes, the Corporate Authorities, on the date ("***Issuance Date***") of their first regularly scheduled meeting that is at least 28 days following both of (i) the date upon which the Village issues a final certificate of occupancy for the Residential Facility and (ii) the receipt by the Village of a written opinion, acceptable to the Village, of the Village's bond counsel that (a) the interest paid and received on the Tax-Exempt Note is not includible in the gross income of the registered owners thereof under the Internal Revenue Code for federal income tax purposes, subject to customary

qualifications and exceptions and (b) the TIF Notes are valid and legally binding and the procedures by which they were issued were lawful, shall adopt an ordinance approving the TIF Notes ("**TIF Note Ordinance**"). On the Issuance Date, the Village shall execute and deliver to the Developer the TIF Notes. Notwithstanding any other provision of this Agreement, Developer shall be entitled to be reimbursed for Redevelopment Project Costs only if (i) Developer actually incurs such Redevelopment Project Costs; (ii) such Redevelopment Project Costs qualify as "redevelopment project costs" as defined in the TIF Act; (iii) such Redevelopment Project Costs are also "**Certified TIF Costs**" (as defined in Section 11.E.2); and (iv) reimbursement is permitted pursuant to this Agreement and the TIF Act.

**B. Deposit of Pledged TIF Taxes in TIF Account.** The Village shall establish a special tax allocation fund pursuant to the requirements of the TIF Act ("**TIF Fund**"). The Village shall deposit into an account (the "**TIF Account**") of the TIF Fund the Incremental Property Taxes within 90 days after receipt thereof by the Village. One hundred percent of the Incremental Property Taxes will be irrevocably pledged to repay the principal and interest on (i) the Tax-Exempt TIF Note and (ii) subject to the Tax-Exempt TIF Note's first lien on the Incremental Property Taxes, the Taxable TIF Note (the "**Primary/Secondary Pledged TIF Taxes**"). Subject to the Tax-Exempt TIF Note's and Taxable TIF Note's first and second liens, respectively, on the Incremental Property Taxes, 50% of the Incremental Property Taxes will be irrevocably pledged to repay the principal and interest on the Third Lien Taxable TIF Note (the "**Tertiary Pledged TIF Taxes**"; the Primary/Secondary Pledged TIF Taxes and the Tertiary Pledged TIF Taxes are, collectively, the "**Pledged TIF Taxes**"). In the Village's sole discretion, the TIF Notes may also be paid from any other lawful source available to the Village to make payments under the TIF Notes; provided, however, that the Pledged TIF Taxes shall not be reduced by the amount of such payments from other sources and all of the Pledged TIF Taxes in the TIF Account on February 1 of each year shall be used to pay principal and interest on the TIF Notes, as provided herein. Any funds contained in the TIF Fund in excess of the Pledged TIF Taxes may be used by the Village for any lawful purpose permitted under the TIF Act (including, but not limited to, calculation and distribution of "surplus" in accordance with Sections 11-74.4-7 and 11-74.4-8a of the TIF Act). Because the TIF Fund is a special fund, the amounts deposited in the TIF Account shall be disbursed in accordance with this Agreement, the TIF Note Ordinance, and the TIF Notes without further action by the Corporate Authorities.

**C. Limited Obligation of the Village.** The Developer hereby acknowledges that the Pledged TIF Taxes may be insufficient to cover the payment of all principal and interest on the TIF Notes. If the Pledged TIF Taxes are insufficient to pay all the principal and interest due under the TIF Notes, Developer hereby acknowledges that it shall have no recourse against the Village, other than enforcing the Village's obligations (i) to deposit required Pledged TIF Taxes in the TIF Account from time to time as required by this Agreement and (ii) use the Pledged TIF Taxes solely to pay amounts due under the TIF Notes as required by this Agreement.

**D. Terms of TIF Notes.**

**1. Terms of All of the TIF Notes.** Each TIF Note shall (i) evidence the Village's obligation to reimburse Developer for Redevelopment Project Costs, subject to and in accordance with this Agreement; (ii) have a maximum 18-year term, but in no event a term exceeding the maximum term permitted by the TIF Act; (iii) be secured by the Primary/Secondary Pledged TIF Taxes or the Tertiary Pledged TIF Taxes, as provided in this Agreement; (iv) provide for payment of principal and interest at least once per year on or before February 1, which payment(s) shall be equal to the available Primary/Secondary Pledged TIF Taxes or the Tertiary Pledged TIF Taxes, as the case may be, in the TIF Account, until such



time as the TIF Note is paid in full, expires, or is rescinded, canceled, or revoked; (v) provide that interest will accrue on principal starting on the Issuance Date; (vi) provide that each payment shall be applied first to accrued but unpaid interest, second to current interest, and third to principal; (vii) provide that no principal and interest payments will be made until the Village issues the Developer a Certificate of Completion pursuant to Section 7.E of this Agreement; (viii) provide that the Village may pre-pay at any time, at its sole option, provided that the Tax-Exempt TIF Note may be prepaid during the first five years after issuance only with the Developer's consent; (ix) prepayment must be at the full amount of the outstanding par value plus any accrued interest; and (x) be rescinded, canceled, and revoked if Developer does not complete the Completion Conditions by the last day of the third Project Year; provided this deadline may be extended subject to reasonable mutual agreement for Uncontrollable Circumstances.

The TIF Notes may be (a) assigned or pledged as collateral to a lender lending funds to the Developer for the Development or (b) following the issuance of the Certificate of Completion and issuance of the Tax-Exempt TIF Note, sold or assigned to a QIB. Notwithstanding the foregoing, Developer may transfer any TIF Note at any time to (x) any entity controlling, controlled by, or under common control with Developer or (y) any entity in which the majority of the equity interest is owned by parties that have a majority equity interest in Developer.

**2. Terms of the Tax-Exempt TIF Note.** The principal amount of the Tax-Exempt TIF Note shall be the total Certified TIF Costs, up to a maximum of \$3,700,000.00, less any principal amount previously paid by the Village. The Village will issue the Tax-Exempt TIF Note in an initial principal amount equal to the amount of the Certified TIF Costs approved by the Village on or prior to the Issuance Date and up to a maximum principal amount of \$3,700,000.00. If the initial principal of the Tax-Exempt TIF Note is less than \$3,700,000.00, then the principal of the Tax-Exempt TIF Note will be increased if and when the Village issues additional TIF Costs Certification Resolutions, up to a maximum of \$3,700,000.00. The interest rate on the Tax-Exempt TIF Note will be a rate equal to the lesser of (i) 8% and (ii) the median value of the 20-Year BBB uninsured G.O. Bond index as published by Municipal Market Data by Reuters ("MMD") or BBA rate, whichever is lower, on the Issuance Date, plus 275 basis points ("***Tax-Exempt TIF Note Interest Rate***") and will compound semi-annually. Upon issuance, the Village shall issue an amortization schedule. Payments on the Tax-Exempt TIF Note will be made at least once per year on or before February 1, from 100% of the available Incremental Property Taxes in the TIF Account on February 1. The Tax-Exempt TIF Note will have a first lien on the available Incremental Property Taxes. Neither party shall take any action that would jeopardize the tax-exempt status of the Tax-Exempt TIF Note.

**3. Terms of the Taxable TIF Note.** The principal amount of the Taxable TIF Note shall be the total Certified TIF Costs in excess of the principal of the Tax-Exempt TIF Note, up to a maximum of \$1,000,000.00, less any principal amount previously paid by the Village. The Village will issue the Taxable TIF Note in an initial principal amount equal to the amount of the Certified TIF Costs that, as of the Issuance Date exceed the principal of the Tax-Exempt TIF Note up to a maximum principal amount of \$1,000,000.00. If the initial principal of the Taxable TIF Note is less than \$1,000,000.00, then the principal of the Taxable TIF Note will be increased if and when the Village approves additional TIF Costs Certification Resolutions for Certified TIF Costs amounts, up to a maximum of \$1,000,000.00. Interest on the Taxable TIF Note will accrue upon issuance at a rate equal to the lesser of (i) 8% and (ii) the median value of the 20-Year BBB Corporate index as published by Bloomberg as determined on the Issuance Date plus 275 basis points ("***Taxable TIF Note Interest Rate***") and will compound semi-

annually. Upon issuance, the Village shall issue an amortization schedule. Payments on the Taxable TIF Note will be made at least once per year on or before February 1, from 100% of the available Incremental Property Taxes in the TIF Account after payment of principal and interest on the Tax-Exempt TIF Note. The Taxable TIF Note will have a second lien on the available Incremental Property Taxes.

4. **Third Lien Taxable TIF Note.** The principal amount of the Third Lien Taxable TIF Note shall be the total Certified TIF Costs in excess of the principal of the Tax-Exempt TIF Note and the principal of the Taxable TIF Note, up to a maximum of \$600,000.00, less any principal amount previously paid by the Village. The Village will issue the Third Lien Taxable TIF Note in an initial principal amount equal to the amount of the Certified TIF Costs that, as of the Issuance Date, exceed the principal of the Tax-Exempt TIF Note and the principal of the Taxable TIF Note, up to a maximum principal amount of \$600,000.00. If the initial principal of the Third Lien Taxable TIF Note is less than \$600,000.00, then the principal of the Third Lien Taxable TIF Note will be increased if and when the Village approves additional TIF Costs Certification Resolutions for Certified TIF Costs amounts, up to a maximum of \$600,000.00. Interest on the Third Lien Taxable TIF Note will accrue upon issuance at a rate equal to the Taxable TIF Note Interest Rate and will compound semi-annually. The Third Lien Taxable TIF Note will be payable, on February 1, from 50 percent of the available Incremental Property Taxes in the TIF Account after payment of principal and interest on the Tax-Exempt TIF Note and the Taxable TIF Note ("***Third Lien Incremental Property Taxes***"). The Third Lien Taxable TIF Note will have a third lien on the Third Lien Incremental Property Taxes in parity with the Village.

**E. Procedure for Reimbursement of TIF Certification Requests.**

1. **Submission of TIF Certification Requests.** For reimbursement of Redevelopment Project Costs in accordance with the TIF Notes, Developer shall submit to the Village one or more written requests for certification of such Redevelopment Project Costs in the form attached hereto as ***Exhibit D ("TIF Certification Request")***. Developer shall not submit (i) more than four TIF Certification Requests in any calendar year; (ii) a TIF Certification Request (except for the final TIF Certification Request) for less than \$250,000; (iii) a TIF Certification Request more than six months after the last Redevelopment Project Costs have been paid by Developer; or (iv) a TIF Certification Request after the fourth Project Year, unless a later submission is approved by the Corporate Authorities, taking into consideration market and other economic conditions during the first four Project Years, which approval shall not be unreasonably withheld. Each TIF Certification Request shall be accompanied by (i) sworn statements and lien waivers for any material, fixtures, apparatus, machinery, services, or labor provided by any contractor, subcontractor, or other Person entitled to file a lien under the Mechanics Lien Act, 770 ILCS 60/1, included in the Redevelopment Project Costs for which reimbursement is sought; (ii) bills, contracts, and invoices relative to the Redevelopment Project Costs; and (iii) other documents or information that the Village reasonably requires to evidence appropriate payment of Redevelopment Project Costs. To facilitate the certification of Redevelopment Project Costs as provided herein, Developer shall (i) require its contractors, suppliers, and others with whom it enters into contracts for Redevelopment Project Costs to submit pay requests, invoices, and bills that include only amounts that are Redevelopment Project Costs; and (ii) take such other actions as are reasonably necessary or desirable to identify Redevelopment Project Costs separately from other costs. If Developer does not fulfill its obligations as set forth in the preceding sentence, the Village shall have no obligation to certify or reimburse Developer for Redevelopment Project Costs that have not been separately identified as required herein.

2. **Village Review and Approval of TIF Certification Requests.** Within forty-five (45) days after the Village receives a TIF Certification Request, the Village shall send the Developer written notice (i) approving or disapproving the TIF Certification Request and (ii) if the Village disapproves the TIF Certification Request, specifying the error or deficiency in the TIF Certification Request in reasonable detail. Within twenty-one (21) days after approval of a TIF Certification Request, the Village shall adopt a resolution approving such certification ("***TIF Costs Certification Resolution***") identifying which Redevelopment Project Costs identified in the TIF Certification Request have been approved for payment ("***Certified TIF Costs***"). Certified TIF Costs will be allocated, first, to principal of the Tax-Exempt TIF Note until its maximum principal is established, second, to principal of the Taxable TIF Note, until its maximum principal is established, and, third, to principal of the Third Lien Taxable TIF Note, until its maximum principal is established.

F. **Creation of Separate Tax Code.** The Parties acknowledge that (i) under the TIF Act, the Cook County Clerk is required, for each individual tax parcel within the TIF District with a current EAV greater than its Initial EAV, to annually calculate, allocate, collect, and pay to the Village an amount equal to the Incremental Property Taxes attributable to such increase, (ii) as a matter of practice, the Cook County Clerk has not always followed this requirement and, instead of calculating Incremental Property Taxes on a parcel by parcel basis, has been calculated Incremental Property Taxes on an aggregate basis, taking the entire Incremental Property Taxes for an entire redevelopment project area, reducing that amount by the total reduction in property taxes that are paid for tax parcels that have a then-current EAV that is less than the Initial EAV, and allocating proportionate shares of that aggregate amount to the tax parcels within the redevelopment project area that have current EAV's greater than the Initial EAV, (iii) the "aggregate" method could result in an improper overpayment to certain taxing bodies and an improper underpayment of Incremental Property Taxes to the Village, and (iv) to avoid such improper underpayments, the Cook County Clerk and Cook County Assessor have sometimes assigned specific and unique tax code designations to certain tax parcels within a redevelopment project area to effectively allow Incremental Property Taxes to be calculated on a the basis of the tax codes. The Village has, prior to the Effective Date, submitted a request to the Cook County Clerk to petition for a separate tax code for the Property. The Village and Developer shall work cooperatively with the Offices of the Cook County Clerk and Assessor to create a separate tax code designation for the tax parcels located within the Property, so that Incremental Property Taxes can be properly calculated on a parcel by parcel basis.

G. **Bank Qualified Provision.** If, in any given year, (i) the Village desires to issue tax exempt debt obligations ("***Tax Exempt Bonds***") in an amount less than \$10,000,000 and (ii) the Tax-Exempt TIF Note is issued pursuant to this Agreement, and the total amount of the Tax-Exempt TIF Note plus the Tax Exempt Bonds would exceed the total amount of bonds that can be designated as "bank qualified" pursuant to Section 265(b)(3) of the Internal Revenue Code ("***Section 265 Bonds***") for that year, Developer shall reimburse the Village for any incremental interest costs that the Village may incur from the inability to issue the Tax Exempt Bonds as Section 265 Bonds, up to the interest increment or arbitrage for up to \$10,000,000 in bonds. If Developer is responsible for such reimbursement, (x) the amount of the reimbursement shall be the net present value of the annual incremental interest (at a net present value rate equal to the interest rate if such Tax Exempt Bonds were issued as Section 265 Bonds) and (y) Developer shall pay the reimbursement to the Village on the date the Tax-Exempt TIF Note is issued.

H. **Property Tax Appeals.** At any time during the Term of this Agreement, if the Owner or Developer, or any other Person with the legal authority to do so, files or submits any



appeal, objection, or other proceeding to any official, agency or other entity with jurisdiction, that seeks to reduce the assessed value of the Property or any part thereof, or to otherwise reduce the total amount of *ad valorem* taxes paid on the Property or any part thereof, during the term of this Agreement, copies of all documents, evidence or other materials filed by the Owner, Developer or such other Person shall also be submitted to the Village not later than thirty (30) days after each such filing with such official, agency or other entity with jurisdiction.

## **SECTION 12. BD LAW FINANCING.**

**A. Approval of Sales Tax Note; Business District Project Costs Eligible for Reimbursement.** The parties acknowledge that Developer will pay, or has paid, for some or all of the Business District Project Costs. To provide for the reimbursement to Developer of certain Business District Project Costs pursuant to this Agreement, on the Issuance Date, the Corporate Authorities shall adopt an ordinance approving the Sales Tax Note ("**Sales Tax Note Ordinance**") and execute and deliver to the Developer the Sales Tax Note. Notwithstanding any other provision of this Agreement, Developer shall be entitled to be reimbursed for Business District Project Costs only if (i) Developer actually incurs such Business District Project Costs; (ii) such Business District Project Costs qualify as "business district project costs" as defined in the BD Law; (iii) such Business District Project Costs are also "**Certified BD Costs**" (as defined in Section 12.E.2); (iv) reimbursement is permitted pursuant to this Agreement and the BD Law; and (v) the Business District Project Costs have not already been reimbursed by the Village pursuant to Section 11 of this Agreement.

**B. Deposit of Pledged Sales Taxes in Sales Tax Account.** The Village shall establish a business district tax allocation fund pursuant to the requirements of the BD Law ("**Sales Tax Fund**"). The Village shall deposit into an account (the "**Sales Tax Account**") of the Sales Tax Fund (i) 50% of (a) the local distributive share of the State Sales Taxes within 90 days after receipt thereof by the Village and (b) Home Rule Sales Taxes within 90 days after receipt thereof by the Village; and (ii) 100% of BD Sales Taxes within 90 days after receipt thereof by the Village ("**Pledged Sales Taxes**"). The Pledged Sales Taxes shall be irrevocably pledged to repay the principal and interest on the Sales Tax Note, as provided herein. In the Village's sole discretion, the amounts due pursuant to the Sales Tax Note may also be paid from any other lawful source available to the Village to make payments under the Sales Tax Note and permitted by law to be used to make payments under the Sales Tax Note; provided, however, that the Pledged Sales Taxes shall not be reduced by the amount of such payments from other sources and the entire Pledged Sales Taxes in the Sales Tax Account on February 1 of each year shall be used to pay principal and interest on the Sales Tax Note, as provided herein. Any funds contained in the Sales Tax Fund in excess of the Pledged Sales Taxes Amount may be used by the Village for any lawful purpose permitted under the BD Law (including, but not limited to, calculation and distribution of "surplus" in accordance with Section 11-74.3-6 of the BD Law). Because the Sales Tax Fund is a special fund, the amounts deposited in the Sales Tax Account shall be disbursed in accordance with this Agreement, the Sales Tax Note Ordinance, and the Sales Tax Note without further action by the Corporate Authorities.

**C. Limited Obligation of the Village.** The Developer hereby acknowledges that the Pledged Sales Taxes may be insufficient to cover the payment of all principal and interest on the Sales Tax Note. If the Pledged Sales Taxes are insufficient to pay all the principal and interest due under the Sales Tax Note, Developer hereby acknowledges that it shall have no recourse against the Village, other than enforcing the Village's obligations (i) to deposit required Pledged Sales Taxes in the Sales Tax Account from time to time as required by this Agreement



and (ii) use the Pledged Sales Taxes solely to pay amounts due under the Sales Tax Note as required by this Agreement.

**D. Terms of Sales Tax Note.**

The Sales Tax Note shall:

- (i) evidence the Village's obligation to reimburse Developer for Business District Project Costs, subject to and in accordance with this Agreement;
- (ii) have a maximum 20-year term, but in no event a term exceeding the maximum term permitted by the BD Law;
- (iii) be secured by the Pledged Sales Taxes, as provided in this Agreement;
- (iv) provide for payment of principal and interest at least semi-annually on April 1 and October 1 or before which semi-annual payment shall be in an amount equal to the Pledged Sales Taxes in the Sales Tax Account, until such time as the Sales Tax Note is paid in full, expires, or is rescinded, canceled, or revoked;
- (v) provide that interest, at the same rate as the Taxable TIF Notes, will accrue on principal starting on the Issuance Date;
- (vi) provide that each payment shall be applied first to accrued but unpaid interest, second to current interest, and third to principal;
- (vii) provide that no principal or interest payments will be made until the Village issues the Developer a Certificate of Completion pursuant to Section 7.E of this Agreement;
- (viii) be rescinded, canceled, and revoked if Developer does not complete the Completion Conditions by the last day of the third Project Year; provided this deadline may be extended subject to reasonable mutual agreement for Uncontrollable Circumstances;
- (ix) have a principal that:
  - (a) is equal to the total Certified BD Costs, up to a maximum of \$1,000,000.00, less any principal amount previously paid by the Village;
  - (b) on the Issuance Date, is equal to the amount of Certified BD Costs approved by the Village on or prior to the Issuance Date, up to a maximum principal amount of \$1,000,000.00; and
  - (c) after the Issuance Date (if the initial principal balance of the Sales Tax Note is less than \$1,000,000.00), is increased if and when the Village approves additional Sales Tax Note Certification Resolutions, up to a maximum of \$1,000,000.00,
- (x) bear interest on the principal that will accrue upon issuance of the Sales Tax Note at the Taxable TIF Note Interest Rate, and will compound semi-annually;

- (xi) be payable from the Pledged Sales Taxes or from an alternate source of funds, in the Village's sole discretion; and
- (xii) provide that it may be:
  - (a) assigned or pledged as collateral to a lender lending funds to the Developer for the Development,
  - (b) following the issuance of the Certificate of Completion and issuance of the Sales Tax Note, sold or assigned to a QIB, or
  - (c) notwithstanding the foregoing, transferred by Developer at any time to:
    - (1) any entity controlling, controlled by, or under common control with Developer, or
    - (2) any entity in which the majority of the equity interest is owned by parties that have a majority equity interest in Developer.

**E. Procedure for Reimbursement of BD Certification Requests.**

1. **Submission of BD Certification Requests.** For reimbursement of Business District Project Costs in accordance with the Sales Tax Note, Developer shall submit to the Village one or more written requests for certification of such Business District Project Costs in the form attached hereto as ***Exhibit E ("BD Certification Request")***. Developer shall not submit (i) more than four BD Certification Requests in any calendar year; (ii) a BD Certification Request (except for the final BD Certification Request) for less than \$250,000; (iii) a BD Certification Request more than six months after the last Business District Project Costs have been paid by Developer; or (iv) a BD Certification Request after the fourth Project Year, unless a later submission is approved by the Corporate Authorities, taking into consideration market and other economic conditions during the first four Project Years, which approval shall not be unreasonably withheld. Each BD Certification Request shall be accompanied by (i) sworn statements and lien waivers for any material, fixtures, apparatus, machinery, services, or labor provided by any contractor, subcontractor, or other Person entitled to file a lien under the Mechanics Lien Act, 770 ILCS 60/1, included in the Business District Project Costs for which reimbursement is sought; (ii) bills, contracts, and invoices relative to the Business District Project Costs; and (iii) other documents or information that the Village shall reasonably require to evidence appropriate payment of Business District Project Costs. To facilitate the certification of Business District Project Costs as provided herein, Developer shall (i) require its contractors, suppliers, and others with whom it enters into contracts for Business District Project Costs to submit pay requests, invoices, and bills that include only amounts that are Business District Project Costs; and (ii) take such other actions as are reasonably necessary or desirable to identify Business District Project Costs separately from other costs. If Developer does not fulfill its obligations as set forth in the preceding sentence, the Village shall have no obligation to certify or reimburse Developer for Business District Project Costs that have not been separately identified as required herein.

2. **Village Review of BD Certification Requests; Accrual of Interest.** Within forty-five (45) days after the Village receives a BD Certification Request, the Village shall send the Developer written notice (i) approving or disapproving the BD Certification Request and (ii) if the Village disapproves the BD Certification Request, specifying the error or deficiency

in the BD Certification Request in reasonable detail. Within 21 days after approval of a BD Certification Request, the Village shall adopt a resolution approving such certification ("***BD Costs Certification Resolution***") identifying which Business District Project Costs identified in the BD Certification Request have been approved for payment ("***Certified BD Costs***").

### **SECTION 13. COMPLETION PAYMENT.**

Within thirty (30) days after the Village's issuance of a Certificate of Completion, the Village shall make a one-time payment to Developer in the amount of \$600,000.00.

### **SECTION 14. LIABILITY AND INDEMNITY OF VILLAGE.**

A. **Village Review.** The Developer acknowledges and agrees that the Village is not, and shall not be, in any way liable for any damages or injuries that may be sustained as the result of the Village's review and approval of any plans for the Property, the Development, or the Improvements, or the issuance of any approvals, permits, certificates, or acceptances, for the development or use of the Property, the Development, or the Improvements, and that the Village's review and approval of any such plans and the Improvements and issuance of any such approvals, permits, certificates, or acceptances does not, and shall not, in any way, be deemed to insure the Developer, or any of its heirs, successors, assigns, tenants, and licensees, or any third party, against damage or injury of any kind at any time.

B. **Village Procedure.** The Developer acknowledges and agrees that all notices, meetings, and hearings have been properly given and held by the Village with respect to the approval of this Agreement and agrees not to challenge such approval on the grounds of any procedural infirmity or of any denial of any procedural right.

C. **Indemnity.** The Developer agrees to, and does hereby, hold harmless and indemnify the Village, the Corporate Authorities, the Plan Commission, and all Village elected or appointed officials, officers, employees, agents, representatives, engineers, and attorneys, from any and all claims that may be asserted at any time against any of such parties in connection with (i) the Village's review and approval of any plans for the Property or the Improvements; (ii) the issuance of any approval, permit, certificate or acceptance for the Property or the Improvements; (iii) the development, construction, maintenance or use of any portion of the Property, the Development or the Improvements; and (iv) the collection and distribution of amounts paid by the Developer pursuant to Section 10 of this Agreement.

D. **Defense Expense.** The Developer shall, and does hereby agree to, pay all reasonable expenses, including legal fees and administrative expenses, incurred by the Village in defending itself with regard to any and all of the claims referenced in Subsection 14.C of this Agreement.

### **SECTION 15. NATURE, SURVIVAL AND TRANSFER OF OBLIGATIONS.**

A. **Binding on Successors.** All obligations assumed by 8700 MG and the Developer under this Agreement shall be binding upon 8700 MG, the Developer, upon any and all of the Developer's successors and assigns (excluding any lessees or tenants of the Property), and upon any and all of the respective successor legal or beneficial owners of all or any portion of the Property. To assure that all such successors, assigns and successor owners have notice of this Agreement and the obligations created by it, the Developer and 8700 MG shall, from and after the Evidence of Title Date:

1. 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 with the Office of the Cook County Recorder of Deeds; and

2. Notify the Village in writing at least 30 days prior to any date upon which such party transfers a legal or beneficial interest in any portion of the Property to any party not a party to this Agreement (excluding any lessees or tenants of the Developer); and

3. Incorporate, by reference, this Agreement into any and all real estate sales contracts entered into for the sale of all or any portion of the Property to any party not a party to this Agreement; and

4. Require, prior to the transfer of all or any portion of the Property, or any legal or equitable interest therein, to any party not a party to this Agreement (excluding any lessees or tenants of the Developer), the transferee of the Property or of said portion of or interest in the Property to execute an enforceable written agreement, in substantially the form attached to this Agreement as **Exhibit F**, in which such party agrees 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 such transferee to meet those obligations as the Village may require.

**B. Limited Release of the Developer.** Subject to the terms and conditions of this Agreement, the Village agrees that this Agreement is transferable and assignable and that upon a successor becoming bound to the personal obligation created in the manner provided in this Agreement and providing the financial assurances required herein, the personal liability of the Developer and 8700 MG shall be released to the extent of the transferee's assumption of such liability. The failure of the Developer and 8700 MG to provide the Village with a fully executed copy of a Transferee Assumption Agreement required above by the transferee to be bound by the provisions of this Agreement and, if requested by the Village, with the transferee's proposed assurances of financial capability before completing any such transfer shall result in the Developer and 8700 MG remaining fully liable for all of the Developer's and 8700 MG's obligations under this Agreement but shall not relieve the transferee of its liability for all such obligations as a successor to the Developer and 8700 MG.

#### **SECTION 16. TERM.**

The provisions of this Agreement shall run with and bind the Property, and shall inure to the benefit of, and be enforceable by, the Developer, the Village, and any of their respective legal representatives, heirs, grantees, successors, and assigns, from the Effective Date of this Agreement and until the last to occur of (i) the termination of tax increment financing district established pursuant to the TIF Ordinances, (ii) final resolution of any appeal, objection or other proceeding that reduces the assessed valuation of the Property or the amount of ad valorem taxes paid on the Property during the Term, or (iii) the termination of the term of the Sales Tax Note issued pursuant to this Agreement. Any rights of the Parties or causes of action accruing to the parties during the Term of this Agreement shall survive its termination and be enforceable against the other party or parties. In addition, notwithstanding anything to the contrary in this Section 16, the Developer's indemnity and defense obligations as set forth in Section 14 of this Agreement, and Sections 7.G. and 15, shall survive the termination of this Agreement.



**SECTION 17. DEVELOPER AND 8700 MG REPRESENTATIONS, COVENANTS, AND WARRANTIES.**

A. By the Developer. The Developer, and the persons executing this Agreement on behalf of the Developer, represent, warrant, and covenant, as of the date of this Agreement, that:

1. the Developer is an Illinois limited liability company duly organized, validly existing, qualified to do business in Illinois;
2. the Developer has the right, power, and authority to enter into, execute, deliver and perform this Agreement, and the Developer is in compliance with all Requirements of Law, the failure to comply with which could affect the ability of the Developer to perform its obligations under this Agreement;
3. the execution, delivery and performance by the Developer of this Agreement has been duly authorized by all necessary corporate action, and does not and will not violate its organizational documents, as amended and supplemented, any of the applicable Requirements of Law, or constitute a breach of or default under, or require any consent under, any agreement, instrument, or document to which the Developer is now a party or by which the Developer is now or may become bound;
4. there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened, or affecting the Developer which would impair its ability to perform under this Agreement;
5. the Developer, to the extent it elects to proceed with the construction of the Development, shall apply for or cause to be applied for, and upon receipt, thereafter, maintain or caused to be maintained, all government permits, certificates, and consents (including, without limitation, appropriate environmental approvals) necessary to conduct its business and to construct and complete the Development and operate the Residential Facility and Retail Facilities as required by this Agreement; and
6. the Developer has sufficient financial and economic resources to implement and complete its obligations under this Agreement. The Developer has no knowledge of any liabilities, contingent or otherwise, of Developer which might have a material adverse effect upon its ability to perform its obligations under this Agreement.

B. By 8700 MG. 8700 MG, and the persons executing this Agreement on behalf of 8700 MG, represent, warrant, and covenant, as of the date of this Agreement, that:

1. 8700 MG is an Illinois limited liability company duly organized, validly existing, qualified to do business in Illinois;

2. 8700 MG is, as of the Effective Date, the beneficial owner of the Property and intends to become the fee simple title holder of the Property and the holder of the Access and Parking Easement for the benefit of 8700 MG;
3. 8700 MG has the right, power, and authority to enter into, execute, deliver and perform this Agreement, and 8700 MG is in compliance with all Requirements of Law, the failure to comply with which could affect the ability of 8700 MG to perform its obligations under this Agreement;
4. the execution, delivery and performance by of this Agreement by 8700 MG has been duly authorized by all necessary corporate action, and does not and will not violate its organizational documents, as amended and supplemented, any of the applicable Requirements of Law, or constitute a breach of or default under, or require any consent under, any agreement, instrument, or document to which 8700 MG is now a party or by which 8700 MG is now or may become bound;
5. there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened, or affecting 8700 MG which would impair its ability to perform under this Agreement;
6. 8700 MG, to the extent it elects to proceed with the construction of the Development, shall apply for or cause to be applied for, and upon receipt, thereafter, maintain or caused to be maintained, all government permits, certificates, and consents (including, without limitation, appropriate environmental approvals) necessary to conduct its business and to construct and complete the Development and operate the Residential Facility and Retail Facilities as required by this Agreement; and
7. 8700 MG has sufficient financial and economic resources to implement and complete its obligations under this Agreement. 8700 MG has no knowledge of any liabilities, contingent or otherwise, of 8700 MG which might have a material adverse effect upon its ability to perform its obligations under this Agreement.

**SECTION 18. VILLAGE REPRESENTATIONS, COVENANTS, AND WARRANTIES.**

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

1. The Village is a municipal corporation duly organized and validly existing under the law of the State of Illinois and has all requisite corporate power and authority to enter into this Agreement.
2. 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.

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

#### **SECTION 19. ENFORCEMENT.**

The parties to this Agreement may, in law or in equity, by suit, action, mandamus or any other proceeding, including without limitation, specific performance, enforce or compel the performance of this Agreement: provided, however, that the Developer and 8700 MG each agree that it will not seek, and does not have the right to seek, to recover a judgment for monetary damages against the Village or any elected or appointed officials, officers, employees, agents, representatives, engineers, or attorneys thereof, on account of the negotiation, execution, or breach of any of the terms and conditions of this Agreement. In addition to every other remedy permitted by law for the enforcement of the terms of this Agreement, the Village shall be entitled to withhold the issuance of building permits or certificates of occupancy for any and all buildings and structures within the Property at any time when the Developer or 8700 MG has failed or refused to meet fully any of its obligations under this Agreement after notice and an opportunity to cure as provided in Section 20. In the event of a judicial proceeding brought by one party to this Agreement against another party to this Agreement, the prevailing party in such judicial proceeding shall be entitled to reimbursement from the unsuccessful party of all costs and expenses, including reasonable attorneys' fees, incurred in connection with such judicial proceeding.

#### **SECTION 20. DEFAULT.**

A. **Events of Default by the Developer.** The following shall be Events of Default with respect to this Agreement:

1. A statement or representation by the Developer in this Agreement, or in any certificate, notice, demand or request made by the Developer and delivered to the Village that is 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 Developer does not remedy the default, within 15 days after written notice from the Village.
2. Default by the Developer for a period of 15 days after written notice thereof in the performance or breach of any covenant, warranty, or obligation contained in this Agreement, including without limitation any covenant concerning the existence, structure or financial condition of the Developer; provided, however, that such default or breach shall not constitute an Event of Default if such default cannot be cured within said 15 days and the Developer, within said 15 days, initiates and diligently pursues appropriate measures to remedy the default and in any event cures such default within ninety (90) days after such notice.

3. The entry of a decree or order for relief by a court having jurisdiction in the premises in respect of the 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 the 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 60 consecutive days.
4. The commencement by the Developer of a voluntary 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 the consent by the Developer to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or similar official) of the Developer or of any substantial part of the Property, or the making by any such entity of any assignment for the benefit of creditors or the failure of the Developer generally to pay such entity's debts as such debts become due or the taking of action by the Developer in furtherance of any of the foregoing, or a petition is filed in bankruptcy by others.
5. Failure to have funds to meet the Developer's obligations.
6. Sale, assignment, or transfer of the Property except in accordance with the transferee assumption provisions in Section 15 of this Agreement.
7. Change in the organizational status of the Developer except in accordance with the transferee assumption provisions in Section 15 of this Agreement.
8. The Developer abandons the development and construction on the Property. Abandonment shall be deemed to have occurred when, after the commencement of construction on the Property as contemplated in Section 7.B of this Agreement, the construction work stops for more than 60 days for any reason other than Uncontrollable Circumstances. Neither the failure of the Developer to secure any approvals required for the Development or construction, nor the failure of the Developer to deliver the evidence of construction financing required pursuant to Section 7.B of this Agreement shall be valid defenses to abandonment.
9. The Developer fails to comply with the Requirements of Law in relation to the construction and maintenance of the buildings contemplated by this Agreement.



B. **Events of Default by the Village.** The following shall be Events of Default with respect to this Agreement:

1. If any material 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 the 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 15 days after written notice from the Developer.
2. 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 if the Village does not, within 15 days after written notice from the Developer, initiate and diligently pursue appropriate measures to remedy the default.
3. Default by the Village in the performance or breach of any material covenant, warranty or obligation contained in this Agreement; provided, however, that such default shall not constitute an Event of Default if the Village, commences cure within 15 days after written notice from the Developer and in any event cures such default within 60 days after such notice, subject to Uncontrollable Circumstances.

C. **Remedies for Default.** In the case of a party's Event of Default under this Agreement:

1. The defaulting party shall, upon written notice 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, 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 30 additional days unless otherwise provided for in this this agreement or 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.
2. In the case of an Event of Default by the Developer occurring and continuing after the expiration of any applicable notice and cure period set forth in this Agreement, the Village may, and without prejudice to any other rights and remedies available to the Village, exercise any or all of the following options:
  - a) if no building permits have been issued for the Development, the Village may require Site Restoration in accordance with the terms and provisions of Section 7.D of this Agreement;

b) if one or more building permits have been issued for the Development, the Village may require demolition, removal, and restoration work in accordance with the terms and provisions of Section 7.D of this Agreement; or

c) The Corporate Authorities may initiate the process for revocation of the Zoning and Special Use Ordinance, in accordance with the provisions of that Ordinance. In such case, revocation shall be without protest or objection by the Developer.

3. In case the Village 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, the Developer and the Village shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the Developer and the Village shall continue as though no such proceedings had been taken.

#### **SECTION 21. GENERAL PROVISIONS.**

A. **Notice.** Any notice or communication required or permitted to be given under this Agreement shall be in writing and shall be delivered: (i) personally, (ii) by a reputable overnight courier, (iii) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid. Unless otherwise expressly provided in this Agreement, notices shall be deemed received upon the earlier of (a) actual receipt; (b) one business day after deposit with an overnight courier as evidenced by a receipt of deposit; or (c) three business days following deposit in the U.S. mail, as evidenced by a return receipt. By notice complying with the requirements of this Section 21.A, each party shall have the right to change the address or the addressee, or both, for all future notices and communications to such party, but no notice of a change of addressee or address shall be effective until actually received.

Notices and communications to Village shall be addressed to, and delivered at, the following address:

Village of Morton Grove  
6101 Capulina Ave  
Morton Grove, IL 60053  
Attention: Village Administrator

With a copy to:

Village of Morton Grove  
6101 Capulina Ave  
Morton Grove, IL 60053  
Attention: Corporation Counsel

and

Holland & Knight LLP  
131 South Dearborn Street, 30th Floor  
Chicago, IL 60603  
Attention: Barbara A. Adams

Notices and communications to the 8700 MG shall be addressed to, and delivered at, the following addresses:

8700 MG, LLC  
Attn: Tim Grogan  
c/o Equibase Capital Group, LLC  
1200 N. Ashland Avenue  
Chicago, IL 60622

Notices and communications to the Developer shall be addressed to, and delivered at, the following addresses:

Heartland Real Estate Partners-MG, LLC  
Attn: Tim Grogan  
c/o Equibase Capital Group, LLC  
1200 N. Ashland Avenue  
Chicago, IL 60622

With a copy to:

Petaeque & Wall, LLC  
Attn: Peter Wall  
c/o Equibase Capital Group, LLC  
1200 N. Ashland Avenue  
Chicago, IL 60622

**B. Time of the Essence.** Time is of the essence in the performance of all terms and provisions of this Agreement.

**C. Entire Agreement.** This Agreement constitutes the entire agreement between the parties and supersedes any and all prior agreements and negotiations between the parties, whether written or oral, relating to the subject matter of this Agreement.

**D. Exhibits.** Exhibits A through F attached to this Agreement are, by this reference, incorporated in and made a part of this Agreement. In the event of a conflict between an exhibit and the text of this Agreement, Section 4.B of this Agreement shall control.

**E. Amendments and Modifications.** No amendment or modification to this Agreement shall be effective unless and until it is reduced to writing and approved and executed by all parties to this Agreement in accordance with all applicable statutory procedures.

**F. Governing Law.** This Agreement shall be governed by, and enforced in accordance with, the internal laws, but not the conflicts of laws rules, of the State of Illinois.

G. **Changes in Laws.** Unless otherwise explicitly provided in this Agreement, any reference to any Requirements of Law shall be deemed to include any modifications of, or amendments to such Requirements of Law as may, from time to time, hereinafter occur.

H. **Non-Waiver.** The Village shall be under no obligation to exercise any of the rights granted to it in this Agreement. The failure of the Village to exercise at any time any right granted to the Village shall not be deemed or construed to be a waiver of that right, nor shall the failure void or affect the Village's right to enforce that right or any other right.


I. **Severability.** It is hereby expressed to be the intent of the parties hereto that should any provision, covenant, agreement, or portion of this Agreement or its application to any person, entity, or property be held invalid by a court of competent jurisdiction, the remaining provisions of this Agreement and the validity, enforceability, and application to any person, entity, or property shall not be impaired thereby, but the remaining provisions shall be interpreted, applied, and enforced so as to achieve, as near as may be, the purpose and intent of this Agreement to the greatest extent permitted by applicable law.

J. **No Third Party Beneficiaries.** No claim as a third party beneficiary under this Agreement by any Person shall be made, or be valid, against the Village, or the Developer.



IN WITNESS WHEREOF, the parties hereto have affixed their signatures the date and year first above written.

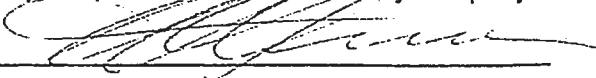
VILLAGE OF MORTON GROVE, an Illinois  
home rule municipal corporation

By:   
Its: Village President

ATTEST:

By: Connie Travis  
Its: Village Clerk

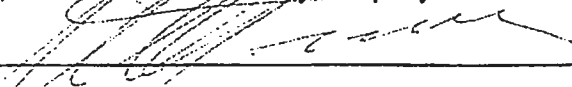
8700 MG, LLC, an Illinois limited liability company

By:   
Its: David L. Husman, its Authorized Signatory

ATTEST:

By: Peter T. Well  
Its: Peter T. Well, its Authorized Signatory

HEARTLAND REAL ESTATE PARTNERS-MG,  
LLC, an Illinois limited liability company

By:   
Its: David L. Husman, its Authorized Signatory

ATTEST:

By: Peter T. Well  
Its: Peter T. Well, its Authorized Signatory

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

The foregoing instrument was acknowledged before me on 12<sup>th</sup> day of APRIL, 2016, by Daniel P. DiMaria, the Village President of the **VILLAGE OF MORTON GROVE**, an Illinois home rule municipal corporation, and by Connie Travis, the Village Clerk of said municipal corporation.

  
\_\_\_\_\_  
Signature of Notary

SEAL

My Commission expires: 10-27-18

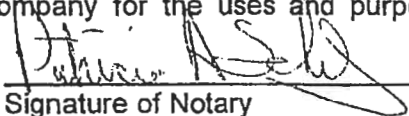


STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

On June 6, 2016, David L. Husman, the Authorized Signatory of 8700 MG, LLC, an Illinois limited liability company, which individual is personally known to me, appeared before me and acknowledged that he signed the foregoing instrument for and on behalf of said limited liability company as his free and voluntary act and as the free and voluntary act of said company for the uses and purposes herein mentioned.

SEAL

OFFICIAL SEAL  
PATRICIA A SCHULZ  
Notary Public - State of Illinois  
My Commission Expires Aug 18, 2017

  
\_\_\_\_\_  
Signature of Notary

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

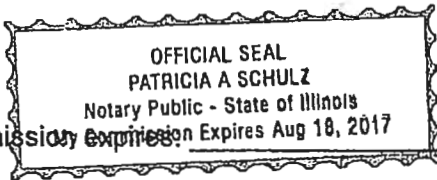
STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

On June 6, 2016, David L. Husman, the  
Authorized Signatory of HEARTLAND REAL ESTATE PARTNERS-MG, LLC, an  
Illinois limited liability company, which individual is personally known to me, appeared before me  
and acknowledged that he signed the foregoing instrument for and on behalf of said limited  
liability company as his free and voluntary act and as the free and voluntary act of said company  
for the uses and purposes herein mentioned.

Patricia A. Schulz  
Signature of Notary

SEAL

My Commission Expires



## **EXHIBITS**

<b>Exhibit A</b>	<b>Legal Description of the Property</b>
<b>Exhibit B</b>	<b>PUD Ordinance</b>
<b>Exhibit C</b>	<b>Bonds</b> <ul style="list-style-type: none"><li>◦ <b>Form of Development Performance Bond</b></li><li>◦ <b>Form of Development Payment Bond</b></li></ul>
<b>Exhibit D</b>	<b>TIF Certification Request</b>
<b>Exhibit E</b>	<b>BD Certification Request</b>
<b>Exhibit F</b>	<b>Form of Transferee Assumption Agreement</b>



**EXHIBIT A**  
**LEGAL DESCRIPTION OF THE PROPERTY**

LOTS 195 AND 206 BOTH INCLUSIVE, LOTS 401 TO 408 BOTH INCLUSIVE, ALL OF LOTS 430 TO 436 BOTH INCLUSIVE, LOTS 460 (EXCEPT THE NORTH 69.50 FEET THEREOF AS MEASURED ALONG THE EAST LINE THEREOF) LOT 461 (EXCEPT THE WEST 40.79 FEET OF THE NORTH 69.50 FEET) ALL OF LOTS 462 AND 463, ALL OF THE NORTH AND SOUTH 16 FOOT VACATED PUBLIC ALLEY, LYING WEST OF AND ADJOINING SAID LOTS 204, 205 AND 206 LYING NORTH OF THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 204 AND LYING SOUTH OF THE WESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 206, ALL OF THAT PART OF VACATED PUBLIC STREET KNOWN AS CAROL AVENUE LYING WEST OF THE WEST LINE OF WAUKEGAN ROAD, THAT PART OF THE NORTH AND SOUTH 16 FOOT VACATED PUBLIC ALLEY LYING WEST OF AND ADJOINING SAID LOT 195 TO 203, BOTH INCLUSIVE AND ALSO ALL OF THE EAST AND WEST 16 FOOT VACATED ALLEY, LYING NORTH OF AND ADJOINING SAID LOTS 401 TO 408 BOTH INCLUSIVE, ALL TAKEN AS ONE TRACT ALL BEING IN THE FIRST ADDITION TO DEMPSTER WAUKEGAN ROAD SUBDIVISION IN THE NORTHWEST 1/4 OF SECTION 19, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPTING FROM THE ABOVE DESCRIBED TRACT THAT PART LYING SOUTH OF A LINE DRAWN PERPENDICULARLY TO THE WESTLINE OF WAUKEGAN ROAD AT A POINT 355.29 FEET (AS MEASURED ALONG SAID WEST LINE) SOUTH OF THE NORTH EAST CORNER OF SAID LOT 206, ALL IN COOK COUNTY, ILLINOIS (SOMETIMES REFERRED TO AS PARCEL 1).

Commonly known as 8700 Waukegan Road, Morton Grove, Illinois

PINs: 10-19-102-021	10-19-102-030	10-19-106-048
10-19-102-022	10-19-102-033	
10-19-102-029	10-19-102-034	

## **EXHIBIT B**

### **ORDINANCE 16-03**

**AN ORDINANCE APPROVING A MIXED USE PLANNED UNIT  
DEVELOPMENT ("PUD") AND RELATED WAIVERS FOR  
A 7-STORY RESIDENTIAL STRUCTURE AND A 14,000 SQUARE FOOT  
SINGLE-STORY COMMERCIAL/RETAIL STRUCTURE,  
ALL ON A 2.8 ACRE PARCEL OF LAND, AT 8700 WAUKEGAN ROAD,  
MORTON GROVE, ILLINOIS**

WHEREAS, the Village of Morton Grove ("Village"), located in Cook County, Illinois, is a home rule unit of government under the provisions of Article 7 of the 1970 Constitution of the State of Illinois, and can exercise any power and perform any function pertaining to its government and affairs, including, but not limited to, the power to tax and incur debt; and

WHEREAS, 8700 MG, LLC, 1200 N. Ashland, Suite 600, Chicago, Illinois 60622, an Illinois limited liability company ("Applicant"), has submitted an application to the Village's Plan Commission, under case number PC15-09, for a mixed-use planned unit development ("PUD") and related waivers to allow the construction of a 7-story, 184 unit residential structure ("Residential Facility") and a 14,000 square foot, single-story commercial/retail structure ("Retail Facilities") on the 2.8 acre parcel of real estate commonly known as 8700 Waukegan Road, Morton Grove, Illinois 60053, and legally described in Exhibit A attached to and made a part of this Ordinance ("Property") ("Application"); and

WHEREAS, the Property is located in the C1 General Commercial District; and

WHEREAS, pursuant to that Access and Parking Easement Agreement, dated March 15, 1973, by and between American National Bank, not individually but as Trustee of Trust No. 77639 under Trust Agreement dated March 1, 1973 and American National Bank, not individually but as Trustee of Trust No. 77641 under Trust Agreement dated March 1, 1973, filed in the Office of (Torrens) Titles on August 15, 1973 as Document No. 2710918 ("Access and Parking Easement Agreement"), the Applicant, as successor in interest to American National Bank, not individually but as Trustee of Trust No. 77639 under Trust Agreement dated March 1, 1973, has the right to use the 75 foot wide parcel immediately adjacent to and south of the Property for off street parking and ingress to and egress to and from Waukegan Road legally described in that agreement ("Access and Parking Easement Area"); and

WHEREAS, the Applicant proposes to demolish the existing 1-to-2 story, 61,985 square foot office building currently located on the Property, and construct the Residential Facility and the Retail Facilities as a mixed use PUD on the Property; and

WHEREAS, the Applicant has entered into an agreement with Heartland Real Estate Partners-MG, LLC, an Illinois limited liability company ("Developer"), to redevelop the Property as a mixed-use PUD, in accordance with the terms of this PUD Ordinance; and

WHEREAS, as of the date of adoption of this Ordinance, the Applicant is the beneficial Owner of the Property and intends to become the fee simple title owner of the Property on or before June 1, 2016; and

WHEREAS, the Applicant, Developer and the Village have entered into that certain Redevelopment Agreement dated, requiring the Developer to redevelop the Property as authorized by this Ordinance and the Applicant has agreed to certain terms and conditions that will be binding on the Applicant and the Property ("Agreement"); and

WHEREAS, Section 12-6-3:D. of the Village's Unified Development Code allows planned unit developments in the C1 General Commercial District on sites greater than an acre and allows the Village Board to grant waivers for planned unit developments related to setback, height, density, floor area ratio (FAR), off-street parking and loading, screening, lighting, signage, and subdivision design standards; and

WHEREAS, pursuant to the applicable provisions of the Village's Unified Development Code, notice of a public hearing on the Application to be held on January 18, 2016 was published in the *Chicago Tribune*, a newspaper of general circulation in the Village of Morton Grove, on December 28, 2015; a sign was posted on the Property from January 6, 2016 through January 18, 2016; and written notification was sent on December 24, 2015 to all property owners within 250 feet of the Property; and

WHEREAS, on December 7, 2015, the Village's Appearance Commission reviewed the Application's design for the Residential Facility and the Retail Facilities, as well as the proposed landscaping plans, and recommended certain conditions; and

WHEREAS, on December 9, 2015, the Village's Traffic Safety Commission reviewed the Application, including the plans and the traffic study provided by the Applicant, and recommended certain conditions; and

WHEREAS, at the January 18, 2016 public hearing, the Village's Plan Commission heard the Applicant's presentation and reviewed the Application, at which time all concerned parties were given the opportunity to be present and express their views for the consideration by the Plan Commission; and

WHEREAS, the Village's Plan Commission considered all the evidence and testimony presented to it, discussed the merits of the Application in light of applicable law, including the PUD criteria established in Section 12-16-4 of the Unified Development Code, and voted to recommend approval of a mixed-use PUD and related waivers as well as modifications to certain parking and loading requirements described in Section 2.B below (collectively, "Waivers"), subject to those conditions, restrictions and requirements contained in the report of the Plan Commission, which was presented to the Village Board on February 22, 2016 and a copy of the report is contained in Exhibit B attached to and made a part of this Ordinance ("Plan Commission Report"); and

WHEREAS, on March 14, 2016, pursuant to Section 12-16-4-A-6 of the Unified Development Code, the Applicant requested that case PC 15-09 be continued for consideration by the Village Board to the March 28, 2016 meeting for a first reading and the April 11, 2016 meeting of the Village Board for final action, and the Village Board concurred with this request; and

WHEREAS, the President and Board of Trustees ("Corporate Authorities") have considered the Application and recommendations at a public meeting and find, pursuant to the relevant provisions of the Village's Unified Development Code, that the special use for a mixed-use PUD, as presented to the Plan Commission and as recommended in the Plan Commission Report, will be used and operated in such a way that the public health, safety and welfare will be protected and will not cause substantial injury to the other properties in the surrounding neighborhood; and

WHEREAS, pursuant to the provisions of the Village's Unified Development Code, the Corporate Authorities have determined that the proposed special use for a mixed-use PUD and Waivers should be approved, subject to the provisions, conditions and restrictions contained in this Ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MORTON GROVE, COOK COUNTY, ILLINOIS, AS FOLLOWS:**

**SECTION 1: Incorporation By Reference.** The Corporate Authorities do hereby incorporate the foregoing WHEREAS clauses into this Ordinance by this reference, as though fully set forth herein, thereby making the findings as hereinabove set forth.



SECTION 2: Approval of Special Use for PUD and Waivers.

A. PUD. A special use for PUD, as well as the Waivers described in Subsection B, are hereby granted for the benefit of the Property, for a mixed-use PUD comprised of the Residential Facility and the Retail Facilities, subject to the provisions, conditions and restrictions contained in this Ordinance, which shall be binding on all owners, lessees, occupants and users of the Property, and their successors and assigns.

B. Waivers. The following requested waivers and modifications to parking and loading requirements of the Unified Development Code ("Waivers") are hereby granted:

1. Waiver of the required five (5) foot side yard setback in Section 12-4-3:E. on the south line of the Property to allow a setback of 2.25 feet for the Residential Facility;
2. Waiver of the maximum building height of 40 feet in Section 12-3-5:C. to allow the Residential Facility to be up to 77 feet in height;
3. Waiver of the maximum floor area ratio (FAR) requirement of 2.0 in Section 12-4-3:E. to allow an FAR of approximately 2.55;
4. Waiver of the requirement for one (1) loading berth for 10,000 to 100,000 square feet of commercial space in Section 12-7-4:I to require zero loading berths for the Retail Facilities; and
5. Establish the required number of parking spaces for the Development on the Property pursuant to Section 12-7-3:B. at 333, with 327 parking spaces on the Property and 6 parking spaces on the Access and Parking Easement.

SECTION 3: PUD and Waiver Conditions. The special permit for PUD and the Waivers granted in Section 2 of this Ordinance are contingent upon the development, use, and maintenance of the Property being in substantial compliance with the following terms, conditions, and provisions:

A. Compliance with Agreement. The Applicant and Developer shall comply with all of the terms and provisions of the Agreement.

B. Compliance with Plans. The development, use and maintenance of the Property shall be in substantial compliance with the Final Plans (as defined in this provision), except for minor changes to the building plans and/or site work, approved by the Village Administrator or his designee, in accordance with all applicable laws and ordinances. The Applicant and

Developer shall submit to the Village Administrator or his designee, for review, acceptance and approval, final building plans, elevations, lighting plan, engineering plans, landscaping plans and tree removal plan, (collectively, "Final Plans"), for the development of the Property. The Final Plans shall be in substantial conformance with the preliminary plans and elevations listed below (the "Preliminary Plans"). The Preliminary Plans shall be modified as necessary to comply with the conditions included in Section 3.C of this Ordinance; the following sheets were prepared by Built Form Architecture, unless otherwise noted:

1. Site Plan, Sheet A-100, dated 1/18/2016;
2. Site Plan (Colored rendering), Sheet A-100, dated 1/18/2016;
3. Street View Looking Southeast, dated 11/30/2015;
4. Street View Looking Northeast, dated 11/30/2015;
5. North Elevation, dated 11/30/2015;
6. East Elevation, dated 11/30/2015;
7. South Elevation, dated 11/30/2015;
8. West Elevation, dated 11/30/2015;
9. Convenient Store-West, East, South and North Elevation, dated 11/30/2015;
10. Basement Plan, Sheet A-100.5, dated 11/19/2015;
11. First Floor Plan, Sheet A-101, dated 11/19/2015;
12. Second Floor Plan, Sheet A-102, dated 11/19/2015;
13. Third Floor Plan, Sheet A-103, dated 11/19/2015;
14. Fourth Floor Plan, Sheet A-104, dated 11/19/2015;
15. Fifth Floor Plan, Sheet A-105, dated 11/19/2015;
16. Sixth Floor Plan, Sheet A-106, dated 11/19/2015;
17. Seventh Floor Plan, Sheet A-107, dated 11/19/2015;
18. Roof Plan, Sheet A-108, dated 11/19/2015;
19. Building Elevations, Sheet A-200, dated 11/19/2015;
20. Building Elevations, Sheet A-201, dated 11/19/2015;
21. Building Sections, Sheet A-202, dated 11/19/2015;
22. Enlarged Elevations and Wall Sections, Sheet A-400, dated 11/19/2015;
23. Enlarged Floor Plans, Sheet A-600, dated 11/19/2015;
24. Enlarged Floor Plans, Sheet A-601, dated 11/19/2015;

25. Partition Types, Sheet A -800, dated 11/19/2015;
26. Lighting Plan, prepared by CREE, dated 11/18/2015;
27. Preliminary Landscape Plan, Sheet LO.1, prepared by Dickson Design Studio dated 12/1/2015;
28. Preliminary Landscape Plan, Sheet L1.1, prepared by Dickson Design Studio dated 1/18/2016;
29. Preliminary Landscape Plan, Sheet L1.2, prepared by Dickson Design Studio dated 12/1/2015;
30. Tree Removal Plan, prepared by Dickson Design Studio dated 12/1/2015; and
31. Preliminary Engineering, Sheet 2 of 2, prepared by Pearson, Brown & Associates, dated 12/09/2015.

C. Conditions for Final Plans. The Preliminary Plans listed in Section 3.B of this Ordinance and/or any supporting documents shall be modified to comply with the conditions of this Section 3.C and submitted for review, acceptance and approval by the Village Administrator or his designee. Upon such approval of all of the Final Plans, the Village Clerk shall attach copies of the Final Plans and record this Ordinance with all exhibits and the approved Final Plans. The conditions to be met include the following:

1. Improvements to Access and Parking Easement Area If the Applicant and the legal title owner of the Access and Parking Easement Area ("Easement Area Owner") amend the Access and Parking Easement Agreement to reconfigure and/or reassign the parking spaces and/or reconfigure the vehicular access to and from Waukegan Road, then prior to the issuance of any building permits, the Applicant shall provide the Village Administrator with:
  - A. A fully executed and recorded amendment to the Access and Parking Easement Agreement or such other agreement between the Easement Area Owner and the Applicant confirming the Applicant and Developer have the legal right to make improvements to and use the Access and Parking Easement Area in substantial conformance with the terms and conditions of this PUD Ordinance;

- B. A title insurance policy issued by a reputable title insurance company acceptable to the Village Corporation Counsel evidencing that the Applicant holds such an easement interest in the Access and Parking Easement Area; and
  - C. If the amended Access and Parking Easement Agreement allows the Applicant to make improvements to the Access and Parking Easement Area, including the widening of the shared vehicular access way at Waukegan Road, the Applicant and the Developer shall apply for all necessary approvals from the Illinois Department of Transportation ("IDOT") to widen the curb cut for the Access and Parking Easement Area vehicular access way to/from Waukegan Road. Upon completion of the review of such application by IDOT, the Applicant and Developer shall provide the Village with a copy of IDOT approvals or denials of such application. Further, if final, IDOT-approved plans and any associated conditions of approval for the widening of the curb cut are acceptable to the Applicant and Easement Area Owner, then the Applicant and the Developer shall file with the Village: (i) a copy of the approved plans, the IDOT permit and any associated conditions and (ii) consent from the Easement Area Owner authorizing the Applicant to proceed with such improvements. The Applicant and the Developer shall complete the widening of the curb cut and any other proposed and mutually agreed upon improvements to the Access and Parking Easement Area, prior to the issuance of any Certificates of Occupancy for the Project.
2. Landscaping. Prior to the issuance of a building permit, the Applicant and Developer shall have filed updated landscape plans that comply with the conditions of the Appearance Commission and in accordance with comments from the Village Engineer, as follows:
- A. The final landscape plan shall include planters along the Waukegan Road side of the Retail Facilities;



- B. The final landscape plan shall include the proposed list of landscape materials; and
  - C. The final landscape plans shall have been revised such that any proposed plantings near the access driveway are no more than 30 inches in height to ensure clear sight lines.
3. Traffic/Parking. Prior to the issuance of a building permit, the Applicant and Developer shall have filed updated plans and/or supporting documents that comply with the conditions of the Traffic Safety Commission staff report dated December 10, 2015, the Traffic Safety Commission report dated January 7, 2016, and Village Engineer's review memo dated January 8, 2016, related to parking and traffic, as follows:
- A. The final site plans shall provide accessible parking spaces in compliance with ADA requirements;
  - B. To the extent required, pursuant to Section 3.C.1., above, the final site plans shall include redesigned driveway access to accommodate separate left and right turn egress lanes at the shared access driveway;
  - C. If approved by IDOT, the final site plans shall include an island at the restricted access driveway at Waukegan Road or other improvements and/or signage, acceptable to the Village Engineer, to reinforce the prohibition of left-turn movements from the northern access driveway onto Waukegan Road;
  - D. The final Lighting Plan shall be revised to ensure direct rays of light are not cast on adjacent property to the west and the overall lighting of the parking area surfaces comply with the standards established in Section 12-7-2:K. of the Unified Development Code;
  - E. The final Lighting Plan shall include specifications and light levels for any security lighting that might be installed at the exterior doors. Any such proposed security lighting should be cut-off luminaries to reduce potential for glare to be cast onto Waukegan Road traffic; and

- F. The Applicant shall identify the location(s) for on-site snow storage.
4. Engineering. Prior to the issuance of a building permit, the Applicant and Developer shall submit final engineering plans in accordance with the Village design standards and codes and subject to the following:
- A. The final engineering plans shall be consistent with the approved site plans in terms of building locations and size, parking and driveway layout, number and location of parking stalls, sidewalks, and all other landscaping and structural features and elements;
  - B. To the extent required, pursuant to Section 3.C.1. and 3.C.3., above, the final engineering plans shall include any site access modifications, in accordance with and approved by IDOT, and the Applicant and Developer shall have provided the Village with copies of all required IDOT permits;
  - C. The final engineering plans and site plans shall include a sidewalk along Waukegan Road and pedestrian routes to accommodate pedestrian access from the buildings to the Waukegan Road sidewalk. Such final site and engineering plans shall include a pedestrian circulation plan which shows pedestrian routes from the Property's north end to the Waukegan Road mid-block crosswalk and Dempster Street;
  - D. The final engineering plans shall include a separate stormwater management report with a description of tributary, on-site flow patterns and overland outfalls from the Property. Further, the stormwater detention calculations should be included in this stormwater management report and should be removed from the final engineering plans; and
  - E. The final engineering and utility plans shall include sufficient evidence that the water supplied to the buildings and hydrants will meet the requirements established by the Fire Department. Further, since the fire hydrants at the south side of the Property are currently on a dead end water line, the final engineering and utility

plans shall demonstrate that water flows and volumes are sufficient for the fire sprinkler system, to the satisfaction of the Fire Chief.

D. Additional Conditions of Approval. In accordance with the recommendations of the Appearance Commission, Traffic Safety Commission, Plan Commission and Village staff, the Applicant and Developer shall comply with the following additional conditions of approval of the mixed use PUD and associated Waivers.

1. Proof of Ownership. On or before June 1, 2016, the Applicant shall provide evidence it is the fee simple title owner of the Property.
2. Construction Traffic and Parking. Prior to or concurrent with the Developer's application for a building permit for the Property, the Applicant and Developer shall submit a Construction Management Traffic and Parking Plan ("CM Plan") for review and approval by the Village Administrator or his designee.

A. Designated Traffic Routes. Such CM Plan shall include all designated traffic routes, construction fencing and construction sequencing plans, and shall provide that all construction traffic shall enter and exit the Property from the north exit at Waukegan Road. Notwithstanding the approval of the CM Plan, the Village may designate alternate routes of access to the Property for construction traffic to protect pedestrians and to minimize disruption of traffic and damage to paved street surfaces; provided, however, that the designated routes shall not unduly hinder or obstruct direct and efficient access to the Property for construction traffic. The CM Plan shall include the proposed methods by which the Developer will keep all routes used for construction traffic free and clear of mud, dirt, debris, obstructions, and hazards. The Developer shall repair all damage caused by the construction traffic.

B. Parking. The CM Plan shall show the location where all construction vehicles, including passenger vehicles, and construction equipment shall be parked within the Property. Any proposed parking area(s) located outside the Property shall be

identified and subject to approval by the Village Administrator or his designee.

3. No Construction Prior to Final Approvals. No construction, improvement, or development of any kind shall be permitted on any portion of the Property unless and until the Final Plans are approved by the Village Administrator or his designee in accordance with this Ordinance. Notwithstanding the provisions within this condition, the Applicant and Developer may apply for and the Village Administrator may issue demolition and/or limited site work permits prior to the approval of the Final Plans.
4. Service Vehicles Traffic Coordination. The Applicant and Developer shall ensure that loading, delivery and refuse collection times for the Retail Facilities are scheduled outside peak morning and evening traffic hours to minimize conflicts.
5. Snow Storage/Removal. In the event that any designated on-site snow storage location(s) are insufficient to properly contain snow storage on-site, the Applicant shall contract for the removal of snow, as needed, to ensure that all on-site parking spaces, driveways, emergency access ways, and walkways are accessible and sufficiently cleared of snow.
6. Compliance with Law. The Applicant and Developer shall comply with all requirements of the Village's ordinances and codes that are applicable, in addition to all other federal, state and local laws, rules and regulations.

SECTION 4: Access and Inspection. The Applicant and the Developer, and any lessees, occupants, and users of the Property, their successors and assigns, shall allow employees and authorized agents of the Village access to the Property at all reasonable times for the purpose of inspecting the Property to verify all terms and conditions of this Ordinance have been met.

SECTION 5: Village Records. The Village Clerk is hereby authorized and directed to amend all pertinent records of the Village of Morton Grove to show and designate the special use and waivers as granted and amended hereunder.

SECTION 6: Amendment to Special Permit and Final Plan. Any amendment to the special use for PUD and Waivers granted in Section 2 of this Ordinance that may be requested

by the Applicant or the Developer after the effective date of this Ordinance may be granted only pursuant to the procedures provided in the Unified Development Code.

SECTION 7: Changes in Ownership or Development; Binding Effect. The Applicant and Developer shall advise the Village Administrator or his designee of any proposed change in ownership or operation of the Property or any part thereof, including the Residential Facility and the Retail Facilities. Such changes may subject the Applicant, Developer or subsequent owners, lessees, occupants, and users of the Property to additional conditions and may serve as the basis for further amendment to the PUD and the Waivers. The PUD and Waivers are granted so long as the Applicant, Developer and subsequent owner, occupant and users of this property utilize the area for the purposes as herein designated.

SECTION 8: Failure to Comply with Conditions. Upon failure or refusal of the Applicant or Developer to comply with any or all of the conditions, restrictions or provisions of this Ordinance, the Corporate Authorities may initiate the revocation of the special use for the mixed-use PUD and Waivers granted in Section 2, in accordance with process and procedures established in the Unified Development Code.

SECTION 9: Effective Date. This Ordinance shall be effective only upon the occurrence of all of the following events:

- A. Passage by the Board of Trustees of the Village of Morton Grove by a majority vote in the manner required by law;
- B. Publication in pamphlet form in the manner required by law;
- C. The complete execution and recordation of the Redevelopment Agreement;
- D. Provision by the Applicant or Developer to the Village Clerk a title report issued by a reputable title insurance company acceptable to the Village Corporation Counsel and evidencing that fee simple title to the Property has been conveyed to the Applicant;
- E. The filing by the Applicant and the Developer with the Village Clerk of an unconditional agreement and consent to accept and abide by each and all of the terms, conditions, and limitations set forth in this Ordinance. Said unconditional agreement and consent shall be in the form of Exhibit C, attached to and, by this reference, made a part of this Ordinance. In the event that the Owner and the Developer do not file with the Village Clerk a fully executed copy of this unconditional agreement and consent within 90 days after the date of passage of this Ordinance by the Corporate Authorities, the Corporate Authorities shall have the right, in their sole discretion, to declare this Ordinance null and void and of no force or effect.

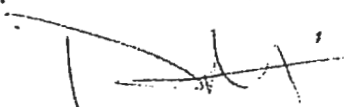


F. Submission to the Village Corporation Counsel of a certificate of good standing of the Developer as issued by the Illinois Secretary of State. - - -

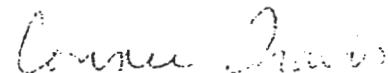
PASSED this 11th day of April, 2016.

Trustee Gear	<u>AYE</u>
Trustee Minx	<u>AYE</u>
Trustee Pietron	<u>AYE</u>
Trustee Ramos	<u>AYE</u>
Trustee Thill	<u>AYE</u>
Trustee Witko	<u>AYE</u>

APPROVED by me this 11th day of April, 2016.

  
\_\_\_\_\_  
Daniel P. DiMaria, Village President  
Village of Morton Grove  
Cook County, Illinois

APPROVED and FILED in my office this  
11th day of April, 2016.

  
\_\_\_\_\_  
Connie Travis, Village Clerk  
Village of Morton Grove  
Cook County, Illinois

## LIST OF EXHIBITS

<u>Exhibit</u>	<u>Title</u>
A	Legal Description of the Property
B	Report of the Plan Commission
C	Unconditional Agreement and Consent of Applicant and Developer

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

LOTS 195 AND 206 BOTH INCLUSIVE, LOTS 401 TO 408 BOTH INCLUSIVE, ALL OF LOTS 430 TO 436 BOTH INCLUSIVE, LOTS 460 (EXCEPT THE NORTH 69.50 FEET THEREOF AS MEASURED ALONG THE EAST LINE THEREOF) LOT 461 (EXCEPT THE WEST 40.79 FEET OF THE NORTH 69.50 FEET) ALL OF LOTS 462 AND 463, ALL OF THE NORTH AND SOUTH 16 FOOT VACATED PUBLIC ALLEY, LYING WEST OF AND ADJOINING SAID LOTS 204, 205 AND 206 LYING NORTH OF THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 204 AND LYING SOUTH OF THE WESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 206, ALL OF THAT PART OF VACATED PUBLIC STREET KNOWN AS CAROL AVENUE LYING WEST OF THE WEST LINE OF WAUKEGAN ROAD, THAT PART OF THE NORTH AND SOUTH 16 FOOT VACATED PUBLIC ALLEY LYING WEST OF AND ADJOINING SAID LOT 195 TO 203, BOTH INCLUSIVE AND ALSO ALL OF THE EAST AND WEST 16 FOOT VACATED ALLEY, LYING NORTH OF AND ADJOINING SAID LOTS 401 TO 408 BOTH INCLUSIVE, ALL TAKEN AS ONE TRACT ALL BEING IN THE FIRST ADDITION TO DEMPSTER WAUKEGAN ROAD SUBDIVISION IN THE NORTHWEST 1/4 OF SECTION 19, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPTING FROM THE ABOVE DESCRIBED TRACT THAT PART LYING SOUTH OF A LINE DRAWN PERPENDICULARLY TO THE WESTLINE OF WAUKEGAN ROAD AT A POINT 355.29 FEET (AS MEASURED ALONG SAID WEST LINE) SOUTH OF THE NORTH EAST CORNER OF SAID LOT 206, ALL IN COOK COUNTY, ILLINOIS (SOMETIMES REFERRED TO AS PARCEL 1).

Commonly known as 8700 Waukegan Road, Morton Grove, Illinois

PINs: 10-19-102-033-0000 10-19-102-034-0000 10-19-102-021-0000 10-19-102-022-0000  
10-19-102-029-0000 10-19-102-030-0000 10-19-106-048-0000

Exhibit "B"



**Village of Morton Grove**  
**Department of Community Development**

**To:** Village President and Board of Trustees

**From:** Ronald Farkas, Chairperson, Plan Commission  
Nancy Radzevich, AICP, Community and Economic Development Director  
Dominick A. Argumedo, AICP, Zoning Administrator/Land-Use Planner

**Date:** February 1, 2016

**Re:** Plan Commission Case PC15-09: 8700 Waukegan, LLC., request for a Mixed Use Planned Unit Development (PUD) comprised of a 7-story, 184 unit residential structure and a 14,000 sq. ft. single-story commercial structure on a 2.8 acre parcel of land, in accordance with Section 12-6 of the Morton Grove Unified Development Code (Ord. #07-07) at 8700 Waukegan Road, Morton Grove, IL

**Commission Report**

**Public Notice**

The Village provided public notice of PC 15-09 for the January 18, 2016 Plan Commission public hearing in accordance with the Unified Development Code. The *Chicago Tribune* published the public notice on December 28, 2015, and the Village mailed letters notifying surrounding property owners on December 24, 2015 and a public notice sign was placed on the subject property from January 6, 2015 through January 18, 2016.

**Overview of the Application**

8700 MG LLC, the applicant and property owner, is seeking approval of a Mixed Use Planned Unit Development (PUD) consisting of two buildings: a 7-story, 184 unit residential structure and a 14,000<sup>1</sup> sq. ft. single-story commercial building. The existing 1-to-2 story, 61,985 sq. ft. office building would be demolished. Proposed site improvements include the creation of 327 on-site parking spaces<sup>2</sup> (garage and surface lot) new landscaping, and reconfiguration of and improvements to the shared access driveway, to the south, to improve traffic flow and access for both the 8700 Waukegan Road and abutting Morton Grove Estates condominium development. The 2.8-acre subject property is located on the west side of Waukegan Road just south of Dempster Street.

The Unified Development Code allows for Planned Unit Developments in the C1 District on properties greater than 1-acre and allows for the Village Board to grant waivers for PUDs related to setback, height, density, floor area ratio (FAR), off street parking and loading, screening, lighting, signage, and subdivision design standards.

<sup>1</sup> Although the submitted application states that commercial building will be 14,680 sq., slight modifications to the site plan during the development review process, specifically to address comments and recommendations by staff, Appearance Commission, and/or Traffic Safety Commission, has resulted in a reduction of the size of the commercial building to down to 14,000 sq.

<sup>2</sup> Although the submitted application states there will be a total of 342 parking spaces, slight modifications to the site plan during development, specifically to address accessible parking spaces and reduced commercial building, has resulted in an overall reduction in the number of total parking spaces

As part of their PUD application, the applicant is seeking variations and/or approvals to/for the following dimensional, bulk and parking requirements:

1. Waiver to the 5 ft. required side yard setback (Section 12-4-3:E) on the south side of the property to allow for an 2.75 ft. setback for a portion of the residential building;
2. Waiver to the maximum 40 ft. building height (Sec. 12-3-5:C) to allow for a residential building height of 77 ft.;
3. Waiver to the maximum Floor Area Ratio (FAR) of 2.0 (Sec. 12-4-3:E) to allow for a FAR of 2.55;
4. Waiver to one (1) required loading berth per 10,000-100,000 sq. ft. in commercial space (Sec. 12-7-4:I) to allow for no loading berth; and
5. Request to establish the number of parking spaces for the Mixed-Use PUD at 333 overall parking spaces: 327 on-site spaces + 6 shared spaces (Sec. 12-7-3:B)

#### January 18, 2016 Public Hearing

Ms. Nancy Radzevich, Director of Community and Economic Development, introduced the case and summarized the Plan Commission staff report dated January 12, 2016, which was entered, in it's entirety, into the public record. (Attachment 1)

The 8700 MG, LLC development team was sworn in: Timothy Grogan, representing the owner, 8700 MG, LLC, and the developer Heartland Real Estate Partners, LLC which is wholly owned by Equibase Capital Group, LLC; Arden Freeman, Built Form Architecture, architect; William Woodward, KLOA, Inc., traffic engineer; John Cerbus, Pearson Brown & Associates, civil engineer; and Sharon Dickson, Dickson Design Studio, landscape architect.

Timothy Grogan began the presentation with a history of the 8700 mixed-use project that has been in conceptual development for 2 ½ years. He stated the existing 8700 Waukegan Road office complex has operated with a general occupancy rate of 40-60 %. Seeking to maximize the site's development potential, the owners began to explore a total redevelopment of the property especially as the property lay within the Dempster/Waukegan TIF boundary. At the outset of their development exploration process they hired Tracy Cross and Associates, a market research company, to analyze the property's commercial, retail, and the residential potential. Their analysis supported the concept for the proposed 7 story residential building with one-story retail mixed use PUD that is currently before the Plan Commission.

Mr. Grogan started his presentation by addressing the key concern of the Morton Groves Estates Morton Grove Estates/Grove Manor Condominiums ("Morton Grove Estates") to the south, the potential impact of the development on the shared driveway at the south of the proposed 8700 Waukegan development. Mr. Grogan provided an overview of the steps his team has taken to try to alleviate the concerns of Morton Grove Estates. Mr. Grogan stated that he was working on an agreement between his team and Morton Groves Estates, and upon completion of this project, he's suggesting they form an association to share in the cost of snow removal, landscaping and maintenance of the shared driveway. These responsibilities and associated costs are currently the full responsibility of the Morton Grove Estates owners. In addition, after meetings with residents from Morton Grove Estates, Mr. Grogan stated their team designed the mixed-use development to minimize the impact of the proposed residential



As part of their PUD application, the applicant is seeking variations and/or approvals to/for the following dimensional, bulk and parking requirements:

1. Waiver to the 5 ft. required side yard setback (Section 12-4-3:E) on the south side of the property to allow for an 2.75 ft. setback for a portion of the residential building;
2. Waiver to the maximum 40 ft. building height (Sec. 12-3-5:C) to allow for a residential building height of 77 ft.;
3. Waiver to the maximum Floor Area Ratio (FAR) of 2.0 (Sec. 12-4-3:E) to allow for a FAR of 2.55;
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Ms. Nancy Radzevich, Director of Community and Economic Development, introduced the case and summarized the Plan Commission staff report dated January 12, 2016, which was entered, in it's entirety, into the public record. (Attachment 1)

The 8700 MG, LLC development team was sworn in: Timothy Grogan, representing the owner, 8700 MG, LLC, and the developer Heartland Real Estate Partners, LLC which is wholly owned by Equibase Capital Group, LLC; Arden Freeman, Built Form Architecture, architect; William Woodward, KLOA, Inc., traffic engineer; John Cerbus, Pearson Brown & Associates, civil engineer; and Sharon Dickson, Dickson Design Studio, landscape architect.

Timothy Grogan began the presentation with a history of the 8700 mixed-use project that has been in conceptual development for 2 ½ years. He stated the existing 8700 Waukegan Road office complex has operated with a general occupancy rate of 40-60 %. Seeking to maximize the site's development potential, the owners began to explore a total redevelopment of the property especially as the property lay within the Dempster/Waukegan TIF boundary. At the outset of their development exploration process they hired Tracy Cross and Associates, a market research company, to analyze the property's commercial, retail, and the residential potential. Their analysis supported the concept for the proposed 7 story residential building with one-story retail mixed use PUD that is currently before the Plan Commission.

Mr. Grogan started his presentation by addressing the key concern of the Morton Groves Estates Morton Grove Estates/Grove Manor Condominiums ("Morton Grove Estates") to the south, the potential impact of the development on the shared driveway at the south of the proposed 8700 Waukegan development. Mr. Grogan provided an overview of the steps his team has taken to try to alleviate the concerns of Morton Grove Estates. Mr. Grogan stated that he was working on an agreement between his team and Morton Groves Estates, and upon completion of this project, he's suggesting they form an association to share in the cost of snow removal, landscaping and maintenance of the shared driveway. These responsibilities and associated costs are currently the full responsibility of the Morton Grove Estates owners. In addition, after meetings with residents from Morton Grove Estates, Mr. Grogan stated their team designed the mixed-use development to minimize the impact of the proposed residential

and commercial traffic on the shared driveway. For example, all operational traffic for the mixed use development, such as delivery, garbage, and loading trucks, would be encouraged to use the north limited access point to access the site. Mr. Grogan also emphasized that the businesses in the commercial space are anticipated to be small retail businesses. These businesses will have small deliveries capable of being accepted to the rear of the building. He also noted this is why the loading dock variance is being requested.

Mr. Grogan informed the commission that they had considered increasing the shared driveway access way from 2 lanes to a 3 lane at the exit/entrance, to alleviate some queuing of cars. However, that would have eliminated additional parking spaces, which was a concern of some of the abutting residents. Any changes to the curb cuts would need to be approved by the Illinois Department of Transportation ("IDOT").

Mr. Grogan discussed another concern of the Morton Grove Estates –their parking garage has a steep ramp that leads right to the shared driveway. When conditions are icy and snowy, residents must increase speed to climb the ramp and exit the garage causing potential conflicts with the two-way traffic on the shared driveway and potential vehicles that may be parked across the way. He noted the proposed site improvements eliminate the existing parking spaces opposite that garage access point. In addition, the additional stop signs and signals are proposed to help reduce the potential vehicular conflict points along the shared driveway.

Mr. Grogan noted the elimination of the number of shared parking spaces is also a concern of the abutting residents. Currently, the spaces along the shared driveway are used for 8700 Waukegan Road businesses during the day and Morton Grove Estates residents and visitors in the evening. In order to address this concern, Mr. Grogan has offered to designate the current shared parking spaces on the south side of the shared driveway for exclusive use by Morton Grove Estates. Finally, Mr. Grogan noted that during construction, a temporary fence would be put up to prevent construction vehicles from using the shared driveway - all construction traffic will enter from the north limited access point.

Chairperson Farkas asked Mr. Grogan how certain he was that the shared easement was perpetual and runs with the land. Mr. Grogan stated he was 100% certain; and referred the Commissioners to the copy of the recorded easement included in the application.

Mr. Arden Freeman, the Project Architect, continued the presentation and reviewed the proposed residential and commercial buildings elevations. The buildings would be clad with glass, brick, and nichia fiber cement panels. The first two floors include the parking garage and main lobby and management offices, which will be two story high spaces. The third level will have 37 units with a fitness center and central outdoor area with a dog walk, lounging and active recreation areas and grills. Residential units will continue on floors four through seven. The seventh floor will also have another outdoor area with grills, lounging area, and a fire table. The outdoor areas are still in design phase.

Commissioner Shimanski asked about the slope of the parking garage ramps. Freeman noted the slope was 8%. Shimanski also asked how the mix of units was developed. Grogan replied the mix was developed from the market research study.

Commissioner Shimanski also asked for clarification on the FAR calculations – he noted that it did not appear accurate. Mr. Freeman, during the meeting, did a preliminary recalculation of the FAR and concurred that the 3.31 FAR on the submitted plans was not correct. His preliminary recalculation indicated it was actually much lower around 2.5. He stated he would do a more formal recalculation prior to final approval, but the requested waiver would be closer to 0.5. *(After the meeting, as directed by the Commission, the Architect confirmed the final requested FAR is 2.55).*

Commissioner Blonz asked if the development would utilize any environmental features in its construction. Freeman stated that all of the current energy code standards have been met and there will be high efficient air conditioning and furnaces. Commissioner Shimanski noted that meeting current building code requirements is just shy of LEED certification.

Mr. John Cerbus, civil engineer, provided an overview of the existing site conditions and utilities as well as an overview of the submitted preliminary engineering plan.

Commissioner Gabriel asked if the parking area would be used for stormwater retention. Brown replied that there would be no surface storage; all the stormwater will be directed to an underground vault. Commissioner Blonz asked if the drainage for the property would go to the existing sewer or if the property would be regraded. Brown stated a new drainage system would be installed and that the site would be regraded and directed to the underground vault.

William Woodward, traffic engineer, reviewed the proposed site plan pursuant to the access driveways, circulation and parking. He reiterated the site would continue to be served by two existing access points off of Waukegan Rd. The northern access is restricted to right-turn-in, right-turn-out. The south access is a full access driveway providing one lane in and one lane out under stop sign control.

Mr. Woodward noted that the conducted traffic study determined that in the afternoon, a queue of four vehicles exiting from the shared driveway is probable. The study, however, calculated that there are enough gaps in the traffic flow along Waukegan road to allow cars to exit the development. As part of their traffic study, they also examined the projected volume of traffic that would be generated by the retail uses on weekdays and Saturday and the result was low.

Mr. Woodward discussed the proposed parking plan. The site includes 51 commercial parking spaces, and 276 for residential, of which 237 are in the garage and 39 are outside, on the north side of the building. Using the Institute of Transportation Engineers (ITE) standards, the proposed parking to bedroom ratio, 276 spaces for 258 total bedrooms, exceeds the ITE standard of a recommended 1 to 1 parking space to bedroom ratio. In addition, he noted that the 51 commercial spaces can be used by the residents after business hours. He then responded to some of the questions and comments raised by the Traffic Safety Commission and Village Engineer. He noted the site circulation plan has been designed for all types of emergency vehicles and trucks, that off-site snow removal would be utilized, crosswalks have been added to connect retail to residential buildings, and stop sign controls will be utilized.

Commissioner Blonz stated his inclination that there is not enough adequate visitor parking. Grogan said there will be 18 surplus parking spaces based on the bedroom to parking spaces



ratio. In addition, when the retail stores close in the evening the 51-space retail parking lot would be available for residents.

Commissioner Blonz also asked if the redevelopment of the shopping center to the east of this property would affect the traffic in this area. Woodward explained that the traffic study was projected thru the year 2021 based on a regional perspective, but did not specifically include additional projections for potential redevelopment of the shopping center. Blonz also asked if there could be an improvement on the shared access to exit onto Waukegan Road. He noted the traffic study is projecting up to 38 seconds of wait time. Woodward stated there would be a delay in the traffic exiting from this development, but the capacity analysis does not take into consideration any gaps in traffic. As such, he believes some of the projected delays included in the analysis have been overstated. Blonz then inquired about the queue analysis from the report, which shows a probable queue of 2 cars when earlier in his presentation he stated up to 4 cars at a time could be waiting. Woodward explained morning peak hour and afternoon would have a 2-car queue and in the evening there would be a 4-car queue.

Commissioner Blonz asked for an explanation of the gap study, which shows 197 gaps in one hour. Woodward explained how the gap study was performed. He also stated gap study takes into consideration the time it takes the driver to see the gap, react and turn out onto Waukegan Rd. Looking at the gap where there is one car coming out, and that is immediately followed by a second car, is how the 197 gaps per one hour is calculated. Woodward further explained the gap study is separate from the capacity analysis. The capacity analysis is based on the delay that a vehicle might be experiencing to exit the site. This is based on a single egress lane. Blonz asked if it's their conclusion that the development is planned in a manner that is acceptable. Woodward responded the single lane exit will work based on the amount of traffic.

Chairperson Farkas asked for clarification on how the assigned spaces will be differentiated from the guest spaces at the surface parking lot. Mr. Grogan explained the assigned spaces will be numbered and others designated as guest parking. Farkas also asked if the 6-shared parking spaces south of the commercial building could be removed in order to increase the access lanes from 2 to 3. Grogan explained IDOT would need to approve the change in access driveway width and, since the parking spaces are very close to the entrance and exit, some of the spaces may need to be removed.

Sharon Dickson, the Landscape Architect, reviewed the landscape design for the development, which will include planters, seasonal flowers, shade trees and evergreens. The third floor outdoor terrace will have grills, tables, fireplace with seating, putting green, and also will include perennials and shrubs. All of the units that are on this level will have a separate patio area that looks out onto this area. The 7th floor outdoor space will have grills, a fire table, couches, side chairs, and private areas.

Commissioner Blonz asked how many trees will be added, to replace the 22 trees that are being removed. Dickson stated they are proposing 35 new deciduous shade trees, which will be 2 ½ inch caliper at time of planting.

Mr. Grogan addressed the zoning variations being requested with approval of the PUD. These include: a 2.75 ft. waiver to the side set back for the residential building along the south; a

request to establish the required parking at 333 total parking spaces; a 37 ft. waiver to the height requirement, vs. the 35 ft. waiver in the application, to account for increased height for structural system; and an approximate 0.5 waiver to the FAR (*later verified to be 0.55 by the Architect*); and the waiver of the required loading berth for the commercial structure.

Mr. Grogan also reviewed the unit mix as shown in the submitted application – unit types include studio, 1 bedroom, and 2 bedroom-plus-den units. The rent, based on a 2015 market range, will range from \$1400 to \$2500 a month.

Mr. Grogan also reviewed the proposed project schedule. The plan is to begin demolition in February or March 2016. Vertical construction will begin in May. Once the residential structure is completed, the construction on the retail building will begin. The projected delivery is not until August of 2017. They expect stabilization, when the project will be 95% occupied, will be in May of 2018.

Commissioner Blonz expressed concerns about lighting levels on the west side of the site. Grogan stated they will address these on the final lighting plan and shields can be added to prevent any impacts on abutters.

Commissioner Blonz noted that for PUD's, additional allowances are typically granted in return for a public good; he asked what public benefits the Village would receive from this proposal. Mr. Grogan stated this project will be a significant improvement over the present building and their investment in the redevelopment of this site will bring new vitality to this area and hopefully will spur additional redevelopment in this area.

Chairperson Farkas asked how many units are in the Morton Grove Estates Condominium development. Idelle Peaceman, the President of the Homeowners Association, stated that there are 258 units.

Chairperson Farkas asked if there was anyone present that wanted to be heard on this case.

Ms. Peaceman stated she does not believe the traffic study accurately reflected the existing situation. She stated there is already a waiting period of up to 1 ½ minutes mid-day for cars that wants to make a left hand turn out onto Waukegan Road. She also noted that there are three access ways from their condo development: the one at the south, allows right turns only, and other two allow both north and south bound turns. She suggested there needed to be adjustments made to this traffic study.

George Spridakos, resident from 8640 Waukegan Rd, stated his concern with the elimination of parking on the north side of the shared driveway. He believes the design of the development limits the available parking and will create a problem for the residents in the building. He stated the condo board would be seeking legal advice on the changes to the shared property/parking.

Michael Ger, 8721 National, Niles, spoke. Previous to the hearing, he submitted a letter to the Plan Commission. He summarized his letter as he stated that the proposed development would not be beneficial to the neighbors. His noted concerns about the height of the building, as he believes it will block sunlight on his property and affect his privacy. He also stated that the



proposed fence that would deny him direct access to the 8700 Waukegan property. He noted that he cannot remove his 16 ft. kayak or his garbage cans out of his back yard unless he uses this back gate. Mr. Ger wanted to know how this proposed development will promote the health safety & welfare of the Village. Mr. Ger also questioned who would be responsible for the removal of snow and leaves between the their fence and the new fence. Mr. Ger stated there was a sewer backup several years ago and expressed concerns this development will impact the sewers.

Mr. Grogan acknowledged that there is an existing fence along the neighboring properties to the west with several gates for pedestrian to exit to the east. However, there is no easement that specifically allows those residents to access his property. He explained that adding the solid fence would be a safety measure to prevent people from walking out onto the emergency access driveway.

Ted Abel, 8770 National, Niles, stated there is a 4 ft. easement in the back of the property for utilities. Com Ed was just there and trimmed trees in the back of the property. He's concerned that if a new fence goes up, the utility company will not be able to access this area. Without the gates for pedestrians, they would have to drive over a mile access to businesses along Waukegan and Dempster. Mr. Grogan again stated that no such easement is shown on their plat of survey.

Natasha Dubov, 8640 Waukegan Rd, asked what the maximum permitted density is for this site. Chairperson Farkas stated there is no maximum density limit in Morton Grove. Dubov expressed concern that the driveway access would be taken away from the residents to the south and about traffic impacts during construction. Dubov continued by stating that they believe up to 400 vehicles will be using this driveway and this is not acceptable. She also expressed concerns that the parking spaces along the south side of the shared driveway will be used by the new residents, even if they are supposed to be dedicated to the Morton Grove Estates residents. Dubov asked what type of tenants are anticipated in this development and stated that they believe the property taxes for their condo building will go up due to this rental property.

Tamara Solok, 8630 Waukegan, stated that not all the residents in her building were notified of the meetings and submitted a petition signed by 22 owners of condominiums in the Morton Grove Estates development. The petition expresses concern with the density of the development and potential parking and traffic problems.

George Chifchiev, 8723 National, Niles, stated that his building is in a unit on the northeast corner of the subdivision of Chesterfield Estates. He expressed concern about the new fence, as they would no longer have access out onto the 8700 Waukegan Road property, which he believes to be important for emergency purposes. He also expressed concerns with the height and separation distance between the new building and his residence.

Chairperson Farkas asked if there were any other members of the public who wanted to be heard on this case. There was no response. Farkas allowed Mr. Grogan an opportunity to respond to some of the questions.

Mr. Grogan responded to the comment of reduction in the number of parking spaces along the shared access driveway by stating the proposed improvements were directly in response to their concerns about being able to safely exit their parking garage. He stated that the parking spaces across from their driveway can be added back in. Grogan reiterated that their offer to make improvements to the shared driveway and parking area and to begin to share in the expenses for maintenance, snow removal, etc. is being offered voluntarily. He went on to say that he still believes they can mutually come up with a solution that works for both property owners. He also stated that a third lane can be added to the shared driveway entrance/exit, but reminded that some parking spaces near the entrance will have to be removed. The current curb cut is 30 ft. wide; IDOT is going to require 36 ft. Any such modifications are ultimately up to IDOT.

Mr. Grogan addressed the concerns of the new fence potentially blocking the gates in the fence to the west. From a safety standpoint, he cannot add similar penetrations along his new fence. He reiterated that there is no easement on the 8700 property for the residents to the west. He stated that they can investigate possibly adding one access point along the fence to allow their residents to walk to the new commercial uses at the 8700 Waukegan Road site.

Ms. Radzevich added that the notice for the meeting, per the code is for owners within 250 ft. This included only the condos within 250 ft. of the site. However, the Village specifically extended the notification beyond the code requirements to include all the units in the 8620, 8630 and 8640 Waukegan Road buildings.

Mr. Grogan restated that during construction, a fence will separate the sites and construction trucks will not be using the shared driveway.

Farkas asked the Commissioners for any additional questions. Hearing none, he asked members to begin their discussion of the application.

Commissioner Blonz stated that based on receipt of his letter, he tried to get onto Mr. Ger's property, but couldn't because it is one of the middle units in the building. Blonz stated that no matter what the developer does with the new fence, Mr. Ger's rear yard will continue to be landlocked and suggested Mr. Ger should work something out with his immediate neighbors to go through their property get his kayak out. Blonz noted that their gates lead out onto what will be an emergency lane and believes it would be too dangerous to allow them to have access. Blonz agreed with the concern expressed by the developer.

Commissioner Gabriel referenced the residents concerns about the potential impact the height and the location of building will have on sunlight at their properties. Gabriel asked if a sunlight/shade study had been done. Mr. Grogan stated a shade study had not been prepared.

Ms. Radzevich responded to concerns raised about the location of the building and stated that the setback of proposed residential structure far exceeds the minimum 5 ft. rear setback requirement.

Chairperson Farkas asked if there were any other comments. Hearing none, Farkas asked for a motion to approve this case.

Commissioner Shimanski moved to approve Case PC 15-09 with the recommendations suggested in the Plan Commission report and all the requested waivers. Commissioner Blonz seconded the motion.

Commissioner Blonz stated that he had some concerns about guest parking and about the egress access going northbound on Waukegan Road, but believes these are not insurmountable. The overall presentation was acceptable and he believes this is a positive move for the community. He stated that he would vote to recommend approval of the project.

Mr. Grogan responded and said that they could address some of the continuing concerns about the shared driveway entry/exit width and shared parking by eliminating the south entrance to the 8700 parking garage.

Commissioners Khan and Gillespie both stated that they believe the applicant had presented a well-designed project and believe that the applicant and the abutter will be able work out a solution to address the remaining concerns on the shared access driveway and parking. They both stated they would vote in support of the project.

Commissioner Gabriel stated that he was still concerned about the impact of the height and location of the building. He asked how important the retail space was to the success of this project, suggesting if that were eliminated, the residential building could be moved closer to Waukegan Road. Mr. Grogan said the loss of the commercial building would hurt the Village because they are counting on the tax revenue from the retail uses.

Commissioner Gabriel stated that due to the concerns about the height of the building he would not be able to support this project. He voted against the motion to recommend approval.

Chairperson Farkas stated that he believes the single lane egress on the shared driveway may cause excessive traffic delays for the residents. He stated he wasn't sure he can support this project without the additional egress lane added.

Commissioner Shimanski stated that the egress is not going to change the development as a whole, which would be approved by the PUD, and it's not going to change any of the requested variances. This is something that could be worked out later and it should not affect the vote at this hearing. This is something that could be added to the conditions of approval.

Ms. Radzevich added this has been done before with other cases where certain design elements and associated approvals would need to be resolved as part of the permitting process.

Chairperson Farkas asked how such a condition would be added.

Ms. Radzevich stated that she believes both Commissioners Shimanski and Blonz are on track with their suggestion that the requested changes to the shared driveway be an additional condition of approval. IDOT will have to approve any alterations to the driveway entrance/exit – both in terms of widening the curb cut and the location of the parking immediately adjacent to the entrance. So will the abutting residents. This can be built into the Commission's recommendation that the approval be conditioned on the applicant seeking any necessary

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approvals from IDOT and the abutting residents to expand the curb cut and add a third access lane to allow for dedicated left and right hand turns out onto Waukegan. This would need to be resolved prior to the issuance of building permits.

Chairperson Farkas stated that he was satisfied with this additional condition.

Commissioner Shimanski amended his motion to recommend approval of Case PC 15-09 with the conditions suggested in the staff report and with the additional condition that the applicant shall seek all necessary approvals from both IDOT and the abutting residents to widen the curb cut and reconfigured the driveway entrance, to allow for three access lanes, prior to issuance of any building permits and recommended approval of all the requested waivers. The amended motion was seconded by Blonz.

Voting as follows:

Commissioner Khan	aye
Commissioner Gillespie	aye
Commissioner Blonz	aye
Commissioner Gabriel	no
Commissioner Dorgan	absent
Commissioner Shimanski	aye
Chairperson Farkas	aye

Motion passed with a vote of 5-1-1

EXHIBIT C

VILLAGE OF MORTON GROVE

8700 WAUKEGAN ROAD DEVELOPMENT

DEVELOPMENT PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: that HEARTLAND REAL ESTATE PARTNERS-MG, LLC, 1200 N. Ashland Avenue, Chicago, Illinois 60622, as Principal, hereinafter called Contractor, and **[FULL NAME AND ADDRESS OF SURETY]**, as Surety, a corporation organized and existing under the laws of the State of **[INCORPORATION]**, hereinafter called Surety, are held and firmly bound unto the Village of Morton Grove, 6101 Capulina Avenue, Morton Grove, Illinois 60053, as Obligee, hereinafter called Village, in the full and just sum of **[REQUIRED AMOUNT]** Dollars (**\$(REQUIRED AMOUNT)**), for the payment of which sum of money well and truly to be made, Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents, said amount to include payment of actual costs and damages and for attorneys' fees, architectural fees, design fees, engineering fees, accounting fees, testing fees, consulting fees, administrative costs, court costs, interest and any other fees and expenses resulting from or incurred by reason of Contractor's failure to promptly and faithfully perform its contract with Village, said contract being more fully described below, and to include attorneys' fees, court costs and administrative and other expenses necessarily paid or incurred in successfully enforcing performance of the obligation of Surety under this bond.

WHEREAS, Contractor has entered into a written agreement dated **[DATE OF AGREEMENT]**, with Village entitled "Redevelopment Agreement By, Between and Among the Village of Morton Grove, 8700 MG, LLC and Heartland Real Estate Partners-MG, LLC" ("Contract"), by and pursuant to which Contractor has assumed the obligation to construct and install certain improvements, the terms and conditions of which Contract are by this reference incorporated herein as though fully set forth herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH THAT if Contractor shall well, truly and promptly perform all the undertakings, covenants, terms, conditions and agreements of said Contractor under the Contract relating to the construction of the improvements described therein, including, but not limited to, Contractor's obligations under the Contract: (1) to provide, perform and complete at the Property and in the manner specified in the Contract all necessary work, labor, services, transportation, equipment, materials, apparatus, machinery, tools, fuels, gas, electric, water, waste disposal, information, data and other means and items necessary for the construction, installation and completion of the Public Improvements and the Common Improvements (as defined in the Contract) Improvements required in the Contract; (2) to procure and furnish all permits, licenses and other governmental approvals and authorizations necessary in connection therewith; (3) to pay all applicable federal, state and local taxes; (4) to do all other things required of Contractor by the Contract; and (5) to provide, perform and complete all of the foregoing in a proper and workmanlike manner and in full compliance with, and as required by and pursuant to, the Contract; all of which is herein referred to as the "Work," whether or not any of said Work enter into and become component parts of the improvement contemplated, then this obligation shall be null and void; otherwise it shall remain in full force and effect.



Surety, for value received, hereby stipulates and agrees that no changes, modifications, alterations, omissions, deletions, additions, extensions of time, or forbearances on the part of either Village or Contractor to the other in or to the terms of said Contract; in or to the schedules, plans, drawings or specifications; in or to the method or manner of performance of the Work; or in or to Village-furnished facilities, equipment, material, service or sites; shall in any way release Contractor and Surety or either or any of them, or any of their heirs, executors, administrators, successors or assigns or affect the obligations of Surety on this bond, all notice of any and all of the foregoing changes, modifications, alterations, omissions, deletions, additions, extensions of time or forbearances, and notice of any and all defaults by Contractor being hereby waived by Surety.

Notwithstanding anything to the contrary in the foregoing paragraph, in no event shall the obligations of Surety under this bond in the event of Contractor's default be greater than the obligations of Contractor under the Contract in the absence of such Contractor default.

In the event of a default or defaults by Contractor, Village shall have the right to exercise its rights under the Contract upon 30 calendar days' written notice to Surety, in which event Surety shall pay Village all costs incurred by Village in taking over and completing the Contract.

At its option, Village may instead request that Surety take over and complete the Contract, in which event Surety shall take reasonable steps to proceed promptly with completion no later than 30 calendar days from the date on which Village notifies Surety that Village wants Surety to take over and complete the Contract.

Village shall have no obligation to actually incur any expense or correct any deficient performance of Contractor in order to be entitled to receive the proceeds of this bond.

No right of action shall accrue on this bond to or for the use of any person or corporation other than Village or the heirs, executors, administrators or successors of Village.

Signed and sealed this \_\_\_\_ day of \_\_\_\_\_, 2016.

Attest/Witness:

PRINCIPAL: HEARTLAND REAL ESTATE  
PARTNERS-MG, LLC

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

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

Attest/Witness:

SURETY: *[NAME OF SURETY]*

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone: \_\_\_\_\_

**VILLAGE OF MORTON GROVE**

**8700 WAUKEGAN ROAD DEVELOPMENT**

**DEVELOPMENT LABOR AND MATERIALS BOND**

KNOW ALL MEN BY THESE PRESENTS: that HEARTLAND REAL ESTATE PARTNERS-MG, LLC, 1200 N. Ashland Avenue, Chicago, Illinois 60622, as Principal, hereinafter called Contractor, and **[FULL NAME AND ADDRESS OF SURETY]**, as Surety, a corporation organized and existing under the laws of the State of **[INCORPORATION]**, hereinafter called Surety, are held and firmly bound unto the Village of Morton Grove, 6101 Capulina Avenue, Morton Grove, Illinois 60053, as Obligee, hereinafter called Village, for the use and benefit of itself and of claimants as hereinafter defined, in the full and just sum of **[REQUIRED AMOUNT]** Dollars (**[\$REQUIRED AMOUNT]**), to be paid to it or the said claimants or its or their assigns, to which payment well and truly to be made Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents, said amount to include attorney's fees, court costs and administrative and other expenses necessarily paid or incurred in successfully enforcing performance of the obligation of Surety under this bond.

WHEREAS, Contractor has entered into a written agreement dated **[DATE OF AGREEMENT]**, with Village entitled "Redevelopment Agreement By, Between and Among the Village of Morton Grove, 8700 MG, LLC and Heartland Real Estate Partners-MG, LLC" ("Contract"), by and pursuant to which Contractor has assumed the obligation to construct and install certain improvements, the terms and conditions of which Contract are by this reference incorporated herein as though fully set forth herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH THAT if Contractor shall promptly pay or cause to be paid all sums of money that may be due to any claimant with respect to Contractor's obligations under the Contract: (1) to provide, perform and complete at the Property and in the manner specified in the Contract all necessary work, labor, services, transportation, equipment, materials, apparatus, machinery, tools, fuels, gas, electric, water, waste disposal, information, data and other means and items necessary for the construction, installation and completion of the Public Improvements and the Common Improvements required in the Contract; (2) to procure and furnish all permits, licenses and other governmental approvals and authorizations necessary in connection therewith; (3) to pay all applicable federal, state and local taxes; (4) to do all other things required of Contractor by the Contract; and (5) to provide, perform and complete all of the foregoing in a proper and workmanlike manner and in full compliance with, and as required by and pursuant to, the Contract; all of which is herein referred to as the "Work," whether or not any of said Work enter into and become component parts of the improvement contemplated, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

For purpose of this bond, a claimant is defined as one having a direct contract with Contractor or with a subcontractor of Contractor to provide, perform or complete any part of the Work.

Contractor and Surety hereby jointly and severally agree that every claimant who has not had all just claims for the furnishing of any part of the Work paid in full, including, without limitation, all claims for amounts due for materials, lubricants, oil, gasoline, rentals of or service or repairs on machinery, equipment, and tools consumed or used in connection with the

furnishing of any part of the Work, may sue on this bond for the use of such claimant, may prosecute the suit to final judgment for such sum or sums as may be justly due such claimant, and may have execution therein; provided, however, that Village shall not be liable for the payment of any costs or expenses of any such suit.

Contractor and Surety hereby jointly agree that Village may sue on this bond if Village is held liable to, or voluntarily agrees to pay, any claimant directly, but nothing in this bond shall create any duty on the part of Village to pay any claimant.

Surety, for value received, hereby stipulates and agrees that no changes, modifications, alterations, omissions, deletions, additions, extensions of time or forbearances on the part of Village or Contractor to the other in or to the terms of said Contract; in or to the schedules, plans, drawings or specifications; in or to the method or manner of performance of the Work; in or to Village-furnished facilities, equipment, material, service or site; or in or to the mode or manner of payment therefor shall in any way release Contractor and Surety or either or any of them, or any of their heirs, executors, administrators, successors or assigns, or affect the obligations of said Surety on this bond, all notice of any and all of the foregoing changes, modifications, alterations, omissions, deletions, additions, extensions of time or forbearances and notice of any and all defaults by Contractor or of Village's termination of Contractor being hereby waived by Surety.

Signed and sealed this \_\_\_\_ day of \_\_\_\_\_, 2016.

Attest/Witness:

PRINCIPAL: HEARTLAND REAL ESTATE  
PARTNERS-MG, LLC

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

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

Attest/Witness:

SURETY: *[NAME OF SURETY]*

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone: \_\_\_\_\_

**EXHIBIT D**  
**TIF Certification Request**

To: Village of Morton Grove  
6101 Capulina Avenue  
Morton Grove, Illinois 60053  
Attention: Village Administrator

From: Heartland Real Estate Partners-MG, LLC

Subject: Redevelopment Agreement By, Between and Among the Village of Morton Grove, 8700 MG, LLC and Heartland Real Estate Partners-MG, LLC dated as of \_\_\_\_\_, 2016 ("**Redevelopment Agreement**")

Date: \_\_\_\_\_

This represents TIF Certification Request No. \_\_\_\_ requesting the Village adopt a resolution approving the certification of the Redevelopment Project Costs detailed in the attached schedule. The undersigned hereby certifies that:

- i. The Developer actually incurred such Redevelopment Project Costs;
- ii. Such Redevelopment Project Costs are also "redevelopment project costs" as defined in the TIF Act;
- iii. For any Redevelopment Project Costs relating to the construction of the Improvements, the Village Administrator, or his designee, has determined that, based upon an inspection, these improvements have been completed in accordance with Ordinance \_\_\_\_\_ and the Redevelopment Agreement;
- iv. Reimbursement is permitted pursuant to the Redevelopment Agreement, Ordinance \_\_\_\_\_, and the TIF Act; and
- v. The Developer is not in default or breach of any obligation under the Redevelopment Agreement which constitutes an Event of Default.

Terms capitalized herein have the meanings specified in the Redevelopment Agreement, the terms of which are incorporated herein by reference.

HEARTLAND REAL ESTATE PARTNERS-MG, LLC

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

Its: \_\_\_\_\_

**ATTACHMENTS TO TIF CERTIFICATION REQUEST**

1. Schedule of Redevelopment Project Costs
2. Sworn statements and lien waivers
3. Bills, contracts, and invoices

[Other documents or information required by the Village pursuant to Section 11.E.1 of the Redevelopment Agreement.]



**EXHIBIT E**  
**BD Certification Request**

To: Village of Morton Grove  
6101 Capulina Avenue  
Morton Grove, Illinois 60053  
Attention: Village Administrator

From: Heartland Real Estate Partners-MG, LLC

Subject: Redevelopment Agreement By, Between and Among the Village of Morton Grove, 8700 MG, LLC and Heartland Real Estate Partners-MG, LLC dated as of \_\_\_\_\_, 2016 ("**Redevelopment Agreement**")

Date: \_\_\_\_\_

This represents BD Certification Request No. \_\_\_\_ requesting the Village adopt a resolution approving the certification of the Business District Project Costs detailed in the attached schedule. The undersigned hereby certifies that:

- vi. The Developer actually incurred such Business District Project Costs;
- vii. Such Business District Project Costs are also "business district project costs" as defined in the BD Law;
- viii. For any Business District Project Costs relating to the construction of the Improvements, the Village Administrator, or his designee, has determined that, based upon an inspection, these improvements have been completed in accordance with Ordinance \_\_\_\_\_ and the Redevelopment Agreement;
- ix. Reimbursement is permitted pursuant to the Redevelopment Agreement, Ordinance \_\_\_\_\_, and the BD Law; and
- x. The Developer is not in default or breach of any obligation under the Redevelopment Agreement which constitutes an Event of Default.

Terms capitalized herein have the meanings specified in the Redevelopment Agreement, the terms of which are incorporated herein by reference.

HEARTLAND REAL ESTATE PARTNERS-MG, LLC

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

Its: \_\_\_\_\_

**ATTACHMENTS TO BD CERTIFICATION REQUEST**

1. Schedule of Redevelopment Project Costs
2. Sworn statements and lien waivers
3. Bills, contracts, and invoices

[Other documents or information required by the Village pursuant to Section 12.E.1 of the Redevelopment Agreement.]



**Dempster-Waukegan Tax Increment Financing  
Redevelopment District**

**Certificate of Compliance**

REPORT PERIOD: January 1, 2016 to December 31, 2016

DATE OF REPORT: August 28, 2017

In accordance with the Tax Increment Allocation Redevelopment Act of the State of Illinois (65 ILCS 5/11-74.4), I am submitting this certified statement as to the following:

*I have reviewed the audit performed by Lauterbach & Amen. LLP on behalf of the Village of Morton Grove as well as public records, proceedings, and documents regarding the Dempster-Waukegan Tax Increment Financing District. Based upon this review I certify the Village of Morton Grove is in full compliance with the Act.*

Sincerely,



Daniel DiMaria  
Village President

Cc: Village Board of Trustees



—



August 28, 2017

The Honorable Daniel DiMaria, Mayor  
Village of Morton Grove  
6101 Capulina Avenue  
Morton Grove, IL 60053

**RE: Audit of the Financial Statements  
Fiscal Year ending December 31, 2016  
Dempster-Waukegan Tax Increment Financing Redevelopment District**

Dear Mayor DiMaria:

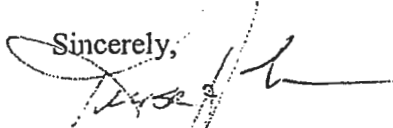
**OPINION OF CORPORATION COUNSEL**

I, Teresa Hoffman Liston, Corporation Counsel for the Village of Morton Grove, Cook County, Illinois, was the Corporation Counsel for the fiscal year beginning January 1, 2016, and ending December 31, 2016, and have reviewed information provided to me by the Village's administration and staff pertaining to the Dempster-Waukegan Tax Increment Financing Redevelopment Project Area.

Based solely upon the information with which I have been provided and without making any independent review or investigation of that information, and relying on the accuracy, authenticity, and genuineness of all of the said information provided, it is my opinion that, as to the matters of which I am aware and have been specifically brought to my attention, the Village of Morton Grove, Cook County, Illinois has complied with the requirements of the Illinois Tax Increment Redevelopment Allocation Act (65 ILCS 5/11-74.4-1 et. seq.).

This opinion relates only to the time period of this report and is based upon the information with which I have been provided by the Village's administration and staff.

Sincerely,



Teresa Hoffman Liston  
Corporation Counsel

Cc: Village Board of Trustees

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