

ANNUAL TAX INCREMENT FINANCE REPORT



SUSANA A. MENDOZA
ILLINOIS STATE COMPTROLLER

Name of Municipality:	Village of Arlington Heights	Reporting Fiscal Year:	2022
County:	Cook	Fiscal Year End:	__12_ / __31_ / 2022
Unit Code:	016/015/32		

FY 2022 TIF Administrator Contact Information-Required

First Name:	Michael	Last Name:	Lysicatos		
Address:	33 S Arlington Heights Road	Title:	Asst. Director Planning & Comm. Dev.		
Telephone:	847.368.5211	City:	Arlington Heights	Zip:	60005
E-mail	mlysicatos@vah.com				

I attest to the best of my knowledge, that this FY 2022 report of the redevelopment project area(s)

in the **City/Village** of:

Arlington Heights

is complete and accurate pursuant to Tax Increment Allocation Redevelopment Act [65 ILCS 5/11-74.4-3 et. seq.] and or Industrial Jobs Recovery Law [65 ILCS 5/11-74.6-10 et. seq.].



6/29/2023

Written signature of TIF Administrator

Date _____

Section 1 (65 ILCS 5/11-74.4-5 (d) (1.5) and 65 ILCS 5/11-74.6-22 (d) (1.5)*)

FILL OUT ONE FOR EACH TIF DISTRICT

[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 8 must be completed for each redevelopment project area listed in Section 1.]

FY 2022

Name of Redevelopment Project Area:

Arlington Heights: TIF 5

Primary Use of Redevelopment Project Area*:	Commercial
*Types include: Central Business District, Retail, Other Commercial, Industrial, Residential, and Combination/Mixed.	
If "Combination/Mixed" List Component Types:	
Under which section of the Illinois Municipal Code was Redevelopment Project Area designated? (check one):	
Tax Increment Allocation Redevelopment Act	<u>X</u>
Industrial Jobs Recovery Law	<u> </u>

Please utilize the information below to properly label the Attachments.

	No	Yes
For redevelopment projects beginning prior to FY 2022, 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)] If yes, please enclose the amendment (labeled Attachment A).	X	
For redevelopment projects beginning in or after FY 2022, were there any amendments, enactments or extensions 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)] If yes, please enclose the amendment, enactment or extension, and a copy of the redevelopment plan (labeled Attachment A).		
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)] Please enclose the CEO Certification (labeled Attachment 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)] Please enclose the Legal Counsel Opinion (labeled Attachment C).		X
Statement setting forth all activities undertaken in furtherance of the objectives of the redevelopment plan, including any project implemented and a description of the redevelopment activities. [65 ILCS 5/11-74.4-5 (d) (7) (A and B) and 5/11-74.6-22 (d) (7) (A and B)] If yes, please enclose the Activities Statement (labeled Attachment D).		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)] If yes, please enclose the Agreement(s) (labeled Attachment E).		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)] If yes, please enclose the Additional Information (labeled Attachment F).		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)] If yes, please enclose the contract(s) or description of the contract(s) (labeled Attachment G).	X	
Were there any reports <u>submitted to</u> the municipality <u>by</u> the joint review board? [65 ILCS 5/11-74.4-5 (d) (7) (F) and 5/11-74.6-22 (d) (7) (F)] If yes, please enclose the Joint Review Board Report (labeled Attachment H).	X	
Were any obligations issued by the municipality? [65 ILCS 5/11-74.4-5 (d) (8) (A) and 5/11-74.6-22 (d) (8) (A)] If yes, please enclose any Official Statement (labeled Attachment I). If Attachment I is answered yes, then the Analysis must be attached (labeled Attachment J).	X	
An analysis prepared by a financial advisor or underwriter, <u>chosen by the municipality</u> , setting forth the nature and term of obligation; projected debt service including required reserves and debt coverage; <u>and actual debt service</u> . [65 ILCS 5/11-74.4-5 (d) (8) (B) and 5/11-74.6-22 (d) (8) (B)] If attachment I is yes, the Analysis and an accompanying letter from the municipality outlining the contractual relationship between the municipality and the financial advisor/underwriter <u>MUST</u> be attached (labeled Attachment J).	X	
Has a cumulative of \$100,000 of TIF revenue been deposited into the special tax allocation fund? 65 ILCS 5/11-74.4-5 (d) (2) and 5/11-74.6-22 (d) (2) If yes, please enclose Audited financial statements of the special tax allocation fund (labeled Attachment K).		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)] If yes, the audit report shall contain a letter from the independent certified public accountant indicating compliance or noncompliance with the requirements of subsection (q) of Section 11-74.4-3 (labeled Attachment L).		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)] If yes, please enclose the list only, not actual agreements (labeled Attachment M).	X	
For redevelopment projects beginning in or after FY 2022, did the developer identify to the municipality a stated rate of return for each redevelopment project area? Stated rates of return required to be reported shall be independently verified by a third party chosen by the municipality. If yes, please enclose evidence of third party verification, may be in the form of a letter from the third party (labeled Attachment N).		X

SECTION 3.1 [65 ILCS 5/11-74.4-5 (d)(5)(a)(b)(d)) and (65 ILCS 5/11-74.6-22 (d) (5)(a)(b)(d)]**FY 2022****Name of Redevelopment Project Area:****Arlington Heights: TIF 5****Provide an analysis of the special tax allocation fund.**Special Tax Allocation Fund Balance at Beginning of Reporting Period \$ 3,965,938

SOURCE of Revenue/Cash Receipts:	Revenue/Cash Receipts for Current Reporting Year	Cumulative Totals of Revenue/Cash Receipts for life of TIF	% of Total
Property Tax Increment	\$ 1,193,760.00	\$ 10,330,781.00	80%
State Sales Tax Increment			0%
Local Sales Tax Increment			0%
State Utility Tax Increment			0%
Local Utility Tax Increment			0%
Interest	\$ 41,887.00	\$ 378,904.00	3%
Land/Building Sale Proceeds			0%
Bond Proceeds		\$ 2,240,618.00	17%
Transfers from Municipal Sources			0%
Private Sources			0%
Other (identify source _____; if multiple other sources, attach schedule)	\$ -	\$ 501.00	0%

All Amount Deposited in Special Tax Allocation Fund \$ 1,235,647.00**Cumulative Total Revenues/Cash Receipts** \$ 12,950,804 100%

Total Expenditures/Cash Disbursements (Carried forward from Section 3.2)	\$ 1,371,836.00
Transfers to Municipal Sources	\$ -
Distribution of Surplus	

Total Expenditures/Disbursements \$ 1,371,836**Net/Income/Cash Receipts Over/(Under) Cash Disbursements** \$ (136,189)**Previous Year Adjustment (Explain Below)** \$ -**FUND BALANCE, END OF REPORTING PERIOD*** \$ 3,829,749

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

Previous Year Explanation:

FY 2022

Name of Redevelopment Project Area:

Arlington Heights: TIF 5

ITEMIZED LIST OF ALL EXPENDITURES FROM THE SPECIAL TAX ALLOCATION FUND
PAGE 1

[illegible]

SECTION 3.2 A
PAGE 2

[illegible]

SECTION 3.2 A
PAGE 3

13. Relocation costs.		
		\$ -
14. Payments in lieu of taxes.		
		\$ -
15. Costs of job training, retraining, advanced vocational or career education.		
		\$ -
16. Interest cost incurred by redeveloper or other nongovernmental persons in connection with a redevelopment project.		
		\$ -
17. Cost of day care services.		
		\$ -
18. Other.		
		\$ -
TOTAL ITEMIZED EXPENDITURES		\$ 1,371,836

Section 3.2 B [Information in the following section is not required by law, but may be helpful in creating fiscal transparency.]

FY 2022

Name of Redevelopment Project Area:

Arlington Heights: TIF 5

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

[illegible]

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

FY 2022

Name of Redevelopment Project Area:

Arlington Heights: TIF 5

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

FUND BALANCE BY SOURCE	\$ 3,829,749
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1. Description of Debt Obligations	Amount of Original Issuance	Amount Designated
Total Amount Designated for Obligations	\$ -	\$ -

2. Description of Project Costs to be Paid	Amount of Original Issuance	Amount Designated
Development Agreement: Southpoint, RPS Arlington, LLC		\$ 1,300,000
Development Agreement: MJR/Southpoint Real Estate LLC		\$ 170,000
Reserve for Tax Appeals (5 Years)		\$ 500,000
Professional Services (5 Years)		\$ 75,000
Administrative Costs (5 Years)		\$ 150,000
Redevelopment Costs (5 Years)		\$ 500,000
Corridor Enhancement (5 Years)		\$ 940,000
Total Amount Designated for Project Costs		\$ 3,635,000

TOTAL AMOUNT DESIGNATED	\$ 3,635,000
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SURPLUS/(DEFICIT)	\$ 194,749
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SECTION 4 [65 ILCS 5/11-74.4-5 (d) (6) and 65 ILCS 5/11-74.6-22 (d) (6)]

FY 2022

Name of Redevelopment Project Area:

Arlington Heights: TIF 5

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

	Indicate an 'X' if no property was acquired by the municipality within the redevelopment project area.
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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:	

Property (5):	
Street address:	
Approximate size or description of property:	
Purchase price:	
Seller of property:	

Property (6):	
Street address:	
Approximate size or description of property:	
Purchase price:	
Seller of property:	

Property (7):	
Street address:	
Approximate size or description of property:	
Purchase price:	
Seller of property:	

SECTION 5 [20 ILCS 620/4.7 (7)(F)]

FY 2022

Name of Redevelopment Project Area:

Arlington Heights: TIF 5

PAGE 1

Page 1 MUST be included with TIF report. Pages 2 and 3 are to be included ONLY if projects are listed.

Select ONE of the following by indicating an 'X':

1. <u>NO</u> projects were undertaken by the Municipality Within the Redevelopment Project Area.	
2. The Municipality <u>DID</u> undertake projects within the Redevelopment Project Area. (If selecting this option, complete 2a.)	X
2a. The total number of <u>ALL</u> activities undertaken in furtherance of the objectives of the redevelopment plan:	5

LIST ALL projects undertaken by the Municipality Within the Redevelopment Project Area:

TOTAL:	11/1/99 to Date	Estimated Investment for Subsequent Fiscal Year	Total Estimated to Complete Project
Private Investment Undertaken (See Instructions)	\$ 22,313,848	\$ 12,388,427	\$ -
Public Investment Undertaken	\$ 5,994,511	\$ 1,689,286	\$ -
Ratio of Private/Public Investment	3 13/18		0

Project 1: Town and Country Phase I

Private Investment Undertaken (See Instructions)	\$ 20,000,000		
Public Investment Undertaken	\$ 4,100,000		
Ratio of Private/Public Investment	4 36/41		0

Project 2: Corridor Enhancement

Private Investment Undertaken (See Instructions)			
Public Investment Undertaken	\$ 540,000	\$ 219,286	
Ratio of Private/Public Investment	0		0

Project 3: Town and Country Phase II / 2022

Private Investment Undertaken (See Instructions)	\$ 2,313,848		
Public Investment Undertaken	\$ 1,354,511		
Ratio of Private/Public Investment	1 17/24		0

Project 4: RPS Arlington, LLC

Private Investment Undertaken (See Instructions)	\$ -	\$ 6,796,736	
Public Investment Undertaken	\$ -	\$ 1,300,000	
Ratio of Private/Public Investment	0		0

Project 5 MJR- Southpoint Real Estate, LLC

Private Investment Undertaken (See Instructions)	\$ -	\$ 5,591,691	
Public Investment Undertaken	\$ -	\$ 170,000	
Ratio of Private/Public Investment	0		0

Project 6 Name:

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

SECTION 6 [Information requested in SECTION 6.1 is not required by law, but may be helpful in evaluating the performance of TIF in Illinois.

SECTIONS 6.2, 6.3, and 6.4 are required by law, if applicable. (65 ILCS 5/11-74.4-5(d))]

FY 2022

Name of Redevelopment Project Area:

Arlington Heights: TIF 5

SECTION 6.1-For redevelopment projects beginning before FY 2022, complete the following information about job creation and retention.

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

SECTION 6.2-For redevelopment projects beginning in or after FY 2022, complete the following information about projected job creation and actual job creation.

The number of jobs, if any, projected to be created at the time of approval of the redevelopment agreement	The number of jobs, if any, created as a result of the development to date, for the reporting period, under the same guidelines and assumptions as was used for the projections used at the time of approval of the redevelopment agreement
Town and Country Phase II - Projected Jobs: 325	Town and Country Phase II - Actual Jobs to Date: 25
RPS Arlington, LLC - Projected Jobs: 25	RPS Arlington, LLC - Actual Jobs to Date: 0
MJR - Southpoint Real Estate, LLC - Projected Jobs: 71	MJR - Southpoint Real Estate, LLC - Actual Jobs To Date: 0

SECTION 6.3-For redevelopment projects beginning in or after FY 2022, complete the following information about increment projected to be created and actual increment created.

The amount of increment projected to be created at the time of approval of the redevelopment agreement	The amount of increment created as a result of the development to date, for the reporting period, using the same assumptions as was used for the projections used at the time of the approval of the redevelopment agreement
Town and Country Phase II / 2022 - (No estimate)	Tax Bill not assessed for 2022
RPS Arlington, LLC - (Under construction)	RPS Arlington, LLC - Under Construction / Not Assessed
MJR - Southpoint Real Estate, LLC - (Under construction)	MJR - Southpoint Real Estate, LLC - Under Construction / Not Assessed

SECTION 6.4-For redevelopment projects beginning in or after FY 2022, provide the stated rate of return identified by the developer to the municipality and verified by an independent third party, if any:

Town & Country - N/A,
RPS Arlington, LLC - 9.5%,
MJR Real Estate, LLC - 8.3%

SECTION 7 [Information in the following section is not required by law, but may be helpful in evaluating the performance of TIF in Illinois.]

FY 2022

Name of Redevelopment Project Area:

Arlington Heights: TIF 5

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

Commercial area at the intersection of Palatine Road, Rand Road, and Arlington Heights Road.

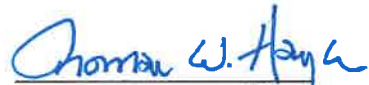
Optional Documents	Enclosed
Legal description of redevelopment project area	
Map of District	

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

ATTACHMENT B (TIF 5)

I, Thomas W. Hayes, the duly elected Chief Executive Officer, of the Village of Arlington Heights, County of Cook, State of Illinois, and as such, do hereby certify that the Village of Arlington Heights has complied with all requirements pertaining to the Tax Increment Redevelopment Allocation Act for Tax Increment Financing District: TIF 5, during the current municipal fiscal year, January 1, 2021 to December 31, 2021.

June 26, 2022.



Thomas W. Hayes
President Board of Trustees
Village of Arlington Heights

ATTEST:


Becky Hume
Village Clerk

ATTACHMENT C – Legal Counsel Opinion (TIF V)

June 28, 2023

**Opinion of the Village Attorney of
The Village of Arlington Heights Regarding the TIF #5 Redevelopment
Plan and Project Under the Illinois Tax Increment
Allocation Redevelopment Act**

This will confirm that I serve as the Village Attorney of the Village of Arlington Heights, Cook County, Illinois. I have reviewed all information provided to me by the Village TIF Administrator regarding the Village of Arlington Heights TIF #5 Redevelopment Plan and Project pursuant to the Illinois Tax Increment Allocation Redevelopment Act (the "Act"). Based on such information, I hereby certify that the Village of Arlington Heights has conformed substantially to all applicable reporting requirements of the Act for the fiscal year ended December 31, 2022 to the best of my knowledge and belief.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Hart M. Passman', with a long horizontal flourish extending to the right.

Hart M. Passman

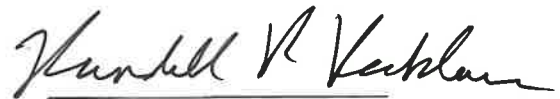
HMP/jss
cc: Michael Lysicatos, TIF Administrator

ATTACHMENT D (TIF 5)

I, Randall Recklaus, Village Manager, do hereby certify that the following activities were undertaken in furtherance of the objectives of the redevelopment plan for Tax Increment Financing District: TIF 5, between January 1, 2022 and December 31, 2022.

1. Continued to work with prospective developers.
2. Reimbursed the developers of Town and Country shopping center in the amount of following the completion of all agreed upon activities and receipt of submission requirement.
3. The Village executed a redevelopment agreement with RPS Arlington, LLC.
4. The Village executed a redevelopment agreement with MJR / Southpoint Real Estate Holding Company, LLC.
5. The Village continued coordination of streetscape improvements with a consultant.

June 26, 2023



Randall Recklaus
Village Manager

ATTEST:



Becky Hume
Village Clerk

ATTACHMENT E: Redevelopment Agreements (TIF V)

**Southpoint RPS Arlington, LLC
Southpoint MJR – Southpoint Real Estate, LLC**

THIS DOCUMENT
PREPARED BY AND AFTER
RECORDING RETURN TO:

Hart M. Passman, Esq.
Elrod Friedman LLP
325 North LaSalle St.
Suite 450
Chicago, IL 60654

This Space for Recorder's Use Only

TAX INCREMENT FINANCING REDEVELOPMENT AGREEMENT

BY AND BETWEEN

THE VILLAGE OF ARLINGTON HEIGHTS

AND

RPS ARLINGTON, LLC

(750 EAST RAND ROAD – SOUTHPPOINT SHOPPING CENTER)

DATED AS OF May 17, 2022

{00125746.7}

A2022-038

**VILLAGE OF ARLINGTON HEIGHTS
TAX INCREMENT FINANCING REDEVELOPMENT AGREEMENT
(750 EAST RAND ROAD – SOUTHPOINT SHOPPING CENTER)**

THIS REDEVELOPMENT AGREEMENT ("**Agreement**") is made and entered into this _____ day of _____, 2022, by and between the **VILLAGE OF ARLINGTON HEIGHTS**, an Illinois home rule municipal corporation ("**Village**"), and **RPS ARLINGTON, LLC**, a Florida limited liability company ("**Developer**") (the Village and the Developer are, collectively, the "**Parties**").

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 Village and the Developer hereby agree as follows:

SECTION 1. RECITALS.¹

A. Pursuant to the TIF Act, the Village has undertaken a program to redevelop certain property within a designated portion of the Village, known as the Palatine and Rand Roads Redevelopment Project Area ("**Redevelopment Project Area**").

B. The Redevelopment Project Area encompasses a retail shopping mall commonly known as the Southpoint Shopping Center.

C. On February 7, 2005, the Corporate Authorities of the Village, after giving all notices and conducting all public hearings required by the TIF Act, adopted the following ordinances: (1) Ordinance No. 05-007, approving a Tax Increment Redevelopment Plan and Project for the Redevelopment Project Area, (2) Ordinance No. 05-008, designating the Redevelopment Project Area pursuant to the TIF Act, and (3) Ordinance No. 05-009, adopting Tax Increment Allocation Financing for the Redevelopment Project Area.

D. The Developer is the owner of the Property, which is located generally within eastern portion of the Southpoint Shopping Center, and within the Redevelopment Project Area.

E. The Property is improved with a single-story commercial building ("**Building**"), a public parking lot ("**Parking Lot**"), and related improvements.

F. The Developer intends to redevelop and improve the Property by: (i) repairing and improving the façade and exterior of the Building; (ii) replacing the roof of the Building; (iii) renovating the Parking Lot; (iv) removing asbestos from the Building; (v) constructing other site improvements on the Property; and (vi) such other related work and costs as listed on **Exhibit E** (collectively, the "**Project**").

¹ All capitalized words and phrases throughout this Agreement have the meanings set forth in the preamble above and in Section 2 and the other provisions of this Agreement. If a word or phrase is not specifically defined in this Agreement, it has the meaning ascribed to it in the Zoning Code (as defined in Section 2 of this Agreement).

G. In connection with the Developer's undertaking of the Project within the Redevelopment Project Area, the Developer intends to construct certain site improvements, the costs of which are eligible for reimbursement pursuant to the TIF Act.

H. The Developer would not undertake the Project but for the benefit of certain tax increment financing to be provided by the Village in accordance with the terms set forth in this Agreement.

I. In order to serve the needs of the Village, produce increased tax revenues for the various taxing districts authorized to levy taxes on the Property, and stimulate and induce the redevelopment of the Southpoint Shopping Center, the Village has agreed to reimburse the Developer for certain Redevelopment Project Costs incurred in connection with the Project through property tax increment revenues, all in accordance with the terms and provisions of the TIF Act and this Agreement.

J. The Corporate Authorities of the Village, after due and careful consideration, have concluded that the redevelopment of the Property as provided for in this Agreement will further the growth of the Village, facilitate a portion of the redevelopment of the Redevelopment Project Area, improve the environment of the Village, increase the assessed valuation of the real estate situated within the Village, foster increased economic activity within the Village, increase employment opportunities within the Village, upgrade public infrastructure within a portion of the Redevelopment Project Area, and otherwise be in the best interests of the Village by furthering the health, safety, morals and welfare of its residents and taxpayers.

SECTION 2. DEFINITIONS; RULES OF CONSTRUCTION.

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

"Anchor Lease": A lease agreement with an Anchor Tenant pursuant to the requirements described in Section 3.C of this Agreement.

"Anchor Tenant": At Home Stores, LLC, a Texas limited liability company, or a comparable replacement retail tenant of comparable quality and credit rating, with comparable anticipated annual sales tax receipts, as determined and approved in advance and in writing by the Village Manager.

"Building Materials Plan": That certain Building Materials Plan prepared by Core States Group, consisting of two sheets, with a latest revision date of February 22, 2022, a copy of which is attached to this Agreement as **Exhibit B-3**.

"Certificate of Expenditure": Defined in Section 8.B.1 of this Agreement.

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

"Developer": RPS Arlington, LLC, a Florida limited liability company.

"Effective Date": The date set forth in the first sentence on Page 1 of this Agreement.

“Engineering Plans”: Those certain Engineering Plans prepared by Core States Group, consisting of six sheets, with a latest revision date of March 7, 2022, a copy of which is attached to this Agreement as **Exhibit B-2**.

“Events of Default”: Defined in Section 14 of this Agreement.

“Evidence of Lease Date”: The date on which the Village Clerk receives evidence deemed satisfactory in the sole discretion of the Village, that the Developer has entered into the Anchor Lease with an Anchor Tenant.

“Floor Plans”: Those certain Floor Plans prepared by Core States Group, consisting of one sheet, with a latest revision date of April 12, 2022, a copy of which is attached to this Agreement as **Exhibit B-4**.

“Fund”: The special tax allocation fund established for the TIF District in accordance with the TIF Act and the TIF Approval Ordinances.

“Improvements”: The improvements to be made in connection with the development of the Property pursuant to the Project, as provided in Section 4 of this Agreement, including, without limitation, the improvements identified in the Project Development Plans.

“Incremental Property Taxes”: The ad valorem taxes, if any, arising from the taxes levied upon the Redevelopment Project Area, which taxes are attributable to the increases in the then current equalized assessed value of each taxable lot, block, tract, or parcel in the Property over and above the total initial equalized assessed value 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 Approval Ordinances, and this Agreement.

“Letter of Intent”: Defined in Section 3.C of this Agreement.

“Parking Lot Plan”: That certain Parking Lot Plan prepared by Core States Group, consisting of one sheet, with a latest revision date of March 28, 2022, a copy of which is attached to this Agreement as **Exhibit B-6**.

“Person”: Any corporation, partnership, 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.

“Property”: That certain tract of land, consisting of approximately 7.42 acres, commonly known as 750 East Rand Road, and legally described in **Exhibit A** attached to this Agreement.

“Project Commencement Date”: Defined in Section 5.B.1 of this Agreement.

“Project Completion Date”: Defined in Section 5.B.3 of this Agreement.

“Project Development Plans”: Collectively, those plans and specifications for the Project attached to this Agreement as Group Exhibit B.

“Public Improvements”: Those Improvements that will be dedicated to, and accepted by, the Village.

“Redevelopment Plan”: The redevelopment plan and project for the TIF District adopted pursuant to Village Ordinance No. 05-007.

“Redevelopment Project Costs”: All qualifying redevelopment project costs that are: (i) authorized and defined by the TIF Act (65 ILCS 5/11-74.4-3(q)) and included within the Redevelopment Plan; and (ii) incurred by the Developer to construct the Project.

“TIF-Eligible Costs”: Redevelopment Costs that are eligible for reimbursement by the Village pursuant to this Agreement and the TIF Act, including costs related to the Parking Lot Improvements, roof replacement, asbestos removal, HVAC and mechanical replacement, and façade renovation, each as further described in **Exhibit E** attached to this Agreement.

“Requirements of Law”: All applicable federal, state, and Village laws, statutes, codes, ordinances, resolutions, rules and regulations, as well as judicial decisions and orders binding on the Parties or the Project.

“Roof Plan”: That certain Roof Plan prepared by Core States Group, consisting of one sheet, with a latest revision date of April 12, 2022, a copy of which is attached to this Agreement as **Exhibit B-5**.

“Site Plan”: That certain Site Plan prepared by Core States Group, consisting of one sheet, with a latest revision date of April 12, 2022, a copy of which is attached to this Agreement as **Exhibit B-1**.

“Site Restoration”: Site restoration and modification activities to establish a park-like setting suitable for passive outdoor recreational activities, including without limitation, demolition of partially constructed improvements and structures, regrading, erosion control, and installation of sod or seeding.

“Structure”: Defined in Section 28-3 of the Zoning Code.

“TIF”: Tax increment financing, as further defined and described in the TIF Act.

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

“TIF Approval Ordinances”: Village Ordinance No. 05-007, Ordinance No. 05-008, and Ordinance No. 05-009.

“TIF District”: The Palatine and Rand Roads Redevelopment Project Area, designated by the Corporate Authorities pursuant to Village Ordinance No. 05-008.

“Total Developer Costs”: Defined in Section 8.C.1 of this Agreement.

“Total Project Budget”: Defined in Section 3.A.2 of this Agreement.

“Transferee Assumption Agreement”: Defined in Section 11.B.4 of this Agreement.

“Uncontrollable Circumstance”: Any of the following events and circumstances that are unforeseen and materially change the costs or ability of the Developer to carry out their obligations under this Agreement:

1. A change in the Requirements of Law;
2. Insurrection, riot, civil disturbance, sabotage, act of public enemy, explosion, nuclear incident, war, or naval blockade;
3. Epidemic, hurricane, tornado, landslide, earthquake, lightning, fire, windstorm, other extraordinary weather condition, or other similar act of God;
4. Governmental condemnation or taking; or
5. Strikes or labor disputes, other than those caused by the unlawful acts of the Developer, its partners, or affiliated entities.

Uncontrollable Circumstance does not include economic hardship, impracticability of performance, commercial, economic, or market conditions, a failure of performance by a contractor (except as caused by events which are Uncontrollable Circumstances as to the contractor), or any pandemic, epidemic, war, or labor dispute existing on the Effective Date of this Agreement.

“Village Attorney”: The duly appointed Village Attorney of the Village.

“Village Clerk”: The duly appointed Village Clerk of the Village.

“Village Code”: The Municipal Code of Arlington Heights, Illinois, 1995, as amended.

“Village Contribution”: Defined in Section 8.A.1 of this Agreement.

“Village Manager”: The duly appointed Village Manager of the Village or his or her designee, as appointed by the Village Manager.

“Zoning Code”: The 2002 Comprehensive Amendment of the Zoning Ordinance of the Village of Arlington Heights, as amended.

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” means 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.

SECTION 3. DEVELOPMENT, USE, OPERATION AND MAINTENANCE OF THE PROPERTY.

Notwithstanding any use or development right that may be applicable or available pursuant to the provisions of the Village Code or the Zoning Code or any other rights the Developer may have, the Property must be developed, used, operated, and maintained only pursuant to, and in accordance with, the terms and provisions of this Agreement and its exhibits, including, without limitation, the following development conditions:

A. Standard Conditions.

1. The development, use, operation and maintenance of the Property must comply with all applicable Village codes and ordinances, as the same have been or may be amended from time to time, except to the extent specifically and explicitly provided otherwise in this Agreement.

2. The development, use, operation and maintenance of the Property must comply with the Project Development Plans, except for minor alterations due to final engineering and site work as may be approved by the Village Director of Planning & Community Development, the Village Engineer, or the Village Director of Public Works (for matters within their respective permitted authorities) in accordance with all applicable Village standards.

B. Construction of Structures and Buildings. The Building and all Structures must be constructed and located on the Property as depicted in the Project Development Plans.

C. Anchor Tenant Lease & Use. The Developer must enter into an Anchor Lease with the Anchor Tenant for not less than 100,000 square feet of the Building for use as a furniture & home decor store. The terms of the Anchor Lease must substantially conform to the Letter of Intent by and between the Developer and At Home Stores, LLC and dated November 5, 2021 (“*Letter of Intent*”) attached to this Agreement as **Exhibit G**. The Anchor Lease must include, without limitation, the following terms: (a) a ten-year initial lease term with three options for five-year extensions; (b) a right of the Developer to terminate the Anchor Lease and retake possession of the leased premises if the Anchor Tenant ceases operations for more than 180 days; and (c) a provision expressly disclaiming any right of the Anchor Tenant to prevent the Developer from leasing space at the Property to other retail tenants. The Developer must provide a complete copy of the executed Anchor Lease prior to reimbursement by the Village of any Redevelopment Project Costs.

D. Maintenance. The Developer is responsible for the continuity, care, conservation, maintenance, and operation of the Property, in a condition that is consistent with other comparable commercial properties and is in compliance with all local codes and regulations, and all landscaping, equipment, appurtenances and stormwater detention facilities located on or within

the Property and the cost of power required for such equipment and appurtenances. The Developer and any co-owners of the Property must regularly and systematically perform the maintenance, repair, and replacement of any and all parts or portions of the Property necessary to permit the Property to function as designed.

E. Parking and Loading. The Developer must provide all off-street parking and loading spaces on the Property as required by the Zoning Code.

F. Cooperation with Adjoining Property Owners. The Developer must cooperate in good faith with the Village and with the owners of other real property within the Redevelopment Project Area concerning, and will not unreasonably object or prohibit, future improvements to the Redevelopment Project Area.

G. General Use and Development Restrictions. The development and use of the Property except for minor alterations due to final engineering and site work approved by the Village Director of Planning & Community Development or the Village Director of Public Works, as appropriate, must comply, and be in accordance, with the following (upon their respective approval, adoption, and effective date):

1. This Agreement;
2. The TIF Approval Ordinances;
3. The Project Development Plans, and all individual plans and documents of which they are comprised;
4. The Zoning Code; and
5. The Requirements of Law.

Unless otherwise provided in this Agreement, either specifically or in context, in the event of a conflict between or among any of the plans or documents listed as or within items 1 through 5 of this Section 3.G, the plan or document that provides the greatest control and protection for the Village, as determined by the Village Manager, will control. All of the above plans and documents will 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 either specifically or in context.

SECTION 4. IMPROVEMENTS.

A. Description of Improvements. The Developer must, at its sole cost and expense, construct and install all of the Improvements depicted on the Project Development Plans, including, without

1. All traffic control improvements set forth in the Project Development Plans;
2. The improvements to the Building, including the façade of the Building, as depicted in the Site Plan, Building Materials Plan, and Building Elevations;

3. The parking lot improvements to the parking lot depicted in the Site Plan and Parking Lot Renderings, including pedestrian crossing and walkway enhancements, of a design to be approved in advance by the Village;

4. The replacement of the roof of the Building depicted in the Roof Replacement Plan;

5. The asbestos removal activities described in the Project Development Plans; and

6. Any other Improvements identified in the Project Development Plans.

B. Design and Construction of the Improvements.

1. General Standards. All Improvements must be designed and constructed pursuant to and in accordance with the Project Development Plans, and will be subject to the reasonable written satisfaction of the Village Director of Building & Life Safety in accordance with the Village Code. All work performed on the Improvements must be conducted in a good and workmanlike manner, with due dispatch, and within any deadlines provided in this Agreement or in the permits issued by the Village for construction of the Improvements. All materials used for construction of the Improvements must be new and of first-rate quality.

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

3. Engineering Services. The Developer must provide, at its sole cost and expense, all engineering services for the design and construction of the Improvements, by a professional engineer responsible for overseeing the construction of the Improvements. The Developer must promptly provide the Village with the name of a local owner's representative and a telephone number or numbers at which the owner's representative can be reached at all times.

4. Village Inspections and Approvals. All work on the Improvements is subject to inspection and approval by Village representatives at all times.

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

C. Connection of Utilities.

1. Burial of Utilities. The Developer must, at its sole cost and expense, cause to be buried all existing or new utility lines necessary for the Building. The Developer must

cooperate with all utility companies and owners of neighboring properties as may be necessary to ensure that the burial of utilities required pursuant to this Section 4.C.1 does not disrupt utility service to neighboring properties.

2. Compliance with Village Code. No utilities located on the Property may be connected to utilities or utility infrastructure belonging to the Village except in accordance with the applicable provisions of the Village Code, and upon payment of any connection fees required pursuant to the Village Code.

D. Completion of the Improvements. The Village has the right, but not the obligation, to refuse to issue a final certificate of occupancy for any Building or Structure located on the Property until the Improvements are completed by the Developer and approved by the Village. The foregoing does not preclude the Village's issuance of conditional certificates of occupancy pursuant to Section 5.C.2 of this Agreement and the applicable provisions of the Village Code. The issuance of any building permit or certificate of occupancy by the Village at any time prior to completion of all of the Improvements by the Developer and approval of the Improvements by the Village will not confer on the Developer any right or entitlement to any other building permit or certificate of occupancy.

E. Dedication and Maintenance of the Improvements.

1. Final Inspection and Approval of the Improvements. The Developer must notify the Village when it believes that any or all of the Improvements have been fully and properly completed and must request final inspection and approval of the Improvement or Improvements by the Village. The notice and request must 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 (as may be established pursuant to this Agreement or in the permits issued by the Village for completion of the Improvements). The Developer must promptly make all necessary repairs and corrections as specified on the punch list. The Village is not required to approve any portion of the Improvements until: (a) all of the Improvements as may be required pursuant to Section 4.A of this Agreement, including all punch list items, have been fully and properly completed; and (b) the Village Director of Building & Life Safety has determined that the specific Improvement has been constructed to completion, in accordance with the Project Development Plans and the Requirements of Law.

2. Dedication and Acceptance of Public Improvements. Neither the execution of this Agreement nor the approval or recordation of any final plat of subdivision for the Property constitutes acceptance by the Village of any Improvements that are depicted as "dedicated" in the Project Development Plans, if any. The acceptance of ownership of, and responsibility for, a specific approved Improvement as a Public Improvement may be made only by the Corporate Authorities, and only in compliance with the requirements of the Village Code.

SECTION 5. DEMOLITION AND CONSTRUCTION.

A. Single Phase of Construction. The construction of the Improvements and the development of the Property must take place in one continuous phase, subject to seasonal conditions, and in accordance with Section 5.F of this Agreement.

B. Construction Schedule. The Developer must pursue, or cause to be pursued, all required development, demolition, construction, and installation of the Structures, Building, and Improvements on the Property in a diligent and expeditious manner, in strict compliance with the Village Code and the Requirements of Law, and in accordance with the project timeline attached to this Agreement as **Exhibit G** and the following:

1. Commencement of Developer Improvements. The Developer must commence construction of the Improvements, if at all, no later than June 23, 2022 ("**Project Commencement Date**").

2. Commencement of Tenant Improvements. The Developer must commence construction of all Improvements described in the Anchor Lease on or before June 23, 2022.

3. Completion Date. All construction of the Project must be completed, and the Anchor Tenant must commence occupancy of the Building and open to the public for their customary businesses, on or before December 31, 2023 ("**Project Completion Date**"). If construction of the Project is not completed, and the Building not open to the public for their customary businesses, on or before the Project Completion Date, the Developer will not be entitled to reimbursement of any Redevelopment Project Costs, the Village will not pay any portion of the Village Contribution to the Developer, and the Village will have the right to terminate this Agreement upon providing written notice to the Developer.

4. The Village Director of Community Development may, for good cause, extend the deadlines set forth in this Section 5.B for a total of six months.

C. Issuance of Permits and Certificates.

1. General Right to Withhold Permits and Certificates. In addition to every other remedy permitted by law for the enforcement of this Agreement, the Village has the absolute right to withhold the issuance of any building permit or certificate of occupancy for the Property at any time when the Developer has failed or refused to meet fully any of its obligations under, or is in violation of, or is not in full compliance with, the terms of this Agreement; provided, however, the Village must promptly provide a detailed written explanation for such withholding.

2. Conditional Certificate of Occupancy. A conditional certificate of occupancy associated with the Building or Structure to be located on the Property will not be issued until the grading of the street parkways across the frontage of the Building or subject Structure, final grading and installation of top soil, seeding/sod, landscaping on the subject structure have been completed, and sidewalks across the frontage of the Building or subject Structure and street lights and surface course of all street pavement throughout the Property have been installed, subject to seasonal conditions.

D. Removal and Restoration.

1. **Removal of Partially Constructed Structures and Improvements.** Subject to Uncontrollable Circumstance, if the Developer fails to diligently pursue all demolition and construction as required in, or permitted by, Sections 4, 5, and 6 of this Agreement to completion within the time period prescribed in the building permit or permits issued by the Village for such demolition and construction, as the case may be, 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 must, within 60 days after notice from the Village: (a) remove any partially constructed or partially completed Structures or Improvements from the Property; and (b) perform Site Restoration on that portion of the Property in which the Developer has failed to complete all such demolition and construction, all in accordance with plans approved by the Village.

2. **Removal and Restoration by Village.** In the event the Developer fail or refuses to remove any partially completed Structures or Improvements, or to perform Site Restoration, as required pursuant to Section 5.D of this Agreement, the Village will have, and is hereby granted, the right, at its option, to: (a) demolish and/or remove any of the partially completed Structures and Improvements from any and all portions of the Property; (b) perform Site Restoration; and/or (c) cause the Building, Structures, or Improvements to be completed in accordance with the plans submitted. The Developer will fully reimburse the Village for all costs and expenses, including legal and administrative costs, incurred by the Village for such work. If the Developer does not so fully reimburse the Village, then the Village will have the right to place a lien on the Property for all such costs and expenses in the manner provided by law. The rights and remedies provided in this Section 5.D.2 are in addition to, and not in limitation of, the Village's rights and remedies otherwise available in this Agreement, at law, and/or in equity.

E. As-Built Plans. After completion of construction of any Structure or Improvement, the Developer must submit to the Village Director of Building & Life Safety final "as-built" plans: (1) related to drainage, grading, storm sewer, sanitary sewer and water mains, and associated Structures; and (2) for other final construction documents (in paper and, for Improvements, electronic format) as reasonably required and approved by the Village Director of Public Works and Director of Planning and Community Development. The as-built plans must indicate, without limitation, the amount, in square feet, of impervious surface area on the Property.

F. Damage to Public Property. The Developer must 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 the development of the Property and construction of the Improvements. Further, the Developer must: (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 TIF Activities of the Developer or any agent of or contractor hired by, or on behalf of, the Developer.

SECTION 6. PAYMENT OF VILLAGE FEES AND COSTS.

A. Negotiation and Review Fees. In addition to all other costs, payments, fees, charges, contributions, or dedications required by this Agreement or by the Requirements of Law,

the Developer must pay to the Village, contemporaneous with the execution of this Agreement by the Village Manager, all third-party legal, engineering, and other consulting or administrative fees, costs, and expenses incurred or accrued in connection with: (1) the development of the Property, including, without limitation, the review and processing of plans and building permits therefor, and (2) the negotiation, preparation, consideration, and review of this Agreement. The Developer acknowledges and agrees that it will continue to be liable for and pay, promptly after presentation of a written demand or demands for payment, such third-party fees, costs, and expenses incurred in connection with any applications, documents, proposals, or requests for interpretations or amendments of this Agreement, whether formal or informal, of whatever kind, submitted by the Developer during the term of this Agreement in connection with the use and development of the Property. Further, the Developer acknowledges and agrees that it is liable for and will pay after demand all fees, costs, and expenses incurred by the Village for publication and recordings required in connection with the above matters.

B. Other Village Fees. In addition to all other costs, payments, fees, charges, contributions, or dedications required by this Agreement, the Developer must pay to the Village 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 pursuant to the Requirements of Law.

SECTION 7. RESERVED.

SECTION 8. TIF FINANCING.

A. Project Financing.

1. The Parties agree that the estimated Total Developer Costs for the Project is approximately \$6,796,736.00, which includes the costs of the Developer, and the construction and tenant improvement allowance related to the Anchor Lease, as set forth in the Total Project Budget attached to this Agreement as Exhibit F.

2. The Developer must advance and secure funds, or must cause other parties to advance and secure funds necessary to complete the Project, including the redevelopment of a 100,000-square-foot space within the Building suitable for an Anchor Tenant.

B. Reimbursement for Project Costs.

1. The Parties acknowledge that the Developer will pay, or has paid, for some or all of the Redevelopment Project Costs of the Project. To partially subsidize the costs of the Project, the Village will pay the Developer up to \$1,300,000.00 ("***Village Contribution***") as reimbursement for Redevelopment Project Costs incurred by the Developer which qualify as TIF-Eligible Costs, subject to the limitations set forth in Sections 9.B and 9.C of this Agreement.

2. In the Village's sole discretion, the Village Contribution may be paid from the Incremental Property Taxes deposited into the Fund and permitted by law to be used to make payments under the TIF Act.

3. Any funds contained in the Fund in excess of the Village Contribution may be used by the Village for any lawful purpose permitted under the TIF Act.

C. Certification and Reimbursement of TIF-Eligible Costs.

1. Certificates of Expenditure. In order to obtain reimbursement of Redevelopment Project Costs, the Developer must submit to the Village written requests for certification of such Redevelopment Project Costs in the form attached as **Exhibit H** to this Agreement ("*Certificate of Expenditure*"). Each Certificate of Expenditure must be accompanied by: (i) evidence that the Developer has actually incurred and paid all Redevelopment Project Costs for which such Developer seeks reimbursement; (ii) proof of issuance of all building permits required for the Project; (iii) proof that an Anchor Tenant commenced occupancy and operations in the Building in satisfaction of this Agreement; and (iv) sworn statements and lien waivers from the Developer's general contractor for any material, fixtures, apparatus, machinery, services, or labor provided by any contractor, subcontractor, or other person or entity 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. If the Developer does not fulfill its obligations as set forth in this Section 8.B.1, the Village will have no obligation to certify or reimburse the Developer for Redevelopment Project Costs.

2. Requirements of Reimbursement. Notwithstanding any other provision of this Agreement, the Developer will be entitled to be reimbursed from Incremental Property Taxes for Redevelopment Project Costs only if: (i) the Developer actually incurs such TIF-Eligible Costs; (ii) the Redevelopment Project Costs are also "Redevelopment Project Costs" as defined in the TIF Act; (iii) Reimbursement is permitted pursuant to this Agreement, the Redevelopment Plan, and the TIF Act; and (iv) the Developer is not in default or breach of any obligation under this Agreement.

3. Review of Certificate of Expenditures. The Village Manager will determine if Redevelopment Project Costs described in a Certificate of Expenditure constitute TIF-Eligible Costs meeting the requirement of this Section 8.B, and approve or disapprove of each Certificate of Expenditure. If the Village Manager finds an error or deficiency in the Certificate of Expenditure, the Village Manager will give written notice to the Developer, identifying such error or deficiency in reasonable detail, within 30 days after the date that the Village receives the Certificate of Expenditure. The process of submission, identification or errors or deficiencies and resubmission will continue in good faith until the Parties agree on the content of the Certificate of Expenditure.

4. Timing of Reimbursement. The Village will pay to the Developer reimbursement funds for TIF-Eligible Costs up to the Village Contribution on the 45th day following the last to occur of: (i) completion of all Improvements; (ii) satisfactory inspection and approval of the Improvements by the Village; (iii) issuance of a temporary or final certificate of occupancy for the Property, whichever is first issued; (iv) submittal by the Developer and approval by the Village of a Certificate of Expenditure for the TIF-Eligible Costs incurred by the Developer; and (v) occupancy and commencement of operations by the Anchor Tenant, all together with documentation required under Section 8.B.1 of this Agreement, subject to any period for

resubmission or correction of a Certificate of Expenditure pursuant to Section 8.B.3 of this Agreement.

C. **Reduction of Village Contribution.** The Village Contribution may be proportionately reduced pursuant to the following conditions:

1. **Insufficient Total Developer Costs.** Prior to or in conjunction with the submitting a request for reimbursement of TIF-Eligible Costs pursuant to Section 8.B of this Agreement, the Developer must submit to the Village a certification of all actual costs incurred by the Developer in connection with the Project, together with copies of all sworn contractors' statements, waivers of lien, construction contracts and such other documents evidencing the TIF Actual Total Developer Costs of the Project as may be requested by the Village ("***Total Developer Costs***"). The Village and its financial consultants will have 90 days to review the certification of Total Developer Costs and the documentation evidencing the TIF Actual costs and notify the Developer in writing whether the certification of costs and submitted documentation are acceptable. If the certifications are not acceptable, the Parties must negotiate in good faith to resolve the Village's objections. In the event that the Total Developer Costs as agreed by the Parties are less than \$6,796,736.00, the amount of the Village Contribution will be reduced proportionally. For example, if the Total Developer Costs are \$3,843,554.21 (56.55% of the anticipated Total Developer Costs), the maximum Village Contribution would be \$735,120.11.

2. **Revenues Above Projections.** Prior to or in conjunction with the submitting a request for reimbursement of TIF-Eligible Costs pursuant to Section 8.B of this Agreement, the Developer must provide to the Village, and obtain Village's written approval of, an updated projection of Developer's expected revenues and expenses for the operation and maintenance of the Project and the Property ("***Financial Projection***"). If actual revenues from the operation of the Property exceed the projected revenues quoted in the Projection submitted to the Village on April 27, 2022, the Village Contribution will be reduced proportionately and reflecting increased cash flow to the Project.

D. **Commitment to Fair Employment Practices and Affirmative Action; Prevailing Wage.** The Village and the Developer must comply with the requirements pertaining to fair employment practices and affirmative action described in Section VII.B of the Redevelopment Plan and the Illinois Prevailing Wage Act (820 ILCS 130/0.01 *et seq.*), as they may be applicable.

E. **Commitment to Preserve Village Contribution.** The Village agrees, so long as the Developer is not in breach of this Agreement, that the Village will not revoke, rescind, repeal, or amend the Redevelopment Plan or the TIF Approval Ordinances, unless it has first deposited into an escrow account the then-remaining balance of the Village Contribution that has not yet been paid to the Developer, pursuant to an escrow agreement to be negotiated in good faith and executed by the Village and the Developer. In the event that an escrow account is established pursuant to this Section 8.E, all subsequent payments to the Developer pursuant to this Agreement will be paid from the escrow account and not from any other Village source.

SECTION 9. LIABILITY AND INDEMNITY OF VILLAGE.

A. **Village Review.** The Developer acknowledges and agrees that the Village is not, and will 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 or the Project, or the issuance of any approvals, permits, certificates, or acceptances, for the development or use of the Property or the Project, and that the Village's review and approval of any such plans and the Project and issuance of any such approvals, permits, certificates, or acceptances does not, and will not, in any way, be deemed to insure the Developer, or any of their respective 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 approvals 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 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 or the Improvements; and (iv) the Developer's failure to comply with any provisions of this Agreement. Nothing in this Section 9.C is intended to make the Developer responsible for any damages, attorneys' fees or other costs incurred by the Village by reason of any claim that this Agreement or any payments to the Developer under this Agreement, violate the TIF Act.

D. **Defense Expense.** The Developer must, and does hereby agree to, pay all expenses, including legal fees and administrative expenses, incurred by the Village in defending itself with regard to any and all of the claims covered by Section 9.C of this Agreement.

SECTION 10. REAL ESTATE TAX CHALLENGES.

A. **Real Estate Tax Payments.** The Developer agrees to timely pay all applicable real estate taxes levied against its interest in the Property, and must not allow said taxes to become delinquent.

B. **Conveyance.** In recognition of the nature of the Project and the Village's projections of the need for incremental tax revenues to finance Redevelopment Project Costs, in accordance with the TIF Act, for so long as the TIF District is in existence, the Developer may not knowingly undertake to convey or lease any portion of the Property to persons whose ownership and use of such portion of the Property will cause that portion of the Property to be exempt from payment of property taxes, and the Developer will impose a prohibition against granting such conveyance in all leases and/or deeds conveying all or any portion of the Property.

C. **Tax Exempt Status.** Neither the Developer nor any tenant of any portion of the Property may assert tax-exempt status in a manner that would have an impact on the payment of real estate taxes with respect to their respective portions of the Property.

SECTION 11. NATURE, SURVIVAL AND TRANSFER OF OBLIGATIONS.

A. Binding Effect. All obligations assumed by the Developer under this Agreement are binding upon the Developer personally, upon any and all of their respective 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.

B. Successors and Transferees. To assure that all grantees, successors, assigns, and successor owners have notice of this Agreement and the obligations created by it, the Developer must, from and after the Effective 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 in the office of the Cook County Recorder of Deeds;

2. Notify the Village in writing at least 30 days prior to transferring 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);

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

4. Except as provided in Section 11.B of this Agreement, 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 I**, 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. The Village agrees that upon a successor becoming bound to the obligation created in the manner provided in this Agreement and providing the financial assurances required pursuant to this Agreement, the liability of the Developer will be released to the extent of the transferee's assumption of the liability. The failure of the Developer to provide the Village with a copy of a Transferee Assumption Agreement fully executed by the transferee and, if requested by the Village, with the transferee's proposed assurances of financial capability before completing any transfer, will result in the Developer remaining fully liable for all of its obligations under this Agreement but will not relieve the transferee of its liability for all such obligations as a successor to the Developer.

C. Transfer Defined. For purposes of this Agreement, the term "transfer" includes, without limitation, any assignment, sale, transfer to a receiver or to a trustee in bankruptcy, transfer in trust, or other disposition of the Property, or any beneficial interest in the Property, in whole or in part, by voluntary or involuntary sale, foreclosure, merger, sale and leaseback, consolidation, or otherwise.

D. Mortgagees of Property. This Agreement is and will be binding on all mortgagees of the Property or other secured parties automatically upon such mortgagee assuming title to the

Property, in whole or in part, by a foreclosure or a deed in lieu of foreclosure without the necessity of entering into a Transferee Assumption Agreement. Until such time, however, a mortgagee or other secured party will have no personal liability hereunder.

SECTION 12. TERM.

A. The provisions of this Agreement run with and bind the Property and inure to the benefit of, be enforceable by, and obligate the Developer, the Village, and any of their respective legal representatives, heirs, grantees, successors, and assigns, from the Effective Date until either: (a) the Developer has been paid all of the Village Contribution due pursuant to Section 8 of this Agreement; or (b) the expiration of the TIF District, whichever is earlier. Notwithstanding anything to the contrary in this Section 12 (to the extent that the time periods referred to in such Sections have not elapsed when this Agreement terminates), the Developer's ongoing maintenance obligations set forth in Section 4.E and Section 7.B of this Agreement will survive the termination of this Agreement. In addition, the indemnity and defense obligations set forth in Section 9 of this Agreement will survive the termination of this Agreement. If any of the privileges or rights created by this Agreement would otherwise be unlawful or void for violation of: (i) the rule against perpetuities or some analogous statutory provision; (ii) the rule restricting restraints on alienation; or (iii) any other statutory or common law rules imposing time limits, then the affected privilege or right will continue only until 21 years after the death of the last survivor of the now living lawful descendants of the current President of the United States, or for any shorter period that may be required to sustain the validity of the affected privilege or right.

B. In the event that the Project Completion Date does not occur on or prior to December 31, 2023, the Village shall have the right, in its sole and absolute discretion, to terminate this Agreement and all obligations of this Village under this Agreement by delivery of notice to the Developer.

SECTION 13. DEVELOPER REPRESENTATIONS, COVENANTS, AND WARRANTIES.

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

1. The Developer is a Florida limited liability company, duly organized and validly existing;
2. The Developer has the authority to enter into, execute, deliver and perform 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 will apply for and will maintain all government permits, certificates, and consents (including, without limitation, appropriate environmental approvals) necessary to conduct its business and to construct and complete its obligations as required by this Agreement;

6. The Developer has sufficient financial and economic resources to implement and complete its obligations under this Agreement;

7. The Developer has no knowledge of any financial liabilities, contingent or otherwise, of the Developer which might have a material adverse effect upon its ability to perform its obligations under this Agreement;

8. The information provided to the Village by the Developer pursuant to this Agreement is true and correct, and the Developer acknowledges that the Village has entered into this Agreement in reliance on this information and the representation and warranty by the Developer that this information is true and correct; and

9. Prior to the issuance of certificates of occupancy for the Building, the Developer may not use the Property as collateral for any other property or project or for anything other than the cost of constructing the Project on the Property. The Developer's loan agreement, if any, must expressly provide that the amount of said loan may not be increased without the consent of the Village, which consent may not be withheld if the debt-to-equity ratio for the proposed increased loan is maintained at the same level as the existing loan at the time the existing loan was initially issued. Nothing in this Section 13.A.9 is to be deemed or interpreted to prevent a parent entity of the Developer from using the Property for security as a part of any securitized debt offering.

B. Village. 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: (1) have been duly authorized by all necessary corporate action on the part of the Village, (2) 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 (3) will 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 actions 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 14. DEFAULT.

A. Events of Default by the Developer. The following are the Developer Events of Default under this Agreement:

1. If any representation made by the Developer in this Agreement, or in any certificate, notice, demand or request made by the Developer in writing and delivered to the Village pursuant to or in connection with this Agreement, proves to be untrue or incorrect in any material respect as of the date made.

2. Subject to an Uncontrollable Circumstance, default by the Developer for a period of 15 days after written notice thereof in the performance or breach of any covenant contained in this Agreement concerning the existence, structure or financial condition of such Developer; provided, however, that such default or breach will not constitute an Event of Default if such default cannot be cured within said 15 days and such Developer, within said 15 days, initiates and diligently pursues appropriate measures to remedy the default and in any event cures such default within 60 days after such notice.

3. 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; provided, however, that such default will not constitute an Event of Default if such default cannot be cured within said 15 days and such Developer, within said 15 days initiates and diligently pursues appropriate measures to remedy the default and in any event cures such default within 60 days after such notice.

4. 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.

5. 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 that is not dismissed within 60 days after filing.

6. Failure of the Developer to have funds to meet such Developer's obligations under this Agreement.

7. Sale, assignment, or transfer of the Property except in accordance with the Transferee Assumption provisions in Section 11 of this Agreement.

8. Change in the organizational status of the Developer except in accordance with the Transferee Assumption provisions in Section 11 of this Agreement.

9. Abandonment of the Project or Property by the Developer. Abandonment will be deemed to have occurred when work stops on the development of the Property for more than 30 days for any reason other than Uncontrollable Circumstances, unless otherwise permitted by this Agreement. The failure of the Developer to secure any other approvals required for the development or construction of the Property will not be a valid defense to abandonment.

10. The Developer fails, for 15 days after written notice, to comply with the Requirements of Law in relation to the construction and maintenance of the Improvements contemplated by this Agreement.

11. The Village acknowledges that nothing in this Agreement obligates the Developer to commence building the Improvements, to open a business on the Property or (if and when a business opens on the Property) to continue to operate a business on the Property. It shall not be an Event of Default if: (i) the Developer fails to obtain building permits for the Improvements; or (ii) the Developer fails to open or operate the Building for business to the public. However, the Developer acknowledges and agrees that the Developer will not be entitled to reimbursement of any Redevelopment Project Costs, the Village will not pay any portion of the Village Contribution to the Developer, and the Village will have the right to terminate this Agreement upon providing written notice to the Developer in the event that any of the following events occurs: (i) construction of the Project is not completed, and the Building is not open to the public for customary business, within 18 months after the Effective Date of this Agreement; or (ii) the Developer (or a transferee) fails to operate the Buildings for customary business, or a substantially similar use, for a period of 180 consecutive days or more; provided, however, that any of the foregoing are not due to an Uncontrollable Circumstance.

B. Events of Default by the Village. The following are Village Events of Default under this Agreement:

1. If any representation made by the Village in this Agreement, or in any certificate, notice, demand or request made by a party hereto, in writing and delivered to the Developer, pursuant to or in connection with any of said documents, proves to be untrue or incorrect in any material respect as of the date made.

2. Subject to an Uncontrollable Circumstance, default by the Village for a period of 30 days after written notice thereof from the Developer in the performance or breach of any covenant contained in this Agreement; provided, however, that such default will not constitute an Event of Default if such default cannot be cured within said 30 days and the Village, within said 30 days, initiates and diligently pursues appropriate measures to remedy the default and in any event cures such default within 90 days after such notice.

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

1. Except as otherwise provided in this Agreement, the non-defaulting Party may institute such proceedings in law or in equity, by suit, action, mandamus, or any other proceeding, 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. Pursuant to Section 5.D of this Agreement, the Village may, without prejudice to any other rights and remedies available to the Village, require: (a) the demolition and removal of any partially constructed or partially completed buildings, Structures, or Improvements from the Property; and (b) the performance of Site Restoration. Concurrent with the Village's exercise of its rights under 6.E, the Corporate Authorities will have the right, but not the obligation, to terminate the entitlements set forth in this Agreement, without protest or objection by the Developer.

3. In addition to every other remedy permitted by law for the enforcement of the terms of this Agreement, the Village is entitled to withhold the issuance of building permits or certificates of occupancy for the Building and any other Structures within the Property at any time when the Developer has failed or refused to meet fully any of its obligations under this Agreement after notice and an opportunity to cure as provided in this Section 14.

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

D. Limitation. Notwithstanding anything to the contrary contained in this Agreement, including the provisions of this Section 14, the Developer agrees 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 of the Village, on account of the negotiation, execution or breach of any of the terms and conditions of this Agreement.

E. Prevailing Party. In the event of a judicial proceeding brought by one Party against the other Party, the prevailing Party in the judicial proceeding will be entitled to reimbursement from the unsuccessful Party of all costs and expenses, including reasonable attorneys' fees, incurred in connection with the judicial proceeding.

SECTION 15. GENERAL PROVISIONS.

A. Notice. Any notice required to be given under this Agreement must be in writing and must 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, or (iv) by E-mail. E-mail notices will be deemed valid and received by the addressee only upon explicit or implicit acknowledgment of receipt by the addressee. Unless otherwise expressly provided in this Agreement, notices will 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 15.A, each Party will have the right to change the address or the addressee, or both, for all future notices to the other party, but no notice of a change of addressee or address will be effective until actually received.

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

Village Arlington Heights
33 South Arlington Heights Road
Arlington Heights, Illinois 60005
Attention: Village Manager
E-mail: RRecklaus@vah.com

With a copy to:

Elrod Friedman LLP
325 N. LaSalle Street, Suite 450
Chicago, Illinois 60650
Attention: Hart Passman
E-mail: Hart.Passman@elrodfriedman.com

Notices to the Developer will be addressed to, and delivered at, the following address:

RPS Arlington, LLC
215 W. Verne St., Ste. D
Tampa, FL 33606
Attention: Scott Phillips
Email: scott@rpscapital.com

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/Conflicts. Exhibits A through I 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, the text of this Agreement will control.

E. Amendments and Modifications. No amendment or modification to this Agreement will 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 is governed by, and will be 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 includes any modifications of, or amendments to such Requirements of Law as may, from time to time, hereinafter occur.

H. Non-Waiver. No party is under any obligation to exercise any of the rights granted to it in this Agreement. The failure of a party to exercise at any time any right granted to such party will not be deemed or construed to be a waiver of that right, nor will the failure void or affect such party'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 will not be impaired thereby, but the remaining provisions will 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, firm, or corporation may be made, or will be valid, against any Party hereto.

K. Interpretation. This Agreement is to be construed without regard to the identity of the party who drafted the various provisions of this Agreement. Each provision of this Agreement is to be construed as though both parties to this Agreement participated equally in the drafting of this Agreement. Any rule or construction that a document is to be construed against the drafting party is not applicable to this Agreement.

L. Headings. The table of contents, heading, 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.

M. Recording. The Village will record this Agreement against the Property, at the sole cost and expense of the Developer, with the Office of the Cook County Recorder of Deeds promptly following the full execution of this Agreement by the Parties.

N. Counterparts. This Agreement may be executed in counterparts, each of which will constitute an original document and together will constitute the same instrument.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed, effective as of the date first written above.

ATTEST:

Rebecca Hume
Rebecca Hume, Village Clerk

VILLAGE OF ARLINGTON HEIGHTS,
an Illinois home rule municipal corporation

By: Randall R. Recklaus
Randall R. Recklaus
Its: Village Manager

ATTEST:

By: Travis Fulford
Its: Member
Travis Fulford

RPS ARLINGTON, LLC,
an Florida Limited Liability Company
By: Scott Phillips
Its: Manager
Scott Phillips

ACKNOWLEDGMENTS

STATE OF ILLINOIS)
)
COUNTY OF COOK)

SS

This instrument was acknowledged before me on May 17, 2022
by Randall R. Recklaus, the Village Manager of the **VILLAGE OF ARLINGTON HEIGHTS**,
an Illinois home rule municipal corporation, and by Rebecca Hume, the Village Clerk of said
municipal corporation.

Given under my hand and notarial seal this 17 day of May, 2022.

Notary Public

My Commission Expires: 06/08/2024

(SEAL)



STATE OF Florida)
)
COUNTY OF Millborough)

SS

I, _____, a Notary Public in and for said County, in the State aforesaid,
do hereby certify that this instrument was acknowledged before me on May 11,
2022, by Scott Phillips, the Manager of RPS Arlington,
LLC, a Florida limited liability company, and by Travis Felford, the member of said
limited liability company.

Given under my hand and notarial seal this 11th day of May, 2022.

Notary Public

My Commission Expires:

(SEAL)



Signature

A handwritten signature in blue ink, appearing to be "Jose Muniz", written over a horizontal line.

INDEX OF EXHIBITS

Exhibit A	Legal Description of Property
Exhibit B	Project Development Plans (Group Exhibit)
	B-1 Site Plan
	B-2 Engineering Plans
	B-3 Building Materials Plan
	B-4 Floor Plans
	B-5 Roof Plan
	B-6 Parking Lot Plan
Exhibit C	[Intentionally Omitted]
Exhibit D	Schedule of TIF-Eligible Costs
Exhibit E	Total Project Budget
Exhibit F	Letter of Intent
Exhibit G	Project Timeline
Exhibit H	Form Certificate of Expenditure
Exhibit I	Transferee Assumption Agreement

EXHIBIT "A"
Legal Description

Parcel 1:

Part of Lots 1, 2 and 3 in the Cub Addition, being a Subdivision in the Northwest 1/4 of the Northeast 1/4 of Section 20, Township 42 North, Range 11, East of the Third Principal Meridian, according to the Plat thereof recorded May 17, 1984 as Document No. 27090321;

also

Part of Lots 61 to 65 inclusive in C. A. Goelz's Arlington Heights Gardens, a subdivision in the Northeast 1/4 of Section 20, Township 42 North, Range 11, East of the Third Principal Meridian, registered March 13, 1928 as Document No. LR396997;

also

Part of vacated Prairie Avenue (33 feet wide) and vacated Lillian Avenue (66 feet wide) vacated according to ordinance recorded December 13, 1988 as Document No. 88576174, described as follows:

Commencing at the most Southerly corner of said Lot 3 in the Cub Addition; thence North 47 degrees, 48 minutes, 11 seconds West along the Southwesterly line of said Lot 3, being also the Northeasterly line of rand road, a distance of 410.16 feet to the point of beginning; thence continuing along said Southwesterly line of Lot 3, North 47 Degrees, 48 Minutes, 11 Seconds West 190.40 feet; thence North 42 degrees, 11 minutes, 49 seconds East 120.00 feet; thence North 00 degrees, 01 minutes, 48 seconds West 153.58 feet; thence North 89 degrees, 58 minutes, 49 seconds East 45.07 feet to a point of curvature; thence Southeasterly along a curve concave to the Southwest having a radius of 57.50 feet, an arc distance of 57.16 feet, the chord of said arc having a length of 54.83 feet, and a bearing of South 61 degrees, 32 minutes, 37 seconds east; thence North 89 degrees, 58 minutes, 49 seconds East 25.91 feet; thence North 00 degrees, 01 minutes, 11 seconds West 46.57 feet; thence North 89 degrees, 58 minutes, 49 seconds East 294.22 feet; thence North 00 degrees, 01 minutes, 48 seconds West 20.28 feet; thence North 89 degrees, 58 minutes, 12 seconds East 9.65 feet; thence South 00 degrees, 01 minutes, 48 seconds East 10.15 feet; thence South 89 degrees, 58 minutes, 12 seconds West 1.96 feet; thence South 00 degrees, 01 minutes, 48 seconds East 152.09 feet; thence South 45 degrees, 01 minutes, 48 seconds East 12.73 feet; thence South 00 degrees, 01 minutes, 48 seconds East 7.00 feet; thence North 89 degrees, 58 minutes, 12 seconds East 20.18 feet; thence North 00 degrees, 01 minutes, 48 seconds West 3.08 feet; thence North 89 degrees, 58 minutes, 12 seconds East 24.38 feet; thence North 00 degrees, 01 minutes, 48 seconds West 21.40 feet; thence North 89 degrees, 58 minutes, 12 seconds East 10.90 feet; thence North 00 degrees, 01 minutes, 48 seconds West 349.03 feet; thence North 89 degrees, 58 minutes, 12 seconds East 226.45 feet; thence South 00 degrees, 01 minutes, 48 seconds East 44.97 feet; thence North 89 degrees, 58 minutes, 12 seconds East 20.75 feet to a point on the East line of Lot 65 in said C. A. Goelz's Arlington Heights Gardens; thence South 00 degrees, 01 minutes, 48 seconds East along the East line and the East line extended of said Lots 61, 62, 63, 64 and 65, a distance of 492.59 feet; thence South 89 degrees, 58 minutes, 12 seconds West 204.61 feet; thence North 00 degrees, 01 minutes, 48 seconds West 0.33 feet; thence South 89 degrees, 58 minutes, 12 seconds West 42.65 feet; thence North 00 degrees, 01 minutes, 48 seconds West 94.86 feet; thence South 89 degrees, 58 minutes, 12 seconds West 10.96 feet; thence North 00 degrees, 01 minutes, 48 seconds West 39.80 feet; thence South 89 degrees, 58 minutes, 12 seconds West 24.32 feet; thence North 00 degrees, 01 minutes, 48 seconds West 3.08 feet; thence South 89 degrees, 58 minutes, 12 seconds West 20.18 feet; thence South 00 degrees, 01 minutes, 48 seconds East 7.00 feet; thence South 44 degrees, 58 minutes, 12 seconds West 12.73 feet; thence South 00 degrees, 01 minutes, 48 seconds East 121.74 feet; thence South 89 degrees, 58 minutes, 12 seconds West 13.03 feet; thence South 00 degrees, 01 minutes, 48 seconds East 22.80 feet; thence South 89 degrees, 58 minutes, 12 seconds West 305.66 feet; thence South 42 degrees, 11 minutes, 49 seconds West 62.50 feet to the place of beginning in Cook County,

EXHIBIT "A"
Legal Description

Illinois.

Parcel 2:

Part of Lots 62 and 63 in C. A. Goelz's Arlington Heights Gardens, a subdivision in the Northeast 1/4 of Section 20, Township 42 North, Range 11, East of the Third Principal Meridian, registered March 13, 1928 as Document No. LR396997; also part of vacated Prairie Avenue (33 feet wide) and vacated Lillian Avenue (66 feet wide), vacated according to ordinance recorded December 13, 1988 as Document No. 88576174, described as follows:

Commencing at the Northwest corner of said Lot 63; thence South 89 degrees, 42 minutes, 11 seconds East along the North line of said Lot 63, a distance of 32.74 feet to the point of beginning; thence South 00 degrees, 01 minutes, 48 seconds East 90.01 feet; thence South 89 degrees, 58 minutes, 12 seconds West 10.90 feet; thence South 00 degrees, 01 minutes, 48 seconds East 21.40 feet; thence South 89 degrees, 58 minutes, 12 seconds West 24.38 feet; thence South 00 degrees, 01 minutes, 48 seconds East 3.08 feet; thence South 89 degrees, 58 minutes, 12 seconds West 20.18 feet; thence North 00 degrees, 01 minutes, 48 seconds West 7.00 feet; thence North 45 degrees, 01 minutes, 48 seconds West 12.73 feet; thence North 00 degrees, 01 minutes, 48 seconds West 152.09 feet; thence North 89 degrees, 58 minutes, 12 seconds East 64.46 feet; thence South 00 degrees, 01 minutes, 48 seconds East 53.60 feet to the place of beginning, in Cook County, Illinois.

Parcel 3:

Part of Lots 61 and 62 in C. A. Goelz's Arlington Heights Gardens, a subdivision in the Northeast 1/4 of Section 20, Township 42 North, Range 11, East of the Third Principal Meridian, registered March 13, 1928 as Document No. LR396997; also part of vacated Prairie Avenue (33 feet wide) vacated according to ordinance recorded December 13, 1988 as Document No. 88576174, described as follows:

Commencing at the Northwest corner of said Lot 61; thence South 89 degrees, 41 minutes, 51 seconds East along the North line of said Lot 61, a distance of 32.71 feet to the point of beginning; thence South 00 degrees, 01 minutes, 48 seconds East 80.29 feet; thence South 89 degrees, 58 minutes, 12 seconds West 64.46 feet; thence North 00 degrees, 01 minutes, 48 seconds West 121.74 feet; thence North 44 degrees, 58 minutes, 12 seconds East 12.73 feet; thence North 00 degrees, 01 minutes, 48 seconds West 7.00 feet; thence North 89 degrees, 58 minutes, 12 seconds East 20.18 feet; thence South 00 degrees, 01 minutes, 48 seconds East 3.08 feet; thence North 89 degrees, 58 minutes, 12 seconds East 24.32 feet; thence South 00 degrees, 01 minutes, 48 seconds East 39.80 feet; thence North 89 degrees, 58 minutes, 12 seconds East 10.96 feet; thence South 00 degrees, 01 minutes, 48 seconds East 14.57 feet to the place of beginning, in Cook County, Illinois.

Parcel 4:

Non-exclusive easements for the benefit of parcels 1, 2 and 3 as described and created by Construction, Operation and Reciprocal Easement Agreement dated June 13, 2020 made by and between 600 Rand Rd, LLC, an Illinois limited liability company, MJR/Southpoint Real Estate Holding Company, LLC, an Illinois limited liability company, TJ Chicago Properties, LLC, an Illinois limited liability company, Nare Southpoint, LLC, an Illinois limited liability company corporation, Ron B. Wynn Living Trust dated December 10, 2013, and Konvin Associates Limited Partnership, an Illinois limited partnership. recorded as document number 2017608084, in Cook County, Illinois.

EXHIBIT "A"
Legal Description

Parcel 5:

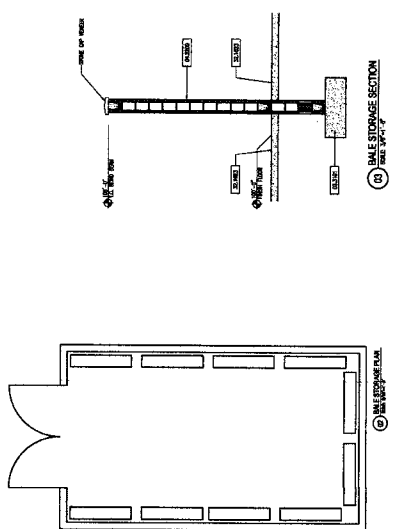
Non-exclusive easement set forth in Plat of Subdivision recorded as document 27090321, for ingress and egress, over so much of that part of the Land designated "Access Easement" on said Plat, (except therefrom those portions that were vacated by Plat of Easement Vacation recorded as document 95498113 and also excepting therefrom any portion falling within Parcel 1 herein).

Parcel 6:

Non-exclusive easement set forth in Plat of Subdivision recorded as document 27090321, for utilities, over so much of that part of the Land designated as "Private Utility Easement" on said Plat, (except therefrom those portions that were vacated by Plat of Easement Vacation recorded as document 95498113).

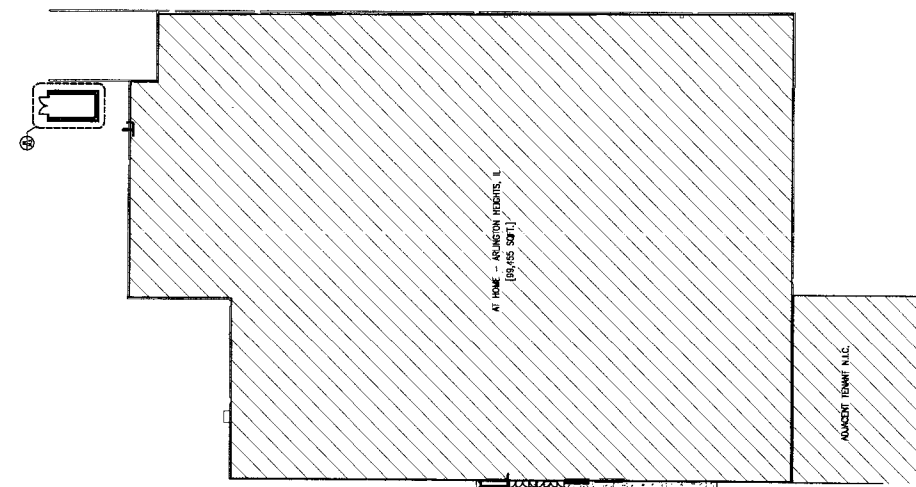
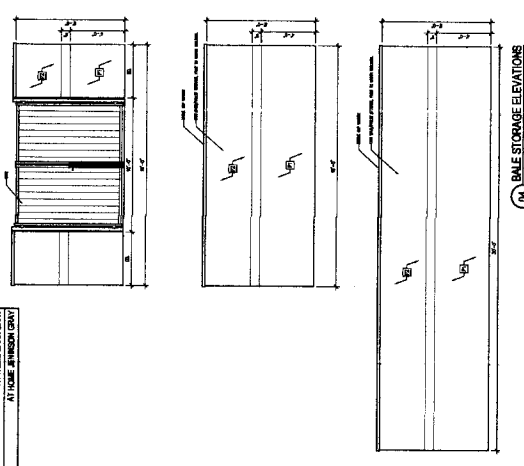
Parcel 7:

Non-exclusive easement set forth in Plat of Subdivision recorded as document 27090321, for private water main, over so much of that part of the Land designated as "Private Water Main Easement" on said Plat, (except therefrom those portions that were vacated by Plat of Easement Vacation recorded as document 95498113) in Cook County, Illinois.



FINISH SCHEDULE

FINISH	AT HOME DINK GRANT	AT HOME #WINDOW GRANT
FINISH		



AT HOME
750 E. RAND ROAD
ARLINGTON HEIGHTS, IL 60004

STORE NUMBER: 327
CST NUMBER: 440-20011

03.22.2022

REV. DESCRIPTION
DATE
BY

DATE
BY



01 MECHANICAL FLOOR PLAN
1/16"=1'-0"

01 MECHANICAL FLOOR PLAN
1/16"=1'-0"

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01 MECHANICAL FLOOR PLAN
1/16"=1'-0"

- ENLARGED MECHANICAL PLAN NOTES**
- 1. FLOOR DRAINAGE SHALL BE TO ROOF STRUCTURE.
 - 2. PROVIDE 4" DIA. 40' CONNECTION TO DUCT FROM ROOF DRAINAGE.
 - 3. EXISTING MECHANICAL EQUIPMENT SHALL BE 12" ABOVE FLOOR FINISH PROVIDE 12" MIN. CLEARANCE TO TOP OF EQUIPMENT.
 - 4. PROVIDE 12" MIN. CLEARANCE TO TOP OF EQUIPMENT.
 - 5. PROVIDE 12" MIN. CLEARANCE TO TOP OF EQUIPMENT.
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 - 10. PROVIDE 12" MIN. CLEARANCE TO TOP OF EQUIPMENT.
 - 11. PROVIDE 12" MIN. CLEARANCE TO TOP OF EQUIPMENT.
 - 12. PROVIDE 12" MIN. CLEARANCE TO TOP OF EQUIPMENT.
 - 13. PROVIDE 12" MIN. CLEARANCE TO TOP OF EQUIPMENT.
 - 14. PROVIDE 12" MIN. CLEARANCE TO TOP OF EQUIPMENT.
 - 15. PROVIDE 12" MIN. CLEARANCE TO TOP OF EQUIPMENT.
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 - 19. PROVIDE 12" MIN. CLEARANCE TO TOP OF EQUIPMENT.
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ARLINGTON HEIGHTS, IL

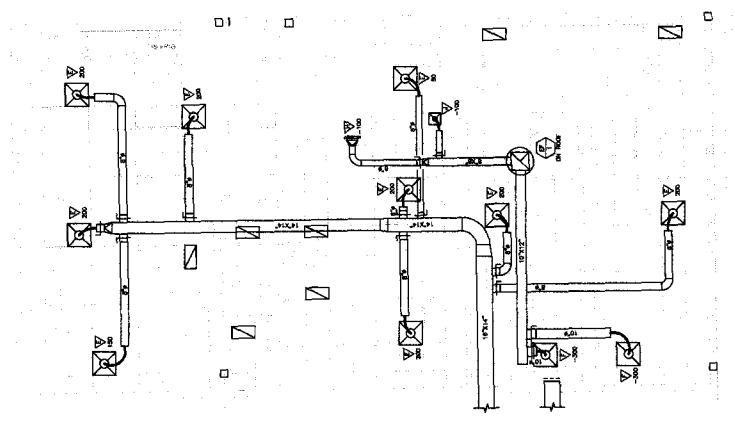
750 E. RAND ROAD

DRAWING ISSUES:
NO FIELD
CONSTRUCTION

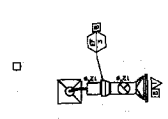
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ENLARGED
MECHANICAL PLANS

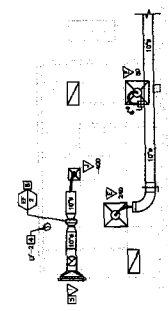
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03 OFFICES AND RESTROOM MECHANICAL PLAN



01 L ROOM MECHANICAL PLAN



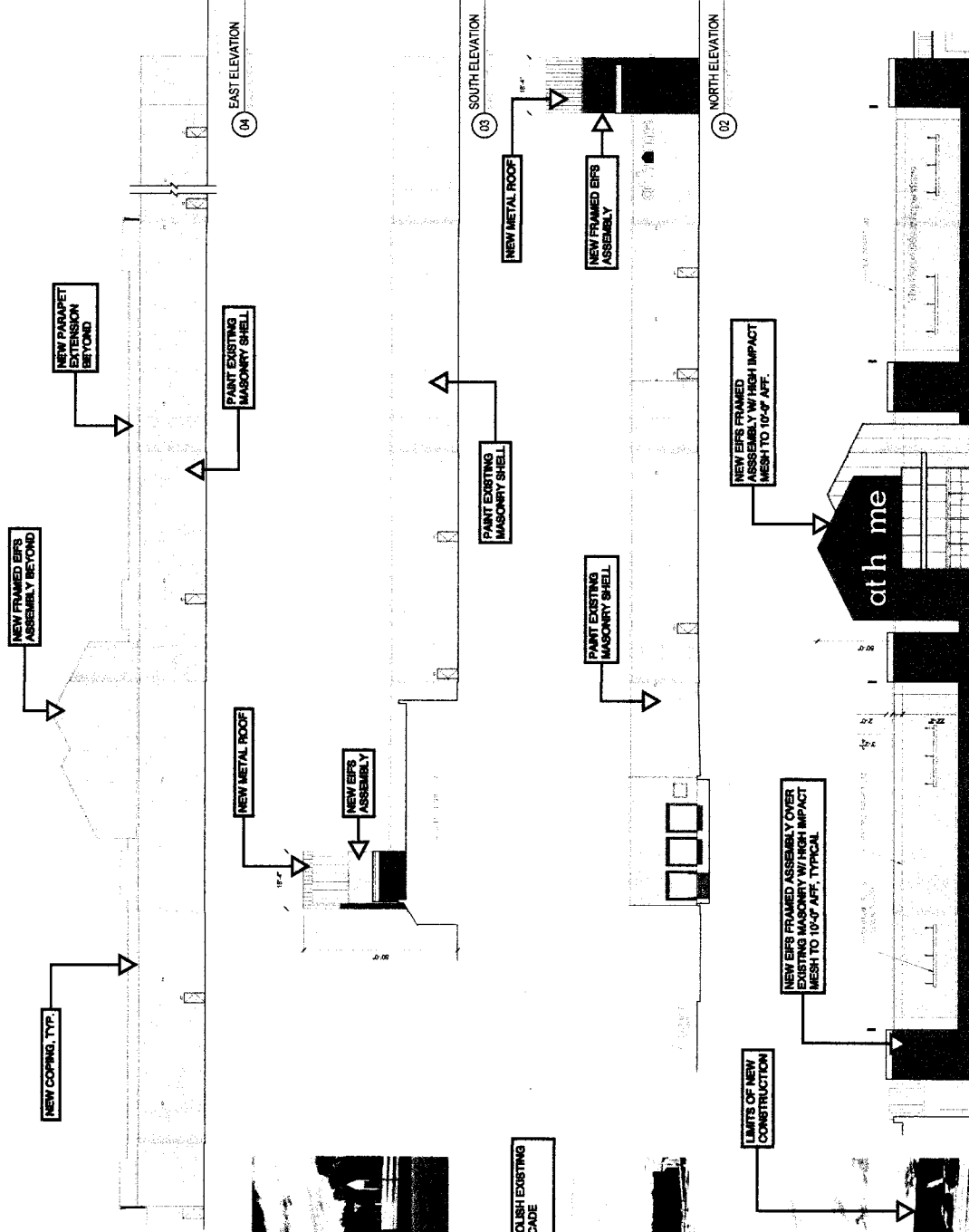
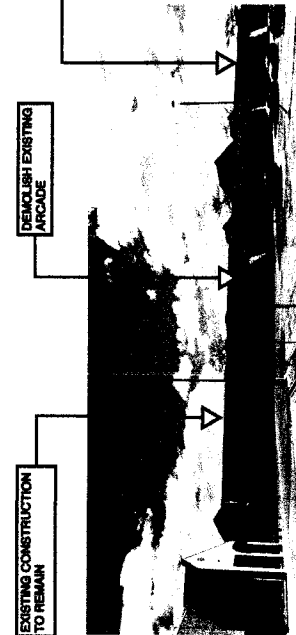
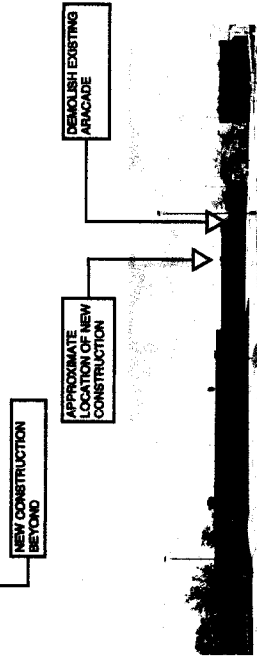
02 COUNT ROOM MECHANICAL PLAN

04 PLUMBING RISER - WATER
1/2" = 1'-0"

The following information was obtained from the review of the records of the Department of Social Services, Division of Child Welfare, dated July 1, 1964:

FINISH SCHEDULE

STOREFRONT	ANOD. ALUM. FINISH
BRAKE METAL TRIM	ANOD. ALUM. FINISH
METAL COPING	SHASTA WHITE BY BERRIDGE
EFS W/ SAND FINISH	AT HOME DARK GRAY
EFS W/ SAND FINISH	AT HOME JENINSON GRAY
EFS W/ SAND FINISH	AT HOME GREEK VILLA
GLAZING	LOW-E VISION GLASS
PAIN	AT HOME DARK GRAY
PAIN	AT HOME JENINSON GRAY
PAIN	AT HOME GREEK VILLA
METAL ROOFING	ZINC GREY BY BERRIDGE
METAL ROOFING	SHASTA WHITE BY BERRIDGE



AT HOME
750 East Rand Rd.
Arlington Heights, Illinois, 60004

REV DESCRIPTION DATE
DESIGN COMMISSION SUBMITTAL 02.22.22
INITIAL REVIEW COMMENTS 03.29.22



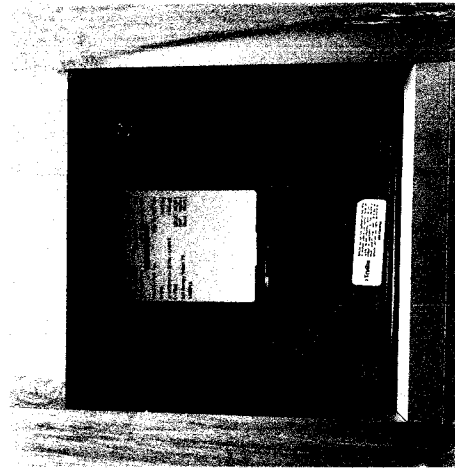
STORE NUMBER: 4327
CSD NUMBER: 440 13007

At Home: Digital Material Board

MATERIALS NOT SHOWN BUT PROVIDED BY LANDLORD

- HVAC: BY LANDLORD
- Roof: BY LANDLORD
- LIGHTING: AS REQUIRED

STOREFRONT:



STANDING SEAM METAL ROOFING :
SHASTA WHITE



STANDING SEAM METAL ROOFING :
ZINC GRAY



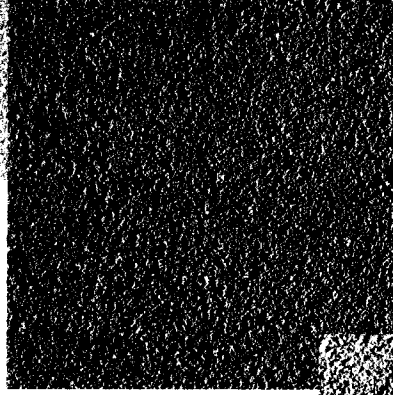
BRICK EXISTING TO REMAIN



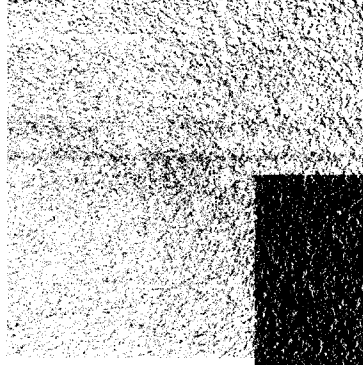
At Home Greek Villa
EFIS sample



At Home Dark Grey
EFIS sample



At Home Jenison Gray
EFIS sample



P R O P O S E D E X T E R I O R M A T T E R I A L S



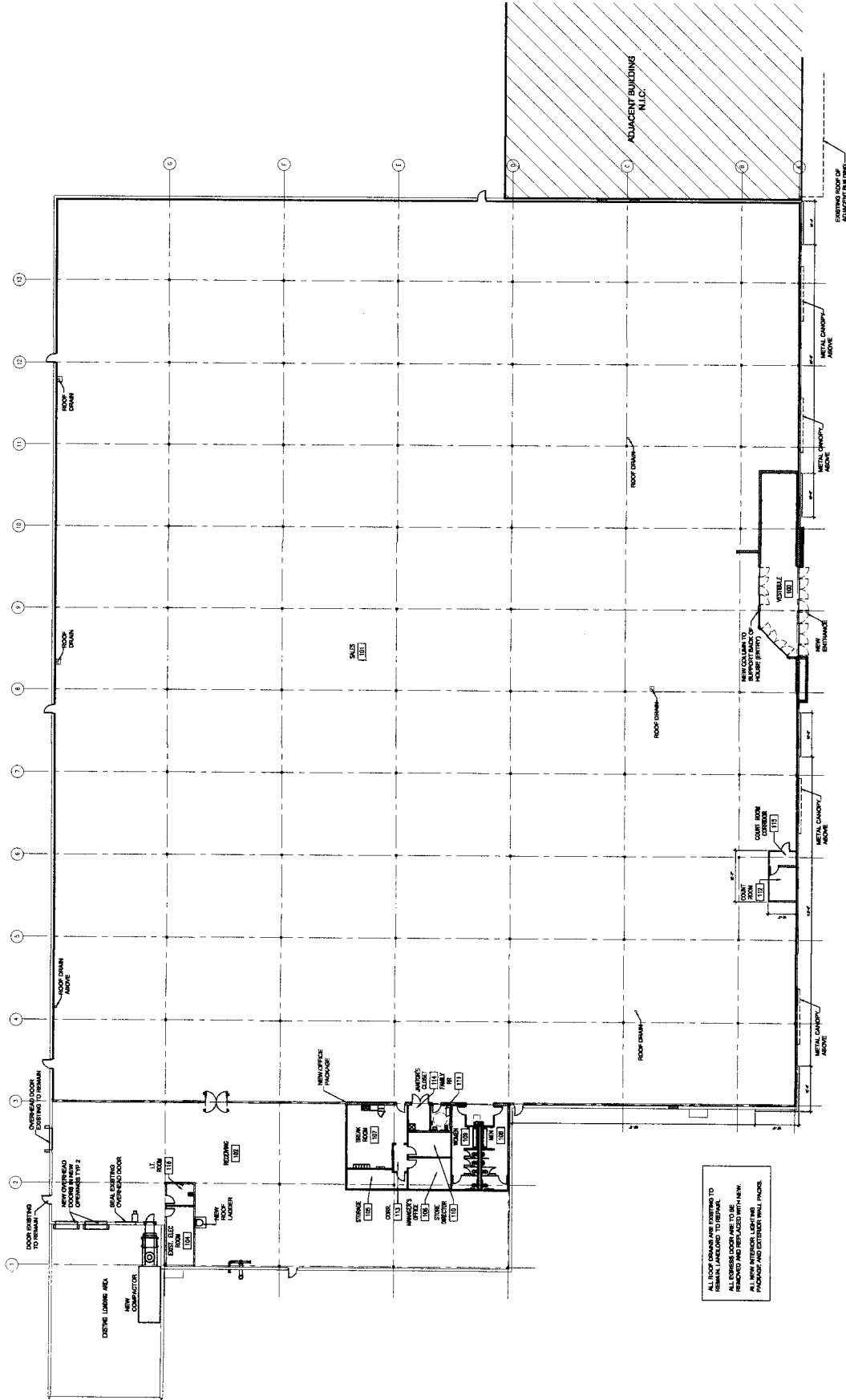
REV	DESCRIPTION	BY	DATE
01	DIGITAL MATERIAL BOARD		12.22.22



AT HOME
750 E. RAND ROAD
ARLINGTON HEIGHTS, IL 60004

FIGURE NUMBER: 107
CSD NUMBER: 1903.200411

12.22.2022





AT HOME
750 E. RAND ROAD
ARLINGTON HEIGHTS, IL 60004

02.22.2022

PROJECT NUMBER: 307
 CNO NUMBER: 0403.3811

CORE STATES

DATE: 02.22.2022
 BY: [Signature]
 CHECKED: [Signature]
 APPROVED: [Signature]

PROPOSED FLOOR PLAN

DATE: 02.22.2022
 BY: [Signature]
 CHECKED: [Signature]
 APPROVED: [Signature]

DATE: 02.22.2022
 BY: [Signature]
 CHECKED: [Signature]
 APPROVED: [Signature]

NEW ROOF BY JAMES OWEN
ALL ROOF DRAINAGE ARE EXISTING TO REMAIN.
JAMES OWEN LTD. REMOVED



REQUIRED ADA SPACES	0
PROPOSED ADA SPACES	0

K. PROPOSED ADA PARKING SIGN.

I. PROPOSED CUSTOMER PICK-UP LANE SIGN.
J. PROPOSED STAMPED CONCRETE PEDESTRIAN CROSSING K.
K. PROPOSED ADA PARKING SIGN.

EXHIBIT D

SCHEDULE OF TIF-ELIGIBLE COSTS

Architectural & Engineering	\$85,000
Asbestos Removal	\$115,000
Roof Replacement	\$627,000
Parking Lot Improvements	<u>\$473,000</u>
<u>Total</u>	<u>\$1,300,000</u>

Southpoint Shopping Center Redevelopment
Arlington Heights, IL

Acquisition & Hold Costs

Acquisition Costs	\$	1,055,774	
Real Estate Taxes	\$	669,400	<i>2 Years</i>
Other Prop Op Costs	\$	212,668	<i>Thru 3/31/22</i>
Est. Prop Op Costs until At Home Rent Commencement	\$	175,000	
Interest Carry on Financing	\$	520,000	
Sub-Total	\$	2,632,842	

Soft & Hard Construction Costs

Architectural & Engineering	\$	95,000	
Legal Fees	\$	55,000	
Leasing Commissions	\$	420,000	
Miscellaneous Costs	\$	230,000	
Development Fee	\$	221,894	
HVAC	\$	275,000	
Lot Landscaping	\$	30,000	
Monument Sign	\$	75,000	
Parking Lot	\$	675,000	
Parking Lot Lights	\$	45,000	
RIRO Access	\$	100,000	
Roof	\$	642,000	
Façade Renovation Allowance	\$	650,000	<i>At Home completing Façade, Asbestos, & Interior Demo</i>
Tenant Improvement Allowance	\$	550,000	
Asbestos	\$	-	<i>Reimbursing At Home through TI</i>
Demo	\$	-	<i>Reimbursing At Home through TI</i>
Utility & Fire Alarm Split - New	\$	100,000	
Subtotal:	\$	4,163,894	
Total Project Costs*	\$	6,796,736	

November 5, 2021- Final Signed LOI

RPS Arlington
4921 Centre Pointe Drive
Suite 300
North Charleston, SC 29418

RE: 730 E. Rand Road, Arlington Heights, IL 60004

Dear Charles:

This is a proposal to lease the former BIF Furniture property located in Arlington Heights, IL subject to the following terms and conditions.

1. PARTIES: The parties to the transaction shall be RPS Arlington ("Landlord") and At Home Stores LLC, a Delaware limited liability company ("Tenant").
2. DEMISED PREMISES: Landlord shall lease to Tenant the premises consisting of a 100,501 square foot building ("Building"); the land underneath the Building; and all site improvements to be used for parking, ingress, and egress to public roads and other purposes ("Common Areas") as depicted on the attached site plan identified as Exhibit B ("Demised Premises").
3. STREET ADDRESS: 730 E. Rand Road, Arlington Heights, IL 60004
4. TERM: Tenant shall have a ten (10) year term ("Primary Term") from Rent Commencement Date.
5. OPTIONS: Tenant shall have three (3) successive five (5) year options ("Options") to extend the term of the lease by providing Landlord a six (6) month written notice of its intent to exercise.
6. RENT: Tenant shall pay Landlord the following annual fixed NNN rent during the Primary Term and Options ("Rent").

a.	Primary Term:	\$703,507	NNN
b.	1st Option:	\$759,787	NNN
c.	2nd Option:	\$820,570	NNN
d.	3rd Option:	\$886,216	NNN
7. LEASE COMMENCEMENT DATE: Upon the Delivery Date as defined below.
8. RENT COMMENCEMENT DATE: The payment of Rent and all other obligations under the lease shall commence the earlier of: (i) the grand opening of Tenant's store to the public, or 120 days after Tenant accepts possession of the Demised Premises in the condition required herein (defined in Article 10); and (ii) after substantial completion of Landlord's Work (defined in Article 11). Interior demolition to be completed by Tenant along with any abatement work.

9. DELIVERY DATE: Landlord shall deliver exclusive possession of the Demised Premises to Tenant no later than Q1 2022 ("Delivery Date").
10. DELIVERY CONDITIONS: Tenant's acceptance of the Demised Premises from Landlord shall be conditioned upon the: (i) substantial completion of Landlord's Work; (ii) delivery of the Demised Premises in compliance with all laws, regulations, codes, ordinances including but not limited to and the American's with Disabilities Act; (iii) delivery of the Building in a water tight condition and in good condition and repair; (iv) delivery of all building mechanical systems in good condition and repair; (v) delivery of the parking lot and site utilities in good condition and repair; (vi) receipt of Landlord's approval of Tenant's construction plans; (vii) receipt of all required third party approvals; (viii) receipt of an executed subordination, non-disturbance and attornment agreement from Landlord's lender(s) [and the primary landlord], if applicable, (ix) receipt of a building permit and all other required governmental and quasi-governmental permits and approvals; (collectively, "Delivery Conditions"). Tenant shall assume no liability for pre-existing environmental conditions or environmental conditions continuing and related to a pre-existing condition other than asbestos abatement if applicable.
11. LANDLORD'S WORK: Landlord shall deliver the Demised Premises to Tenant with the substantial completion of all work set forth on EXHIBIT A and in a broom clean condition ("Landlord's Work"). Landlord's Work shall be completed on or before the Delivery Date. Landlord to entitle and install a right in right out into the property from Rand Road if approved by the Village of Arlington Heights and Illinois Department of Transportation.
12. TENANT'S WORK: Tenant accepts delivery of the Demised Premises "As-Is", subject to substantial completion of Landlord's Work and the fulfillment of the Delivery Conditions. Tenant shall complete all work required to open the Building as a typical At Home store pursuant to Tenant's Plans ("Tenant's Work") and Landlord agrees to cooperate with Tenant in applying for and obtaining any required permits and approvals. At the end of the lease all Tenant improvements shall belong to the Landlord and all furniture, fixtures and equipment provided and installed by Tenant shall remain property of the Tenant.
13. TENANT'S PLANS: Tenant shall provide Landlord with a copy of its construction plans outlining in detail Tenant's Work ("Tenant's Plans") to the Building and Common Areas, if applicable. Landlord shall have fifteen (15) business days after receipt to approve or reject Tenant's Plans with detailed comments.
14. REPAIRS: During the term of the lease (and any extensions thereof), Landlord and Tenant shall have the responsibility to maintain and repair the Demised Premises as follows:
 - a. Landlord shall be responsible for maintaining, repairing and replacing the:
 - i. Structural portions of the Shopping Center, the Demised Premises, and the structural components of the Building, including but not limited to the interior and exterior walls, foundation systems and all other structural components;
 - ii. Building roof, roof insulation, and roof deck;

- iii. Utilities to the point that they enter the Building; and
 - b. Tenant shall be responsible for maintaining and repairing all items not reserved for the Landlord.
15. COMMON AREA MAINTENANCE: Landlord shall maintain, repair and replace all Shopping Center common areas in a manner similar to comparable shopping centers.. Tenant shall maintain and repair the Common Areas and Parking lot contained within the Demised Premises in a manner and Tenant shall contribute to the upkeep of the common areas of the shopping center. Controllable Expenses not to exceed 0.75 per square foot (\$75,375 per year)
 16. REAL ESTATE TAXES: Tenant shall pay all real estate taxes attributable to the Demised Premises as set forth in a separate tax parcel. Real Estate Taxes are currently estimated at \$2.25 psf.
 17. INSURANCE: Tenant shall add the Demised Premises to its existing blanket insurance policy and keep in place a general liability policy naming the Landlord as an additional insured and shall make no other contribution toward Building property damage insurance or Shopping Center common area liability insurance. To be further discussed in the lease with input from risk management.
 18. UTILITIES: Landlord shall provide separately metered utilities to the Demised Premises and Tenant shall pay all charges for those utilities furnished to the Demised Premises during Primary Term and Options.
 19. SIGNAGE: Tenant shall be entitled to install its standard signage package on the Building subject only to governmental approvals. Tenant shall also have the right to install its sign panel in the location and on all pylon and monument signs which contained a BIF Furniture sign subject only to approval from governmental authorities. Tenant to have top billing on three existing monument signs – two on Rand Road and one on Palatine Road. Landlord to install a single tenant pylon sign fronting Rand Road for Tenant's exclusive use if approved by the Village of Arlington Heights. Signage is a contingency of deal.
 20. FAÇADE: Intentionally Deleted. See Work Exhibit
 21. BROKERAGE COMMISSION: Landlord and Tenant acknowledge that other than Adam Cody of JLL and RealtyLink Commercial (the "Brokers"), no other brokers, agents or other parties are due a brokerage commission or fee as a result of this transaction. Landlord shall be responsible for paying any and all fees owed to the Broker pursuant to the terms of a separate brokerage agreement between Landlord and Broker.
 22. CONFIDENTIALITY: Landlord and Tenant shall keep the matters concerning this proposal and its negotiation confidential and not disclose any material information to third parties.
 23. PARKING RATIO: The Shopping Center and Demised Premises shall at all times maintain a minimum parking ratio of 4 parking spaces for each 1,000 square feet of building floor area or greater, if required by local zoning ordinances. Outlots

shall be self-parked and all retail and offices uses located in outlots shall maintain a minimum parking ratio of 5 spaces for each 1,000 square of building floor area.. All inline and outlot restaurants shall maintain a minimum parking ratio of: (i) 10 to 1 if 5,000 square feet of building floor area or less; (ii) 15 to 1 if >5,000 – 7,000 square feet building floor area; and (iii) 20 to 1 if >7,000 square feet of building floor area.

24. SITE PLAN RESTRICTIONS: All Shopping Center buildings, including outlots, shall be placed within permissible building areas and shall meet the minimum parking ratio requirements outlined herein. Outlot buildings shall: (i) not exceed one storey and 25' in height, (ii) not contain more than one occupant, and (iii) self maintain their common areas. No inline restaurant shall be located within 300 feet of the At Home building and no theatre, health spa or gym shall be located within 1000 feet of the At Home building. This term shall only apply to areas owned and controlled by the Landlord. Arlington RPS only controls the Demised Premises.
25. TENANT RENT CREDIT: Landlord acknowledges that Tenant must make improvements to the Demised Premises prior to occupying the Building and using the Common Areas. In consideration for Tenant improving the Demised Premises Landlord shall waive Rent during the first 6 months of the Primary Term but not Additional Rent.
26. TENANT IMPROVEMENT ALLOWANCE: Landlord shall pay to Tenant an allowance in the amount of \$550,000 to offset the costs Tenant will incur in improving the Demised Premises for its occupancy ("Tenant Improvement Allowance"). The Tenant Improvement Allowance shall be paid to Tenant as follows: (i) 50% after a lease agreement is fully executed, all contingencies are waived, and Tenant receives its building permit; and (ii) 50% after Tenant opens for business to the public and provides Landlord with a copy of its final or temporary certificate of occupancy and all standard documentation evidencing the completion and payment of Tenant's Work.
27. CO-TENANCY REQUIREMENTS: Intentionally Deleted
28. OPTION TO TERMINATE: Tenant shall have a one time option to terminate the lease if Tenant's store sales for the 79th month thru the 90th month of the Primary Term do not exceed \$8,100,000.00. Tenant may exercise the option by delivering written notice to landlord at any time during the 90th month thru the 91st month of the Primary Term ("Termination Notice"). If Tenant exercises the option, the lease shall terminate and Tenant shall vacate the Demised Premises no later than last day of the next February ("Lease Termination Date") after Landlord's receipt of the Termination Notice. Tenant shall be responsible for the payment of rent and other charges under the lease thru the Lease Termination Date.
29. NON-BINDING- Landlord and Tenant each acknowledge that a transaction of this type involves terms and conditions which have not yet been agreed upon and that this letter is in no way intended to be a complete or definitive statement of all of the terms and conditions of the proposed transaction, but contemplates and is subject to the negotiation and execution of a lease and other legal agreements. Landlord and Tenant further acknowledge that they are both expending time and money on this transaction at their own risk. Neither Landlord or Tenant shall be legally bound

in any manner unless and until approval of the terms set forth in this letter have been obtained from Tenant's real estate committee, board of directors and the lease and all related legal agreements have been executed and delivered by both parties. Notwithstanding the previous sentence, both parties agree that Article #22 shall be a binding agreement.

Time is of the essence, therefore this letter shall remain open until November 1, 2021 at 5:00 pm Central Standard Time. If both parties hereto do not execute the letter by this time, the letter shall become null and void and neither party shall have any further obligations to one another hereunder except for Article #22 above.

Sincerely,

Tenant: At Home Stores LLC

By: Carolyn Glover

Name: Carolyn Glover

Its: Real Estate Director

Dated: 12-6-21

Landlord: RPS Arlington

By: Phillips

Name: Scott Phillips

Its: Manager

Dated: 11/5/21

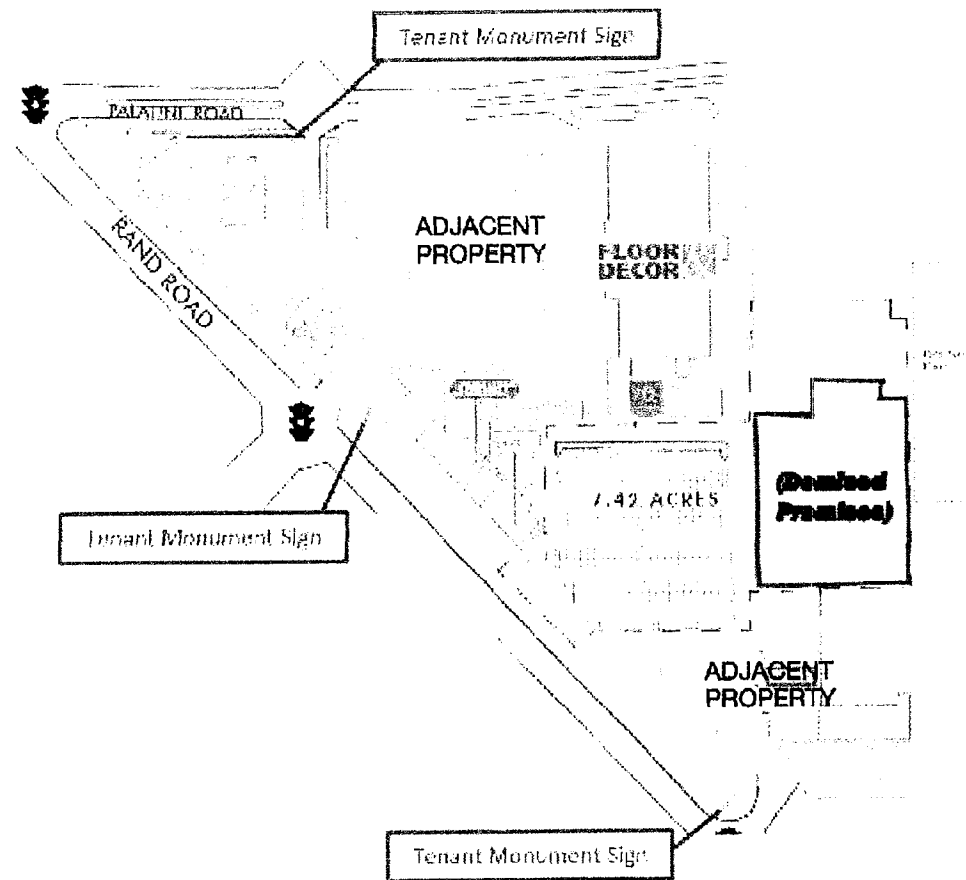
cc: Dean M. Zurmely

Exhibit A "Landlord's Work"

- Landlord shall replace the roof, HVAC system and the parking lot.
- Split the following systems and provide Tenant with separate utility meters.
 - Fire protection system
 - *Electrical system*
 - Water system
 - HVAC system
 - Site lighting and pylon sign systems
 - -
 - Façade- Landlord shall replace the existing building façade and improve to the Tenant's standard which includes increasing the façade's height. Tenant to approve final façade improvement design and elevations which are to be included in the lease. City approval of 50' "house" is a contingency of deal. LL is responsible for refacing/cleaning up the façade and doing all work outside of Tenant's "house" which Tenant shall construct. LL's work will include removing windows, canopies, etc to match Tenant's proposed elevation.

Right in Right Out – LL shall entitle and install a right in – right out to the premise from Rand Road. City approval of right in/right out will not be a contingency of deal.

- Pylon Signage – LL shall entitle and install a free standing pylong sign fronting Rand Road for Tenant's exclusive use. City approval of signage is a contingency of deal.



At Home Project Timeline

Project Start: 4/1/2022

Grand Opening: 11/11/2022

Project	Description	Start	Finish
Building			
Façade Modifications			
	Design Commission Review	4/12/22	4/12/22
	Submit Plans for Permit	4/13/22	5/13/22
	Construction Duration	5/16/22	8/5/22
Separate Utilities			
	Submit Plans for Permit	4/13/22	5/13/22
	Construction Duration	5/16/22	6/10/22
HVAC Replacement			
	Submit Plans for Permit	4/13/22	5/13/22
	Construction Duration	6/20/22	7/1/22
Roof Replacement			
	Submit Plans for Permit	4/13/22	5/13/22
	Construction Duration	7/11/22	7/22/22
Tenant			
Build-Out			
	Submit Plans for Permit	4/13/22	5/13/22
	Construction Duration	5/16/22	10/14/22
Fixturing			
	Submit Plans for Permit	4/13/22	5/13/22
	Construction Duration	10/17/22	11/4/22
Site/Civil			
Monument Signage			
	Design Commission Review	4/12/22	4/12/22
	Submit Plans for Permit	4/13/22	5/13/22
	Construction Duration	8/1/22	8/5/22
Curb Rework and Parking Lot			
	Design Commission Review	4/12/22	4/12/22
	Submit Plans for Permit	4/13/22	5/13/22
	Construction Duration	7/25/22	8/12/22
Right-In/Right-Out			
	Submit Plans for Permit	6/1/22	6/15/22
	Construction Duration	7/18/22	8/12/22

AT HOME PROJECT TIMELINE

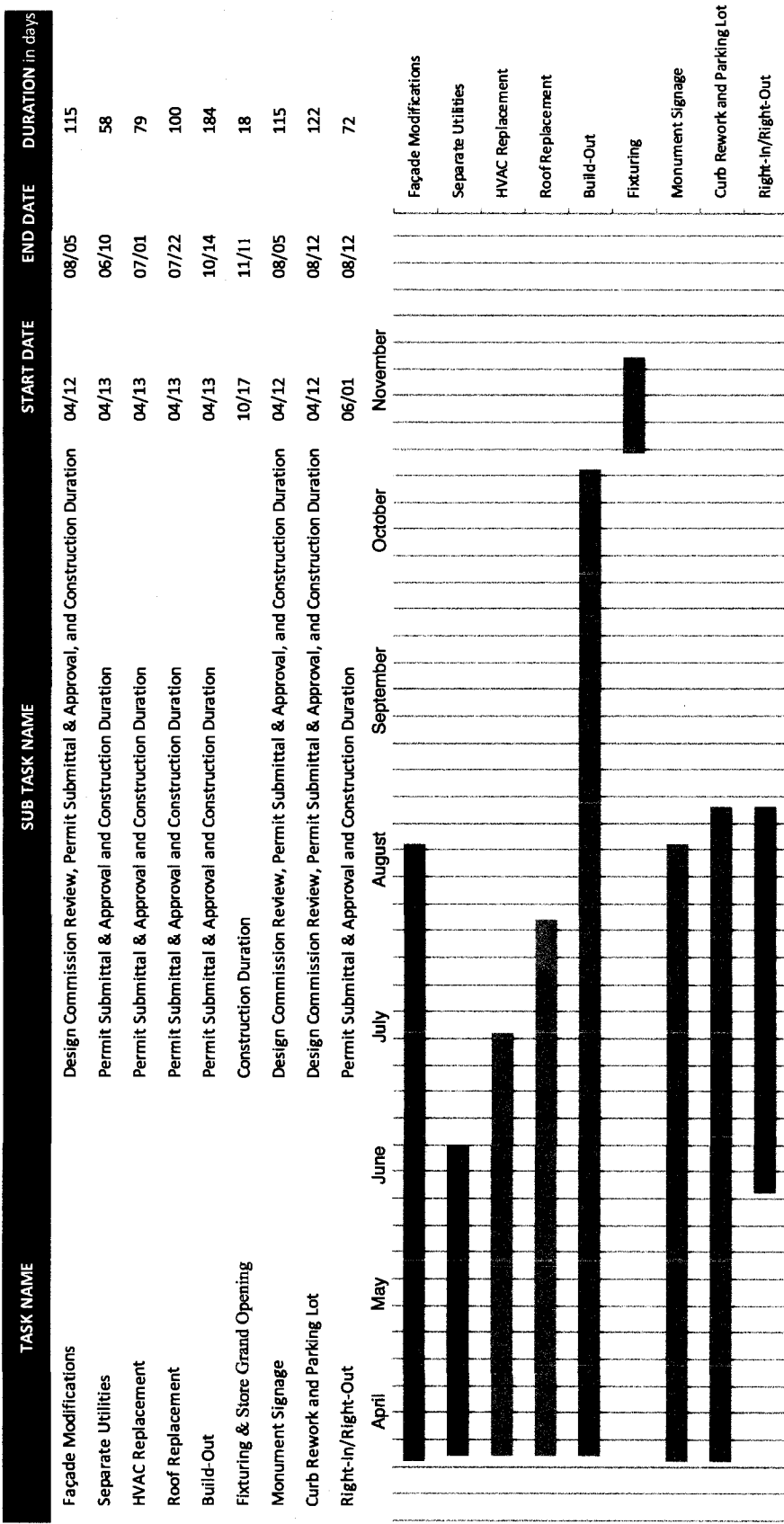


EXHIBIT H

CERTIFICATE OF EXPENDITURE

To: Village of Arlington Heights
33 S. Arlington Heights Rd.
Arlington Heights, IL 60005
Attention: Village Manager

From: RPS Arlington, LLC ("**Developer**")

Subject: Redevelopment Agreement dated _____, 2022, by and between the Village of Arlington Heights and RPS Arlington, LLC ("**Redevelopment Agreement**")

Date: _____

This is a Certification Request, submitted pursuant to Section 8.C of the Redevelopment Agreement, requesting the Manager to approve this certificate of expenditure for 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. Reimbursement is permitted pursuant to the Redevelopment Agreement, the TIF Act, and the Redevelopment Plan;
- iv. The Developer is not in default or breach of any obligation under the Redevelopment Agreement which constitutes an Event of Default; and
- v. An Anchor Tenant has commenced occupancy and operations in the Building, in satisfaction of the Redevelopment Agreement.

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

RPS Arlington, LLC

By: _____

Its: _____

ATTACHMENTS TO CERTIFICATION OF EXPENDITURE

- 1. Schedule of Redevelopment Project Costs**
- 2. Bills, contracts, invoices, and other evidence that Developer has incurred and paid all Redevelopment Project Costs**
- 3. Sworn statements and lien waivers**
- 4. Proof of Anchor Tenant occupancy and commencement of operations.**

EXHIBIT I

TRANSFEE ASSUMPTION AGREEMENT

THIS AGREEMENT is made as of this _____ day of _____, 202_, between the VILLAGE OF ARLINGTON HEIGHTS, an Illinois municipal corporation ("**Village**"), and RPS ARLINGTON, LLC, a Florida limited liability company ("**Developer**"), and _____ ("**Transferee**").

WITNESSETH:

WHEREAS, pursuant to that certain real estate sale contract dated _____, 20__, the Transferee agreed to purchase from Developer certain real property situated in Lake County, Illinois and legally described in **Exhibit 1** attached to and, by this reference, made a part of this Agreement ("**Property**"); and

WHEREAS, following the conveyance of the Property by Developer, the Transferee will be the legal owner of the Property; and

WHEREAS, as a condition to the conveyance of the Property by Developer, the Village and Developer require that the Transferee agree to comply with all the terms, requirements, and obligations set forth in that certain Development Agreement, dated as of _____, 202_, and recorded in the office of the Lake County Recorder on _____, 202_, as Document No. _____, by and between the Village and Developer ("**Development Agreement**");

NOW, THEREFORE, in consideration of the agreement of Developer to convey the Property to the Transferee, and of the Village to accept the transfer of obligations as provided herein and to grant the releases granted herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed by, between, and among the Village, Developer, and the Transferee as follows:

1. **Recitals**. The foregoing recitals are by this reference incorporated herein and made a part hereof as substantive provisions of this Agreement.

2. **Assumption of Obligations**. The Transferee, on its behalf and on behalf of its successors, assigns, heirs, executors, and administrators, hereby agrees, at its sole cost and expense, to comply with all of the terms, requirements, and obligations of the Development Agreement, including all exhibits and attachments thereto, regardless of whether such terms, requirements, and obligations are to be performed and provided by, or are imposed upon, Developer of the Property.

3. **Payment of Village Fees and Costs**. In addition to any other costs, payments, fees, charges, contributions, or dedications required by this Agreement, the Development Agreement or by applicable Village codes, ordinances, resolutions, rules, or regulations, the Transferee must pay to the Village, immediately upon presentation of a written demand or demands therefor, all legal, engineering, and other consulting or administrative fees, costs, and expenses incurred in connection with the negotiation, preparation, consideration, and review of this Agreement.

4. **Acknowledgment and Release of Developer.** The Village hereby acknowledges its agreement to the Transferee's assumption of the obligation to comply with the terms, requirements, and obligations of the Development Agreement, including all exhibits and attachments thereto, and the Village hereby releases Developer from any personal liability for failure to comply with the terms, requirements, and obligations of the Development Agreement.

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

ATTEST:

VILLAGE OF ARLINGTON HEIGHTS,
an Illinois municipal corporation

Village Clerk

By: _____
Its: Village Manager

ATTEST:

RPS ARLINGTON, LLC,
a Florida limited liability company

By: _____

By: _____

Its: _____

Its: _____

ATTEST:

[TRANSFeree]

By: _____

By: _____

Its: _____

Its: _____

Return to:
Village of Arlington Heights
Legal Department
33 S Arlington Heights Rd.
Arlington Heights, IL 60005

THIS SPACE FOR CLERK'S USE ONLY

**AN ORDINANCE APPROVING A TAX INCREMENT FINANCING
REDEVELOPMENT AGREEMENT BY AND BETWEEN
THE VILLAGE OF ARLINGTON HEIGHTS AND
MJR/SOUTHPOINT REAL ESTATE HOLDING COMPANY, LLC**

BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE
VILLAGE OF ARLINGTON HEIGHTS:

SECTION ONE: That a Tax Increment Financing Redevelopment Agreement between MJR/Southpoint Real Estate Holding Company, LLC, developer of property within the Southpoint Shopping Center located at 600 East Rand Road, Arlington Heights, Illinois, and the Village of Arlington Heights, a true and correct copy of which is attached hereto, be and the same is hereby approved.

SECTION TWO: The Village Manager and Village Clerk are hereby authorized and directed to execute said Agreement on behalf of the Village of Arlington Heights.

SECTION THREE: This Ordinance shall be in full force and effect from and after its passage and approval in the manner provided by law and shall be recorded by the Village Clerk in the Office of the Cook County Clerk.

AYES: BERTUCCI, GRASSE, SCHWINGBECK, TINAGLIA, CANTY, LABEDZ

NAYS: NONE

PASSED AND APPROVED this 6th day of September, 2022.

Rob. P. Labedz
Village President Pro-Tem

ATTEST:

Rebecca Hume
Village Clerk

AGRRES:TIF #5 Redevelopment Agreement MJR-Southpoint

2022-051

THIS DOCUMENT
PREPARED BY AND AFTER
RECORDING RETURN TO:

Hart M. Passman, Esq.
Elrod Friedman LLP
325 North LaSalle St.
Suite 450
Chicago, IL 60654

This Space for Recorder's Use Only

TAX INCREMENT FINANCING REDEVELOPMENT AGREEMENT

BY AND BETWEEN

THE VILLAGE OF ARLINGTON HEIGHTS

AND

MJR/SOUTHPOINT REAL ESTATE HOLDING COMPANY, LLC

(600 EAST RAND ROAD – SOUTHPOINT SHOPPING CENTER)

DATED AS OF September 6, 2022

**VILLAGE OF ARLINGTON HEIGHTS
TAX INCREMENT FINANCING REDEVELOPMENT AGREEMENT
(600 EAST RAND ROAD – SOUTHPOINT SHOPPING CENTER)**

THIS REDEVELOPMENT AGREEMENT ("**Agreement**") is made and entered into this 6 day of September 2022, by and between the **VILLAGE OF ARLINGTON HEIGHTS**, an Illinois home rule municipal corporation ("**Village**"), and **MJR/SOUTHPOINT REAL ESTATE HOLDING COMPANY, LLC**, an Illinois limited liability company ("**Developer**") (the Village and the Developer are, collectively, the "**Parties**").

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 Village and the Developer hereby agree as follows:

SECTION 1. RECITALS.¹

A. Pursuant to the TIF Act, the Village has undertaken a program to redevelop certain property within a designated portion of the Village, known as the Palatine and Rand Roads Redevelopment Project Area ("**Redevelopment Project Area**").

B. The Redevelopment Project Area encompasses a retail shopping mall commonly known as the Southpoint Shopping Center.

C. On February 7, 2005, the Corporate Authorities of the Village, after giving all notices and conducting all public hearings required by the TIF Act, adopted the following ordinances: (1) Ordinance No. 05-007, approving a Tax Increment Redevelopment Plan and Project for the Redevelopment Project Area, (2) Ordinance No. 05-008, designating the Redevelopment Project Area pursuant to the TIF Act, and (3) Ordinance No. 05-009, adopting Tax Increment Allocation Financing for the Redevelopment Project Area.

D. The Developer is the owner of the Property, which is located within the Southpoint Shopping Center, and within the Redevelopment Project Area.

E. The Property is improved with off-street parking facilities.

F. The Developer intends to construct two buildings on the Property, to be used for restaurant and retail uses (collectively, the "**Buildings**").

G. In connection with the Developer's undertaking of the Project within the Redevelopment Project Area, the Developer intends to enlarge a detention basin to serve the Property ("**Detention Basin**"), the costs of which are eligible for reimbursement pursuant to the TIF Act.

¹ All capitalized words and phrases throughout this Agreement have the meanings set forth in the preamble above and in Section 2 and the other provisions of this Agreement. If a word or phrase is not specifically defined in this Agreement, it has the meaning ascribed to it in the Zoning Code (as defined in Section 2 of this Agreement).

H. The Developer would not undertake the Project but for the benefit of certain tax increment financing to be provided by the Village in accordance with the terms set forth in this Agreement.

I. In order to serve the needs of the Village, produce increased tax revenues for the various taxing districts authorized to levy taxes on the Property, and stimulate and induce the redevelopment of the Southpoint Shopping Center, the Village has agreed to reimburse the Developer for one-half of the costs incurred in connection with the enlargement of the Detention Basin through property tax increment revenues, all in accordance with the terms and provisions of the TIF Act and this Agreement.

J. The Corporate Authorities of the Village, after due and careful consideration, have concluded that the redevelopment of the Property as provided for in this Agreement will further the growth of the Village, facilitate a portion of the redevelopment of the Redevelopment Project Area, improve the environment of the Village, increase the assessed valuation of the real estate situated within the Village, foster increased economic activity within the Village, increase employment opportunities within the Village, upgrade public infrastructure within a portion of the Redevelopment Project Area, and otherwise be in the best interests of the Village by furthering the health, safety, morals and welfare of its residents and taxpayers.

SECTION 2. DEFINITIONS; RULES OF CONSTRUCTION.

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

“Anchor Lease”: A lease agreement with an Anchor Tenant pursuant to the requirements described in Section 3.C of this Agreement.

“Anchor Tenants”: Each of: (1) Chipotle, or a comparable replacement food service tenant of comparable quality and credit rating, with comparable anticipated annual sales tax receipts, as determined and approved in advance and in writing by the Village Manager; and (2) AT&T, or a comparable replacement retail tenant of comparable quality and credit rating, with comparable anticipated annual sales tax receipts, as determined and approved in advance and in writing by the Village Manager.

“Certificate of Expenditure”: Defined in Section 7.C.1 of this Agreement.

“Corporate Authorities”: The President and Board of Trustees of the Village.

“Developer”: MJR/Southpoint Real Estate Holding Company, LLC, an Illinois limited liability company.

“Effective Date”: The date set forth in the first sentence on Page 1 of this Agreement.

“Exterior Perspectives Plan”: That certain Exterior Perspectives Plan prepared by Soos & Associates, Inc., consisting of one sheet, with a latest revision date of June 14, 2022, a copy of which is attached to this Agreement as **Exhibit B-2**.

“Events of Default”: Defined in Section 13 of this Agreement.

“Evidence of Lease Date”: The date on which the Village Clerk receives evidence deemed satisfactory in the sole discretion of the Village, that the Developer has entered into the Anchor Lease with an Anchor Tenant.

“Fund”: The special tax allocation fund established for the TIF District in accordance with the TIF Act and the TIF Approval Ordinances.

“Improvements”: The improvements to be made in connection with the development of the Property pursuant to the Project, as provided in Section 4 of this Agreement, including, without limitation, the improvements identified in the Project Development Plans.

“Incremental Property Taxes”: The ad valorem taxes, if any, arising from the taxes levied upon the Redevelopment Project Area, which taxes are attributable to the increases in the then current equalized assessed value of each taxable lot, block, tract, or parcel in the Property over and above the total initial equalized assessed value 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 Approval Ordinances, and this Agreement.

“Person”: Any corporation, partnership, 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.

“Property”: That certain tract of land, consisting of approximately 1.23 acres, commonly known as 600 East Rand Road, and legally described in **Exhibit A** attached to this Agreement.

“Project Commencement Date”: Defined in Section 5.B.1 of this Agreement.

“Project Completion Date”: Defined in Section 5.B.3 of this Agreement.

“Project Development Plans”: Collectively, those plans and specifications for the Project attached to this Agreement as **Group Exhibit B**.

“Public Improvements”: Those Improvements that will be dedicated to, and accepted by, the Village.

“Redevelopment Plan”: The redevelopment plan and project for the TIF District adopted pursuant to Village Ordinance No. 05-007.

“Redevelopment Project Costs”: All qualifying redevelopment project costs that are: (i) authorized and defined by the TIF Act (65 ILCS 5/11-74.4-3(q)) and included within the Redevelopment Plan; and (ii) incurred by the Developer to construct the Project.

“Requirements of Law”: All applicable federal, state, and Village laws, statutes, codes, ordinances, resolutions, rules and regulations, as well as judicial decisions and orders binding on the Parties or the Project.

“Site Plan”: That certain Site Plan prepared by Soos & Associates, Inc., consisting of one sheet, with a latest revision date of June 14, 2022, a copy of which is attached to this Agreement as **Exhibit B-1**.

“Site Restoration”: Site restoration and modification activities to establish a park-like setting suitable for passive outdoor recreational activities, including without limitation, demolition of partially constructed improvements and structures, regrading, erosion control, and installation of sod or seeding.

“Structure”: Defined in Section 28-3 of the Zoning Code.

“TIF”: Tax increment financing, as further defined and described in the TIF Act.

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

“TIF Approval Ordinances”: Village Ordinance No. 05-007, Ordinance No. 05-008, and Ordinance No. 05-009.

“TIF District”: The Palatine and Rand Roads Redevelopment Project Area, designated by the Corporate Authorities pursuant to Village Ordinance No. 05-008.

“TIF-Eligible Costs”: Redevelopment Costs that are eligible for reimbursement by the Village pursuant to this Agreement and the TIF Act, as further described in **Exhibit C** attached to this Agreement.

“Total Project Budget”: Exhibit D to this Agreement.

“Transferee Assumption Agreement”: Defined in Section 10.B.4 of this Agreement.

“Uncontrollable Circumstance”: Any of the following events and circumstances that are unforeseen and materially change the costs or ability of the Developer to carry out their obligations under this Agreement:

1. A change in the Requirements of Law;
2. Insurrection, riot, civil disturbance, sabotage, act of public enemy, explosion, nuclear incident, war, or naval blockade;
3. Epidemic, hurricane, tornado, landslide, earthquake, lightning, fire, windstorm, other extraordinary weather condition, or other similar act of God;
4. Governmental condemnation or taking; or
5. Strikes or labor disputes, other than those caused by the unlawful acts of the Developer, its partners, or affiliated entities.

Uncontrollable Circumstance does not include economic hardship, impracticability of performance, commercial, economic, or market conditions, a failure of performance by a contractor (except as caused by events which are Uncontrollable Circumstances as to the contractor), or any pandemic, epidemic, war, or labor dispute existing on the Effective Date of this Agreement.

“Village Attorney”: The duly appointed Village Attorney of the Village.

“Village Clerk”: The duly appointed Village Clerk of the Village.

“Village Code”: The Municipal Code of Arlington Heights, Illinois, 1995, as amended.

“Village Contribution”: Defined in Section 7.B.1 of this Agreement.

“Village Manager”: The duly appointed Village Manager of the Village or his or her designee, as appointed by the Village Manager.

“Zoning Code”: The 2002 Comprehensive Amendment of the Zoning Ordinance of the Village of Arlington Heights, as amended.

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” means 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.

SECTION 3. DEVELOPMENT, USE, OPERATION AND MAINTENANCE OF THE PROPERTY.

Notwithstanding any use or development right that may be applicable or available pursuant to the provisions of the Village Code or the Zoning Code or any other rights the Developer may have, the Property must be developed, used, operated, and maintained only pursuant to, and in accordance with, the terms and provisions of this Agreement and its exhibits, including, without limitation, the following development conditions:

A. Standard Conditions.

1. The development, use, operation and maintenance of the Property must comply with all applicable Village codes and ordinances, as the same have been or may be amended from time to time, except to the extent specifically and explicitly provided otherwise in this Agreement.

2. The development, use, operation and maintenance of the Property must comply with the Project Development Plans, except for minor alterations due to final engineering and site work as may be approved by the Village Director of Planning & Community Development,

the Village Engineer, or the Village Director of Public Works (for matters within their respective permitted authorities) in accordance with all applicable Village standards.

B. Construction of Structures and Buildings. The Buildings and all Structures must be constructed and located on the Property as depicted in the Project Development Plans.

C. Anchor Tenant Leases & Uses. The Developer must enter into Anchor Leases with each Anchor Tenant for not less than 4,535 cumulative square feet of the Buildings. The Developer must provide a complete copy of the executed Anchor Leases prior to reimbursement by the Village of any Redevelopment Project Costs.

D. Maintenance. The Developer is responsible for the continuity, care, conservation, maintenance, and operation of the Property, in a condition that is consistent with other comparable commercial properties and is in compliance with all local codes and regulations, and all landscaping, equipment, appurtenances and stormwater detention facilities located on or within the Property and the cost of power required for such equipment and appurtenances. The Developer and any co-owners of the Property must regularly and systematically perform the maintenance, repair, and replacement of any and all parts or portions of the Property necessary to permit the Property to function as designed.

E. Parking and Loading. The Developer must provide all off-street parking and loading spaces on the Property as required by the Zoning Code.

F. Cooperation with Adjoining Property Owners. The Developer must cooperate in good faith with the Village and with the owners of other real property within the Redevelopment Project Area concerning, and will not unreasonably object or prohibit, future improvements to the Redevelopment Project Area.

G. General Use and Development Restrictions. The development and use of the Property except for minor alterations due to final engineering and site work approved by the Village Director of Planning & Community Development or the Village Director of Public Works, as appropriate, must comply, and be in accordance, with the following (upon their respective approval, adoption, and effective date):

1. This Agreement;
2. The TIF Approval Ordinances;
3. The Project Development Plans, and all individual plans and documents of which they are comprised;
4. The Zoning Code; and
5. The Requirements of Law.

Unless otherwise provided in this Agreement, either specifically or in context, in the event of a conflict between or among any of the plans or documents listed as or within items 1 through 5 of this Section 3.G, the plan or document that provides the greatest control and protection for the Village, as determined by the Village Manager, will control. All of the above plans and documents

will 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 either specifically or in context.

SECTION 4. IMPROVEMENTS.

A. **Description of Improvements.** The Developer must, at its sole cost and expense, construct and install all of the Improvements depicted on the Project Development Plans, including, without

1. Construction of both Buildings;
2. Enlargement of the Detention Basin; and
3. Any other Improvements identified in the Project Development Plans.

B. **Design and Construction of the Improvements.**

1. **General Standards.** All Improvements must be designed and constructed pursuant to and in accordance with the Project Development Plans, and will be subject to the reasonable written satisfaction of the Village Director of Building & Life Safety in accordance with the Village Code. All work performed on the Improvements must be conducted in a good and workmanlike manner, with due dispatch, and within any deadlines provided in this Agreement or in the permits issued by the Village for construction of the Improvements. All materials used for construction of the Improvements must be new and of first-rate quality.

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

3. **Engineering Services.** The Developer must provide, at its sole cost and expense, all engineering services for the design and construction of the Improvements, by a professional engineer responsible for overseeing the construction of the Improvements. The Developer must promptly provide the Village with the name of a local owner's representative and a telephone number or numbers at which the owner's representative can be reached at all times.

4. **Village Inspections and Approvals.** All work on the Improvements is subject to inspection and approval by Village representatives at all times.

5. **Other Approvals.** Where the construction and installation of any Improvement requires the consent, permission, or approval of any public agency or private party, the Developer must promptly file all applications, enter into all agreements, post all security, pay all fees and costs, and otherwise take all steps that may be required to obtain the consent, permission, or approval.

C. Connection of Utilities.

1. **Burial of Utilities.** The Developer must, at its sole cost and expense, cause to be buried all existing or new utility lines necessary for the Buildings. The Developer must cooperate with all utility companies and owners of neighboring properties as may be necessary to ensure that the burial of utilities required pursuant to this Section 4.C.1 does not disrupt utility service to neighboring properties.

2. **Compliance with Village Code.** No utilities located on the Property may be connected to utilities or utility infrastructure belonging to the Village except in accordance with the applicable provisions of the Village Code, and upon payment of any connection fees required pursuant to the Village Code.

D. Completion of the Improvements. The Village has the right, but not the obligation, to refuse to issue a final certificate of occupancy for any Building or Structure located on the Property until the Improvements are completed by the Developer and approved by the Village. The foregoing does not preclude the Village's issuance of conditional certificates of occupancy pursuant to Section 5.C.2 of this Agreement and the applicable provisions of the Village Code. The issuance of any building permit or certificate of occupancy by the Village at any time prior to completion of all of the Improvements by the Developer and approval of the Improvements by the Village will not confer on the Developer any right or entitlement to any other building permit or certificate of occupancy.

E. Dedication and Maintenance of the Improvements.

1. **Final Inspection and Approval of the Improvements.** The Developer must notify the Village when it believes that any or all of the Improvements have been fully and properly completed and must request final inspection and approval of the Improvement or Improvements by the Village. The notice and request must 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 (as may be established pursuant to this Agreement or in the permits issued by the Village for completion of the Improvements). The Developer must promptly make all necessary repairs and corrections as specified on the punch list. The Village is not required to approve any portion of the Improvements until: (a) all of the Improvements as may be required pursuant to Section 4.A of this Agreement, including all punch list items, have been fully and properly completed; and (b) the Village Director of Building & Life Safety has determined that the specific Improvement has been constructed to completion, in accordance with the Project Development Plans and the Requirements of Law.

2. **Dedication and Acceptance of Public Improvements.** Neither the execution of this Agreement nor the approval or recordation of any final plat of subdivision for the Property constitutes acceptance by the Village of any Improvements that are depicted as "dedicated" in the Project Development Plans, if any. The acceptance of ownership of, and responsibility for, a specific approved Improvement as a Public Improvement may be made only by the Corporate Authorities, and only in compliance with the requirements of the Village Code.

SECTION 5. DEMOLITION AND CONSTRUCTION.

A. **Single Phase of Construction.** The construction of the Improvements and the development of the Property must take place in one continuous phase, subject to seasonal conditions, and in accordance with Section 5.B of this Agreement.

B. **Construction Schedule.** The Developer must pursue, or cause to be pursued, all required development, demolition, construction, and installation of the Structures, Buildings, and Improvements on the Property in a diligent and expeditious manner, in strict compliance with the Village Code and the Requirements of Law, and in accordance with the project timeline attached to this Agreement as **Exhibit E** and the following:

1. **Commencement of Developer Improvements.** The Developer must commence construction of the Improvements, if at all, no later than September 7, 2022 ("***Project Commencement Date***").

2. **Commencement of Tenant Improvements.** The Developer must commence construction of all Improvements described in the Anchor Leases on or before January 1, 2023.

3. **Completion Date.** All construction of the Project must be completed, and the Anchor Tenants must commence occupancy of the Buildings and open to the public for their customary businesses, on or before May 1, 2023 ("***Project Completion Date***"). If construction of the Project is not completed, and the Buildings not open to the public for their customary businesses, on or before the Project Completion Date, the Developer will not be entitled to reimbursement of any Redevelopment Project Costs, the Village will not pay any portion of the Village Contribution to the Developer, and the Village will have the right to terminate this Agreement upon providing written notice to the Developer.

4. The Village Director of Community Development may, for good cause, extend the deadlines set forth in this Section 5.B for a total of six months.

C. Issuance of Permits and Certificates.

1. **General Right to Withhold Permits and Certificates.** In addition to every other remedy permitted by law for the enforcement of this Agreement, the Village has the absolute right to withhold the issuance of any building permit or certificate of occupancy for the Property at any time when the Developer has failed or refused to meet fully any of its obligations under, or is in violation of, or is not in full compliance with, the terms of this Agreement; provided, however, the Village must promptly provide a detailed written explanation for such withholding.

2. **Conditional Certificate of Occupancy.** A conditional certificate of occupancy associated with the Building or Structure to be located on the Property will not be issued until the grading of the street parkways across the frontage of the Building or subject Structure, final grading and installation of top soil, seeding/sod, landscaping on the subject structure have been completed, and sidewalks across the frontage of the Building or subject Structure and street lights and surface course of all street pavement throughout the Property have been installed, subject to seasonal conditions.

D. Removal and Restoration.

1. Removal of Partially Constructed Structures and Improvements. Subject to Uncontrollable Circumstance, if the Developer fails to diligently pursue all demolition and construction as required in, or permitted by, Sections 3, 4, and 5 of this Agreement to completion within the time period prescribed in the building permit or permits issued by the Village for such demolition and construction, as the case may be, 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 must, within 60 days after notice from the Village: (a) remove any partially constructed or partially completed Structures or Improvements from the Property; and (b) perform Site Restoration on that portion of the Property in which the Developer has failed to complete all such demolition and construction, all in accordance with plans approved by the Village.

2. Removal and Restoration by Village. In the event the Developer fail or refuses to remove any partially completed Structures or Improvements, or to perform Site Restoration, as required pursuant to Section 5.D of this Agreement, the Village will have, and is hereby granted, the right, at its option, to: (a) demolish and/or remove any of the partially completed Structures and Improvements from any and all portions of the Property; (b) perform Site Restoration; and/or (c) cause the Buildings, Structures, or Improvements to be completed in accordance with the plans submitted. The Developer will fully reimburse the Village for all costs and expenses, including legal and administrative costs, incurred by the Village for such work. If the Developer does not so fully reimburse the Village, then the Village will have the right to place a lien on the Property for all such costs and expenses in the manner provided by law. The rights and remedies provided in this Section 5.D.2 are in addition to, and not in limitation of, the Village's rights and remedies otherwise available in this Agreement, at law, and/or in equity.

E. As-Built Plans. After completion of construction of any Structure or Improvement, the Developer must submit to the Village Director of Building & Life Safety final "as-built" plans: (1) related to drainage, grading, storm sewer, sanitary sewer and water mains, and associated Structures; and (2) for other final construction documents (in paper and, for Improvements, electronic format) as reasonably required and approved by the Village Director of Public Works and Director of Planning and Community Development. The as-built plans must indicate, without limitation, the amount, in square feet, of impervious surface area on the Property.

F. Damage to Public Property. The Developer must 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 the development of the Property and construction of the Improvements. Further, the Developer must: (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 TIF Activities of the Developer or any agent of or contractor hired by, or on behalf of, the Developer.

SECTION 6. PAYMENT OF VILLAGE FEES AND COSTS.

A. Negotiation and Review Fees. In addition to all other costs, payments, fees, charges, contributions, or dedications required by this Agreement or by the Requirements of Law, the Developer must pay to the Village, contemporaneous with the execution of this Agreement by

the Village Manager, all third-party legal, engineering, and other consulting or administrative fees, costs, and expenses incurred or accrued in connection with the development of the Property, including, without limitation, the review and processing of plans and building permits therefor. The Developer acknowledges and agrees that it will continue to be liable for and pay, promptly after presentation of a written demand or demands for payment, such third-party fees, costs, and expenses incurred in connection with any applications, documents, proposals, or requests for interpretations or amendments of this Agreement, whether formal or informal, of whatever kind, submitted by the Developer during the term of this Agreement in connection with the use and development of the Property. Further, the Developer acknowledges and agrees that it is liable for and will pay after demand all fees, costs, and expenses incurred by the Village for publication and recordings required in connection with the above matters.

B. Other Village Fees. In addition to all other costs, payments, fees, charges, contributions, or dedications required by this Agreement, the Developer must pay to the Village 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 pursuant to the Requirements of Law.

SECTION 7. TIF FINANCING.

A. Project Financing.

1. The Parties agree that the estimated cost of the Project is approximately \$5,591,691.00, which includes the costs of the Developer, and the construction and tenant improvement allowance related to the Anchor Lease, as set forth in the Total Project Budget attached to this Agreement as Exhibit D.

2. The Developer must advance and secure funds, or must cause other parties to advance and secure funds necessary to complete the Project.

B. Reimbursement for Project Costs.

1. The Parties acknowledge that the Developer will pay, or has paid, for some or all of the Redevelopment Project Costs of the Project. To partially subsidize the costs of the Project, the Village will pay the Developer one-half of the costs of enlargement of the Detention Basin, but only up to a maximum of \$170,000.00 ("***Village Contribution***"), as reimbursement for Redevelopment Project Costs incurred by the Developer which qualify as TIF-Eligible Costs, subject to the limitations set forth in Section 7.C of this Agreement.

2. In the Village's sole discretion, the Village Contribution may be paid from the Incremental Property Taxes deposited into the Fund and permitted by law to be used to make payments under the TIF Act.

3. Any funds contained in the Fund in excess of the Village Contribution may be used by the Village for any lawful purpose permitted under the TIF Act.

C. Certification and Reimbursement of TIF-Eligible Costs.

1. Certificates of Expenditure. In order to obtain reimbursement of Redevelopment Project Costs, the Developer must submit to the Village written requests for certification of such Redevelopment Project Costs in the form attached as **Exhibit F** to this Agreement ("***Certificate of Expenditure***"). Each Certificate of Expenditure must be accompanied by: (i) evidence that the Developer has actually incurred and paid all Redevelopment Project Costs for which such Developer seeks reimbursement; (ii) proof of issuance of all building permits required for the Project; (iii) proof that the Anchor Tenants commenced occupancy and operations in the Buildings in satisfaction of this Agreement; and (iv) sworn statements and lien waivers from the Developer's general contractor for any material, fixtures, apparatus, machinery, services, or labor provided by any contractor, subcontractor, or other person or entity 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. If the Developer does not fulfill its obligations as set forth in this Section 7.C.1, the Village will have no obligation to certify or reimburse the Developer for Redevelopment Project Costs.

2. Requirements of Reimbursement. Notwithstanding any other provision of this Agreement, the Developer will be entitled to be reimbursed from Incremental Property Taxes for Redevelopment Project Costs only if: (i) the Developer actually incurs such TIF-Eligible Costs; (ii) the Redevelopment Project Costs are also "Redevelopment Project Costs" as defined in the TIF Act; (iii) reimbursement is permitted pursuant to this Agreement, the Redevelopment Plan, and the TIF Act; and (iv) the Developer is not in default or breach of any obligation under this Agreement.

3. Review of Certificate of Expenditures. The Village Director of Community Development will determine if Redevelopment Project Costs described in a Certificate of Expenditure constitute TIF-Eligible Costs meeting the requirement of this Section 7.C, and approve or disapprove of each Certificate of Expenditure. If the Director of Community Development finds an error or deficiency in the Certificate of Expenditure, the Director of Community Development will give written notice to the Developer, identifying such error or deficiency in reasonable detail, within 30 days after the date that the Village receives the Certificate of Expenditure. The process of submission, identification or errors or deficiencies and resubmission will continue in good faith until the Parties agree on the content of the Certificate of Expenditure.

4. Timing of Reimbursement. The Village will pay to the Developer reimbursement funds for TIF-Eligible Costs up to the Village Contribution on the 45th day following the last to occur of: (i) completion of all Improvements; (ii) satisfactory inspection and approval of the Improvements by the Village; (iii) issuance of a temporary or final certificate of occupancy for the Property, whichever is first issued; (iv) submittal by the Developer and approval by the Village of a Certificate of Expenditure for the TIF-Eligible Costs incurred by the Developer; and (v) occupancy and commencement of operations by the Anchor Tenants, all together with documentation required under Section 7.C.1 of this Agreement, subject to any period for resubmission or correction of a Certificate of Expenditure pursuant to Section 7.C.3 of this Agreement.

D. Commitment to Fair Employment Practices and Affirmative Action; Prevailing Wage. The Village and the Developer must comply with the requirements pertaining to fair employment practices and affirmative action described in Section VII.B of the

Redevelopment Plan and the Illinois Prevailing Wage Act (820 ILCS 130/0.01 *et seq.*), as they may be applicable.

E. Commitment to Preserve Village Contribution. The Village agrees, so long as the Developer is not in breach of this Agreement, that the Village will not revoke, rescind, repeal, or amend the Redevelopment Plan or the TIF Approval Ordinances, unless it has first deposited into an escrow account the then-remaining balance of the Village Contribution that has not yet been paid to the Developer, pursuant to an escrow agreement to be negotiated in good faith and executed by the Village and the Developer. In the event that an escrow account is established pursuant to this Section 7.E, all subsequent payments to the Developer pursuant to this Agreement will be paid from the escrow account and not from any other Village source.

SECTION 8. LIABILITY AND INDEMNITY OF VILLAGE.

A. Village Review. The Developer acknowledges and agrees that the Village is not, and will 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 or the Project, or the issuance of any approvals, permits, certificates, or acceptances, for the development or use of the Property or the Project, and that the Village's review and approval of any such plans and the Project and issuance of any such approvals, permits, certificates, or acceptances does not, and will not, in any way, be deemed to insure the Developer, or any of their respective 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 approvals 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 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 or the Improvements; and (iv) the Developer's failure to comply with any provisions of this Agreement. Nothing in this Section 8.C is intended to make the Developer responsible for any damages, attorneys' fees or other costs incurred by the Village by reason of any claim that this Agreement or any payments to the Developer under this Agreement, violate the TIF Act.

D. Defense Expense. The Developer must, and does hereby agree to, pay all expenses, including legal fees and administrative expenses, incurred by the Village in defending itself with regard to any and all of the claims covered by Section 8.C of this Agreement.

SECTION 9. REAL ESTATE TAX CHALLENGES.

A. **Real Estate Tax Payments.** The Developer agrees to timely pay all applicable real estate taxes levied against its interest in the Property, and must not allow said taxes to become delinquent.

B. **Conveyance.** In recognition of the nature of the Project and the Village's projections of the need for incremental tax revenues to finance Redevelopment Project Costs, in accordance with the TIF Act, for so long as the TIF District is in existence, the Developer may not knowingly undertake to convey or lease any portion of the Property to persons whose ownership and use of such portion of the Property will cause that portion of the Property to be exempt from payment of property taxes, and the Developer will impose a prohibition against granting such conveyance in all leases and/or deeds conveying all or any portion of the Property.

C. **Tax Exempt Status.** Neither the Developer nor any tenant of any portion of the Property may assert tax-exempt status in a manner that would have an impact on the payment of real estate taxes with respect to their respective portions of the Property.

SECTION 10. NATURE, SURVIVAL AND TRANSFER OF OBLIGATIONS.

A. **Binding Effect.** All obligations assumed by the Developer under this Agreement are binding upon the Developer personally, upon any and all of their respective 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.

B. **Successors and Transferees.** To assure that all grantees, successors, assigns, and successor owners have notice of this Agreement and the obligations created by it, the Developer must, from and after the Effective 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 in the office of the Cook County Recorder of Deeds;

2. Notify the Village in writing at least 30 days prior to transferring 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);

3. Incorporate, by reference, this Agreement into any and all real estate sales contracts entered into for the transfer 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 G**, 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. The Village agrees that upon a successor becoming bound to the obligation created in the manner provided in this Agreement and providing the financial assurances required pursuant to this Agreement, the liability of the Developer will be released to the extent of the transferee's assumption of the liability. The failure of the Developer to provide the Village with a copy of a Transferee Assumption Agreement fully executed by the transferee and, if requested by the Village, with the transferee's proposed assurances of financial capability before completing any transfer, will result in the Developer remaining fully liable for all of its obligations under this Agreement but will not relieve the transferee of its liability for all such obligations as a successor to the Developer.

C. Transfer Defined. For purposes of this Agreement, the term "transfer" includes, without limitation, any assignment, sale, transfer to a receiver or to a trustee in bankruptcy, transfer in trust, or other disposition of the Property, or any beneficial interest in the Property, in whole or in part, by voluntary or involuntary sale, foreclosure, merger, sale and leaseback, consolidation, or otherwise.

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

SECTION 11. TERM.

A. The provisions of this Agreement run with and bind the Property and inure to the benefit of, be enforceable by, and obligate the Developer, the Village, and any of their respective legal representatives, heirs, grantees, successors, and assigns, from the Effective Date until either: (a) the Developer has been paid all of the Village Contribution due pursuant to Section 7 of this Agreement; or (b) the expiration of the TIF District, whichever is earlier. Notwithstanding anything to the contrary in this Section 11 (to the extent that the time periods referred to in such Sections have not elapsed when this Agreement terminates), the Developer's ongoing maintenance obligations set forth in Section 4.E of this Agreement will survive the termination of this Agreement. In addition, the indemnity and defense obligations set forth in Section 8 of this Agreement will survive the termination of this Agreement. If any of the privileges or rights created by this Agreement would otherwise be unlawful or void for violation of: (i) the rule against perpetuities or some analogous statutory provision; (ii) the rule restricting restraints on alienation; or (iii) any other statutory or common law rules imposing time limits, then the affected privilege or right will continue only until 21 years after the death of the last survivor of the now living lawful descendants of the current President of the United States, or for any shorter period that may be required to sustain the validity of the affected privilege or right.

B. In the event that the Project Completion Date does not occur on or prior to May 1, 2023, the Village shall have the right, in its sole and absolute discretion, to terminate this Agreement and all obligations of this Village under this Agreement by delivery of notice to the Developer.

SECTION 12. DEVELOPER REPRESENTATIONS, COVENANTS, AND WARRANTIES.

A. Developer. The Developer, and the person 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 and validly existing;
2. The Developer has the authority to enter into, execute, deliver and perform 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 will apply for and will maintain all government permits, certificates, and consents (including, without limitation, appropriate environmental approvals) necessary to conduct its business and to construct and complete its obligations as required by this Agreement;
6. The Developer has sufficient financial and economic resources to implement and complete its obligations under this Agreement;
7. The Developer has no knowledge of any financial liabilities, contingent or otherwise, of the Developer which might have a material adverse effect upon its ability to perform its obligations under this Agreement;
8. The information provided to the Village by the Developer pursuant to this Agreement is true and correct, and the Developer acknowledges that the Village has entered into this Agreement in reliance on this information and the representation and warranty by the Developer that this information is true and correct; and
9. Prior to the issuance of certificates of occupancy for the Buildings, the Developer may not use the Property as collateral for any other property or project or for anything other than the cost of constructing the Project on the Property. The Developer's loan agreement, if any, must expressly provide that the amount of said loan may not be increased without the consent of the Village, which consent may not be withheld if the debt-to-equity ratio for the proposed increased loan is maintained at the same level as the existing loan at the time the existing loan was initially issued. Nothing in this Section 12.A.9 is to be deemed or interpreted to prevent a parent

entity of the Developer from using the Property for security as a part of any securitized debt offering.

B. Village. 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: (1) have been duly authorized by all necessary corporate action on the part of the Village, (2) 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 (3) will 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 actions 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 13. DEFAULT.

A. Events of Default by the Developer. The following are the Developer Events of Default under this Agreement:

1. If any representation made by the Developer in this Agreement, or in any certificate, notice, demand or request made by the Developer in writing and delivered to the Village pursuant to or in connection with this Agreement, proves to be untrue or incorrect in any material respect as of the date made.

2. Subject to an Uncontrollable Circumstance, default by the Developer for a period of 15 days after written notice thereof in the performance or breach of any covenant contained in this Agreement concerning the existence, structure or financial condition of such Developer; provided, however, that such default or breach will not constitute an Event of Default if such default cannot be cured within said 15 days and such Developer, within said 15 days, initiates and diligently pursues appropriate measures to remedy the default and in any event cures such default within 60 days after such notice.

3. 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; provided, however, that such default will not constitute an Event of Default if such default cannot be cured within said 15 days and such Developer, within said 15 days initiates and diligently pursues appropriate measures to remedy the default and in any event cures such default within 60 days after such notice.

4. 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.

5. 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 that is not dismissed within 60 days after filing.

6. Failure of the Developer to have funds to meet such Developer's obligations under this Agreement.

7. Sale, assignment, or transfer of the Property except in accordance with the Transferee Assumption provisions in Section 10 of this Agreement.

8. Change in the organizational status of the Developer except in accordance with the Transferee Assumption provisions in Section 10 of this Agreement.

9. Abandonment of the Project or Property by the Developer. Abandonment will be deemed to have occurred when work stops on the development of the Property for more than 30 days for any reason other than Uncontrollable Circumstances, unless otherwise permitted by this Agreement. The failure of the Developer to secure any other approvals required for the development or construction of the Property will not be a valid defense to abandonment.

10. The Developer fails, for 15 days after written notice, to comply with the Requirements of Law in relation to the construction and maintenance of the Improvements contemplated by this Agreement.

11. The Village acknowledges that nothing in this Agreement obligates the Developer to commence building the Improvements, to open a business on the Property or (if and when a business opens on the Property) to continue to operate a business on the Property. It shall not be an Event of Default if: (i) the Developer fails to obtain building permits for the Improvements; or (ii) the Developer fails to open or operate the Building for business to the public. However, the Developer acknowledges and agrees that the Developer will not be entitled to reimbursement of any Redevelopment Project Costs, the Village will not pay any portion of the Village Contribution to the Developer, and the Village will have the right to terminate this Agreement upon providing written notice to the Developer in the event that any of the following events occurs: (i) construction of the Project is not completed, and the Building is not open to the public for customary business, within 18 months after the Effective Date of this Agreement; or (ii)

the Developer (or a transferee) fails to operate the Buildings for customary business, or a substantially similar use, for a period of 180 consecutive days or more; provided, however, that any of the foregoing are not due to an Uncontrollable Circumstance.

B. Events of Default by the Village. The following are Village Events of Default under this Agreement:

1. If any representation made by the Village in this Agreement, or in any certificate, notice, demand or request made by a party hereto, in writing and delivered to the Developer, pursuant to or in connection with any of said documents, proves to be untrue or incorrect in any material respect as of the date made.

2. Subject to an Uncontrollable Circumstance, default by the Village for a period of 30 days after written notice thereof from the Developer in the performance or breach of any covenant contained in this Agreement; provided, however, that such default will not constitute an Event of Default if such default cannot be cured within said 30 days and the Village, within said 30 days, initiates and diligently pursues appropriate measures to remedy the default and in any event cures such default within 90 days after such notice.

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

1. Except as otherwise provided in this Agreement, the non-defaulting Party may institute such proceedings in law or in equity, by suit, action, mandamus, or any other proceeding, 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. Pursuant to Section 5.D of this Agreement, the Village may, without prejudice to any other rights and remedies available to the Village, require: (a) the demolition and removal of any partially constructed or partially completed buildings, Structures, or Improvements from the Property; and (b) the performance of Site Restoration. Concurrent with the Village's exercise of its rights under 6.E, the Corporate Authorities will have the right, but not the obligation, to terminate the entitlements set forth in this Agreement, without protest or objection by the Developer.

3. In addition to every other remedy permitted by law for the enforcement of the terms of this Agreement, the Village is entitled to withhold the issuance of building permits or certificates of occupancy for the Building and any other Structures within the Property at any time when the Developer has failed or refused to meet fully any of its obligations under this Agreement after notice and an opportunity to cure as provided in this Section 13.

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

D. Limitation. Notwithstanding anything to the contrary contained in this Agreement, including the provisions of this Section 13, the Developer agrees 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 of the Village, on account of the negotiation, execution or breach of any of the terms and conditions of this Agreement.

E. Prevailing Party. In the event of a judicial proceeding brought by one Party against the other Party, the prevailing Party in the judicial proceeding will be entitled to reimbursement from the unsuccessful Party of all costs and expenses, including reasonable attorneys' fees, incurred in connection with the judicial proceeding.

SECTION 14. GENERAL PROVISIONS.

A. Notice. Any notice required to be given under this Agreement must be in writing and must 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, or (iv) by E-mail. E-mail notices will be deemed valid and received by the addressee only upon explicit or implicit acknowledgment of receipt by the addressee. Unless otherwise expressly provided in this Agreement, notices will 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 14.A, each Party will have the right to change the address or the addressee, or both, for all future notices to the other party, but no notice of a change of addressee or address will be effective until actually received.

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

Village Arlington Heights
33 South Arlington Heights Road
Arlington Heights, Illinois 60005
Attention: Village Manager
E-mail: RRecklaus@vah.com

With a copy to:

Elrod Friedman LLP
325 N. LaSalle Street, Suite 450
Chicago, Illinois 60650
Attention: Hart Passman
E-mail: Hart.Passman@elrodfriedman.com

Notices to the Developer will be addressed to, and delivered at, the following address:

MJR/Southpoint Real Estate Holding Company, LLC
1622 Willow Rd Ste 201
Northfield IL 60093
Attention: Jeffrey Silverman

Email: RS@usarts.com

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/Conflicts. Exhibits A through G 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, the text of this Agreement will control.

E. Amendments and Modifications. No amendment or modification to this Agreement will 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 is governed by, and will be 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 includes any modifications of, or amendments to such Requirements of Law as may, from time to time, hereinafter occur.

H. Non-Waiver. No party is under any obligation to exercise any of the rights granted to it in this Agreement. The failure of a party to exercise at any time any right granted to such party will not be deemed or construed to be a waiver of that right, nor will the failure void or affect such party'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 will not be impaired thereby, but the remaining provisions will 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, firm, or corporation may be made, or will be valid, against any Party hereto.

K. Interpretation. This Agreement is to be construed without regard to the identity of the party who drafted the various provisions of this Agreement. Each provision of this Agreement is to be construed as though both parties to this Agreement participated equally in the drafting of this Agreement. Any rule or construction that a document is to be construed against the drafting party is not applicable to this Agreement.

L. Headings. The table of contents, heading, 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.

M. Recording. The Village will record this Agreement against the Property, at the sole cost and expense of the Developer, with the Office of the Cook County Recorder of Deeds promptly following the full execution of this Agreement by the Parties.

N. Counterparts. This Agreement may be executed in counterparts, each of which will constitute an original document and together will constitute the same instrument.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed, effective as of the date first written above.

ATTEST:

Rebecca Hume
Rebecca Hume, Village Clerk

VILLAGE OF ARLINGTON HEIGHTS,
an Illinois home rule municipal corporation

By: Randall R. Recklaus
Randall R. Recklaus
Its: Village Manager

ATTEST:

By: [Signature]
Its: Authorized Member

**MJR/SOUTHPOINT REAL ESTATE
HOLDING COMPANY, LLC,**
an Illinois limited liability company

By: [Signature]
Its: Managing Partner

ACKNOWLEDGMENTS

STATE OF ILLINOIS)
)
COUNTY OF COOK) SS

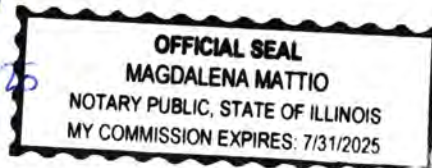
This instrument was acknowledged before me on September 7th, 2022 by Randall R. Recklaus, the Village Manager of the **VILLAGE OF ARLINGTON HEIGHTS**, an Illinois home rule municipal corporation, and by Rebecca Hume, the Village Clerk of said municipal corporation.

Given under my hand and notarial seal this 7th day of September, 2022.

Notary Public Magdalena Mattio

My Commission Expires: 7.31.2025

(SEAL)



STATE OF ILLINOIS)
)
COUNTY OF Cook) SS

I, Annette Wax, a Notary Public in and for said County, in the State aforesaid, do hereby certify that this instrument was acknowledged before me on August 23, 2022, by Jeffrey Silverman, the Managing Partner of **MJR/SOUTHPOINT REAL ESTATE HOLDING COMPANY, LLC**, an Illinois limited liability company, and by Richard Silverman the Partner of said limited liability company.

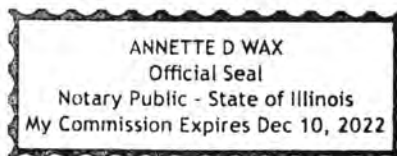
Given under my hand and notarial seal this 23 day of August, 2022.

Annette D. Wax
Signature

Notary Public

My Commission Expires: 12/10/2022

(SEAL)



INDEX OF EXHIBITS

Exhibit A	Legal Description of the Property
Exhibit B	Project Development Plans (Group Exhibit)
	B-1 Site Plan
	B-2 Exterior Perspectives Plan
Exhibit C	Schedule of TIF-Eligible Costs
Exhibit D	Total Project Budget
Exhibit E	Project Timeline
Exhibit F	Form Certificate of Expenditure
Exhibit G	Transferee Assumption Agreement

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

LEGAL DESCRIPTION

LOT 2 IN THE FINAL PLAT OF GARDEN FRESH RESUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 8, 2019 AS DOCUMENT NUMBER 1903918025, BEING A RESUBDIVISION OF PART OF LOTS 1 AND 3 IN THE CUB ADDITION, BEING A SUBDIVISION IN THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 20, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 17, 1984 AS DOCUMENT NO. 27090321, IN COOK COUNTY, ILLINOIS.

Property Index Number(s): 03-20-200-017-0000

Common Address: 600 East Rand Road, Arlington Heights, Illinois 60004

EXHIBIT B
PROJECT DEVELOPMENT PLANS

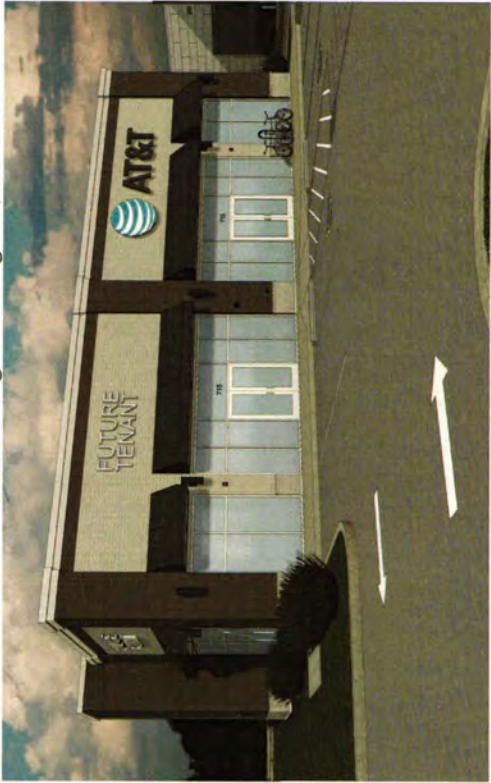
EXHIBIT B-1

SITE PLAN

EXHIBIT B-2

EXTERIOR PERSPECTIVES PLAN

Outlot Development
within Southpoint Shopping Center
Proposed One-Story Multi-Tenant Retail Building
715 East Rand Road, Arlington Heights, IL 60004



DC Submittal - DRAWINGS INDEX (Date: July 13, 2022)

SHEET	SHEET TITLE
A-01	EXISTING CONDITIONS AERIAL
A-02	ALTANSPS LAND TITLE SURVEY
A-03 (SHEET 1)	EXISTING CONDITIONS - TOPOGRAPHIC SURVEY
A-04	SITE PLAN
A-05	SITE PLAN DETAIL
A-06	FLOOR PLAN
A-07	EXTERIOR ELEVATIONS
A-08	EXTERIOR ELEVATIONS
A-09	BUILDING SECTION
A-10	ROOF PLAN
A-11	EXTERIOR PERSPECTIVES
A-12	EXTERIOR PERSPECTIVES

MJK Real Estate Holding Company, LLC. Soos & Associates, Inc.
1622 Willow Road, Suite 201 105 Schelter Road, Suite 101
Northfield, IL 60093 847-919-4801 Lincolnshire, IL 60069 847-821-7667

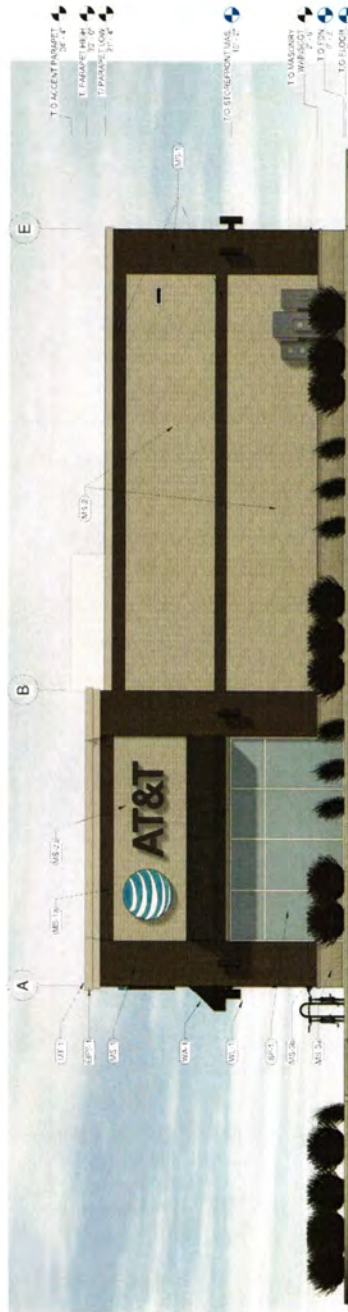
MS-A CONCRETE PAVING

- [illegible]

- [illegible]

- [illegible]

- [illegible]

1
NOTIF

2 WEST 107th Ave.

ILLINOIS CESSA/N FORM # 18-002292

MJK SOUTHPOINT -
MULTI-TENANT BUILDING
OUTLOT DEVELOPMENT
713 & 715 E. PALATINE Rd.
ARLINGTON HEIGHTS, IL
60004

PROJECT

CONJULYANIT

NO.	ISSUE	DATE
ACQUISITION OF COASTAL CONCRETE CORPORATION		
		NOV 27 13
		1955-56-16

SEAL

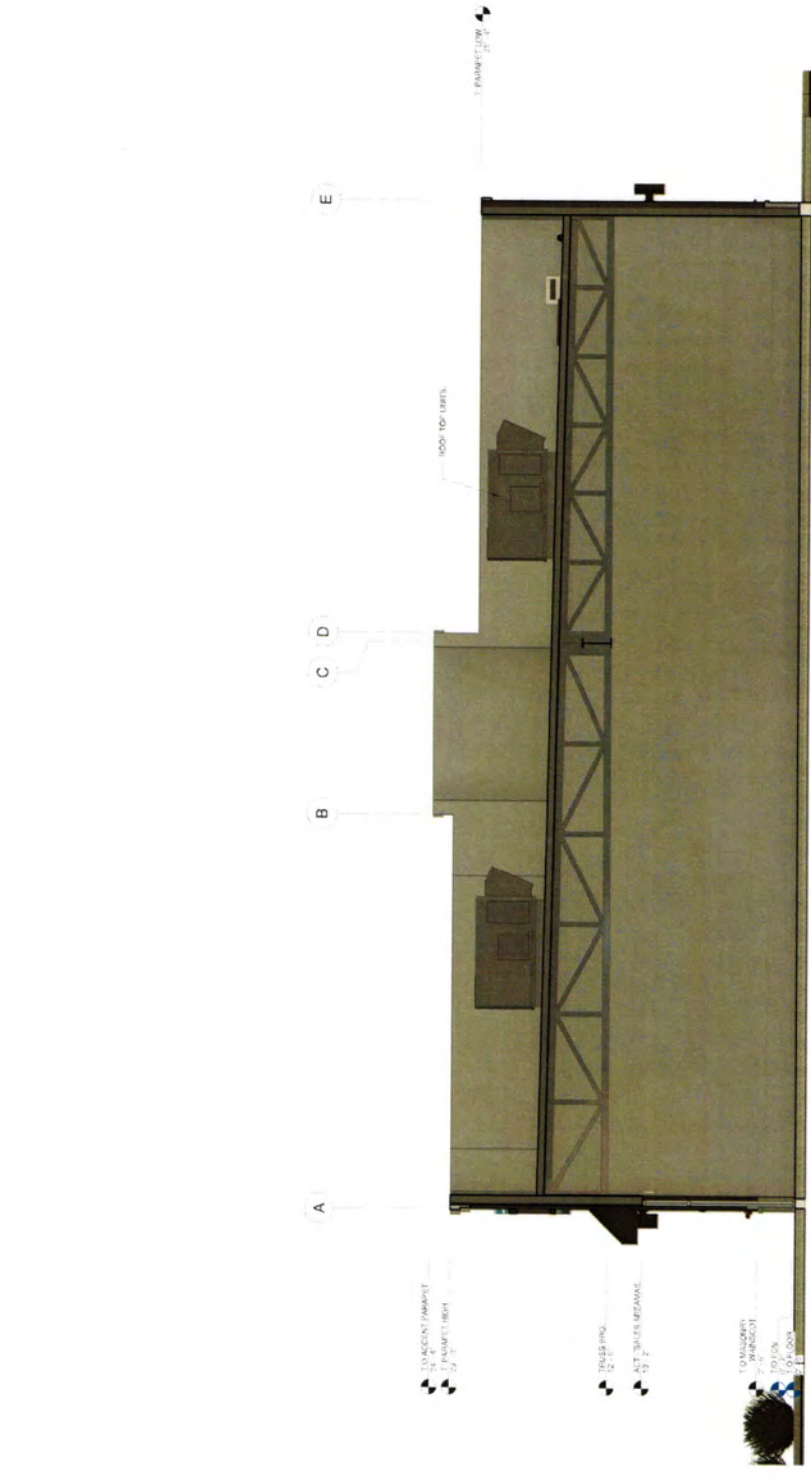
ISSUE FOR PERMIT

DATE	22/04/2012
PROJECT NO	25 079111
TRAIN	SO06
CHECQ	SO06
APPVED	SO06
FILE	

EXTERIOR ELEVATIONS

0046/07

A-07



1 BUILDING CROSS SECTION
1/8" = 1'-0"

EXHIBIT C

SCHEDULE OF TIF-ELIGIBLE COSTS

MWRD Storm Water Pond Work	\$350,000
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EXHIBIT D

TOTAL PROJECT BUDGET

Arlington Heights, IL

4/20/2022 11:06 AM

Land 1.23 Acres**CMG - 2,385 SF****Proposed Building 2 - 4,419 SF**

Land Cost:		\$	1,400,000
ICS Budget	Site Costs	\$	1,207,301
ICS Budget	Chipotle Building Costs	\$	700,579
ICS Budget	50% Pond Costs	\$	175,000
TI - Chipotle	(TI & Slab Allowance)	\$	165,000
Pond Costs		\$	175,000
WL- Chipotle	(Included in ICS Budget)	\$	-
Monument Sign		\$	-
Architecture / Engineering		\$	100,000
Permits		\$	35,000
Leasing Commissions Chipotle		\$	75,000
Leasing Commissions Vacant		\$	120,000
Legal		\$	50,000
Misc		\$	50,000
Real Estate Taxes		\$	40,000
Loan Fees / Interest		\$	50,000
Survey		\$	10,000
Building 2 Shell	4,419 SF @ \$275 PSF	\$	1,215,225
Tenant Allowance 2	4,419 SF @ \$45 PSF	\$	198,855
Project Cost:		\$	5,766,960
Rent: Chipotle	2,385 SF @ \$47.50 PSF	\$	113,288
Rent - Building 2	4,419 SF @ \$45 PSF	\$	198,855
		\$	312,143
Debt: (75% LTC)	\$4,325,219.82 (25 YRS @ 4.5%)	\$	288,492
Cash Flow:		\$	23,651
ROI: (25% Equity)	\$ 1,441,740		1.64%

EXHIBIT E

PROJECT TIMELINE

Commencement of Developer Improvements	September 7, 2022
Commencement of Tenant Improvements	January 1, 2023
Completion Date	May 1, 2023

EXHIBIT F

FORM CERTIFICATE OF EXPENDITURE

To: Village of Arlington Heights
33 S. Arlington Heights Rd.
Arlington Heights, IL 60005
Attention: Village Manager

From: MJR/Southpoint Real Estate Holding Company, LLC ("**Developer**")

Subject: Redevelopment Agreement dated _____, 2022, by and between the Village of Arlington Heights and MJR/Southpoint Real Estate Holding Company, LLC ("**Redevelopment Agreement**")

Date: _____

This is a Certification Request, submitted pursuant to Section 7.C of the Redevelopment Agreement, requesting the Manager to approve this certificate of expenditure for 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. The Village Engineer has determined that, based upon an inspection, the Improvements constructed by the Developer pursuant to the Redevelopment Agreement have been completed in accordance with the Redevelopment Plan and the Redevelopment Agreement;
- iv. Reimbursement is permitted pursuant to the Redevelopment Agreement, the TIF Act, and the Redevelopment Plan;
- v. The Developer is not in default or breach of any obligation under the Redevelopment Agreement which constitutes an Event of Default; and
- vi. The Anchor Tenants have commenced occupancy and operations in the Building, in satisfaction of the Redevelopment Agreement.

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

MJR/Southpoint Real Estate Holding Company, LLC

By: _____

Its: _____

ATTACHMENTS TO CERTIFICATION OF EXPENDITURE

- 1. Schedule of Redevelopment Project Costs**
- 2. Bills, contracts, invoices, and other evidence that Developer has incurred and paid all Redevelopment Project Costs**
- 3. Sworn statements and lien waivers**
- 4. Proof of Anchor Tenant occupancy and commencement of operations.**

EXHIBIT G

TRANSFEE ASSUMPTION AGREEMENT

THIS AGREEMENT is made as of this _____ day of _____, 202_, between the VILLAGE OF ARLINGTON HEIGHTS, an Illinois municipal corporation ("**Village**"), and MJR/SOUTHPOINT REAL ESTATE HOLDING COMPANY, LLC, an Illinois limited liability company ("**Developer**"), and _____ ("**Transferee**").

WITNESSETH:

WHEREAS, pursuant to that certain real estate sale contract dated _____, 20__, the Transferee agreed to purchase from Developer certain real property situated in Lake County, Illinois and legally described in **Exhibit 1** attached to and, by this reference, made a part of this Agreement ("**Property**"); and

WHEREAS, following the conveyance of the Property by Developer, the Transferee will be the legal owner of the Property; and

WHEREAS, as a condition to the conveyance of the Property by Developer, the Village and Developer require that the Transferee agree to comply with all the terms, requirements, and obligations set forth in that certain Development Agreement, dated as of _____, 202_, and recorded in the office of the Lake County Recorder on _____, 202_, as Document No. _____, by and between the Village and Developer ("**Development Agreement**");

NOW, THEREFORE, in consideration of the agreement of Developer to convey the Property to the Transferee, and of the Village to accept the transfer of obligations as provided herein and to grant the releases granted herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed by, between, and among the Village, Developer, and the Transferee as follows:

1. **Recitals.** The foregoing recitals are by this reference incorporated herein and made a part hereof as substantive provisions of this Agreement.

2. **Assumption of Obligations.** The Transferee, on its behalf and on behalf of its successors, assigns, heirs, executors, and administrators, hereby agrees, at its sole cost and expense, to comply with all of the terms, requirements, and obligations of the Development Agreement, including all exhibits and attachments thereto, regardless of whether such terms, requirements, and obligations are to be performed and provided by, or are imposed upon, Developer of the Property.

3. **Payment of Village Fees and Costs.** In addition to any other costs, payments, fees, charges, contributions, or dedications required by this Agreement, the Development Agreement or by applicable Village codes, ordinances, resolutions, rules, or regulations, the Transferee must pay to the Village, immediately upon presentation of a written demand or demands therefor, all legal, engineering, and other consulting or administrative fees, costs, and expenses incurred in connection with the negotiation, preparation, consideration, and review of this Agreement.

4. **Acknowledgment and Release of Developer.** The Village hereby acknowledges its agreement to the Transferee's assumption of the obligation to comply with the

terms, requirements, and obligations of the Development Agreement, including all exhibits and attachments thereto, and the Village hereby releases Developer from any personal liability for failure to comply with the terms, requirements, and obligations of the Development Agreement.

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

ATTEST:

VILLAGE OF ARLINGTON HEIGHTS,
an Illinois municipal corporation

Village Clerk

By: _____
Its: Village Manager

ATTEST:

**MJR/SOUTHPOINT REAL ESTATE HOLDING
COMPANY, LLC,**
an Illinois limited liability company

By: _____
Its: _____

By: _____
Its: _____

ATTEST:

[TRANSFeree]

By: _____
Its: _____

By: _____
Its: _____

ATTACHMENT F and K (TIF 5)

SEE ATTACHED

VILLAGE OF ARLINGTON HEIGHTS, ILLINOIS

**BALANCE SHEET
TAX INCREMENT FINANCING FUND
TIF V**

December 31, 2022

ASSETS

Cash and cash equivalents	\$ 3,254,318
Property taxes receivable	1,311,892
Accrued interest receivable	<u>1,639</u>
TOTAL ASSETS	<u>\$ 4,567,849</u>

**LIABILITIES, DEFERRED INFLOWS
OF RESOURCES AND FUND BALANCE**

LIABILITIES

None	<u>\$ -</u>
Total liabilities	<u>-</u>

DEFERRED INFLOWS OF RESOURCES

Unavailable revenue	<u>738,100</u>
Total liabilities and deferred inflows of resources	<u>738,100</u>

FUND BALANCE

Restricted for community development	<u>3,829,749</u>
Total fund balance	<u>3,829,749</u>

**TOTAL LIABILITIES, DEFERRED INFLOWS
OF RESOURCES AND FUND BALANCE**

\$ 4,567,849

(See independent auditor's report.)

VILLAGE OF ARLINGTON HEIGHTS, ILLINOIS

**SCHEDULE OF REVENUES, EXPENDITURES AND
CHANGES IN FUND BALANCE
TAX INCREMENT FINANCING FUND
TIF V**

For the Year Ended December 31, 2022

REVENUES

Property taxes	\$ 1,193,760
Investment income	<u>41,887</u>
Total revenues	<u>1,235,647</u>

EXPENDITURES

Contractual services	17,325
Capital outlay	<u>1,354,511</u>
Total expenditures	<u>1,371,836</u>

NET CHANGE IN FUND BALANCE	(136,189)
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FUND BALANCE, JANUARY 1	<u>3,965,938</u>
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FUND BALANCE, DECEMBER 31	<u><u>\$ 3,829,749</u></u>
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(See independent auditor's report.)

Attachment L : Auditors Letter (TIF 5)

1415 West Diehl Road, Suite 400
Naperville, IL 60563
630.566.8400

SIKICH.COM

INDEPENDENT ACCOUNTANT'S REPORT ON MANAGEMENT'S ASSERTION OF COMPLIANCE

The Honorable Mayor and
Members of the Board of Trustees
Village of Arlington Heights, Illinois

We have examined management's assertion that the Village of Arlington Heights, Illinois (the Village), complied with the provisions of subsection (q) of Section 11-74.4-3 of the Illinois Tax Increment Redevelopment Allocation Act (Illinois Public Act 85-1142) during the year ended December 31, 2022. Management is responsible for the Village's assertion. Our responsibility is to express an opinion on management's assertion about the Village's compliance with the specific requirements based on our examination.

Our examination was made in accordance with the standards established by the American Institute of Public Accountants. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether management's assertion about compliance with the specified requirements is fairly stated, in all material respects. An examination involves performing procedures to obtain evidence about whether management's assertion is fairly stated, in all material respects. The nature, timing, and extent of the procedures selected depend on our judgment, including an assessment of the risks of material misstatement of management's assertion, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our opinion.

We are required to be independent and meet our other ethical responsibilities in accordance with relevant ethical requirements relating to the engagement.

Our examination does not provide a legal determination on the Village's compliance with the specified requirements.

In our opinion, management's assertion that the Village of Arlington Heights, Illinois, complied with the aforementioned requirements for the year ended December 31, 2022, is fairly stated in all material respects.

This report is intended solely for the information and use of the Board of Trustees, management and the Illinois Department of Revenue, Illinois State Comptroller's office and the Joint Review Board and should not be used by anyone other than these specified parties.

Sikich LLP

Naperville, Illinois
June 15, 2023

**Attachment N: Third Party Verification of Rate of Return on
Redevelopment Projects (TIF V)**

**Southpoint RPS Arlington, LLC
Southpoint MJR – Southpoint Real Estate, LLC**

MEMO

To: Village of Arlington Heights
From: SB Friedman Development Advisors, LLC
Date: May 6, 2022

RE: RPS CAPITAL TIF UNDERWRITING ANALYSIS – UPDATED CONSTRUCTION BUDGET

SB Friedman Development Advisors, LLC (SB Friedman) was engaged by the Village of Arlington Heights (the “Village”) to conduct a financial review of a proposed public/private financing arrangement that would assist in the redevelopment of a vacant 100,501 square foot (SF) anchor space at Southpoint Shopping Center. RPS Capital (the “Owner”) is negotiating with a national furniture retailer to occupy the space, which would require replacing the building’s roof, remediating asbestos in the building, and renovating the building and parking lot (the “Project”). The Owner has indicated that public assistance, in the form of tax increment financing (TIF), is needed for the Project to be financially feasible.

On February 18, 2022, we submitted to the Village a memo concluding that the Project does not appear to be financially feasible without public assistance and would likely require public participation, at the amount requested, to proceed as presented. Since submittal of our memo, the Owner provided an updated budget which resulted in a \$130,000 reduction in development costs.

SB Friedman tested the impact of the budget reduction on Project returns. In doing so, we reduced the Owner’s updated developer fee from \$222K to \$158K for the purposes of sizing public assistance. This aligns with our standard developer fee assumption for projects requesting public assistance, which is 4% of TDC, net of acquisition (discussed further in our February 18 memo). Assuming all other Project assumptions remain constant, the unleveraged IRR with the full requested assistance increases from 9.5% in the original analysis to 10.1% with the updated budget.

It is our understanding that the Village is seeking to hold the Owner to the 9.5% return estimated in our original analysis. To do so, the public participation could be limited to \$1.3 million, as presented below. The need for assistance appears to be driven by the negotiated rent, which does not fully support redevelopment costs.

Table 1. Estimated Returns

Returns Metric	Original Budget – Full Request	Updated Budget – Full Request	Updated Budget – \$1.3M in Assistance
Unleveraged IRR	9.5%	10.1%	9.5%
Requested Assistance	\$1.5 million	\$1.5 million	\$1.3 million

Source: Source: RPS Capital, SB Friedman

Figure 4. Estimated Project Returns

Returns Metric	Project - No Assistance	Project - \$600,000 Assistance	Industry Benchmark [1]
Unleveraged IRR			
7.5% Terminal Cap Rate	4.7%	6.2%	7.2-10.0% 8.7% average
7.0% Terminal Cap Rate	5.2%	6.7%	
Leveraged IRR			
7.5% Terminal Cap Rate	5.2%	10.4%	12.0% average
7.0% Terminal Cap Rate	6.9%	11.7%	
Debt Coverage Ratio at Stabilization (Year 1)	1.22	1.37	1.42

[1] Based on data available through RERC, Quarter 1 2022, for top tier retail investment properties in the Midwest and through Realty Rates, Quarter 1, 2022, for freestanding retail properties

Source: MJR/Southpoint Real Estate Holding Company, LLC, SB Friedman

Conclusions and Recommendations

The Project does not appear to generate sufficient returns or meet typical debt coverage requirements without public assistance. Therefore, the Project would likely require public participation at the amount requested to proceed as presented. The need for assistance appears to be driven by the relationship between achievable rents and site prep and hard construction costs. Site prep costs, net of the stormwater pond improvements, represent a significant portion of the Project budget (22% of TDC), while the hard construction costs appear high relative to comparable projects observed by SB Friedman. However, the Developer provided a detailed construction cost breakdown prepared by Innovative Construction Solutions, Inc. for both the site prep and hard construction costs, with multiple bids for many of the budget line items. Therefore, the budgeted costs appear to represent the actual conditions of the Site, as well as the contemplated development program and design. The costs also appear to reflect the current inflationary cost environment.

If the Village proceeds with structuring a public-private financing arrangement to facilitate development of the Site, we recommend a check-in at Project completion and when tenants are secured for the second building to evaluate whether final costs and rental terms align with those that were used to size the public assistance. If cost savings or improved cash flow generation were achieved, the public assistance could be recalibrated.