

**VILLAGE OF DOWNERS GROVE  
REPORT FOR THE VILLAGE COUNCIL WORKSHOP  
FEBRUARY 28, 2006 AGENDA**

<b>SUBJECT:</b>	<b>TYPE:</b>	<b>SUBMITTED BY:</b>
Ordinance: Main & Maple Redevelopment Agreement	✓ Resolution Ordinance Motion Discussion Only	David Fieldman Deputy Village Manager

**SYNOPSIS**

An ordinance has been prepared to authorize the execution of the Redevelopment Agreement for the redevelopment of the property located at the northeast corner of Main Street & Maple Avenue.

**FISCAL IMPACT**

Sale of Property to Developer:	\$720,000
Real Estate Tax Increment:	\$800,000 (Net Present Value discounted at 4.5% over life of TIF)
<u>Sales Tax Revenue:</u>	<u>\$210,000 (Net Present Value discounted at 4.5% over life of TIF)</u>
Total Fiscal Impact:	\$1,730,000

**RECOMMENDATION**

Approval on the March 7, 2006 active agenda.

**BACKGROUND**

The subject property located at the northeast corner of Main & Maple is owned by the Village and located within the Downtown Tax Increment Financing District. In 2004, the Village Council designated a Facility Planning Committee to make recommendations about the use of Village-owned property. The committee recommended that the property be redeveloped. The Village issued a request for proposals for the development of the property. In 2005, the Access Group was selected as the designated developer for this property. Staff and the developer have negotiated the attached Redevelopment Agreement for Village Council review and approval.

Key Agreement Terms

- Developer shall purchase the property for \$720,000.
- Developer shall construct the development as approved by the Planned Development Ordinance.
- Developer shall adhere to the development schedule attached to the agreement.
- Developer shall submit a letter of credit in the amount of \$250,000 to guarantee completion of the development and adherence to the terms and conditions of the agreement.
- The Village has the right to repurchase the property in the event the developer fails to commence construction or falls more than 180 days behind the development schedule.

**ATTACHMENTS**

- Draft Ordinance
- Redevelopment Agreement

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE APPROVING A REDEVELOPMENT AGREEMENT  
BETWEEN THE VILLAGE OF DOWNERS GROVE  
AND ACCESS REALTY GROUP, INC.**

WHEREAS, the Village of Downers Grove has undertaken to revitalize portions of its downtown business district and in furtherance of that effort has created, pursuant to the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq., as amended (the "TIF Act"), a TIF District to help finance some of the redevelopment costs involved with the revitalization project; and

WHEREAS, the Village undertook a careful and thorough process to identify a development team to undertake the portion of the revitalization project known as the "Main & Maple Project," which process included consideration of numerous factors and standards; and

WHEREAS, at the conclusion of that process the Village selected Access Realty Group, Inc. as the developer (the "Developer") for the Main & Maple Project, which property is depicted and legally described in the redevelopment agreement attached to this Ordinance as Exhibit A (the "Property"); and

WHEREAS, since that selection the Developer has prepared plans for the Main & Maple Project, and the Village and the Developer have negotiated the terms and conditions of a redevelopment agreement to govern the project; and

WHEREAS, the Village has the authority, pursuant to the laws of the State of Illinois, to promote the health, safety, and welfare of the Village and its inhabitants, to prevent the spread of blight, to encourage private development in order to enhance the local tax base, to increase employment, and to enter into contractual agreements with third parties for the purpose of achieving these purposes; and

WHEREAS, the Village is authorized under the provisions of the TIF Act to finance redevelopment in accordance with the conditions and requirements set forth in the TIF Act; and

WHEREAS, to stimulate and induce redevelopment pursuant to the TIF Act, the Village, after giving all notices required by law and after conducting all public hearings required by law, adopted the following ordinances:

- (a) Ordinance No. 3997, adopted December 22, 1997, titled "An Ordinance Approving the Village of Downers Grove Tax Increment Downtown Redevelopment Plan and Project" (the "Redevelopment Plan"), as amended by Ordinance No. 4455 on November 5, 2002; and
- (b) Ordinance No. 3998 adopted December 22, 1997, titled "An Ordinance Designating the Village of Downers Grove Tax Increment Downtown Redevelopment Project Area" ("Downtown Redevelopment Project Area"), as amended by Ordinance No. 4456 on November 5, 2002; and

## REDEVELOPMENT AGREEMENT

**THIS REDEVELOPMENT AGREEMENT** (this "Agreement"), is made and entered into as of the 7th day of March, 2006 ("Agreement Date") by and between the **VILLAGE OF DOWNERS GROVE, ILLINOIS**, an Illinois municipal home rule corporation, located in DuPage County, Illinois (the "Village"), and **ACCESS GROUP (MAIN & MAPLE), LLC**, an Illinois limited liability company and affiliate of **ACCESS REALTY GROUP, INC.**, an Illinois corporation (the "Developer"). (The Village and the Developer are sometimes referred to individually as a "Party" and collectively as the "Parties").

### RECITALS

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

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

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

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

1. Ordinance No. 3997, adopted December 22, 1997, titled *"An Ordinance Approving the Village of Downers Grove Tax Increment Downtown Redevelopment Plan and Project"* (the "Redevelopment Plan"), as amended by Ordinance No. 4455 on November 5, 2002;

2. Ordinance No. 3998 adopted December 22, 1997, titled *"An Ordinance Designating the Village of Downers Grove Tax Increment Downtown Redevelopment Project Area"* ("Downtown Redevelopment Project Area"), as amended by Ordinance No. 4456 on November 5, 2002;

3. Ordinance No. 3999, adopted December 22, 1997, titled *"An Ordinance Adopting Tax Increment Financing for the Village of Downers Grove"*.

**WHEREAS**, on January 13, 2005, the Village issued a request for proposals to the development community seeking development proposals for the Property (hereinafter defined);

**WHEREAS**, on June 7, 2005, the Village authorized the Village Manager to negotiate the terms of a redevelopment agreement with Developer (hereinafter defined); and

**WHEREAS**, the Village owns the parcels of land legally described in **Exhibit "A"**, which shall hereinafter be referred to as the "Property"; and

**WHEREAS**, the Developer represents and warrants to Village that Developer, and its principals, are skilled in the development of residential condominiums and retail mixed-use developments and are able to provide to the Village skill, knowledge and expertise as well as input from other experts and consultants in mixed use development projects; and

**WHEREAS**, the Developer desires to own and redevelop the Property; and

**WHEREAS**, the Village passed an ordinance on March 7, 2006, after giving all notices and conducting all public hearings required by law: Ordinance Number \_\_\_\_\_, which

approved a mixed use planned development of 9 residential condominium units, approximately 9 residential parking spaces (the “Residential Planned Development”) and approximately 7,000 square feet of commercial space for the Property (the “Retail Planned Development” and together with the Residential Planned Development, the “Planned Development”); and

**WHEREAS**, it is necessary for the successful completion of the Project (as defined in Article 2) that the Village enter into this Agreement with Developer to provide for the development of the Property, thereby implementing and bringing to completion a portion of the Redevelopment Plan; and

**WHEREAS**, the Village has determined that it is desirable and in the Village’s best interests to assist Developer in the manner set forth herein and as this Agreement may be supplemented and amended; and

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

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

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

**ARTICLE ONE**

**INCORPORATION OF RECITALS.**

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

**ARTICLE TWO**

**DEFINITIONS.**

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

**“Act”** means the Tax Increment Allocation Redevelopment Act found at 65 ILCS 5-11-74.4-1, et seq.

**“Agreement”** means this Redevelopment Agreement and all of the exhibits and attachments referenced herein and made a part hereof.

**“Appraised Value”** of the Property to be purchased pursuant to Section 7.3 shall be determined as of the date of the Return Notice in the following manner:

(i) Each of the Village and the Developer shall select its own appraiser to determine the fair market value of the Property and improvements to be purchased. Each appraiser shall have full access to the books, records, assets and facilities of Developer for such purpose. Each appraiser shall submit its appraisal to both the Village and the Developer within 30 days of the date of the Return Notice.

(ii) In the event an appraiser fails to timely submit its appraisal, the other appraiser's appraisal shall conclusively be the Appraised Value. The Village and the Developer shall bear the costs of their chosen appraiser.

(iii) If the value set in the lower of the two appraisals obtained pursuant to the above paragraph is at least 90 percent of the value set in the higher of the two appraisals, then the average of the two appraisals shall conclusively be the Appraised Value. Otherwise, clause (iv) shall apply.

(iv) If neither clause (ii) or (iii) applies, then the two appraisers who performed the appraisals shall within 10 days of the submission of the last timely submitted appraisal select a third appraiser; provided that such third appraiser shall not have a conflict of interest with either the Village or the Developer. Copies of each appraisal shall be given to the third appraiser. Within 15 days after its selection, the third appraiser shall choose the appraisal which in its opinion more fairly and accurately states the fair value of the Property. The fair value shown in the appraisal chosen by the third appraiser shall be the Appraised Value. The fees and costs of the third appraiser shall be shared equally between Village and the Developer.

**"Change in Law"** means the occurrence, after the Effective Date, of an event described below, provided (a) such event materially changes the costs or ability of the Party relying thereon to carry out its obligations under this Agreement and (b) such event is not caused by the Party relying thereon: Change in Law includes any of the following: (i) the enactment,

adoption, promulgation or modification of any federal, state or local law, ordinance, code, rule or regulation (other than by the Village); (ii) the order or judgment of any federal or state court, administrative agency or other governmental body; (iii) the imposition of any conditions on, or delays in, the issuance or renewal of any governmental license, approval or permit (or the suspension, termination, interruption, revocation, modification, denial or failure of issuance or renewal thereof) necessary for the undertaking of the services to be performed under this Agreement; or (iv) the adoption, promulgation, modification or interpretation in writing of a written guideline or policy statement by a governmental agency (other than the Village or with respect to those made by the Village, only if they violate the terms of this Agreement).

**“Closing”** means the “Closing” as such term is defined in the Real Estate Sale Provisions.

**“Corporate Authorities”** means the Village Mayor and Village Council of the Village of Downers Grove, Illinois.

**“Day”** means a calendar day.

**“Developer”** means Access Group (Main & Maple), an Illinois limited liability company, or any successor in interest thereof permitted pursuant to **Section 10.10** hereof.

**“Final Plans”** means all of the plans approved by the Village Council for the Project, containing a total of nine (9) residential condominium units, approximately nine (9) residential parking spaces and approximately 7,000 square of commercial space in one (1) building, substantially as shown in the approved site plan attached as Exhibit B hereto.

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

**“Person”** means any individual, corporation, partnership, limited liability company, joint venture, association, trust, or government or any agency or political subdivision thereof, or



any agency or entity created or existing under the compact clause of the United States Constitution.

**“Planned Development Ordinance”** means the Planned Development Ordinance adopted by the Village, approving the Project as a Planned Development.

**“Project”** means the development, construction, financing, and completion of the mixed-use condominium building with nine (9) residential condominium units, approximately nine (9) residential parking spaces and approximately 7,000 square feet of commercial space condominiums and related improvements in accordance with the Final Plans, and pursuant to the Planned Development Ordinance.

**“Property”** means the approximately 14,800 square feet of land presently utilized for public parking, which is legally described in Exhibit “A” upon which the Project will be implemented.

**“Real Estate Sale Provisions”** means those provisions set forth in Article Fifteen hereof.

**“Redevelopment Plan”** means the “Redevelopment Plan” for the Downtown as defined in the Village Ordinance No 3997 and Ordinance No. 4455.

**“State”** means the State of Illinois.

**“TIF Ordinances”** means Ordinances No. 3998, 3999 and 4456 all adopted by the Village on December 22, 1997 and November 5, 2002, as described in the Recitals to this Agreement.

**“Uncontrollable Circumstance”** means any event which:

- (a) is beyond the reasonable control of and without the fault of the Party relying thereon; and
- (b) is one or more of the following events:
  - (i) a Change in Law;

- (ii) insurrection, riot, civil disturbance, sabotage, act of the public enemy, explosion, nuclear incident, war or naval blockade;
- (iii) epidemic, hurricane, tornado, landslide, earthquake, lightning, fire, windstorm, other extraordinary weather conditions or other similar Act of God;
- (iv) governmental condemnation or taking other than by the Village;
- (v) strikes or labor disputes, other than those caused by the acts of Developer;

Uncontrollable Circumstance shall not include: (1) economic hardship or impracticability of performance, (2) commercial or economic frustration of purpose, (3) unavailability of materials, strikes or labor disputes caused by the acts of Developer, or (4) a failure of performance by a contractor (except as caused by events which are Uncontrollable Circumstances as to the contractor).

“Village” means the Village of Downers Grove, Illinois, an Illinois municipal corporation.

“Village Engineer” means the person so designated by the Village Manager as the Village Engineer.

### ARTICLE THREE

#### CONSTRUCTION.

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

- (a) Definitions include both singular and plural.
- (b) Pronouns include both singular and plural and cover all genders.

(c) The word “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”.

(d) Headings of Sections herein are solely for convenience of reference and do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.

(e) All exhibits attached to this Agreement shall be and are operative provisions of this Agreement and shall be and are incorporated by reference in the context of use where mentioned and referenced in this Agreement. In the event of a conflict between any exhibit and the terms of this Agreement, the terms of this Agreement shall control.

(f) Any certificate, letter or opinion required to be given pursuant to this Agreement means a signed document attesting to or acknowledging the circumstances, representations, opinions of law or other matters therein stated or set forth. Reference herein to supplemental agreements, certificates, demands, requests, approvals, consents, notices and the like means that such shall be in writing whether or not a writing is specifically mentioned in the context of use.

(g) The Village Manager, unless applicable law requires action by the Corporate Authorities, shall have the power and authority to make or grant or do those things, certificates, requests, demands, notices and other actions required that are ministerial in nature or described in this Agreement for and on behalf of the Village and with the effect of binding the Village as limited by and provided for in this Agreement. Developer is entitled to rely on the full power and authority of the persons executing this Agreement on behalf of the Village as having been properly and legally given by the Village.

(h) In connection with the foregoing and other actions to be taken under this Agreement, and unless applicable documents require action by Developer in a different manner, Developer hereby designates William J. Platt (and, in his absence, Joseph S. Farrell) as its authorized representatives who shall individually have the power and authority to make or

grant or do all things, supplemental agreements, certificates, requests, demands, approvals, consents, notices and other actions required or described in this Agreement for and on behalf of Developer and with the effect of binding Developer in that connection (each such individual being an “Authorized Developer Representative”). Developer shall have the right to change its Authorized Developer Representative by providing the Village with written notice of such change which notice shall be sent in accordance with Section 18.2.

#### **ARTICLE FOUR**

##### **IMPLEMENTATION OF PROJECT.**

The Village and the Developer agree to cooperate in implementing the Project in accordance with the Parties respective obligations set forth in this Agreement.

#### **ARTICLE FIVE**

##### **DESIGNATION OF DEVELOPER.**

The Village hereby designates Developer as the exclusive developer for the Property, subject to the terms of this Agreement and only so long as Developer is not in default of this Agreement after the expiration of all applicable cure periods. The Village hereby represents and warrants to Developer that the Village has taken all necessary actions and has complied with all requirements imposed by law including, but not limited to, the requirements of Section 5/11-74.4-4 (c) of the Act, required to be taken and met prior to the designation of Developer as the exclusive developer for the Property.

#### **ARTICLE SIX**

##### **DEVELOPER’S ACCESS TO THE PROPERTY.**

Developer’s right to access the Property as Developer deems necessary and appropriate is set forth in the “License Agreement” by and between Developer and the Village (the “License

Agreement”), a copy of which is attached as **Exhibit “C”**. Developer and Village have previously executed the License Agreement prior to the execution of this document.

## ARTICLE SEVEN

### ACQUISITION OF THE PROPERTY.

**7.1 Conveyance of Lots at Closing.** The date for Closing shall be established pursuant to the Real Estate Sale Provisions. At Closing, subject to the provisions set forth in Article Fifteen, the Village shall convey to Developer, quit claim deed, all of the Village’s rights, title and interest to the Property.

**7.2 Use of Plans.** In the event of exercise by the Village of its rights under Section 7.3 hereof, Developer shall assign and quit claim to the Village, or as the Village shall direct, all of its right, title and interest in the Final Plans. At the Closing, Developer shall use reasonable efforts to deliver to the Village letters from the architect and engineer that prepared the Final Plans permitting the Village or its assignee to use them, in accordance with this Section 7.2, without charge to complete the Project.

**7.3 Repurchase by the Village.** Except in the case of an Uncontrollable Circumstance , if: (a) the Developer falls more than one hundred eighty (180) days behind the time schedule to complete the proposed building as set forth in **Exhibit “D”**, or (b) if no substantial work is proceeding on the building for the Project for a period of one hundred eighty (180) days after the target date set forth in Exhibit “D”, then any of such events shall constitute a default hereunder, and thereafter the Village Manager may notify the Developer in writing that the Village demands return (the “Return”) of the Property (the "Return Notice"). If Developer does not cure such default within thirty (30) business days of receipt of the Return Notice, then within thirty (30) days after the Developer's receipt of the Return Notice, Developer shall convey the Property to the Village subject only to such exceptions as were recorded against the

Property when the Property was conveyed to Developer and subject to any construction mortgage placed on the Property by Developer in conformance with the provisions of this Agreement ("Return Closing Date"), which loan shall be assumed or paid by the Village. Prior to the completion of the shell and core of the building, as evidenced by passing Village inspection, the purchase price shall be Seven Hundred Thousand (\$700,000.00) for the return of the Property and if any purchase is made pursuant to this Section 7.3 after completion of shell and core of the building, the purchase price shall be the "Appraised Value" (as defined above). Any mortgage encumbering the Property shall contain an express provision permitting such Return to the Village and an agreement of the Lender to release its lien on the Return Closing Date upon payment by the Village of the outstanding balance then due. In the event that there is an amount necessary to obtain releases of the construction loan or other liens, all Letters of Credit tendered by the Developer shall first be used to fully satisfy such amounts and if there are still balances payable on any such outstanding liens or encumbrances, the Developer shall pay the excess amount prior to the Return Closing Date. Failure to pay said amount by the Return Closing Date shall result in a draw on the Letter of Credit and the Village shall retain any and all rights and remedies at law and in equity. Developer shall convey the property by special warranty deed, shall assume any costs for title insurance in the amount of the original purchase price for the Property and Developer and Village shall execute such other customary title documents as are commonly used in similar commercial transactions in the Chicago, Illinois metropolitan area.

All of Developer's obligations herein shall be documented by Developer, to the satisfaction of the Village prior to the Return Closing Date. Failure of the Developer to comply with these terms and conditions shall constitute an Event of Default as defined herein.

## ARTICLE EIGHT

### VILLAGE COVENANTS AND AGREEMENTS.

**8.1 Village's Redevelopment Obligations.** The Village shall have the obligations set forth in this Article Eight for the development, construction, financing, completion and furtherance of the Project.

This Agreement shall not constitute a debt of the Village within the meaning of any constitutional statutory provision or limitation.

**8.2 Conveyance of Property.** Subject to the Real Estate Sale Provisions, the Village will convey the Property to the Developer at the Closing.

**8.3 Defense of Redevelopment Project Area.** In the event that any court or governmental agency, having jurisdiction over enforcement of the Act and the subject matter contemplated by this Agreement, shall determine that this Agreement is contrary to law, or in the event that the legitimacy of the Entire Redevelopment Project Area is otherwise challenged before a court or governmental agency having jurisdiction thereof, the Village will, at its sole cost and expense, defend the integrity of the Entire Redevelopment Project Area and this Agreement. Developer will fully cooperate with the Village in connection with the foregoing, at no out-of-pocket cost to Developer.

**8.4 Village Cooperation.** The Village agrees to cooperate with Developer in Developer's attempts to obtain all necessary approvals from any governmental or quasi-governmental entity other than the Village. As part of the Planned Development land use approval process, the Village shall further consider and grant reasonable requests of Developer for relief or variances from Village Zoning and Subdivision ordinances necessary for the construction of the Project.

**8.5 Certificate of Completion/Certificate of Occupancy.**

a. Within fifteen (15) days after written request from Developer and after Developer has provided all required waiver of liens and sworn statements necessary to comply with the Illinois Mechanics Lien Act and has complied with all Village codes, the Planned Development ordinance and with the obligations of this Agreement with respect to the construction of the Project, the Village shall deliver a certificate of completion and satisfaction of all construction terms, covenants and conditions contained in this Agreement or, if not complete or satisfied, a notice identifying what deficiencies exist.

b. The Village will, in relation to residential units, residential parking spaces and the retail spaces in the building, issue certificates of occupancy on a unit-by-unit basis (as opposed to a building by building basis or any other basis); provided, however, that the structure and common areas of the building is itself in conformance with applicable standards, codes and ordinances of the Village concerning access/egress facilities, life/safety systems and facilities and structural integrity.

## ARTICLE NINE

### DEVELOPER'S COVENANTS AND AGREEMENTS.

**9.1 Developer's Redevelopment Obligations.** Developer shall have the obligations set forth in this Article Nine for the development, construction, financing, completion and furtherance of the Redevelopment Project.

**9.2 Permit Application Deadlines.** Prior to the Closing, Developer shall have applied for (and made all submittal requirements in conformance with Village codes) all requisite construction and building permits, curb-cut permits and other necessary land use and construction approvals as shall be necessary or appropriate to construct the Project in accordance with the Final Plans. Developer shall proceed with the timely construction of the Project.



**9.3 Construction Financing Deadline.** The Developer hereby acknowledges and agrees that it shall demonstrate to the Village's reasonable satisfaction that Developer has sufficient funds to pay the cost of the Project and any other obligations of Developer hereunder relating to the Property. Developer shall also submit to the Village the project development budget as soon as it is available but not later than seven (7) days prior to the date of Closing.

Prior to commencing construction of the Project, Developer shall provide to Village evidence that: (i) all presales requirements of Developer's lender have been satisfied or waived; (ii) all permits for the Project from the Village and all other agencies have been obtained; and (iii) all zoning ordinances and resolutions have been obtained.

**9.4 Timing of Developer's Obligations.** Developer covenants and agrees to construct or cause to be constructed the Project according to the schedule attached as Exhibit "D".

**9.5 Compliance with Applicable Laws.** Consistent with its warranties in Article Twelve, Developer shall at all times acquire, install, construct, operate and maintain the Project in conformance with all applicable laws, rules, ordinances and regulations. All work with respect to the Project shall conform to all applicable federal, State and local laws, regulations and ordinances, including, but not limited to, zoning, subdivision and planned development codes, building codes, environmental codes, life safety codes, property maintenance codes and any other applicable codes and ordinances of the Village. Village shall not enact any law, ordinance, rule or regulation (or amendment thereto) which would have the effect of increasing Developer's obligations hereunder, including an increase in the cost of the Project, unless said law, ordinance, rule or regulation is one of general applicability to all the property in the Village.

**9.6 Letter of Credit, Permits and Other Security Prior to Closing.**

Prior to Closing, Developer shall provide to Village evidence that: (i) all zoning ordinances and resolutions have been obtained; (ii) the Lender has approved the budget for the Project, (iii) the Developer has a completely executed financing commitment (iv) the Village building permit has been obtained. As a condition Developer shall deliver to Village an unconditional irrevocable letter of credit in the amount of Two Hundred Fifty Thousand (\$250,000.00) Dollars in form and substance acceptable to Village (the "LOC") which LOC may be drawn on by Village upon the occurrence of a Penalty Event as defined in Exhibit "D". One Hundred Thousand 00/100 (\$100,000.00) Dollars of the LOC shall be released at the time that the Village certifies the completion of the foundation of the building. Fifty Thousand (\$50,000.00) Dollars of the LOC shall be released at the time that the Village certifies the completion of the shell and core of the building. Fifty Thousand and 00/100 (\$50,000.00) Dollars of the LOC shall be released at the time that the Village certifies the completion of the entire Project. For purposes of this **Section 9.6** completion shall be deemed to occur upon the issuance of a final certificate of occupancy for the last unit in the building and upon acceptance of all public improvements. The balance of the letter of credit shall be released upon the completion of the two-year maintenance period as required under the Village Code.

**9.7 Leased Space.** Ninety percent (90%) of the commercial space shall be leased to sales-tax providing tenants in one of the Approved Categories listed on Exhibit E to this Agreement. To achieve the benefit of optimal sales tax revenue for the Village, the Developer agrees that the initial lease term for all leases for all retail shall not be less than five (5) years, unless otherwise agreed to by the Village in its sole discretion.

**9.8 Tax Information.** Unless otherwise approved by the Village Council in its sole discretion, the Developer shall use good faith efforts to include a provision, in all leases within the Project for retail tax producing tenants, that the lessees shall annually file with the Village

copies of the ST-1 monthly sales tax forms, or any appropriate successor forms, that are filed by retailers with the State of Illinois. For all leases in which the tenant is required to keep on the leased premises and/or provide to the Developer its gross income and sales tax returns with respect to the portion of the property being leased by such tenant, and/or including all original sales records as defined in any such lease, the Developer shall provide the Village with copies of all such documents, promptly after the Developer receives the same from such party. For all leases that do not provide for the release of such information to the Developer or the Village under the terms of the lease, the Developer shall use good faith efforts to secure from each such tenant a power of attorney letter, or such other form as shall be reasonably required by the Village and the Illinois Department of Revenue to release such information to the Village. Such forms shall be addressed to the Illinois Department of Revenue and shall authorize the Illinois Department of Revenue to release all gross revenue and sales tax information to the Village during any period in which such a tenant continues to operate or own a business within the Property, and such information shall be used solely for the purposes of determining sales tax revenues due the Village and shall otherwise be kept confidential by the Village, except to the extent required by applicable law.

**9.9 Progress Meetings.** Developer shall meet with the Village Council and Village staff and make presentations to the Village Council and Village staff as reasonably requested by the Village Manager in order to keep the Village apprised of the progress of the Project.

**9.10 Authorized Developer Representatives.** Subject to the provisions in Article Three, the Developer's Authorized Developer Representatives has the full power and authority to meet with Village staff for purposes of coordinating and implementing obligations of the Parties under this Agreement.

**9.11 Tax Exempt Status.** Consistent with its covenant in Section 9.11, Developer and successor owners (but with respect to residential unit owners, only those residential unit owners who do not occupy their residential unit), shall not assert a tax-exempt status (except for a senior citizen or homeowner's exemption) during their respective period of ownership. This prohibition shall run with the land and shall expire on the date the Entire Redevelopment Project Area expires or an earlier date if agreed by the Village and Developer.

**9.12 Real Estate Tax Payments.** Developer and successor owners, including but not limited to residential unit owners, agree to pay all general and special real estate taxes levied during their respective period of ownership against their respective interest in the Project on or prior to the date same is due and said taxes shall not become delinquent. Developer and successor owners shall deliver evidence of payment of such taxes to the Village upon request.

**9.13 Real Estate Tax Increment Projections.** Developer warrants that Developer has reviewed the TIF projections attached as Exhibit F and that Developer knows of no reason that the TIF projections are incorrect.

**9.14 Sale Contracts.** All sales contracts shall be made subject to the terms of this Agreement and shall disclose that the property lies within the boundaries of a Special Service Area, and is subject to additional taxes.

**9.15 Construction Traffic.** In advance of the commencement of construction on the Project, the Village reserves the right to establish reasonable routes of access for construction traffic to protect pedestrians and to minimize disruption of traffic and damage to paved street surfaces.

At all times during construction the Developer shall keep, or cause to be kept, the designated routes free and clear of mud, dirt, debris, obstructions, and hazards and shall repair, or cause to be repaired, any damage caused by any construction traffic. If the Developer shall fail to keep or cause to be kept such routes free and clear of mud, dirt, debris, obstructions, or

hazards, then the Village may undertake to do so and the Developer shall reimburse the Village's reasonable costs and expenses in doing so.

**9.16 Fees and Expenses.** Developer shall pay all Village imposed fees, including but not limited to permit, inspection, review, tap-on, school and park impact fees, and storm water drainage fees required in the Village Code of Ordinances that are assessed on a uniform basis throughout the Village and are of a general applicability to all other property in the Village.

Without waiving its rights against Developer, the Village may be reimbursed for said fees and expenses to the extent they are eligible costs out of the Special Tax Allocation Fund.

## **ARTICLE TEN**

### **ADDITIONAL COVENANTS OF DEVELOPER.**

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

**10.2 Construction of Project.** Subject to Section 9.2, Developer shall diligently pursue obtaining all required permits and Developer shall cause construction of the Project on the Property to be prosecuted and completed with due diligence, in good faith and without delay, subject to Uncontrollable Circumstances and the other provisions of this Agreement.

**10.3 Indemnification.** Developer (use of the term "Developer" herein includes permitted successors and assigns), agrees to indemnify, defend and hold the Village, Mayor, Village Council Members, Village Manager, officers, agents and employees (hereinafter "Indemnified Parties") harmless from and against any losses, costs, damages, liabilities, claims suits, actions, causes of action and expenses (including, without limitation, reasonable attorneys' fees and court costs) suffered or incurred by the Indemnified Parties which are caused as a result of:

- a. the failure of Developer to comply with any of the terms, covenants or conditions of this Agreement which Developer is obligated to comply with, after the benefit of any applicable notice and cure periods; or
- b. the failure of Developer or any of Developer's contractors to pay contractors, subcontractors or materialmen in connection with the Project (subject to any amounts being contested in good faith by Developer); or
- c. material misrepresentations or omissions of Developer relating to the Project, financial information or this Agreement which are the result of information supplied or omitted by Developer; or
- d. the failure of Developer to cure any material misrepresentations or omissions of Developer in this Agreement relating to the Project within the applicable cure provisions of this Agreement; or
- e. any claim or cause of action for injury or damage brought by a third party arising out of the construction or operation of the Project by Developer; or
- f. any violation by Developer of local ordinance, State or federal laws, in connection with the offer and sale of interests in the Developer or any part of the Project.
- g. The occurrence of an Event of Default by Developer.

The provisions of this Section 10.3 shall not apply to a loss which arises out of (in whole or in part) intentional misconduct or negligence on the part of any Indemnified Party, but only to the extent that such Indemnified Parties' misconduct or negligence contributed to the loss, or that the loss is attributable to such Indemnified Parties' misconduct or negligence.

**10.4 Insurance.** Prior to Closing, Developer (or Developer's contractor) shall deliver to the Village, at Developer's cost and expense, insurance required to be carried by Developer pursuant to Article 14.

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

**10.6 No Gifts.** Developer covenants that no officer, member, manager, stockholder, employee or agent of Developer, or any other person connected with Developer, has made, offered or given, either directly or indirectly, to the Mayor, any Council member, or any officer, employee or agent of the Village, or any other person connected with the Village, any money or anything of value as a gift or bribe or other means of influencing his or her action in his or her capacity with the Village.

**10.7 Conveyance.** In recognition of the nature of the Redevelopment Project and the Village's projections of the need for incremental tax revenues to finance Redevelopment Project Costs, in accordance with the Act, during the life of the TIF consistent with its covenants in Section 9.10, Developer shall not knowingly undertake to convey the Property to persons whose ownership and use of such Property will cause it to be exempt from payment of property taxes (except for senior citizen or homeowner exemptions), and will impose in the deed conveying all or any portion of the Property, a prohibition against granting such conveyance consistent with the covenants in Section 9.11.

**10.8 Disclosure.** Developer hereby represents, warrants and covenants to the Village that the members of the Developer are \_\_\_\_\_. At the time of execution of this Agreement and prior to Closing, no change shall be made in the members owning the Developer or in their ownership interests without the consent of the Village.

**10.9 Open Book Project.** Developer's Project shall be an "open book" project meaning that Developer and the general contractor (or contractors, if more than one) will assure continuing access to the Village's agents for the purpose of reviewing and auditing their respective books and records relating to any item necessary to determine the costs of the Project. The foregoing Village review rights shall terminate one (1) year after the issuance of the final certificate of occupancy with respect to costs for the Project, unless the Developer has failed to make available any such books and/or records requested in writing by the Village. Developer shall provide to the Village copies of any partnership, limited liability operating agreements or joint venture agreements pertaining to the Property to which the Developer is a party; provided that the Developer may, (if Developer has previously provided the Village not less than thirty (30) days to review such confidential financial materials), remove from the copies of such agreements any confidential financial information previously disclosed to the Village and not since changed in form or substance and the Village shall keep such agreements confidential, to the maximum extent permitted by law. Failure to provide the documents or allow review of the books within fifteen (15) days after request by the Village shall be an Event of Default. Developer shall exercise prudence and good faith in attempting to contract with persons or entities who are reputable and experienced in their respective areas for the provision of services or material for the design and construction of the Project at costs not in excess of market rates. The Village agrees that the Developer may designate within its discretion the general contractor (or general contractors) for the Project. The general contractor (or general contractors) designated by Developer shall be experienced and reputable.

**10.10 Assignment of Agreement.** Without the express written consent of the Village Council, (which may be withheld in the Village Council's reasonable discretion) this Agreement may not be assigned nor may any rights hereunder be transferred by Developer except for Permitted



Transfers (as hereinafter defined), until completion of the Project. Any proposed assignee of any of Developer's obligations under this Agreement shall have the qualifications, financial ability, reputation and character necessary, adequate and desirable, in Village's sole discretion, to fulfill these obligations. The proposed assignee shall execute an assumption and assignment agreement agreeing to adhere to the terms and conditions of this Agreement, as they apply to said assignee, and shall submit such information, including financial information, as may be requested by the Village Council. Before any permissible assignment shall be of any force and effect, Developer shall give notice of such proposed assignment to the Village, and the Village Council shall have thirty (30) days to accept or reject such assignee at its sole discretion. In the event the Village rejects such assignee, the Village shall state the reasons therefor. If the Village does not respond to the notice of such intended assignment within such thirty-day (30) period, such assignment shall be deemed approved. Notwithstanding anything in this Section 10.10, no part of this Section 10.10 shall require the Village's consent to the collateral assignment hereof to Developer's construction lender or permanent lender, if required thereby or to a Permitted Transfer.

**10.11 No Transfer without Village's Consent.** Prior to issuance of a certificate of completion, no portion of the Project shall be transferred or conveyed without the Village Council's prior written approval (other than Permitted Transfers). Before being requested to consent to a transfer (except a Permitted Transfer) of all of the Property by Developer to another developer (a "separate developer") who will develop such portion of the Project and the Property, the following must be satisfied regarding such transfer:

a. Any proposed transferee shall, in the Village's sole discretion, have the experience and financial ability necessary to fulfill the obligations undertaken by Developer in this Agreement with respect to the Project and all rights, duties and responsibilities being

transferred. The proposed separate developer shall submit to the Village, for its review and approval, the same financial documents required hereunder of Developer.

b. Any such proposed transferee shall have expressly assumed the obligation of Developer hereunder in writing with respect to the Project and all rights, duties and responsibilities to be transferred as hereinafter provided.

c. All material instruments and legal documents involved and affecting any such transfer from Developer to any transferee shall be submitted to the Village Council for its approval, and no transfer shall be effective until the Village Council has authorized the Village Manager to execute the same. Except in the event of a written agreement authorized by the Village Council, no transfer shall be deemed to relieve Developer or any other party bound in any way by this Agreement or otherwise with respect to the construction of the Project from any of their obligations with respect thereto as to the interest transferred. Developer shall in any event notify the Village of any transfer of any interest in the Project other than: (i) transfers of interests in connection with the sale of individual condominium units (including parking spaces) and such units' interest in the common elements of the condominium to the future resident of such unit, (individual condominium unit owners shall not be considered to be a separate developer, but merely a successor in title under this Agreement); (ii) transfers of any property to the condominium associations to be established, and (iii) transfers to an Affiliate of Developer; as used herein, an "Affiliate of Developer" shall mean an entity which controls, is controlled by, or is under common control with Developer and which has the same manager, members, partners or shareholders owning in the aggregate, more than fifty percent (50%) of the ownership interests in Developer owning more than fifty percent (50%) of the ownership interests in said Affiliate; and as used herein, "control" shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a

person or entity, whether through the ownership of voting securities or rights, by contract, or otherwise (the foregoing transfers in clauses i, ii and iii shall herein be referred to as the "Permitted Transfers"). Developer shall not be required to obtain Village review, approval or consent to any Permitted Transfer. The Village shall have no duty to return any letter of credit or other security posted in connection with the portion of the Project so transferred until substitute security acceptable to Village in its sole discretion is received.

d. Upon the conveyance of the Property to a separate developer (as consented to by the Village Council, and as evidenced by execution by the separate developer of an assumption and assignment agreement in a form acceptable to the Village), such separate developer shall be responsible for the development of the Project and Developer shall be relieved from all further liability under this Agreement with respect to the Project and the Property so transferred. Each separate developer shall be bound by all terms, conditions, and obligation of this Agreement applicable to the Project and Property and, except as set forth below in this section, any reference to Developer in this Agreement shall be deemed to be (or include) a reference to a separate developer to the extent such reference is to (or includes) the Project or the Property owned by such separate developer.

## **ARTICLE ELEVEN**

### **ADHERENCE TO VILLAGE CODES AND ORDINANCES.**

All development and construction of the Project shall comply in all respects with the applicable provisions in the Building, Plumbing, Mechanical, Electrical, Storm Water Management, Fire Prevention, Property Maintenance, Zoning and Subdivision Codes of the Village and all other germane and applicable codes and ordinances in the Downers Grove Municipal Code in effect on the date that an application for a building permit and/or earth

moving permit for such development or construction is filed, and from time to time during construction that are applicable, except as otherwise provided herein.

Developer warrants that its development of the Project shall be performed in accordance with all the applicable covenants, conditions, restrictions, building regulations, zoning ordinances, property maintenance regulations, environmental regulations and land use regulations, codes, ordinances, federal, State and local ordinances affecting the Project.

## ARTICLE TWELVE

### REPRESENTATIONS AND WARRANTIES OF DEVELOPER.

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

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

**12.2 Non-Conflict or Breach.** Neither the execution and delivery of this Agreement by Developer, the consummation of the transactions contemplated hereby by Developer, nor the fulfillment of or compliance with the terms and conditions of this Agreement by Developer conflicts with or results in a breach of any of the terms, conditions or provisions of any offerings

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

**12.3 Location of Project.** The Project will be located entirely within the Property.

**12.4 Financial Resources.** Developer and any Affiliate to which portions of this Agreement are assigned has sufficient financial and economic resources to implement and complete Developer's obligations contained in this Agreement.

**12.5 Limit on Use of Land as Security.** Developer shall not use the Property as security for any financing purposes other than for the acquisition, construction and development of the Project, provided, however, that this restriction shall terminate upon issuance of Certificates of Occupancy for the Project. Violation of this covenant shall constitute an Event of Default.

## **ARTICLE THIRTEEN**

### **REPRESENTATIONS AND WARRANTIES OF THE VILLAGE.**

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

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

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

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

**13.4 Connections.** The Village hereby agrees to permit the connection of all water lines, sanitary and storm sewer lines constructed in the Redevelopment Project Area or Village utility lines existing or constructed in the Property or near the perimeter of the Property as set forth on the Final Plans, provided that Developer complies with all requirements of general applicability promulgated by the Village for such connections. Village shall grant utility and other necessary easements as may be necessary or appropriate to accommodate the utilities shown on the Final Plans.

## **ARTICLE FOURTEEN**

### **LIABILITY AND RISK INSURANCE.**

**14.1 Liability Insurance Prior to Completion.** At the Closing, Developer (or Developer's contractor) shall procure and deliver to the Village, at Developer's (or such contractor's) cost

and expense, and shall maintain in full force and effect until each and every obligation of Developer contained herein has been fully paid, or performed, a policy or policies of comprehensive liability insurance and, during any period of construction, contractor's liability insurance, structural work act insurance, if available and if required under Illinois law and worker's compensation insurance, with liability coverage under the comprehensive liability insurance to be not less than Two Million and no/100 Dollars (\$2,000,000.00) each occurrence and Five Million and no/100 Dollars (\$5,000,000.00) total. All such policies shall be in such form and issued by such companies as shall be acceptable to the Village to protect the Village and Developer against any liability incidental to the use of or resulting from any claim for injury or damage occurring in or about the Project on the Property, or the construction and improvement thereof by Developer. Each such policy shall name the Village as an additional insured and shall contain an affirmative statement by the issuer that it will give written notice to the Village at least thirty (30) days prior to any cancellation or amendment of its policy. Developer shall provide to the Village a replacement certificate not less than 30 days prior to expiration of any policy.

**14.2 Builder's Risk Prior to Completion.** Prior to completion of the construction of the Project on the Property, as certified by the Village, Developer shall keep in force at all times builders risk insurance on a completed value basis, in non-reporting form, against all risks of physical loss, including collapse, covering the total value of work performed and equipment, supplies and materials furnished for the Project (including on-site stored materials), all as to work by Developer. Such insurance policies shall be issued by companies satisfactory to the Village. All such policies shall contain a provision that the same will not be canceled or modified without prior thirty-(30) day written notice to the Village.

## ARTICLE FIFTEEN

### REAL ESTATE SALE PROVISIONS.

#### 15.1 As Is Purchase.

a. This Agreement is an arms-length agreement between the parties. Except as expressly provided herein to the contrary, the Purchase Price was bargained on the basis of an "AS IS, WHERE IS" transaction and reflects the agreement of the parties that there are no representations, disclosures, or express or implied warranties, except for any representations of Village to Purchaser set forth in this Agreement.

**Subject to the terms of this Agreement, Purchaser is purchasing the Property, and, except as set forth herein, the Property shall be conveyed and transferred to Purchaser, "AS IS, WHERE IS, AND WITH ALL FAULTS," and specifically and expressly without any warranties or guaranties, either express or implied, of any kind, nature or type whatsoever from or on behalf of Village. Without limiting the generality of the foregoing except as set forth herein, Village HAS NOT MADE, AND DOES NOT AND WILL NOT MAKE WITH RESPECT TO THE PROPERTY, ANY WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING BUT IN NO WAY LIMITED TO, ANY WARRANTY OF CONDITION, MERCHANTABILITY, HABITABILITY, OR FITNESS FOR A PARTICULAR USE OR PURPOSE, OR WITH RESPECT TO THE VALUE, PROFITABILITY, BUILDABILITY, MORTGAGEABILITY OR MARKETABILITY OF THE PROPERTY, OR THE PRESENCE OF HAZARDOUS MATERIALS THEREIN, THEREON, OR THEREUNDER WHICH WARRANTIES ARE HEREBY DISCLAIMED. Except as otherwise provided in this Agreement, Purchaser has had, and will have pursuant to this Agreement, an adequate opportunity to make such legal, factual and other inquiries and investigations as Purchaser deems necessary, desirable or appropriate with respect to the Property. Such inquiries and investigations of Purchaser shall be deemed to include, but shall not be limited to, the physical condition of the**



Property, the suitability of the Property for the Intended Use (as defined below), such state of facts as an accurate survey and inspection of the Property would show, and all zoning and other codes, ordinances and regulations of any governmental entity applicable to the ownership, maintenance or operation of the Property.

**15.2 Purchase Price.**

a. The Village shall transfer title to the Property at the price of Seven Hundred Twenty (\$720,000.00), subject to customary closing costs, prorations and credits as provided herein.

**15.3 Title.**

a. **Title Commitment; Title Policy.** The Village has previously furnished to Purchaser a commitment for an ALTA Form B Owner's Policy of Title Insurance ("Commitment") issued by Chicago Title Insurance Company ("Title Company"), covering the Property, together with true and legible copies of all documents creating or establishing easements, restrictions, and other items referred to as exceptions in Schedule "B" and Schedule "C" of the Commitment ("Title Documents") and an existing survey for the Property.

b. **Objections.** Purchaser shall have seven (7) days following execution of this Agreement (or seven (7) days after the receipt of the actual document to be delivered) to review the Commitment, Title Documents and Survey and to provide to Village in writing a specific list of Purchaser's objections to any of them ("Title Objections"). Any item constituting an encumbrance upon or adversely affecting title to the Property (except for Consensual Liens) which is not objected to by Purchaser in writing by such time shall be deemed approved by Purchaser and shall constitute a Permitted Exception (as hereinafter defined). Any mortgages, security interests, financing statements, or any other lien recorded against the Property following the Agreement Date with the consent or acquiescence of Village are collectively referred to as the "Consensual

Liens" and none of such Consensual Liens shall constitute, be or become Permitted Exceptions. Village shall cause all Consensual Liens to be paid and discharged in full at Closing and in the event Village fails to do so, Purchaser shall have the right to deduct and apply so much of the Purchase Price as is reasonably required to do so. The phrase "Permitted Exceptions" shall mean those exceptions to title set forth in the Commitment, Title Documents and Survey and accepted or deemed approved by Purchaser pursuant to the terms hereof except Consensual Liens as provided above, which shall not constitute Permitted Exceptions.

c. **Cure.** Village shall have the right, but not the obligation for a period of fifteen (15) days after receipt of Purchaser's Title Objections (the "Cure Period"), to cure (or commit to cure at or prior to Closing) by delivery of written notice thereof to Purchaser within the Cure Period any or all Title Objections contained in Purchaser's notice. If any such Title Objections are not cured (or, if reasonably capable of being cured, Village has not committed to cure same at or prior to Closing) within the Cure Period, or if Village sooner elects not to cure such Title Objection by written notice to Purchaser, Purchaser shall have until the earlier of the expiration of the Cure Period or five (5) days after the receipt of such written notice within which to give Village written notice that Purchaser elects either (i) to waive all such uncured objections (in which case the uncured objections shall become Permitted Exceptions); or (ii) terminate this Agreement. If Purchaser does not deliver such written notice within the above period, Purchaser shall be deemed to have waived its objections and all uncured Title Objections shall be Permitted Exceptions (except Consensual Liens, which shall not constitute Permitted Exceptions). If Purchaser terminates this Agreement in accordance with the foregoing, this Agreement shall immediately and automatically terminate, and neither party shall have any further obligations to the other hereunder (except any obligations, which this Agreement provides survive termination).

#### 15.4 Closing Deliveries.

a. **Village.** Closing shall occur on or before April 30, 2006, provided all the conditions precedent described in this Agreement have been satisfied, including but not limited to: full execution of this Agreement, adoption of the Residential Planned Development Ordinance along with all other required land use ordinances necessary to construct the Project, and compliance with all applicable provisions of this Agreement. Village agrees to consider a request of Developer that it be allowed to close on the Property earlier than April 30, 2006. At Closing, Village shall deliver or cause to be delivered to Purchaser, in form and substance reasonably acceptable to Purchaser, each of the following documents applicable to the Property being conveyed:

- i. **Deed.** Quit Claim Deed conveying the Property to Purchaser (or Purchaser's Permitted Assignee) free and clear of all liens, claims and encumbrances except for the Permitted Exceptions as stated in Exhibit G attached hereto and incorporated herein by reference.
- ii. **Possession.** Exclusive possession of the Property shall be delivered to Purchaser at Closing.
- iii. **Title Policy.** At Closing, Village shall provide Purchaser with an ALTA Form B Owner's Policy of Title Insurance for the Property, dated as of the date of the Closing, in the amount of the Purchase Price, insuring title to be in Purchaser (or Purchaser's Permitted Assignee) in indefeasible fee simple, subject to no exceptions other than Permitted Exceptions with extended coverage and Village will cooperate and execute documents in Buyer's efforts to obtain the following endorsements: contiguity, PIN, survey, location, access,

Owner's Comprehensive, restrictions and Creditor's Rights (the "Title Policy"). Developer shall pay the additional premium charged for all listed endorsements (except extended coverage) required by Purchaser or its Lender.

- iv. **Closing Statement.** A Closing Statement conforming to the prorations and other relevant provisions of this Agreement.
- v. **Entity Transfer Certificate.** An Entity Transfer Certification confirming that the Village is a "United States Person" within the meaning of Section 1445 of the Internal Revenue Code of 1986, as amended.
- vi. **Other.** Such other documents and instruments as may reasonably be required by the Title Company as necessary to consummate this transaction and to otherwise effect the agreement of the parties hereto and not inconsistent with the terms of this Agreement, including but not limited to: (1) an Affidavit of Title, and (2) an A.L.T.A. Statement.

b. **Purchaser.** At Closing, Purchaser shall deliver or cause to be delivered to Village the following, in form and substance reasonably acceptable to Village:

- i. **Closing Statement.** At the Closing, a Closing Statement conforming to the proration and other relevant provisions of this Agreement.
- ii. **Corporate Resolutions/Authorizations.** Such corporate, partnership, limited liability company and/or limited partnership resolutions and authorizations reasonably satisfactory to the Title Company evidencing Purchaser's authority to enter into and

consummate this transaction and the acceptance of the conveyance of the Property, pursuant to this Agreement.

- iii. **Other.** Such other documents and instruments as may reasonably be required by the Title Company to consummate this transaction and to otherwise effect the agreement of the Parties hereto and not inconsistent with the terms of this Agreement.

**15.5 Prorations and Adjustments.** The following shall be prorated and adjusted between Village and Purchaser at the Closing, except as otherwise specified:

- a. Village will pay the basic premium for the Title Policy and any premiums for extended coverage; one-half of the escrow fee and New York closing fee charged by the Title Company; the costs to prepare the Deed; the cost to deliver the Survey (except for changes required by the Developer's lender); the costs to obtain, deliver, and record releases of all Consensual Liens deemed unpermitted exceptions pursuant to Section 15.3 b at Closing; the costs to record all documents to cure Title Objections agreed to be cured by Village; the cost of state and county transfer stamps, if any, and Village's expenses and attorney's fees. Purchaser will pay one-half of the escrow fee and New York closing fee charged by Title Company; the costs to obtain, deliver, and record all documents other than those to be recorded at Village's expense; the costs to obtain the Survey; the costs of any work required by Purchaser to have the Survey reflect matters other than those required under this Agreement; the costs to obtain financing of the Purchase Price, including the incremental premium costs of mortgagee's title policies and all endorsements and deletions required by Purchaser or Purchaser's lender; and Purchaser's expenses and attorney's fees. All assessments, general or special, which are due and payable in arrears after the Closing, and assessments for improvements completed prior to such Closing but payable after such Closing shall be prorated at such Closing based on each party's

period of ownership. Ad valorem real estate taxes for the Property will be prorated at 107% of most current available assessed value, equalization factor and tax rate between Purchaser and Village as of the Closing Date. Village's portion of the prorated taxes will be credited to Purchaser at closing as an adjustment to the Purchase Price. If the assessment(s) for the year of closing and/or prior years are not known at the Closing Date, the prorations will be based on 107% of taxes for the previous tax year. Village will promptly notify Purchaser of all notices of proposed or final tax valuations and assessments that Village receives after the Contract Date and prior to such Closing. If this sale or Purchaser's use of the Premises after such Closing results in the assessment of additional taxes for periods prior to Closing, Purchaser will pay the additional taxes. All taxes due as of such Closing will be paid at such Closing. Such other items that are customarily prorated in transactions of this nature, if any, shall be ratably prorated.

For purposes of calculating prorations, Purchaser shall be deemed to be in title to the Property on the Closing Date. All such prorations shall be made on the basis of the actual number of days of the year and month, which shall have elapsed as of such Closing Date. The amount of the ad valorem real estate tax proration shall be adjusted in cash after such Closing as and when the final tax bill for such period(s) becomes available. Village and Purchaser agree to cooperate and use their diligent and good faith efforts to make such adjustments no later than thirty (30) days after such information becomes available.

## ARTICLE SIXTEEN

### EVENTS OF DEFAULT AND REMEDIES.

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

a. If any representation made by Developer in this Agreement, or in any certificate, notice, demand or request made by Developer, in writing and delivered to the Village pursuant

to or in connection with any of said documents, shall prove to be untrue or incorrect in any material adverse respect as of the date made; provided, however, that such default shall constitute an Event of Default only if Developer does not remedy the default, within thirty (30) days after written notice from the Village.

b. Default by Developer for a period of thirty (30) days after written notice thereof from the Village in any representation contained in this Agreement concerning the existence, structure or financial condition of Developer; provided, however, that such default or breach shall not constitute an Event of Default if such default can be cured within said thirty (30) days and Developer, within said thirty (30) days initiates and diligently pursues appropriate measures to remedy the default.

c. Subject to Section 16.7, below, a material failure by Developer in the performance of any obligation hereunder or the material breach of any covenant or warranty contained in this Agreement; provided, however, that such default shall not constitute an Event of Default if such default can be cured within said thirty (30) days and the Developer, within said thirty (30) days initiates and diligently pursues appropriate measures to remedy the default and in any event cures such default within ninety (90) days after such notice, subject to Uncontrollable Circumstances.

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

e. The commencement by 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 Developer to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or similar official) of 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 Developer generally to pay such entity's debts as such debts become due or the taking of action by Developer in furtherance of any of the foregoing, or a petition is filed in bankruptcy by others.

f. Failure to have funds to meet Developer's obligations.

g. Failure to renew or extend the LOC referenced in Section 9.6 thirty (30) or more days prior to its expiry (in which event the Village may draw the full amount of the LOC).

h. Sale, assignment, or transfer of the Project except in accordance with this Agreement.

i. Change in the Developer (other than to Permitted Transferee).

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

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

a. if any material representation made by the Village in this Agreement, or in any certificate, notice, demand or request made by a party hereto, in writing and delivered to Developer pursuant to or in connection with any of said documents, shall prove to be untrue or incorrect in any material respect as of the date made; provided, however, that such default shall constitute an Event of Default only if the Village does not remedy the default, within thirty (30) days after written notice from Developer.



b. default by the Village in the performance or breach of any material covenant contained in this Agreement concerning the existence, structure or financial condition of the Village; provided, however, that such default or breach shall constitute an Event of Default if the Village does not, within thirty (30) days after written notice from Developer, initiate and diligently pursue appropriate measures to remedy the default.

c. default by the Village in the performance or breach of any material covenant, warranty or obligation contained in this Agreement; provided, however, that such default shall not constitute an Event of Default if the Village, commences cure within thirty (30) days after written notice from Developer and in any event cures such default within ninety (90) days after such notice, subject to Uncontrollable Circumstances.

d. failure to have funds to meet the Village's obligations.

### **16.3 Remedies for Default.**

In the case of an Event of Default hereunder:

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

b. In case the Developer or Village shall have proceeded to enforce its rights under this Agreement and such proceedings shall have been discontinued or abandoned for any

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

c. In the case of an Event of Default by Developer, in addition to any other remedies at law or in equity, the Village shall be relieved of its obligations under this Agreement, including but not limited to its obligations to accord Developer, "exclusive" developer status as set forth in Article Five.

**16.4 Agreement to Pay Attorneys' Fees and Expenses.** In the event an Event of Default is not cured within the applicable cure periods and either or both Parties employ(s) an attorney or attorneys or incur other expenses for the collection of the payments due under this Agreement or the enforcement of performance or observance of any obligation or agreement herein contained, the non-prevailing party shall pay, on demand, the prevailing party's reasonable fees of such attorneys and such other reasonable expenses in connection with such enforcement action. The Village's duty to pay shall be subject to the Illinois Prompt Payment Act.

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

under the Agreement shall be considered a waiver of any rights except if expressly waived in writing.

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

**16.7 Repurchase by the Village.** The parties agree and acknowledge that the events of default described in Section 7.3, above (the “Buy-Back Defaults”) and the Return remedy described therein are independent of any Event of Default described or listed in this Article 16. In no event shall an Event of Default set forth in this Article 16 allow for the Return remedy to be exercised by the Village, it being understood that the Return remedy shall only be applicable under a circumstance which constitutes a Buy-Back Default in Section 7.3. No Event of Default listed in this Article 16 shall trigger or allow for the Return remedy of the Village provided for in Section 7.3.

## **ARTICLE SEVENTEEN**

### **EQUAL EMPLOYMENT OPPORTUNITY.**

**17.1 No Discrimination.** Developer will not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex or national origin. To the fullest extent permitted by law, Developer will take affirmative action to ensure that applicants are employed and treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rate of pay or other forms of compensation and selection for training, including apprenticeship. Developer

agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

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

**17.3 Contractors.** Any contracts made by Developer with any general contractor, agent, employee, independent contractor or any other Person in connection with Developer's Project shall contain language similar to that recited in **Section 17.1** and **17.2** above.

## **ARTICLE EIGHTEEN**

### **MISCELLANEOUS PROVISIONS.**

**18.1 Cancellation.** In the event Developer or the Village shall be prohibited, in any material respect, from performing covenants and agreements or enjoying the rights and privileges herein contained, or contained in the Redevelopment Plan, including Developer's duty to build the Project, by the order of any court of competent jurisdiction, or in the event that all or any part of the Act or any ordinance adopted by the Village in connection with the Redevelopment Project, shall be declared invalid or unconstitutional, in whole or in part, by a final decision of a court of competent jurisdiction and such declaration shall materially affect the Project or the covenants and agreements or rights and privileges of Developer or the Village, then and in any such event, the party so materially affected may, at its election, cancel or terminate this Agreement in whole (or in part with respect to that portion of the Project materially affected) by giving written notice thereof to the other within sixty (60) days after such final decision or amendment. If the Village terminates this Agreement pursuant to this Section 18.1, to the extent it is then appropriate, the Village, at its option, may also terminate its duties, obligation and liability under all or any related documents and agreements provided, however, that (i) the cancellation or termination

of this Agreement shall have no effect on the authorizations granted to Developer for buildings permitted and under construction to the extent permitted by said Court order; and (ii) the cancellation or termination of this Agreement shall have no effect on perpetual easements contained in any recorded document. If the Developer terminates this Agreement pursuant to this Section 18.1, to the extent it is then appropriate, the Developer, at its option, may also terminate its duties, obligation and liability under all or any related documents and agreements provided, however, that the cancellation or termination of this Agreement shall have no effect on perpetual easements contained in any recorded document. In the event of a termination or cancellation under this Section, the remaining balance of the LOC shall be released to the Developer (so long as the termination or cancellation is not due to a Developer's Event of Default).

**18.2 Notices.** All notices, certificates, approvals, consents or other communications desired or required to be given hereunder shall be given in writing at the addresses set forth below, by any of the following means: (a) personal service, (b) electronic communications, whether by telex, telegram or telecopy, if followed up with an overnight delivery of same (c) overnight courier, or (d) registered or certified first class mail, postage prepaid, return receipt requested.

If to Village:

Village of Downers Grove  
801 Burlington Avenue  
Downers Grove, IL 60515  
Attn: Village Clerk  
Telephone: 630-434-5500  
Facsimile: 630-434-5571

With copies to:

Village of Downers Grove  
801 Burlington Avenue  
Downers Grove, Illinois 60515  
Attention: Enza Petrarca, Village Attorney  
Fax: 630-434-5493

If to Developer:

Access Group (Main & Maple), LLC  
3728 North Southport Avenue  
Chicago, Illinois 60613  
Attention: Joseph S. Farrell  
Fax: 733-929-7821

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

**18.3 Time of the Essence.** Time is of the essence of this Agreement.

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

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

**18.6 Recordation of Agreement.** The Parties agree to record this Agreement with the DuPage County Recorder's Office.

**18.7 Severability.** If any provision of this Agreement, or any Section, sentence, clause, phrase or word, or the application thereof, in any circumstance, is held to be invalid, the remainder of this Agreement shall be construed as if such invalid part were never included

herein, and this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

**18.8 Choice of Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

**18.9 Entire Contract and Amendments.** This Agreement (together with the exhibits attached hereto) is the entire contract between the Village and Developer relating to the subject matter hereof, supersedes all prior and contemporaneous negotiations, understandings and agreements, written or oral, between the Village and Developer, and may not be modified or amended except by a written instrument executed by the Parties hereto.

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

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

**18.12 Cooperation and Further Assurances.** The Village and Developer each covenants and agrees that each will do, execute, acknowledge and deliver or cause to be done, executed and delivered, such agreements, instruments, easements if necessary, and documents supplemental

hereto and such further acts, instruments, pledges and transfers as may be reasonably required for the better clarifying, assuring, mortgaging, conveying, transferring, pledging, assigning and confirming unto the Village or Developer or other appropriate persons all and singular the rights, property and revenues covenanted, agreed, conveyed, assigned, transferred and pledged under or in respect of this Agreement.

**18.13 Successors in Interest.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective authorized successors and assigns; provided, however, that, except as provided in **Section 10.10** hereof, Developer may not assign its rights under this Agreement without the express written approval of the Village. Notwithstanding anything herein to the contrary, the Village may not delegate its obligation hereunder or transfer any interest in the Property without the express written approval of Developer.

**18.14 No Joint Venture, Agency or Partnership Created.** Nothing in this Agreement, or any actions of the Parties to this Agreement, shall be construed by the Parties or any third person to create the relationship of a partnership, agency or joint venture between or among such parties.

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



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

**18.17 Term.** This Agreement shall remain in full force and effect for twenty-three (23) years from the date the Downtown TIF District was created, December 22, 1997, unless the Redevelopment Plan with respect to the Project is extended or until termination of the Redevelopment Project Area or until otherwise terminated pursuant to the terms of this Agreement.

**18.18 Estoppel Certificates.** Each of the parties hereto agrees to provide the other, upon not less than ten (10) business days prior request, a certificate ("Estoppel Certificate") certifying that this Agreement is in full force and effect (unless such is not the case, in which such parties shall specify the basis for such claim), that the requesting party is not in default of any term, provision or condition of this Agreement beyond any applicable notice and cure provision (or specifying each such claimed default) and certifying such other matters reasonably requested by the requesting party.

**18.19 Municipal Limitations.** All municipal commitments are limited to the extent required by law.

## **ARTICLE NINETEEN**

### **EFFECTIVENESS.**

The Effective Date for this Agreement shall be the day on which this Agreement is fully executed pursuant to a duly enacted Village ordinance authorizing the execution and adoption of this Agreement. Developer shall execute this Agreement prior to Village Council authorization of execution of this Agreement.

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

**VILLAGE OF DOWNERS GROVE**, an Illinois municipal corporation

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

**ATTEST:**

\_\_\_\_\_  
By: Village Clerk

**DEVELOPER:**

**ACCESS GROUP (MAIN & MAPLE), LLC**

By: \_\_\_\_\_  
Name: William J. Platt  
Its: Manager

**LIST OF EXHIBITS**

- A      LEGAL DESCRIPTION FOR PROPERTY**
- B      SITE PLAN FOR THE PROJECT**
- C.     LICENSE AGREEMENT FOR TESTING**
- D.     DEVELOPER'S SCHEDULE FOR PROJECT**
- E.     APPROVED TENANTS CATEGORIES LIST**
- F.     TIF PROJECTIONS**
- G.     PERMITTED EXCEPTIONS**

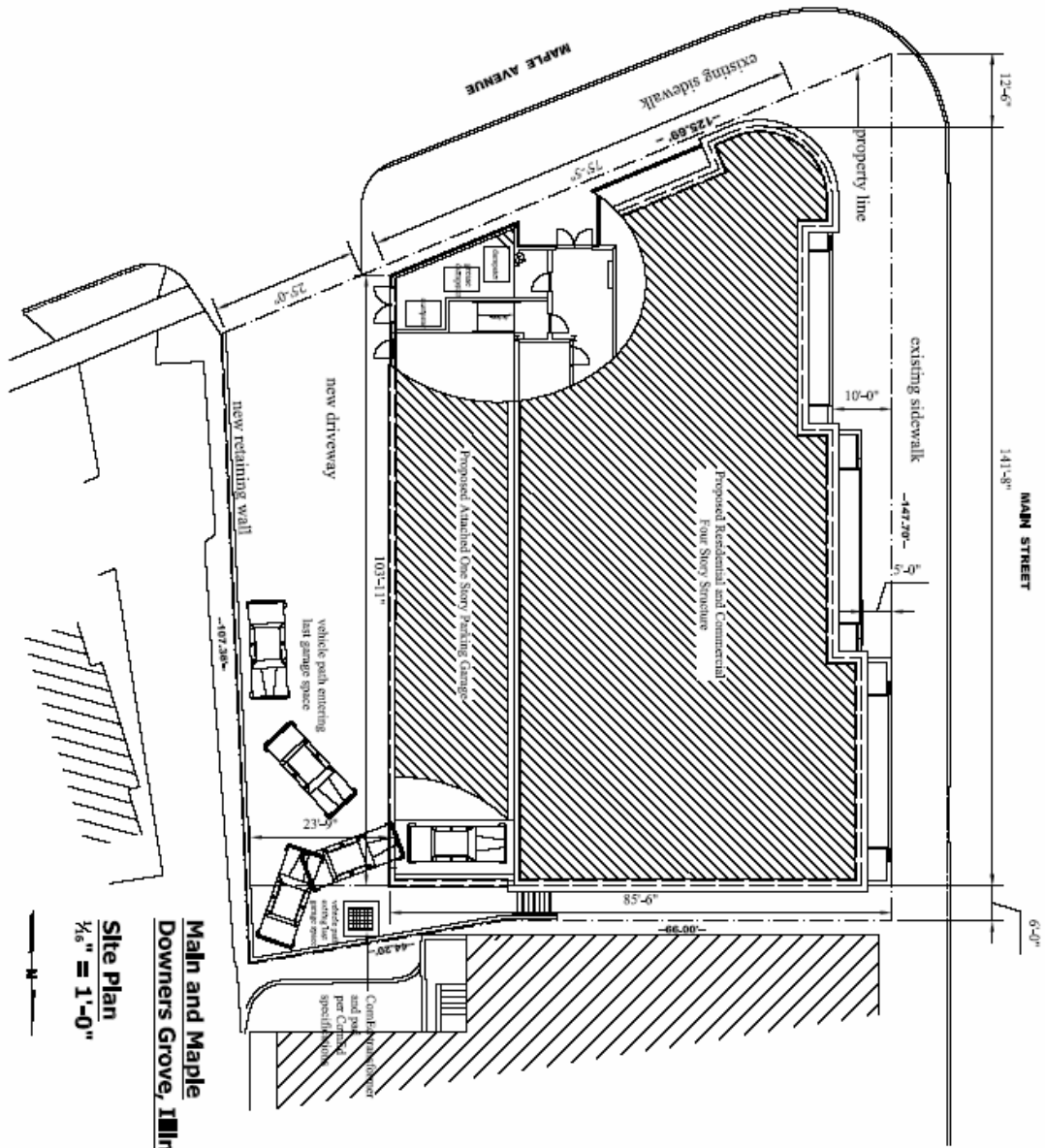
## **EXHIBIT A**

### **Legal Description**

OF THAT PART OF OUTLOT 1 IN CURTISS' ADDITION TO DOWNERS GROVE AS RECORDED AS DOCUMENT NUMBER 7317 LYING SOUTH OF LOT 22 IN ASSESSORS SUBDIVISION OF SECTION 8, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN AND LYING WEST OF LOT 18 IN SAID ASSESSORS SUBDIVISION; ALSO LOTS 20, 21 AND 22 IN SAID ASSESSORS SUBDIVISION; ALSO THAT PART OF LOT 18 IN SAID ASSESSORS SUBDIVISION DESCRIBED BY BEGINNING ON THE NORTH LINE OF MAPLE AVENUE AT THE SOUTHWEST CORNER OF SAID LOT 18; THENCE NORTH 1 ½ DEGREES WEST ALONG THE WEST LINE OF SAID LOT 18 A DISTANCE OF 118.9 FEET; THENCE NORTH 77 DEGREES EAST A DISTANCE OF 44.2 FEET; THENCE SOUTH 4 ¾ DEGREES EAST A DISTANCE OF 107.4 FEET TO THE NORTH LINE OF SAID MAPLE AVENUE; THENCE SOUTH 65 ½ DEGREES WEST ALONG SAID NORTH LINE A DISTANCE OF 54.2 FEET TO THE PALCE OF BEGINNING, ALL IN DUPAGE COUNTY, ILLINOIS

**EXHIBIT B**

**Site Plan**



**Maln and Maple  
Downers Grove, Illinois**

**Site Plan**  
1/8" = 1'-0"

## EXHIBIT C

### LICENSE AGREEMENT

This LICENSE AGREEMENT ("Agreement") is made as of this \_\_\_ day of \_\_\_\_\_ 2005, by and between the **VILLAGE OF DOWNERS GROVE**, an Illinois municipal home rule corporation ("Village") and **ACCESS REALTY GROUP, INC.**, an Illinois corporation and **ACCESS GROUP (MAIN & MAPLE), LLC**, an Illinois limited liability company (collectively, "Licensee").

The following recitals of fact are a material part of this Agreement.

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

B. Village is the owner of a certain parcel of land in the Village of Downers Grove, County of DuPage and State of Illinois, graphically depicted on Exhibit A attached hereto and made a part hereof ("Property").

C. Pursuant to a redevelopment agreement (the "Redevelopment Agreement") to be executed between the Village and Licensee, Licensee may become the contract purchaser of the Property, which is presently improved with a parking lot.

D. Village wishes to grant, and Licensee wishes to receive a non-exclusive license to solely perform survey, topographical, soil studies, and other required due diligence studies on the Property, all as set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the foregoing, the mutual agreement of the parties hereto and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

**1. Grant of License for Survey and Topographical Studies.** Village hereby grants to Licensee, a non-exclusive license to solely perform preliminary survey, a topographical survey, soil borings, and other required due diligence studies (hereinafter "Testing"), on the Property subject to: 1) Licensee not interfering with the normal daily use of the Property; and 2) Licensee providing the Village reasonable notice prior to entering the Property to perform any Testing.

**2. Term of License.** The license granted hereunder shall commence on the date hereof and shall terminate (the "Termination Date") upon the earlier of: (a) the date Licensee acquires fee title to the Property; (c) the date an Event of Default by Developer under the Redevelopment Agreement negotiated between the parties is not timely cured pursuant to the Redevelopment Agreement; (d) upon a breach of the terms hereof; (e) sixty (60) days after the date hereof if the Closing of the Property has not occurred pursuant to the terms of the Redevelopment Agreement; or (f) upon notice of termination from one Party to the other Party. Upon the occurrence of any of the events described in the preceding sentence, this License shall immediately expire and Licensee shall remove all evidence of the Testing and physical activity

performed on the Property and shall restore the Property to the condition of the Property existing on the date of this License Agreement.

3. **License Only.** This Agreement creates a license only and Licensee acknowledges that Licensee does not and shall not claim at any time any interest or estate of any kind or extent whatsoever in the Property by virtue of such license or Licensee's Testing on the Property pursuant hereto.

4. **License for Access and Construction.** In addition to the license created by this Agreement, this Agreement creates a license for access across the Property for the purpose of Testing. The term of the license for access shall terminate on the Termination Date.

5. **Return of the Property.** At the termination of Licensee's license, Licensee shall repair and restore the Property to the same Condition as existed on the date of this Agreement and in any event Licensee shall fill any holes resulting from Developer's Testing and activities on the Property.

6. **Code Compliance.** During the term of this license, Licensee shall comply with all applicable laws, statutes, ordinances, codes, rules, regulations, orders and decrees.

7. **Reservation of Rights by Village.** The right to use the Property owned by the Village is expressly reserved by Village, its successors, grantees, invitees and assigns. In addition, and not by limitation but by way of example, Village, its successors, grantees, invitees and assigns, reserve the right from time to time to grant additional licenses upon the Property, provided that such licenses do not unreasonably interfere with Licensee's testing on the Property pursuant to the terms hereof.

8. **No Transfer by Licensee.** Licensee shall not transfer any of its rights hereunder without the prior written consent of Village. Any such assignment made without the prior written consent of Village shall be null and void and of no further force or effect and this Agreement shall automatically terminate.

9. **Indemnity.** Licensee for and on behalf of itself and all successors, grantees, invitees and assigns, assumes sole and entire responsibility for any and all loss of life, injury to persons or damage to property (wherever such property may be located) that may be sustained directly or indirectly or arising out of the activities, operations or Testing of the Property by Licensee, its successors, grantees, invitees and assigns and all of their officers, directors, employees, representatives and agents. Further, Licensee, for itself, its successors, grantees, invitees and assigns, and for those claiming by, through or under any of them, hereby releases Village, its members, agents and employees (collectively, the "Indemnitees") from any and all claims or demands for loss, liability, expense, cost or damage (whether to person or property), including, without limitation, reasonable attorneys' fees and litigation costs incurred by the Indemnitees in connection therewith, that may arise from the Testing by Licensee, including entry upon Property, its successors, grantees, invitees and assigns, and all of their officers, directors, employees, representatives and agents. Licensee hereby agrees to indemnify, defend and hold harmless the Indemnitees from and against any and all liability, loss, claim, demand, lien, damage, penalty, fines, interest, cost and expense (including without limitation, reasonable attorneys' fees and litigation costs) incurred by the Indemnitees for injuries to persons



(including, without limitation, loss of life) and for damage, destruction or theft of property which is directly or indirectly due to or arising out of the activity, work or thing done, permitted or suffered by Licensee in connection with Testing, and entry onto Property or for any act or omission of Licensee, its successors, grantees, invitees and assigns and any of their officers, directors, employees, representatives and agents. Licensee shall cooperate with Village in the defense of any such claims, demands or action, including, without limitation, the employment, at the sole expense of Licensee, of legal counsel satisfactory to Village.

**10. Insurance.** Licensee, at its sole cost and expense, shall purchase and keep in full force and effect during the term hereof, Commercial General Public Liability Insurance (including, but not limited to, contractual liability insurance covering, without limitation, Licensee's indemnification obligations hereunder) in an amount not less than Two Million and no/100 Dollars (\$2,000,000.00) per occurrence whether involving bodily injury liability (or death resulting therefrom) or property damage liability or a combination thereof with a minimum aggregate limit of Five Million and no/100 Dollars (\$5,000,000.00) and provided that same shall not be cancelled without thirty (30) days prior notice to Owner.

Licensee, concurrently with execution hereof, or upon Licensee's commencement of Testing of the Property as permitted hereunder, whichever is earlier, shall deposit with Village, insurance certificates evidencing the foregoing coverage, together with satisfactory evidence of payment of the premiums thereon. All such insurance shall name the Indemnitees as additional insureds. Licensee shall deliver said insurance certificates to the Village Attorney's office at 801 Burlington Avenue, Downers Grove, Illinois, 60515, or as otherwise directed by Village from time to time.

**11. No Liens.** Licensee shall not permit any lien to be filed against any portion of the Property or any improvements thereon for any labor or materials in connection with work of any character performed or claimed to have been performed on the Property at the direction or sufferance of Licensee.

In the event any such lien is filed against any portion of the Property or any improvements thereon, Licensee shall remove or cause to be removed such lien within thirty (30) days of written notice from Village. In the event Licensee does not remove or cause to be removed such lien within said thirty (30) day period, Village shall have the right, but not the obligation, to cause such lien to be released and Licensee shall pay on demand all of Village's costs in connection therewith, together with interest thereon at the interest rate set forth in Paragraph 13 hereof, accruing from and after the date of such demand until Village's receipt of full payment therefor.

**12. Code Violation.** Licensee shall not permit any code violation to be filed against the Property as a result of Licensee's activities and/or testing.

In the event Licensee receives notice of such a code violation, either from the Village or its successors, Licensee shall remove or cause to be removed such violation within the time specified in said code violation notice. In the event Licensee does not remove or cause to be removed such code violation within said time period, Village shall have the right, but not the obligation, to cause such violation removed and Licensee shall pay on demand all of Village's costs in connection therewith, together with interest thereon at the interest rate set forth in

Paragraph 13 hereof, accruing from and after the date of such demand until Village's receipt of full payment therefor.

**13. Breach by Licensee.** If Licensee breaches any provision in this Agreement and fails to cure any such breach within two (2) days after written notice thereof, in addition to any other right or remedy available at law or in equity, including but not limited to termination of this Agreement, the Village shall have the right, but not the obligation, to cure any such breach and Licensee agrees to reimburse Village for the cost thereof upon demand, together with interest accruing thereon at an annual rate of interest equal to eighteen percent (18%) from and after the date of Village's demand therefor until Village's receipt of full payment therefor.

**14. No Warranty; Integration.** Village hereby makes and has made no representations, statements, warranties or agreements to Licensee in or in connection with this Agreement or the Property. This Agreement embodies the entire understanding of the parties hereto, and there are no further or other agreements or understanding, written or oral, in effect between the parties relating to the subject matter hereof.

**15. Notices.** All notices and other communications given pursuant to this Agreement shall be in writing and shall be deemed properly served if delivered in person to the party to whom it is addressed or on the third (3<sup>rd</sup>) day after deposit in the U.S. mail as registered or certified mail, return receipt requested, postage prepaid or sent by facsimile transmission, as follows:

If to Village:	Village of Downers Grove 801 Burlington Avenue Downers Grove, Illinois 60515 Attention: Village Clerk Fax: 630-434-5571
With copies to:	Village of Downers Grove 801 Burlington Avenue Downers Grove, Illinois 60515 Attention: Enza Petrarca, Village Attorney Fax: 630-434-5493
If to Licensee:	Access Group 3728 North Southport Avenue Chicago, Illinois 60613 Attention: Bill Platt Fax: 733-929-7821
With a copy to:	Joseph Farrell 3728 North Southport Avenue Chicago, Illinois 60613 Fax: 733-929-7821

16. **Prevailing Party.** In the event either party shall use legal counsel to enforce this Agreement, the non-prevailing party shall pay the legal fees of the prevailing party.

17. **Binding on Successors.** This Agreement shall be binding upon and shall inure to the benefit of the Village and the Licensee and the respective successors and permitted assigns of each upon execution hereof by the Village and the Licensee. Two (2) duly executed duplicate originals of this Agreement shall be provided to each party. This Agreement creates no rights as a third party beneficiary or otherwise in any person not a party.

18. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which shall together constitute one and the same instrument.

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

**LICENSEE:**

Access Realty Group, Inc.  
An Illinois Corporation

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Access Group (Main & Maple), LLC  
An Illinois Limited Liability Company

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**VILLAGE:**

VILLAGE OF DOWNERS GROVE,  
An Illinois municipal home rule corporation

By: \_\_\_\_\_  
Village Manager

Attest: \_\_\_\_\_  
Village Clerk

## **EXHIBIT A**

### **Legal Description**

OF THAT PART OF OUTLOT 1 IN CURTISS' ADDITION TO DOWNERS GROVE AS RECORDED AS DOCUMENT NUMBER 7317 LYING SOUTH OF LOT 22 IN ASSESSORS SUBDIVISION OF SECTION 8, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN AND LYING WEST OF LOT 18 IN SAID ASSESSORS SUBDIVISION; ALSO LOTS 20, 21 AND 22 IN SAID ASSESSORS SUBDIVISION; ALSO THAT PART OF LOT 18 IN SAID ASSESSORS SUBDIVISION DESCRIBED BY BEGINNING ON THE NORTH LINE OF MAPLE AVENUE AT THE SOUTHWEST CORNER OF SAID LOT 18; THENCE NORTH 1 ½ DEGREES WEST ALONG THE WEST LINE OF SAID LOT 18 A DISTANCE OF 118.9 FEET; THENCE NORTH 77 DEGREES EAST A DISTANCE OF 44.2 FEET; THENCE SOUTH 4 ¾ DEGREES EAST A DISTANCE OF 107.4 FEET TO THE NORTH LINE OF SAID MAPLE AVENUE; THENCE SOUTH 65 ½ DEGREES WEST ALONG SAID NORTH LINE A DISTANCE OF 54.2 FEET TO THE PALCE OF BEGINNING, ALL IN DUPAGE COUNTY, ILLINOIS

**Exhibit "D"**  
**Development Schedule**

Action	Target Date	Default Date	Penalty Event / Amount
Submit construction financing commitment and development budget	03/31/06	06/30/06	N/A
Apply for a building permit	03/31/06	06/30/06	N/A
Obtain a building permit	04/30/06	07/31/06	\$10,000
Close on the Property	05/31/06	08/30/06	\$25,000
Commence foundation construction	06/15/06	09/15/06	N/A
Complete installation of the foundation	07/15/06	10/15/06	\$50,000
Complete shell and core	09/30/06	12/31/06	\$50,000
Complete the development	06/30/07	09/30/07	\$50,000

## EXHIBIT E

### LIST OF DISCOURAGED AND ENCOURAGED USES

Underlining is used to designate uses that are discouraged, **Bold** designates uses that are encouraged in the DB district.

*Permitted uses.* The following uses are allowed in the DB Downtown Business District as permitted uses:

- (1) Public, Institutional.  
Village-owned facilities and structures.  
Governmental facilities and structures other than colleges, universities, and schools.
- (2) **Commercial.**  
Antique shops.  
Animal grooming.  
Art and school supply stores.  
**Art galleries and studios.**  
**Bakeries, retail only, with accessory preparation, but only up to 5,000 square feet.**  
Banks, financial institutions, but excluding drive-in, drive-up, and drive through facilities.  
Barber shops and beauty salons.  
Bicycle shops.  
**Books, stationery, and newspaper stores.**  
Business and professional offices.  
Camera and photographic supply and repair stores.  
Candy stores, retail only, with accessory preparation.  
Carpet, rug, and linoleum stores and showrooms, but excluding warehousing.  
**Clothing sales** and clothing rental stores.  
Coin and philatelic stores.  
Copying, binding, and digital imaging services.  
Cosmetics and toiletry stores, retail only.  
Craft and hobby shops.  
Custom clothing making and millinery shops, including monogramming services.  
**Department stores up to 15,000 square feet.**  
Drug stores, but not including drive-through facilities.  
Dry cleaning stores, retail only, no plant on site.  
Electronics and household appliance stores, retail only, including radio, television, cellular, and similar products, but not including warehousing.  
Flower and florist shops.  
**Food stores, grocery stores, meat markets, delicatessens, ice cream shops, and similar stores other than restaurants up to 15,000 square feet.**  
**Furniture stores, retail only, but not including warehousing.**  
Furrier stores, retail only.  
Garden supply shops and stores.  
Gift and card shops.  
**Glassware stores, including china, ceramic, pottery, and similar products, retail only.**  
**Hardware stores up to 15,000 square feet.**

Interior decorating stores.  
 Jewelry stores, including accessory repair and assembly, retail only.  
 Leather goods and luggage stores.  
Liquor stores, but not including any customer seating, packaged goods only.  
Locksmith shops.  
Medical offices (outpatient services only) up to 3,000 square feet.  
 Musical instrument stores, including accessory repairs.  
 Office supply stores.  
 Paint and wallpaper stores.  
 Photograph developing and processing stores, retail only.  
 Photographer studios, including accessory developing and processing.  
 Picture framing stores, retail only.  
Plumbing showrooms, retail only, excluding warehousing.  
**Restaurants (but not including outdoor seating or drive-through facilities).**  
 Sewing machine shops, including accessory repairs, household machines only.  
**Shoe stores and shoe repair shops.**  
 Sporting goods stores, but not including sales of firearms or ammunition of any kind.  
Tailor shops.  
 Ticket sales and agencies.  
 Tobacco shops.  
 Toy stores.  
 Travel bureaus, including transportation ticket offices.  
 Video stores.

- (3) Miscellaneous.  
Home occupations.  
Off-street parking lots and loading docks.

(d) *Special uses.* The following uses are allowed in the DB District as special uses:

- (1) **Residential.**  
**Multiple-family dwellings.**
- (2) Public, Institutional.  
Churches, other places of worship, and church schools, but only if existing as of June 7, 2005, and only on the property as existing on June 7, 2005.  
Colleges, universities, and schools, both public and private.  
Public utility facilities.
- (3) **Commercial.**  
Automobile service stations, including automobile repair, minor, but excluding body repair and painting.  
Animal surgical offices.  
 Bowling alleys.  
Commercial schools.  
Day care centers, subject to Section 28-1017.  
**Department stores larger than 15,000 square feet.**  
Drive-through facilities accessory to an authorized use (but not including drive-through restaurants).  
**Food stores, grocery stores, meat markets, delicatessens, ice cream shops, and similar stores other than restaurants larger than 15,000 square feet.**  
**Hardware stores larger than 15,000 square feet.**  
Health and fitness clubs.  
Hotels and bed-and-breakfast establishments.  
Medical offices (outpatient services only) larger than 3,000 square feet.

**Outdoor seating accessory to a restaurant.**

Outdoor display of merchandise accessory to an authorized use.

Private schools.

Theaters, but not including drive-in movie theaters.

(4) Miscellaneous.

**Planned developments.**



**EXHIBIT F**  
**TIF PROJECTIONS**

Component	Project	Description	Name	Class	Sq Ft/ # Units	Market Value	Year:	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021		
Total EAV All Components	Residential condos	Retail	Retail	4	8	287,500.00	Yr. 1	363,295	753,421	302,707	313,302	324,268	839,932	870,468	902,335	935,317	969,453	1,004,783	1,041,351	1,079,198	1,118,370	1,158,913	1,200,875	
							Yr. 15	146,235	302,707	313,302	324,268	839,932	870,468	902,335	935,317	969,453	1,004,783	1,041,351	1,079,198	1,118,370	1,158,913	1,200,875		
Property Taxes	a) Base EAV	b) Incremental EAV	c) Tax Rate = 6.7490%	d) Incremental Property Taxes	e) Cumulative Adj Incremental Property Taxes	Total EAV All Components	Yr. 1	509,530	1,056,128	1,094,492	1,134,200	1,175,297	1,217,832	1,261,856	1,307,421	1,354,581	1,403,391	1,453,910	1,506,197	1,560,314	1,616,324	1,674,296	0	
							Yr. 15	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sales Taxes	a) Est Total Sales	b) Est Sales Taxes	c) Base Sales Taxes	d) Incremental Sales Taxes	e) Incr. Sales Tax Collected (25% From Prior Year/75% From Current Year)	Total Incremental Taxes	Yr. 1	1,606,800	1,655,004	1,704,654	1,755,794	1,808,468	1,862,722	1,918,603	1,976,161	2,035,446	2,096,510	2,159,405	2,224,187	2,290,913	2,359,640	2,399,986	2,425,996	2,425,996
							Yr. 15	780,000	780,000	780,000	780,000	780,000	780,000	780,000	780,000	780,000	780,000	780,000	780,000	780,000	780,000	780,000	780,000	780,000
Total Incremental Taxes	Incremental Property Taxes	Incremental Sales Taxes	Cumulative Total Taxes Collected	Total Taxes Collected	NPV of Incremental Taxes for Period 2007 to 2021	NPV Total Incremental Taxes =	Yr. 1	0	34,388	71,278	73,867	76,547	79,321	82,191	85,163	88,238	91,421	94,715	98,124	101,653	105,306	109,086	109,086	
							Yr. 15	5,850	48,389	87,708	90,790	93,977	97,274	100,683	104,209	107,856	111,627	115,527	119,561	123,733	128,048	132,510	137,142	141,931

NPV of Incremental Taxes for Period 2007 to 2021	4.5%
NPV Incremental Property Taxes =	\$803,567
NPV Incremental Sales Taxes =	\$213,971
NPV Total Incremental Taxes =	\$1,128,796

NPV of Incremental Taxes for Period 2007 to 2021	5.0%
NPV Incremental Property Taxes =	\$771,343
NPV Incremental Sales Taxes =	\$204,987
NPV Total Incremental Taxes =	\$1,079,163

## **EXHIBIT G**

### **PERMITTED EXCEPTIONS**

All public utility easements of record. Covenants, conditions, easements of record that do not interfere with purchaser's intended use of the property.

- (c) Ordinance No. 3999, adopted December 22, 1997, titled "An Ordinance Adopting Tax Increment Financing for the Village of Downers Grove"; and

WHEREAS, the Developer seeks to improve the Property with mixed retail and residential development generally in accordance with the plans depicted in the redevelopment agreement attached to this Ordinance as Exhibit A; and

WHEREAS, the Developer has entered into contracts or will enter into contracts for the construction of the public improvements necessary to serve the Property; and

WHEREAS, the Village proposes to finance certain Redevelopment Project Costs to be incurred in connection with site preparation, environmental remediation, demolition, and construction of certain public improvements by utilizing tax increment financing in accordance with the TIF Act, as well as through other financing mechanisms; and

WHEREAS, it is necessary and appropriate for the successful completion of the Redevelopment Project approved by Ordinance No. 3997 that the Village enter into a redevelopment agreement with the Developer to provide for the development of the Property, thereby implementing and bringing to completion a significant portion of the Redevelopment Plan; and

WHEREAS, the Village has determined that the redevelopment agreement attached to this Ordinance as Exhibit A (the "Redevelopment Agreement") includes the necessary and appropriate terms and provisions for the successful completion of the development of the Property; and

WHEREAS, it is economically not feasible for the Developer to undertake the redevelopment, and the Developer thus is unable to undertake the redevelopment of the Property without certain TIF assistance from the Village, and the Village has determined that it is appropriate and desirable and in the best interests of the Village to assist the Developer in the manner set forth in the Redevelopment Agreement; and

WHEREAS, the Village is desirous of having the Property developed for the uses described in this Agreement to eliminate the blight factors and characteristics found in the Property, to serve the needs of the Village, and to produce increased tax revenues for the various taxing districts authorized to levy taxes within the Property; and

WHEREAS, the Mayor and Village Council of the Village of Downers Grove, after due and careful consideration, have concluded that the development of the Property on the terms and conditions set forth in the Redevelopment Agreement will promote sound planning, increase the taxable value of property within the Village, enable the Village to control the development of the area, and otherwise promote, enhance, and serve the best interests and general welfare of the Village and its citizens;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Downers Grove, DuPage County and State of Illinois, as follows:

Section 1. Recitals. The foregoing recitals are incorporated into this Ordinance as findings of the Council.

Section 2. Approval of Redevelopment Agreement. The Redevelopment Agreement shall be, and it is hereby, approved in substantially the form attached to this Ordinance as Exhibit A and in final form satisfactory to the Village Manager. The Mayor and Village Clerk are hereby authorized and directed to execute and deliver the Redevelopment Agreement and any other necessary and appropriate related documents after such documents have been properly executed and delivered by the Developer.

Section 3. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form in the manner provided by law.

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Mayor

ATTEST:

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Village Clerk

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