

Exhibit C - Redevelopment Agreement with Exhibits

REDEVELOPMENT AGREEMENT (Main Street Triangle Phase 1)

This Redevelopment Agreement (Main Street Triangle Phase 1) (the "Agreement") is executed this ____ day of September, 2011, by and between Metra Triangle FC, LLC (the "Developer") and the Village of Orland Park, Illinois (the "Village"), Witnesses:

Recitals

WHEREAS, pursuant to Article VII, Section 6 of the Illinois Constitution, Village is a home rule unit;

WHEREAS, Village has the authority, pursuant to the Laws of the State of Illinois, to: (a) promote the health, safety, and welfare of Village and its inhabitants; (b) prevent or arrest the presence of physical decay, decline, and blight; (c) encourage private development in order to: (i) enhance or stabilize the local tax base; and (ii) increase additional tax revenues realized by Village; (d) stimulate commercial and economic growth within Village; (e) increase employment opportunities within Village; (f) enter into contractual agreements with third parties for the purpose of achieving the foregoing; and (g) take other actions in the best interests of Village;

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

WHEREAS, pursuant to the Ordinances, Village approved the TIF Plan, designated the Redevelopment Project Area, and adopted tax increment financing relative to the TIF District;

WHEREAS, Village desires that the Redevelopment Project Area be rehabilitated, developed, and/or redeveloped in accordance with the TIF Plan for the purposes of: (a) serving the needs of Village; (b) arresting the presence of physical decay, decline, and blight in the Redevelopment Project Area; (c) encouraging private development in order to: (i) enhance or stabilize the local tax base; and (ii) increase additional tax revenues realized by Village; (d) stimulating commercial and economic growth within the Redevelopment Project Area; and (e) increasing employment opportunities within the Redevelopment Project Area;

WHEREAS, Village is the fee owner of the Project Site and, because the Project Site is located within the Redevelopment Project Area, Village desires that the Project Site be redeveloped;

WHEREAS, to further the rehabilitation, development, and/or redevelopment of the Project Site, Village is willing to assist a selected developer by providing certain incentives, and undertaking certain obligations, as permitted pursuant to the Act and/or the Illinois Constitution;

WHEREAS, Village has selected Developer as the entity to redevelop the Project Site, and Village and Developer have agreed that the Developer Project is the proper type of redevelopment project for the Project Site;

WHEREAS, Village and Developer acknowledge and agree that Developer cannot construct the Developer Project in a manner satisfactory to either Village or Developer without assistance from Village in the form of the Developer Loan and the Developer Project Incentive;

WHEREAS, pursuant to the Act and/or the Illinois Constitution, Village has the power to make the Developer Loan and provide the Developer Project Incentive;

WHEREAS, Village has determined that it is desirable, and in the best interests of Village, to issue the Debt Instrument, make the Developer Loan, and provide the Developer Project Incentive pursuant to, and in accordance with, the terms and conditions of this Agreement;

WHEREAS, this Agreement has been submitted to the Corporate Authorities for consideration and review, and: (a) the Corporate Authorities have taken all actions required to be taken prior to the execution of this Agreement in order to make this Agreement binding upon Village; and (b) any and all actions of the Corporate Authorities precedent to the execution of this Agreement have been undertaken and performed in the manner required by the Laws;

WHEREAS, this Agreement has been submitted to the members and/or managers of Developer for consideration and review, and: (a) the members and/or managers of Developer have taken all actions required to be taken prior to the execution of this Agreement in order to make this Agreement binding upon Developer; and (b) any and all action of the members and/or managers of Developer precedent to the execution of this Agreement have been undertaken and performed in the manner required by the Laws; and

WHEREAS, Village and Developer desire to execute this Agreement;

Agreement

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged hereby, Developer and Village agree as follows:

1. Definitions.

Acquisition Delay Increase shall have the meaning set forth in Subsection 18(c).

Acquisition Portion shall mean that portion of the Project Site that is delineated on Exhibit A as "Subparcel 2".

Act shall mean the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1, *et seq.*, as amended.

Agency shall mean any applicable governmental, regulatory, or administrative agency (including, without limitation and as applicable, boards, commissions, and departments of Village).

Agency Inspections shall mean all inspections required by the Agencies.

Architect shall mean, singly and/or collectively, as applicable, RTKL Associates Inc., and any other architects and engineers selected by Developer and approved by Village with respect to the design of the Developer Project.

Bankruptcy Default shall mean, with respect to Developer, that: (a) Developer: (i) institutes or consents to any proceedings: (A) in insolvency or bankruptcy; (B) for the adjustment, liquidation, extension, or arrangement of debts; or (C) for any other relief; under any Law with respect to the relief or reorganization of debtors; (ii) is adjudicated a bankrupt, files an answer admitting bankruptcy or insolvency, or in any manner is adjudged insolvent; (iii) makes an assignment for the benefit of creditors; or (iv) admits in writing an inability to pay debts as they become due; or (b) any proceeding: (i) in insolvency or bankruptcy; (ii) for the adjustment, liquidation, extension or composition, or arrangement of debts; or (iii) for any other relief; under any Law with respect to the relief or reorganization of debtors is instituted against Developer, and such proceeding is not discharged or dismissed within 60 days.

Base CM Fee shall mean a construction management fee payable to the Construction Manager in the amount of 1.5% of the Guaranteed Maximum Price.

Books and Records shall mean complete and accurate books and records with respect to: (a) all of the costs and expenses of constructing the Developer Project; and (b) Net Operating Income and Debt Service Coverage Ratio, including Debt Service, Developer Project Reserves, Developer Project Revenue, Operating Expenses, and amounts paid into the Tax Escrow Account; which books and records shall include customary

supporting information (including, without limitation, invoices, receipts, and other evidence of costs and expenses incurred and paid).

Budgets shall mean the Developer Project Budget and/or the Debt Instrument Issuance Budget, as applicable.

Capital Event shall mean, during the Post-Liquidation Event Period: (a) if the Liquidation Event Facility is the Full Take-Out Loan, a refinancing of the Developer Project; or (b) if the Liquidation Event Facility is the Take-Out Loan/Partial Refinancing or the Village Full Refinancing, a refinancing of the Village Partial Refinancing or the Village Full Refinancing, respectively; or (c) a sale or other disposition of the Developer Project.

Capital Event Closing Costs shall mean the reasonable, actual, out-of-pocket costs and expenses incurred by Developer in connection with a Capital Event. The Capital Event Closing Costs shall not include, and specifically shall exclude, any amounts paid to Developer or any Developer Affiliate.

Capital Event Net Proceeds shall mean, in the event of a Capital Event: (a) all revenues, receipts, proceeds, and income received by or paid to Developer; minus (b) the Capital Event Closing Costs incurred by Developer in connection with the Capital Event; and (c) minus the amount to repay the Village Full Refinancing or the Village Partial Refinancing (if the Liquidation Event Facility is the Village Full Refinancing or the Take-Out Loan/Partial Refinancing, respectively).

Cash Flow Split shall mean a split of the Excess Cash Flow (which, as provided by the definitions of Pre-Stabilization Excess Cash Flow, Post-Stabilization Excess Cash Flow, and Post-Liquidation Excess Cash Flow, all of which comprise the definition of Excess Cash Flow, is based upon a calculation in which due and owing Debt Service payments are subtracted from Net Operating Income), which split shall be, in the case of:

(a) the Pre-Stabilization Excess Cash Flow and the Post-Stabilization Excess Cash Flow: (i) 25% to Village; and (ii) 75% to Developer; provided that, if, at any time during either the Pre-Stabilization Period or the Post-Stabilization Period, Developer has received an amount equal to \$3,500,000.00 through the split of the Excess Cash Flow, then the foregoing 25%/75% split shall be changed to be: (i) 50% to Village; and (ii) 50% to Developer.

(b) the Post-Liquidation Excess Cash Flow:

(i) if the Liquidation Event Facility is the Village Full Refinancing or the Take-Out Loan/Partial Refinancing, then, until the VFR Additional Principal or the original principal amount of the Village Partial Refinancing, respectively, is repaid in full: (A) 92% to Village; and (B) 8% to Developer; and

(ii) after the VFR Additional Principal or the original principal amount of the Village Partial Refinancing is repaid in full, or if the Liquidation Event Facility is the Full Take-Out Loan: (A) 8% to Village; and (B) 92% to Developer.

Change Order shall mean a change order executed by Village and Developer finalizing the inclusion into the Final Plans of a change proposed in a Change Order Request that is approved by Village; provided that, in the case of a Permitted Change, such change order shall be effective if executed only by Developer.

Change Order Request shall mean a written request for a change to the Final Plans.

Claims shall mean claims, liabilities, damages, injuries, losses, costs, and expenses (including, without

limitation, reasonable attorneys' fees).

Closing shall mean the closing with respect to: (a) the issuance and sale by Village of the Debt Instrument; and (b) the making by Village of the Developer Loan.

Closing Date shall mean the date of the Closing.

Closing Documents shall mean the documents and instruments executed in connection with the Closing and pursuant to Section 4.

Construction Contract shall mean a general construction contract for the Developer Project, which contract includes the Guaranteed Maximum Price, the form of which contract shall be subject to the reasonable approval of Village.

Construction Costs shall mean all "hard costs" to construct the Developer Project (such costs consisting of and including labor and materials, the profit and overhead of the General Contractor, and the construction contingency). Construction Costs are included within the Developer Project Costs.

Construction Drawings shall mean construction drawings with respect to the construction of the Developer Project in accordance with the Design Development Documents, which drawings shall be consistent with the Design Development Documents and the Construction Schedule. In the case of construction drawings prepared after completion of the Initial Construction Drawings, such construction drawings also shall be consistent with the Initial Construction Drawings.

Construction Management Bonus shall mean a bonus in the amount of 0.5% of the Guaranteed Maximum Price, which amount shall be paid in accordance with the terms and conditions of Subsection 10(d).

Construction Manager shall mean Flaherty & Collins Construction, Inc.

Construction Schedule shall mean a detailed schedule for construction of the Developer Project in accordance with the Final Plans.

Construction Trade shall mean any trade or other discrete aspect of construction of the Developer Project.

Corporate Authorities shall mean the President and Board of Trustees of Village.

Debt Instrument shall mean a revenue and/or general obligation bond (or series of bonds) or other debt instrument that conforms to the description set forth in Exhibit B, and is described more fully in that certain Master Bond Ordinance adopted by the Corporate Authorities on _____, as Ordinance Number _____ (the terms and conditions of which are incorporated herein by reference), which bond (or series of bonds) or other debt instrument shall be in an amount equal to: (a) the budgeted Developer Project Costs, as set forth in the Developer Project Budget; less (b) the amount of the Developer Cash Contribution; plus (c) the budgeted Debt Instrument Issuance Costs, as set forth in the Debt Instrument Issuance Budget.

Debt Instrument Documents shall mean the documents evidencing the issuance and/or sale of the Debt Instrument.

Debt Instrument Interest Rate shall mean the rate at which interest accrues on the outstanding principal balance of the Debt Instrument.

Debt Instrument Issuance Budget shall mean the final budget for the issuance of the Debt Instrument; accordingly, the final Debt Instrument Issuance Budget sets forth the budgeted Debt Instrument Issuance Costs.

Debt Instrument Issuance Costs shall mean the costs incurred by Village in connection with the issuance of the Debt Instrument, including, without limitation: (a) underwriter fees; (b) issuer fees; (c) legal fees; (d) other commissions, fees, and discounts; and (e) amounts to establish any Mandatory Reserve. Debt Instrument Issuance Costs neither include nor are a part of Developer Project Costs.

Debt Instrument Issuance Schedule shall mean the schedule for issuance by Village of the Debt Instrument, which schedule is attached hereto as Exhibit C.

Debt Instrument Proceeds shall mean proceeds generated by the issuance and sale of the Debt Instrument, including proceeds used to pay the Debt Instrument Issuance Costs.

Debt Service shall mean, as applicable, the regular (non-default) payments of principal and/or interest due and payable pursuant to: (a) the Developer Loan Documents; or (b) the documents evidencing and/or securing the Liquidation Event Facility.

Debt Service Coverage Ratio shall mean, at the time of determination, the ratio of: (a) Net Operating Income for a one-year period; to (b) Debt Service for that same one-year period.

Debt Service Coverage Level shall mean, for purposes of determining the amount of: (a) the Developer Loan, a Debt Service Coverage Ratio of 1.2:1.0; (b) the Village Full Refinancing, a Debt Service Coverage Ratio of 1.1:1.0; and (c) or the VPR Primary Portion, a Debt Service Coverage Ratio of 1.1:1.0.

Design Development Documents shall mean detailed design development documents for the Developer Project, which documents shall be consistent with the Schematic Design Drawings and the Laws. In the case of design development documents prepared after completion of the Initial Design Documents, such design development documents also shall be consistent with the Initial Design Development Documents.

Developer Affiliate shall mean an entity that controls, is controlled by, or is under common control with Developer.

Developer Cash Contribution shall mean \$1,000,000.00 in cash to be provided by Developer as equity in the Developer Project.

Developer Equity shall mean the Developer Cash Contribution and the Developer Fee Contribution.

Developer Fee Contribution shall mean development fees in the amount of \$1,000,000.00, which Developer has agreed to defer in accordance with the terms and conditions of this Agreement as part of its equity in the Developer Project.

Developer Loan shall mean a loan to Developer by Village of a portion of the Debt Instrument Proceeds for the purpose of funding a portion of the Developer Project Costs. The Developer Loan shall be in the original principal amount determined prior to the Closing based upon: (a) Projected NOI; (b) maintenance of a Debt Service Coverage Ratio equal to the Debt Service Coverage Level; (c) an amortization period of 25 years; and (d) an interest rate equal to 4.5%). Based upon the foregoing, it currently is estimated that the amount of the Developer Loan will be \$38,234,707.00.

Developer Loan Documents shall mean the documents evidencing and/or securing the Developer Loan, including, without limitation, the Note and the Mortgage.

Developer Overhead shall mean an amount equal to 3% of Developer Project Costs; provided that, for purposes of the calculation of Developer Overhead, Developer Project Costs shall not include the costs to establish and fund the Interest Reserve.

Developer Project shall mean a project to be constructed on the Project Site, which project includes: (a) no

fewer than 295 class "A" residential rental units, together with common areas, luxury pool, and a fitness center serving such residential rental units; (b) approximately 4,000 square feet of commercial space; and (c) a minimum of 365 parking spaces. The Developer Project, including such details as have been agreed by Village and Developer as of the date hereof, is shown on the site plan agreed to by the Parties and attached hereto as Exhibit G.

Developer Project Budget shall mean the final budget for construction of the Developer Project; accordingly, the final Developer Project Budget sets forth the budgeted Developer Project Costs. A preliminary budget for construction of the Developer Project is attached hereto as Exhibit D.

Developer Project Costs shall mean the actual, out-of-pocket costs incurred by Developer in connection with the development and construction of the Developer Project. Developer Project Costs shall include: (a) Construction Costs; (b) architectural and engineering fees and costs (including, without limitation, the first \$300,000.00 of architectural, engineering, and other design fees that are payable by Village pursuant to Subsection 9(k) and the Fee Letter Agreement); (c) attorneys' fees (including attorneys' fees in connection with: (i) negotiation of this Agreement and the Closing Documents; and (ii) obtaining and closing the Developer Loan); (d) costs and expenses in connection with title insurance and the recordation of documents; (e) costs and expenses for furniture, fixtures, and equipment; (f) costs of tenant improvements and allowances for retail space; (g) costs to establish and fund the Interest Reserve; (h) payments of real estate taxes prior to Substantial Completion; (i) costs and expenses to obtain appraisals; (j) costs and expenses to procure and maintain the policies of insurance required pursuant to this Agreement; (k) costs and expenses of creating and maintaining Developer and its organizational structure; (l) working capital (including funding for marketing activities during lease-up); (m) the Base CM Fee and the Construction Management Bonus; (n) the Retail Leasing Fees; (o) the Residential Leasing Fees; (p) the Development Contingency; and (q) the Developer Overhead. The Developer Project Costs shall not include: (a) any costs of land (including rent payable under the Ground Lease); (b) any impact fees required to be paid to Village; or (c) fees payable to the Village Loan Administrator or the Village Representative. Developer Project Costs neither include nor are a part of Debt Instrument Issuance Costs. A preliminary estimate of the Developer Project Costs is included in the preliminary budget attached hereto as Exhibit D.

Developer Project Incentive shall mean an incentive provided by Village to induce Developer to undertake its obligations under this Agreement with respect to the Developer Project. The Developer Project Incentive shall be an amount equal to: (a) the budgeted Developer Project Costs, as set forth in the Developer Project Budget; plus (b) impact fees paid or waived by Village; minus (c) the Construction Management Bonus, as set forth in the Developer Project Budget; minus (d) the amount of the Developer Cash Contribution; and minus (e) the original principal amount of the Developer Loan. Debt Instrument Issuance Costs are separate and distinct from, and are not part of, the Developer Project Incentive. The Developer Project Incentive shall be increased by any Acquisition Delay Increase, as provided in Section 18; provided that nothing in this Agreement shall be deemed to require Developer to repay, or apply any amounts against or to reduce, the portion of the Developer Project Incentive that is comprised of the Acquisition Delay Increase. If the Developer Project Incentive (excluding any amount thereof comprised of the Acquisition Delay Increase) exceeds \$25,000,000.00, then Village may terminate this Agreement; provided that, if: (a) the Developer Project Incentive (excluding any amount thereof comprised of the Acquisition Delay Increase) exceeds \$25,000,000.00 because the Guaranteed Maximum Price exceeds 105% of \$52,500,000.00 (excluding any portion of the Guaranteed Maximum Price that is comprised of the Acquisition Delay Increase); and (b) the amount by which the Developer Project Incentive (excluding any amount thereof comprised of the Acquisition Delay Increase) exceeds \$25,000,000.00 (exclusive of the Guaranteed Developer Profit and impact fees paid or waived by Village) is \$1,000,000.00 or less; then Developer shall have the right to elect to increase the Developer Loan by an amount equal to the amount by which the Developer Project Incentive (excluding any amount thereof comprised of the Acquisition Delay Increase) exceeds \$25,000,000.00, in which case Village shall not terminate this Agreement (and the amount of the Developer Loan shall be increased by the foregoing amount).

Developer Project Reserves shall mean reasonable reserves established by Developer in accordance with

industry standards for the operation of projects similar in nature to the Developer Project. Developer Project Reserves specifically shall include reserves for payment of day-to-day Project Expenses and the payment of capital expenditures.

Developer Project Revenue shall mean all revenues, receipts, proceeds, and income that are: (a) derived from, or generated by, the operation or leasing of the Developer Project; and (b) received by or paid to: (i) Developer; (ii) a Developer Affiliate; (iii) a successor, assign, mortgagee, or secured party of Developer or a Developer Affiliate; or (iv) an agent or attorney of Developer or a Developer Affiliate; whether: (a) from rentals, licenses, exchanges, or other transactions; (b) from transactions conducted in person, by agent, by telephone or email, by oral, written, or electronic communication, or by other means or method; and/or (c) by cash, charge, credit, wire, electronic transfer, or other means or method; with: (a) revenues, receipts, proceeds, and income from charge and credit transactions being deemed to be received on the date of actual receipt. Developer Project Revenue specifically shall include: (a) all rents paid, and license payments made, by tenants of any part of the Developer Project; and (b) reimbursements of real estate taxes, operating expenses, and/or common area costs paid by tenants of any part of the Developer Project, whether: (i) characterized as a tenant's "share", as "CAM" charges, or otherwise; and/or (ii) estimated and collected in advance or accrued and collected after the fact; with such reimbursements being deemed to be received on the date of actual receipt. Developer Project Revenue shall not include, and specifically shall exclude: (a) proceeds of any policy of builder's risk or casualty insurance that is used for, or applied to, the repair or restoration of the Developer Project; (b) proceeds from any condemnation (or conveyance under threat of condemnation) that is used for, or applied to, the repair or restoration of the Developer Project; (c) the Debt Instrument Proceeds, the Loan Proceeds, the Developer Equity, any other loan or financing proceeds or disbursements, or any other equity or ownership contribution or investment (including any reimbursement to Developer out of Debt Instrument Proceeds or Loan Proceeds); (d) any component of the Developer Project Incentive; (e) the Base CM Fee or the Construction Management Bonus, any other construction management fees, any property management fees, Residential Leasing Fees, other leasing/brokerage fees, or associated reimbursements for out-of-pocket expenses; (f) the Savings Bonus; (g) costs and expenses paid as Developer Project Costs; or (h) revenues, receipts, proceeds, or income that are: (i) derived from, or generated by, the operation or use by a tenant, subtenant, licensee, or other occupant of a part of the Developer Project and not tendered to Developer; or (ii) received by, paid to, deposited into an account of, or credited against an obligation of a tenant, subtenant, licensee, or other occupant of a part of the Developer Project and not tendered to Developer.

Developer Project Value shall mean the value of the Developer Project, calculated by dividing: (a) the annual Post-Stabilization NOI at the time of determination; by (b) a capitalization rate of 7.0%.

Development Contingency shall mean an amount equal to 3% of the Guaranteed Maximum Price, which shall be used for unanticipated costs and Change Orders executed as a result of Change Order Requests approved by Village; provided that any unused Development Contingency may be used to pay Debt Service as provided in Section 5. If and to the extent that there is unused Development Contingency at the time of the Liquidation Event, then such unused Development Contingency shall be applied to reduce the Developer Project Incentive.

Due Diligence Period shall mean a period of 60 days, commencing on the Execution Date.

Environmental Assessment shall mean: (a) a Phase One Environmental Assessment of the Project Site; and (b) if recommended by such Phase One Environmental Assessment, a Phase Two Environmental Assessment of the Project Site.

Estimated Construction Cost shall mean the estimated total Construction Costs. The amount of the Estimated Construction Cost (agreed to be no more than 105% of \$52,500,000.00 on the Execution Date) shall be determined in accordance with Subsection 9(a).

Event of Default shall have the meaning set forth in Subsection 16(a).

Excess Cash Flow shall mean the Pre-Stabilization Excess Cash Flow, the Post-Stabilization Excess Cash Flow, and/or the Post-Liquidation Excess Cash Flow, as applicable.

Excess Return shall mean an amount calculated by: (a) determining the Developer Project Value; and (b) subtracting from the Developer Project Value: (i) the Outstanding Loan Amount; (ii) the Remaining Developer Equity; and (iii) the Remaining Guaranteed Developer Profit.

Execution Date shall mean the date on which this Agreement is executed.

Fee Letter Agreement shall mean that certain agreement by and between Developer and Village with respect to the payment of architect, engineer, and consultant fees, which agreement is dated May 17, 2011.

Final Documents and Drawings shall mean final Schematic Design Drawings, final Design Development Documents, the final Construction Schedule, and the final Construction Drawings, as each is finalized and approved or reviewed by Village pursuant to the Plan Refinement Process.

Final Inspection shall mean a final inspection by the Village Representative of the Developer Project after Substantial Completion.

Final Plans shall mean the aggregated Final Documents and Drawings.

Force Majeure shall mean, with respect to Developer or Village, any cause that is not within the reasonable control of Developer or Village, respectively, and does not result from the fault or negligence of Developer or Village, respectively (including, without limitation, unusually inclement weather, the unusual unavailability of materials, equipment, services or labor, and utility or energy shortages or acts or omissions of public utility providers).

Full Take-Out Availability Notice shall mean a notice from Developer to Village, which notice: (a) informs Village that Developer is able to obtain the Full Take-Out Loan; and (b) sets forth all of the material terms and conditions of the private loans and/or equity contributions that comprise the Full Take-Out Loan that Developer is able to obtain.

Full Take-Out Loan shall mean, subject to the terms and conditions of Subsection 5(g)(i), private loans and/or equity contributions from persons and/or entities other than Village that refinance, take-out, pay off, and replace the Developer Loan, which loans and/or equity contribution are in an amount not less than: (a) the Liquidation Event Payment Amount; plus (b) the Remaining Guaranteed Developer Profit; and plus (c) the Remaining Developer Equity; provided that Developer may elect to waive receipt of all or a part of the Remaining Guaranteed Developer Profit and/or Remaining Developer Equity, in which case such loan and/or equity contribution shall be in an amount not less than: (a) the Liquidation Event Payment Amount; plus (b) any of the Remaining Guaranteed Developer Profit and/or the Remaining Developer Equity with respect to which Developer has not agreed to waive receipt.

General Contractor shall mean the general contractor selected with respect to the construction of the Developer Project in accordance with Subsection 9(h), which general contractor shall be experienced and reputable, as determined by Developer in the exercise of its reasonable discretion.

GL Payments Replacement Note shall be a note that is executed by Developer at the Liquidation Event if the Liquidation Event Facility is the Full Take-Out Loan, which note shall: (a) be in the original principal amount of \$1,000,000.00; (b) not bear interest; (c) have a term of ten years; and (d) be payable in annual installments of \$100,000.00; provided that Developer may prepay the amount due under the GL Payments Replacement Note at any time. The GL Payments Replacement Note corresponds to: (a) the note that would have been executed by Developer with respect to the VPR Secondary Portion at the Liquidation Event if the Liquidation Event Facility had been the Take-Out Loan/Partial Refinancing (accordingly, the GL Payments Replacement Note and the VPR Secondary Portion basically are the same, the difference is the Liquidation Event Facility

with respect to which each applies); and (b) the Ground Lease payments that would have been due and payable by Developer if the Liquidation Event Facility had been the Village Full Refinancing (in which case the Ground Lease would have remained in effect).

Ground Lease shall mean a ground lease of the Project Site executed by and between Developer and Village, which ground lease shall provide that: (a) no rent shall be payable by Developer until the occurrence of the Liquidation Event; (b) commencing on the first day of the first full calendar month following the date on which Loan Proceeds that are allocated to the payment of Real Estate Taxes pursuant to the Developer Project Budget have been exhausted, and continuing each month thereafter, Developer shall deposit into the Tax Escrow Account an amount equal to 1/12th of the estimated Real Estate Taxes payable during the one-year period commencing on the date of such deposit; provided that, if, after Substantial Completion has occurred, there is unused Development Contingency, then Developer may use such unused Development Contingency to make the Tax Escrow Account deposits; (c) if the Liquidation Event Facility is the Full Take-Out Loan, then, in connection with the Liquidation Event: (i) Village shall convey the Project Site to Developer; (ii) the Ground Lease shall terminate; and (iii) Developer shall execute the GL Payments Replacement Note; (d) if the Liquidation Event Facility is the Take-Out Loan/Partial Refinancing, then, in connection with the Liquidation Event: (i) Village shall convey the Project Site to Developer; (ii) the Ground Lease shall terminate; and (iii) Developer shall execute the note required to be executed in connection with the VPR Secondary Portion; and (e) if the Liquidation Event Facility is the Village Full Refinancing, then: (i) for a period of ten years from and after the Liquidation Event, Developer shall pay annual rent of \$100,000.00 (stated alternatively, the total rent payable shall be \$1,000,000.00); provided that Developer, at its election and at any time prior to the end of such ten-year period, may elect to pay off the remaining amount of the rent; and (ii) after the tenth yearly payment by Developer, or at such earlier time as Developer has paid off the full \$1,000,000.00 of rent (including contemporaneously with a Capital Event, as provided in Subsection 5(h)), Village shall convey the Project Site to Developer.

Guaranteed Developer Profit shall mean a guaranteed profit to Developer in the amount not to exceed \$3,500,000.00, which amount, subject to the application of Subsection 5(g)(vi), shall be paid: (a) first, during the Pre-Stabilization Period, by any allocation of Pre-Stabilization Excess Cash Flow to Developer pursuant to Subsection 5(d)(iii), to the extent that Developer elects to have such allocated Post-Stabilization Excess Cash Flow applied to payment of the Guaranteed Developer Profit (as opposed to applied to repayment of the Developer Equity); (b) second, during the Post-Stabilization Period, by any allocation of Post-Stabilization Excess Cash Flow to Developer pursuant to Subsection 5(e)(iii), to the extent that Developer elects to have such allocated Post-Stabilization Excess Cash Flow applied to payment of the Guaranteed Developer Profit (as opposed to applied to repayment of the Developer Equity); (c) third, in connection with the Liquidation Event; and (d) fourth, in the case of the applicability of Subsection 5(g)(vi), post Liquidation Event in accordance with Subsection 5(h).

Guaranteed Maximum Price shall: (a) have the meaning set forth in Subsection 9(h)(ii); (b) be the maximum price payable under the Construction Contract; and (c) not exceed the Not-to-Exceed Price, unless agreed by Developer and Village. As provided in Subsection 9(e) and the definition of Not-to-Exceed Price, the Not-to-Exceed Price shall not exceed the Estimated Construction Cost, unless (and except to the extent) approved by Village.

Guarantor shall mean David Flaherty (who, on the Execution Date, is the Chief Executive Officer of Flaherty & Collins Properties).

Guaranty shall mean a personal guaranty from the Guarantor, which guaranty: (a) shall guarantee payment by Developer of Debt Service after the Interest Reserve has been exhausted; (b) shall be in the amount of \$2,000,000.00; (c) shall be consistent with the terms and conditions of Subsections 5(d), 5(e), and 5(g); and (d) otherwise reasonably shall be acceptable to Village.

Illinois Constitution shall mean the Constitution of the State of Illinois, adopted at a special election on December 15, 1970.

Initial Construction Drawings shall mean the first 30% of the Construction Drawings with respect to each Construction Trade.

Initial Design Development Documents shall mean the first 50% of the Design Development Documents.

Inspection shall mean a Permitted Inspection, an Interim Inspection, or the Final Inspection.

Inspection Request shall mean a written request by Developer for an Inspection.

Interest-Only Period shall mean that portion of the term of the Developer Loan during which Debt Service is comprised solely of interest, which period: (a) shall be the maximum period permitted by the Laws; and (b) currently is anticipated to be a period of three years, beginning on the Closing Date.

Interest Reserve shall mean a capitalized interest fund that is funded with the Minimum Interest Reserve Amount.

Interim Inspection shall mean an inspection by the Village Representative of a portion of the Developer Project either: (a) upon request by Developer; or (b) upon request by Village or the Village Loan Administrator in connection with a disbursement of Project Escrow Deposits.

Latent Defect shall mean those material defects in the construction of the Developer Project that: (a) are not discovered; and (b) reasonably are not discoverable; by the Village Representative during an Inspection.

Later Phase Prerequisites shall mean that: (a) there are no breaches by Developer of the terms and conditions of this Agreement; and (b) Village reasonably is satisfied with Developer's performance to date under this Agreement such that Developer is meeting the reasonable expectations of Village with respect to: (i) the progress of the construction of the Developer Project; (ii) the overall quality of the portions of the Developer Project that have been constructed; (iii) lease-up of the Developer Project, if construction has been completed; (iv) the overall quality of the management and operation of the portions of the Developer Project that have been constructed; and (v) Developer's general cooperation with Village.

Laws shall mean all applicable laws, statutes, and/or ordinances, and any applicable governmental rules, regulations, guidelines, orders, and/or decrees.

Leasehold Policy shall mean a leasehold policy of title insurance issued by the Title Insurer, which policy shall: (a) include such endorsements as Developer deems to be necessary or appropriate; and (b) be consistent with the Title Commitment, as approved by Developer pursuant to Section 6.

Lender's Policy shall mean a lender's policy of title insurance issued by the Title Insurer in the amount of the Developer Loan, which policy shall: (a) include such endorsements as Village deems to be necessary or appropriate; and (b) be consistent with the commitment approved by Village pursuant to Section 7.

Liquidation Event shall mean: (a) a refinancing, take-out, and/or pay-off of the Developer Loan; and (b) replacement of the Developer Loan with the Liquidation Event Facility.

Liquidation Event Date shall mean the last to occur of the date: (a) that is 84 months after the Stabilization Date; or (b) on which the Developer Project Value equals or exceeds the Outstanding Loan Amount.

Liquidation Event Facility shall mean one of: (a) the Full Take-Out Loan; (b) the Take-Out Loan/Partial Refinancing; or (c) the Village Full Refinancing; as determined pursuant to Subsection 5(g).

Liquidation Event Payment Amount shall mean, at the time of the Liquidation Event, an amount equal to: (a) the Outstanding Loan Amount (including the portion that became interest free or that temporarily was removed from the Developer Loan pursuant to Subsection 5(f)); plus (b) 92% of the amount of the Excess

Return up to an amount that, when combined with payments of: (i) Pre-Stabilization Excess Cash Flow applied to pay down the Developer Project Incentive (excluding any amount thereof comprised of the Acquisition Delay Increase) pursuant to Subsection 5(d)(iii); and (ii) Post-Stabilization Excess Cash Flow applied to pay down the Developer Project Incentive (excluding any amount thereof comprised of the Acquisition Delay Increase) pursuant to Subsection 5(e)(iii); results in Village recovering 100% of the Developer Project Incentive (excluding any amount thereof comprised of the Acquisition Delay Increase); plus (c) if Village has recovered 100% of the Developer Project Incentive (excluding any amount thereof comprised of the Acquisition Delay Increase), 8% of the amount of any remaining Excess Return; plus (d) any Debt Service that has accrued and remains unpaid at the time of the Liquidation Event as permitted pursuant to Subsection 5(e)(ii)(C). Examples of how the Liquidation Event Payment Amount (and the components comprising the Liquidation Event Payment Amount) would be calculated under various scenarios are attached hereto as Exhibit H.

Loan Proceeds shall mean the proceeds of the Developer Loan.

Mandatory Reserve shall mean any principal and interest reserve fund other than the Interest Reserve that is required to be established in connection with the issuance of the Debt Instrument.

Material Defect shall mean any material component of the Developer Project that: (a) contains a material defect in workmanship or materials; (b) deviates materially from the Final Plans; or (c) has not been performed materially in accordance with the terms and conditions of this Agreement.

Minimum Interest Reserve Amount shall mean an amount that is sufficient to pay the full amount of the Debt Service during the Interest-Only Period.

Minimum Mandatory Reserve Amount shall mean \$_____.

Mortgage shall mean a Real Estate Mortgage, Security Agreement, Assignment, and Fixture Filing executed by Developer in favor of Village, which shall: (a) secure the obligation of Developer hereunder and under the other Developer Loan Documents; (b) create a first mortgage lien on: (i) the leasehold interest of Developer in the Project Site; and (ii) the title and interest of Developer in and to the buildings, structures, and other improvements comprising the Developer Project; (c) create a first security interest in all applicable personal property; and (d) collaterally assign to Village: (i) all leases, rents, revenues, and income of or from the Developer Project (together with a first security interest therein); and (ii) the Final Plans and the Construction Contract (together with a first security interest therein); provided that, at the election of Village, the foregoing collateral assignments may be made pursuant to one or more agreements in addition to the Mortgage.

Net Operating Income shall mean: (a) Developer Project Revenue; minus (b) Operating Expenses; minus (c) Developer Project Reserves; and minus (d) any amount paid into the Tax Escrow Account.

Non-Compliance Notice shall mean a written notice that identifies Material Defects with respect to the Developer Project that were discovered during an Inspection.

Note shall mean a promissory note evidencing the Developer Loan, which promissory note shall: (a) be in the full original principal amount of the Developer Loan; and (b) provide for interest to accrue on the full outstanding principal balance of the Developer Loan at the Debt Instrument Interest Rate.

Not-to-Exceed Price shall have the meaning set forth in Subsection 9(e)(ii). As provided in Subsection 9(e), the Not-to-Exceed Price shall not exceed the Estimated Construction Cost, unless (and except to the extent) approved by Village.

Operating Expenses shall mean the actual, out-of-pocket costs paid by Developer to operate the Developer Project. Operating Expenses:

- (a) specifically shall include: (i) such costs incurred by Developer to operate, maintain,

repair, and replace the Developer Project and all parts thereof as required by the terms and conditions of the Developer Loan Documents or the Ground Lease; (ii) premiums paid by Developer to provide insurance for the Developer Project as required by the terms and conditions of the Developer Loan Documents or the Ground Lease; (iii) charges paid by Developer for utility services consumed on the Project Site; (iv) Real Estate Taxes during construction and lease-up; (v) rent payable under the Ground Lease; and (vi) property management fees, leasing/brokerage fees, and/or associated reimbursements for out-of-pocket expenses; and

(b) specifically shall not include, and specifically shall exclude: (i) any amounts attributable to “mark-ups” or “premiums” added by Developer to actual, out-of-pocket costs that otherwise are included in Operating Expenses; (ii) any amounts paid to Developer Affiliates that are in excess of costs that would have been incurred had Developer entered into an arms' length transaction with an unaffiliated third party for the receipt of the applicable services or materials; (iii) any cost of repair or restoration after any casualty or condemnation (or conveyance under threat of condemnation) that is paid by the proceeds of: (A) builder's risk or casualty insurance; or (B) the condemnation (or conveyance under threat of condemnation); (iv) any other cost that is paid by any third party; provided that costs paid by third parties may be included in Operating Expenses if the amount paid by the third party is included in Developer Project Revenue; (v) Debt Service or any other debt service for, interest on, or principal of any indebtedness or obligation, except for the principal amounts of items of cost that otherwise qualify as Operating Expenses; (vi) fines or penalties of any type or nature payable as a result of any failure of Developer to comply with the Laws; (vii) any Claim against which Developer is indemnifying and holding Village harmless under Subsection 17(b); (viii) any cost associated with refinancing or seeking refinancing; (ix) depreciation or any similar expense; (x) any income, franchise, transfer, capital levy, capital stock, gift, estate, inheritance, or similar tax; (xi) any expense or tax paid from Project Reserves or the Tax Escrow Account; (xii) the Base CM Fee, the Construction Management Bonus, and any other fees paid to the Construction Manager; (xiii) Residential Leasing Fees for Units leased prior to the Stabilization Date; and (xiv) costs and expenses paid as Developer Project Costs.

Ordinances shall mean Village Ordinance Numbers 3941, 3942, and 3943, each of which was adopted October 4, 2004, as the foregoing have been amended by Village Ordinance Numbers 4297 and 4298, each of which was adopted on October 15, 2007.

Outstanding Loan Amount shall mean, at the time of determination, the outstanding balance (including: (a) unpaid principal and interest that has accrued and remains unpaid; and (b) the portion that became interest free or that temporarily was removed from the Developer Loan pursuant to Subsection 5(f)); of the Developer Loan, which outstanding balance shall be determined based upon actual payments of principal and interest made as of the date of determination.

Partial Take-Out Loan shall mean private loans and/or equity contributions from persons and/or entities other than Village, which loans and/or equity contributions are in an amount not less than the Outstanding Loan Amount. The Partial Take-Out Loan, together with the Village Partial Refinancing, shall: (a) constitute the Take-Out Loan/Partial Refinancing; and (b) refinance, take-out, pay off, and replace the Developer Loan.

Party shall mean Developer and/or Village, as applicable. Whenever the term “Parties” is used instead of “Party”, it shall mean Developer and Village, collectively.

Permitted Change shall mean any change proposed by Developer to the Final Plans, so long as such change: (a) is consistent with the Schematic Design Drawings; (b) does not result in the Final Plans containing structurally flawed elements; (c) does not result in an increase in the cost to construct the Developer Project, unless Developer agrees to fund the amount of such increase from a source other than the Loan Proceeds or the Developer Cash Contribution; and (d) does not make it unlikely, impracticable, or impossible for

Developer to complete the Developer Project, or any component thereof, by the applicable date set forth in the approved Construction Schedule.

Permitted Exceptions shall mean exceptions to title reflected in the Title Commitment that: (a) are not mortgages, judgment liens, tax liens, or other liens or encumbrances securing the payment or repayment of debts; and (b) do not prohibit or interfere with the construction or use of the Developer Project in accordance with the terms and conditions of this Agreement.

Permitted Inspection shall mean an inspection by the Village Representative of a portion of the Developer Project, which inspection is not conducted as a result of the delivery by Developer of an Inspection Request.

Plan Refinement Process shall mean the process set forth in Section 9 for completion of the Final Plans.

Plan Schedule shall mean the schedule in accordance with which: (a) Developer shall: (i) prepare and provide to Village the Schematic Design Drawings, the Design Development Documents, the Construction Schedule, and the Construction Drawings; (ii) obtain pricing proposals; and (iii) prepare a bid package and solicit and/or obtain bids for construction of the Developer Project; and (b) each of Developer and Village shall prepare and agree upon the preliminary and final Budgets; which schedule is attached hereto as Exhibit E.

Post-Liquidation Event NOI shall mean the Net Operating Income (which, as provided in the definition of Operating Expenses, which is part of the definition of Net Operating Income, is after consideration of rent that will be payable under the Ground Lease) with respect to a specified period (e.g., a month, quarter, or year) during the Post-Liquidation Event Period.

Post-Liquidation Event Period shall mean the period: (a) beginning immediately following the Liquidation Event; and (b) ending at such time as each of the Remaining Developer Project Incentive and, if applicable, the Profit/Equity Recovery Amount, have been reduced to \$0.

Post-Liquidation Excess Cash Flow shall mean, at the time of determination, the amount equal to: (a) the Post-Liquidation Event NOI; minus (b) the Debt Service; in each case for the same applicable period.

Post-Stabilization Excess Cash Flow shall mean, at the time of determination, the amount equal to: (a) the Post-Stabilization NOI; minus (b) the amount of Debt Service that is due and payable, including any Debt Service that has accrued pursuant to Subsection 5(d)(ii)(C) and/or Subsection 5(e)(ii)(C) and remains unpaid; in each case for the same applicable period.

Post-Stabilization NOI shall mean the Net Operating Income with respect to a specified period (e.g., a month, quarter, or year) during the Post-Stabilization Period.

Post-Stabilization Period shall mean the period: (a) beginning immediately following the expiration of the Pre-Stabilization Period; and (b) ending on the Liquidation Event Date.

Pre-Stabilization Excess Cash Flow shall mean, at the time of determination, the amount equal to: (a) the Pre-Stabilization NOI; minus (b) the amount of Debt Service that is due and payable, including any Debt Service that has accrued pursuant to Subsection 5(d)(ii)(C) and remains unpaid; in each case for the same applicable period

Pre-Stabilization Period shall mean the period: (a) beginning on the date on which the Interest Reserve is exhausted; and (b) ending on the Stabilization Date.

Pre-Stabilization NOI shall mean the Net Operating Income with respect to a specified period (e.g., a month, quarter, or year) during the Pre-Stabilization Period.

Profit/Equity Recovery Amount shall mean, if the Liquidation Event Facility is the Village Full Refinancing

or the Take-Out Loan/Partial Refinancing, the amount of the Remaining Guaranteed Developer Profit and the Remaining Developer Equity paid by Village to Developer as part of the applicable Liquidation Event Facility or credited by Village to Developer as part of the applicable Liquidation Event Facility.

Project Escrow Account shall mean a separate escrow account established by Village with the Village Loan Administrator, which account shall be for the sole purpose of receiving and disbursing: (a) the Developer Cash Contribution; and (b) the amount of the Debt Instrument Proceeds required to be deposited by Village at the Closing (which amount includes the Loan Proceeds).

Project Escrow Deposits shall mean all funds on deposit in the Project Escrow Account. The Project Escrow Deposits may be withdrawn only: (a) as disbursements pursuant to Sections 11, 12, and/or 13, as applicable; and (b) to pay Developer Project Costs.

Project Site shall mean that certain real estate within the Redevelopment Project Area that: (a) legally is described on Exhibit A; and (b) is delineated on Exhibit A as the "Project Site".

Projected NOI shall mean, in determining: (a) the original principal amount of the Developer Loan, projected Post-Stabilization NOI based on: (i) Unit rental rates of \$1.60 per RSF; and (ii) a 10% vacancy rate; and (b) the repayment terms of the Village Full Refinancing, projected Post-Liquidation Event NOI based on the average Post-Stabilization NOI for the previous two-year period; provided that, because there is no rent payable under the Ground Lease until after the Liquidation Event, projected Post-Liquidation Event NOI also must take into consideration rent that will be payable under the Ground Lease after the Liquidation Event.

Real Estate Taxes shall mean real estate taxes and governmental assessments imposed on, levied against, or assessed with respect to the Developer Project or the Project Site.

Redevelopment Project Area shall mean that certain real estate located within the TIF District and designated as a tax increment redevelopment project area, which real estate: (a) legally is described on Exhibit A; and (b) is delineated on Exhibit A as the "Redevelopment Project Area".

Remaining Developer Equity shall mean, on the date of determination, the amount of the Developer Equity that has not been repaid.

Remaining Developer Project Incentive shall mean, at the time of the Liquidation Event and immediately after payment of the Liquidation Event Payment Amount, the amount equal to: (a) the amount of the Developer Project Incentive (excluding any amount thereof comprised of the Acquisition Delay Increase); minus (b) 92% of the amount of the Excess Return; (c) minus Pre-Stabilization Excess Cash Flow applied to pay down the Developer Project Incentive (excluding any amount thereof comprised of the Acquisition Delay Increase) pursuant to Subsection 5(d)(iii); and (d) minus Post-Stabilization Excess Cash Flow applied to pay down the Developer Project Incentive (excluding any amount thereof comprised of the Acquisition Delay Increase) pursuant to Subsection 5(e)(iii).

Remaining Guaranteed Developer Profit shall mean, on the date of determination, the amount of the Guaranteed Developer Profit that remains unpaid.

Remaining Profit/Equity Recovery Amount shall mean, on the date of determination, the amount of the Profit/Equity Recovery Amount that has not been recovered by Village.

Required Permits shall mean all permits, licenses, approvals, and consents required by the Laws for the construction and use of the Developer Project.

Residential Leasing Fees shall mean: (a) until the Stabilization Date, a one-time fee of \$300.00 for each Unit leased; and (b) after the Stabilization Date, customary and ordinary market rate fees in connection with leasing Units.

Retail Leasing Fees shall mean customary and ordinary market rate brokerage fees in connection with leasing retail space.

RSF shall mean rentable square foot.

Savings Bonus shall mean, if applicable, the positive difference of: (a) the Guaranteed Maximum Price; minus (b) actual Construction Costs. The split of the Savings Bonus is addressed in Subsection 10(e).

Schematic Design Drawings shall mean detailed schematic design drawings for the Developer Project, which drawings shall be consistent with the Laws.

Stabilization Date shall mean the first to occur of the date: (a) on which the Developer Project reaches a vacancy rate for all Units of 10% or less for a period of six consecutive months; or (b) that is 48 months after commencement of construction of the Developer Project. It currently is estimated that the Stabilization Date will occur on or before the date that is 36 months after commencement of construction of the Developer Project.

Substantial Completion shall mean that: (a) the Developer Project has been substantially completed in accordance with the Final Plans, the Laws, and the terms and conditions of this Agreement; and (b) the conditions set forth in Subsection 12(a) have been satisfied in full.

Survey shall mean an ALTA survey of the Project Site, certified as of a current date.

Take-Out Loan/Partial Refinancing shall mean the Partial Take-Out Loan, together with the Village Partial Refinancing.

Tax Escrow Account shall mean a separate escrow account established by Village with the Village Loan Administrator, which account shall be for the sole purpose of: (a) receiving deposits from Developer for the payment of Real Estate Taxes as required pursuant to the Ground Lease; and (b) disbursing funds to pay Real Estate Taxes as required pursuant to the Ground Lease.

TIF District shall mean that certain real estate located within Village and designated as the Main Street Triangle Tax Increment Financing District, which real estate is legally described in the Ordinances and delineated on Exhibit A as the "TIF District".

TIF Plan shall mean the tax increment redevelopment plan and project adopted by Village pursuant to the Ordinances.

Title Commitment shall mean: (a) a commitment for a leasehold policy of title insurance with respect to the Project Site that: (i) is issued by the Title Insurer; and (ii) commits to insure the leasehold interest of Developer under the Ground Lease; together with (b) copies of all documents referenced in Schedule B of such title commitment.

Title Insurer shall mean a title insurance company selected by Developer and reasonably acceptable to Village.

Trustee shall mean the trustee for the Debt Instrument.

Unit shall mean a residential rental unit located within the Developer Project.

VFR Additional Principal shall mean, in the case of the Village Full Refinancing, an amount of the original principal amount of the loan comprising the Village Full Refinancing that is equal to: (a) the Liquidation Event Payment Amount; minus (b) the Outstanding Loan Amount.

Village Full Refinancing shall mean: (a) a loan by Village to Developer that refinances, takes-out, pays off, and replaces the Developer Loan, which loan: (i) subject to Subsection 5(g)(v), shall have an original principal amount that is equal to the Liquidation Event Payment Amount (being the same amount as the total of: (A) the Outstanding Loan Amount; plus (B) the VFR Additional Principal); (ii) shall be for a term of at least ten years, which term shall be established mutually by Village and Developer, each acting in a commercially reasonable manner; (iii) shall bear interest at a rate that is: (A) higher than the cost to Village to borrow funds; but (B) competitive with market rates, which market rates shall be established mutually by Village and Developer, each acting in a commercially reasonable manner; (iv) shall have an amortization period of not less than 20 years; and (v) shall be structured so that, taking into account the Projected NOI, Developer shall be able to make debt service payments on the loan while maintaining a Debt Service Coverage Ratio equal to the Debt Service Coverage Level; together with (b) payment to Developer of an amount equal to: (i) the Remaining Guaranteed Developer Profit; plus (ii) the Remaining Developer Equity. The Parties shall execute customary documents evidencing and/or securing the Village Full Refinancing, including, without limitation, a note and a mortgage.

Village Loan Administrator shall mean a federally-insured national bank with a commercial loan office within the boundaries of Village, which bank: (a) is selected by Village; and (b) shall act as the agent of Village for purposes of receiving, analyzing, and processing draw requests made by Developer with respect to the disbursement of Project Escrow Deposits.

Village Partial Refinancing shall mean a loan by Village to Developer that is comprised of the VPR Primary Portion and the VPR Secondary Portion; provided that the loans comprising each of the VPR Primary Portion and the VPR Secondary Portion shall be evidenced by separate notes and secured by one mortgage. The Village Partial Refinancing, together with the Partial Take-Out Loan, shall: (a) constitute the Take-Out Loan/Partial Refinancing; and (b) refinance, take-out, pay off, and replace the Developer Loan. The Parties shall execute customary documents evidencing and/or securing the Village Partial Refinancing, including, without limitation, the notes and the mortgage referenced above.

Village Refinancing Spread shall mean: (a) in the case of a Village Partial Refinancing, the spread of 2% above the average Debt Instrument Interest Rate that is included in determining the rate at which interest accrues; and (b) in the case of a Village Full Refinancing, the percent spread equal to: (i) the positive difference between the rate that: (A) Developer is able to obtain; and (B) Village is paying on the Debt Instrument; multiplied by: (ii) .75.

Village Spread Payments shall mean, in the case of a Village Partial Refinancing or a Village Full Refinancing, the portion of the Debt Service paid by Developer to Village that is attributable to the Village Refinancing Spread.

Village Representative shall mean _____. The Village Representative shall assist Village: (a) in completing each step of the Plan Refinement Process; (b) in evaluating Change Order Requests and implementing Change Orders; (c) by conducting inspections; and (d) as otherwise specifically contemplated pursuant to this Agreement (including, without limitation, in Section 11).

VPR Primary Portion shall mean: (a) a loan by Village to Developer, which loan: (i) subject to Subsection 5(g)(iv), shall have an original principal amount that is equal to the difference between: (A) the Liquidation Event Payment Amount; and (B) the Outstanding Loan Amount; provided that, if the Partial Take-Out Loan is for an amount in excess of the Outstanding Loan Amount, then the original principal amount of the loan comprising the VPR Primary Portion shall be reduced by the amount of such excess; (ii) shall be for a term that does not exceed 60 months, which term shall be established mutually by Village and Developer, each acting in a commercially reasonable manner; (iii) shall bear interest at a rate equal to the average Debt Instrument Interest Rate plus a spread of 2%; provided that, if the original principal amount of the loan comprising the VPR Primary Portion has been reduced as contemplated pursuant to clause (i) of this definition (including pursuant to Subsection 5(g)(iv)), then such 2% margin over the average Debt Instrument Interest Rate shall be reduced in proportion to the amount of the reduction in the original principal amount of the loan

comprising the VPR Primary Portion; (iv) shall be secured by a second mortgage on the Project Site or a pledge of ownership interests in Developer if required by the lender holding the first mortgage on the Project Site; and (v) shall be structured so that, taking into account the Projected NOI, Developer shall be able to make debt service payments on the loan while maintaining a Debt Service Coverage Ratio equal to the Debt Service Coverage Level; together with (b) payment to Developer of an amount equal to: (i) the Remaining Guaranteed Developer Profit; plus (ii) the Remaining Developer Equity.

VPR Secondary Portion shall mean a loan by Village to Developer, which loan shall: (a) be in the original principal amount of \$1,000,000.00; (b) not bear interest; (c) have a term of ten years; and (d) be payable in annual installments of \$100,000.00; provided that Developer may prepay the VPR Secondary Portion at any time. The VPR Secondary Portion corresponds to: (a) the amount that would have been due and payable by Developer under the GL Payments Replacement Note if the Liquidation Event Facility had been the Full Take-Out Loan (accordingly, the VPR Secondary Portion and the GL Payments Replacement Note basically are the same, the difference is the Liquidation Event Facility with respect to which each applies); and (b) the Ground Lease payments that would have been due and payable by Developer if the Liquidation Event Facility had been the Village Full Refinancing (in which case the Ground Lease would have remained in effect).

2. Overview of Obligations. Following are the general obligations of the Parties, all of which are subject to the terms and conditions of this Agreement and the Ground Lease.

- (a) **Project Site.** Developer and Village shall enter into the Ground Lease.
- (b) **Plans.** Developer shall design, and prepare the plans for, the Developer Project (which plans, upon completion of the Plan Refinement Process, shall be the Final Plans).
- (c) **Contribution.** Developer shall contribute the Developer Equity. Village shall provide the Developer Project Incentive.
- (d) **Debt Instrument.** Village shall: (i) issue the Debt Instrument in accordance with the Debt Instrument Issuance Schedule; and (ii) make the Developer Loan to Developer for use to pay Developer Project Costs.
- (e) **Construction.** Developer shall construct the Developer Project.
- (f) **Operating Expenses.** Until such time as all loan obligations of Developer to Village (whether prior to or after the Liquidation Event) are repaid in full, Developer shall provide to Village, on a monthly basis: (i) a budget setting forth the reasonably anticipated Operating Expenses for the next calendar month; together with (ii) a statement of the actual Operating Expenses for the previous calendar month.
- (g) **Liquidation Event.** Developer shall exercise commercially reasonable, good faith efforts to obtain the Full Take-Out Loan including that, if necessary, Developer shall seek equity contributions to fund shortfalls in the amount of available private loans.

3. Closing. Subject to the terms and conditions of this Agreement, the Closing shall occur: (a) on or before June 1, 2012; provided that the Closing Date shall be established mutually by Village and Developer; and (b) at the office of the Title Insurer, or at such other place as Village and Developer mutually agree. At the Closing: (a) Village shall: (i) cause the Debt Instrument Issuance Costs to be paid; (ii) establish the Project Escrow Account; and (iii) deposit Debt Instrument Proceeds into the Project Escrow Account in the amount set forth on, or determined pursuant to, Exhibit B; and (b) Developer shall deposit the Developer Cash Contribution into the Project Escrow Account. The remainder of the Debt Instrument Proceeds shall be deposited into the Project Escrow Account: (a) as described on Exhibit B; and (b) in all cases so that disbursements may be made from the Project Escrow Account for payment of Developer Project Costs in a timely manner.

4. Closing Documents.

- (a) The Ground Lease.
- (b) The Developer Loan Documents.
- (c) The Guaranty.
- (d) Such UCC financing statements as Village may require, which financing statements shall be in form and substance reasonably acceptable to Village and Developer.
- (e) The Debt Instrument Documents.
- (f) Such other assignments, documents, and instruments as Village reasonably may require with respect to the issuance and/or sale of the Debt Instrument and/or the making of the Developer Loan to Developer, which assignments, documents, and instruments shall be in form and substance reasonably acceptable to Village and Developer.
- (g) Such resolutions, consents, certifications, and authorizations by Developer and the members of Developer as Village or its counsel reasonably may require with respect to: (i) the Closing; (ii) the execution and delivery of the Closing Documents; and (iii) payment and performance by Developer of its obligations under this Agreement and/or the Closing Documents; which resolutions, consents, certifications, and authorizations shall be in form and substance reasonably acceptable to Village and Developer.
- (h) Such resolutions, consents, certifications, and authorizations by Village as Developer or its counsel reasonably may require with respect to: (i) the Closing; (ii) the execution and delivery of the Closing Documents; and (iii) payment and performance by Village of its obligations under this Agreement and/or the Closing Documents; which resolutions, consents, certifications, and authorizations shall be in form and substance reasonably acceptable to Village and Developer.
- (i) An opinion of Developer's counsel with respect to: (i) the legal existence of Developer; (ii) due authorization of Developer to execute, deliver, and perform its obligations under this Agreement and the Closing Documents; (iii) the enforceability of this Agreement and the Closing Documents against Developer; and (iv) such other matters as reasonably may be required by Village or in connection with the issuance of the Debt Instrument; which opinion shall be in form and substance reasonably acceptable to Village and Developer.
- (j) An opinion of Village's counsel with respect to: (i) the legal existence of Village; (ii) due authorization of Village to execute, deliver, and perform its obligations under this Agreement and the Closing Documents; (iii) the enforceability of this Agreement as applicable against Village; and (iv) such other matters as reasonably may be required by Developer; which opinion shall be in form and substance reasonably acceptable to Village and Developer.
- (k) The Lender's Policy and the Leasehold Policy.
- (l) If the conditions set forth in Subsections 6(j) and 7(b) are not satisfied, but are waived by the Parties such that the Parties proceed to the Closing, a written representation by Developer that, notwithstanding that the conditions set forth in Subsections 6(j) and 7(b) have not been satisfied, Developer has: (i) determined that the Estimated Construction Cost, the Not-to-Exceed Price, and the Guaranteed Maximum Price shall not exceed 105% of \$52,500,000.00; and (ii) agreed to construct the Developer Project for an amount not to

exceed 105% of \$52,500,000.00.

5. Debt Service/Loan Repayment.

(a) **Mandatory Reserve.** In connection with the issuance and sale of the Debt Instrument, Village shall: (i) establish any Mandatory Reserve to be maintained by the Trustee; and (ii) fund such Mandatory Reserve with Debt Instrument Proceeds in the Minimum Mandatory Reserve Amount.

(b) **Interest Reserve.** In connection with the issuance of the Debt Instrument, Village shall: (i) establish the Interest Reserve to be maintained by the Trustee; and (ii) fund the Interest Reserve with Debt Instrument Proceeds in the Minimum Interest Reserve Amount. If, upon Substantial Completion, there remain any undisbursed Loan Proceeds, then the remaining undisbursed Loan Proceeds shall be applied as permitted by the Laws; provided that, if permitted by the Laws, such remaining undisbursed Loan Proceeds shall be deposited into the Interest Reserve.

(c) **Debt Service-Interest Reserve.** Until the Interest Reserve is exhausted, Debt Service shall be paid from the Interest Reserve.

(d) **Debt Service-Pre-Stabilization.**

(i) During the Pre-Stabilization Period, all of the Pre-Stabilization NOI shall be applied first to pay Debt Service.

(ii) If, at the time that a payment of Debt Service is due during the Pre-Stabilization Period, there is insufficient Pre-Stabilization NOI to pay the full amount of the Debt Service, then:

(A) if Substantial Completion has occurred, then any unused Development Contingency (with the approval of Village, which approval shall not be withheld unreasonably) shall be disbursed from the Project Escrow Account and applied to cover the amount of the Debt Service that is due but remains unpaid after the application of the Pre-Stabilization NOI;

(B) if: (1) either: (aa) Substantial Completion has not occurred, so that unused Development Contingency cannot be applied pursuant to Subsection 5(d)(ii)(A) to cover Debt Service; or (bb) after application of unused Development Contingency pursuant to Subsection 5(d)(ii)(A) to cover Debt Service, there still is Debt Service that is due but remains unpaid; and (2) the average rental rate being paid at the time for Units is less than \$1.18 per RSF; then Village may make a draw on the outstanding amount of the Guaranty to cover the amount of the Debt Service that is due but remains unpaid; and

(C) if either: (1) Substantial Completion has not occurred, so that unused Development Contingency cannot be applied pursuant to Subsection 5(d)(ii)(A); and/or (2) after application of: (aa) unused Development Contingency pursuant to Subsection 5(d)(ii)(A); and/or

(bb) the outstanding amount of the Guaranty pursuant to Subsection 5(d)(ii)(B); there still is Debt Service that is due but remains unpaid; then: (1) such remaining Debt Service shall accrue (without further interest accruing on any such accrued Debt Service); and (2) the event of such accrual shall not constitute an Event of Default.

(iii) If, at the time that a payment of Debt Service is due during the Pre-Stabilization Period, there is sufficient Pre-Stabilization NOI to pay the full amount of the Debt Service, including any Debt Service that has accrued pursuant to Subsection 5(d)(ii)(C), then the Pre-Stabilization Excess Cash Flow shall be split between Village and Developer in accordance with the Cash Flow Split; provided that the portion of the Pre-Stabilization Excess Cash Flow allocated to: (A) Village pursuant to the Cash Flow Split shall be applied to pay down the Developer Project Incentive (excluding any amount thereof comprised of the Acquisition Delay Increase); and (B) Developer pursuant to the Cash Flow Split shall be applied towards: (1) payment of the Guaranteed Developer Profit; and/or (2) repayment of the Developer Equity; as elected by Developer.

(e) Debt Service-Post-Stabilization.

(i) During the Post-Stabilization Period, all of the Post-Stabilization NOI shall be applied first to pay Debt Service.

(ii) If, at the time that a payment of Debt Service is due during the Post-Stabilization Period, there is insufficient Post-Stabilization NOI to pay the full amount of the Debt Service, then:

(A) because Substantial Completion will have occurred, any unused Development Contingency (with the approval of Village, which approval shall not be withheld unreasonably) shall be disbursed from the Project Escrow Account and applied to cover the amount of the Debt Service that is due but remains unpaid after the application of the Post-Stabilization NOI; and

(B) if: (1) after application of unused Development Contingency pursuant to Subsection 5(e)(ii)(A) to cover Debt Service (and with the approval of Village, which approval shall not be withheld unreasonably), there still is Debt Service that is due but remains unpaid; and (2) either: (aa) the average rental rate being paid at the time for Units is less than \$1.18 per RSF; and/or (bb) the Unit vacancy rate based on physical occupancy at the time of determination is greater than 15%, and has been greater than 15% for three consecutive months during the Post-Stabilization Period; then Village may make a draw on the outstanding amount of the Guaranty to cover the amount of the Debt Service that is due but remains unpaid; and

(C) if, after application of: (1) unused Development Contingency pursuant to Subsection 5(e)(ii)(A) (and with

the approval of Village, which approval shall not be withheld unreasonably) to cover Debt Service; and/or (2) the outstanding amount of the Guaranty pursuant to Subsection 5(e)(ii)(B); there still is Debt Service that is due but remains unpaid, then such remaining Debt Service may accrue (without further interest accruing on any such accrued Debt Service); provided that any Debt Service that remains accrued and unpaid at the time of the Liquidation Event shall be included in the Liquidation Event Payment Amount. Debt Service that accrues under this Subsection shall not constitute an Event of Default unless and until such accrual continues for a period of 18 months. If Debt Service has accrued for a period in excess of 18 months, then the non-payment of the Debt Service that has accrued for a period in excess of 18 months shall constitute an Event of Default by Developer. The foregoing 18-month cure period shall control over the terms and conditions of Subsection 16(a)(iii).

Nothing in this Subsection shall be deemed or construed to prohibit Developer from paying any Debt Service (including any or all accrued Debt Service) that is not covered by Post-Stabilization NOI (due to insufficient Post-Stabilization NOI to pay the full amount of the Debt Service) with other funds obtained by Developer.

(iii) If, at the time that a payment of Debt Service is due during the Post-Stabilization Period, there is sufficient Post-Stabilization NOI to pay the full amount of the Debt Service, including any Debt Service that has accrued pursuant to Subsection 5(d)(ii)(C) and/or Subsection 5(e)(ii)(C), then the Post-Stabilization Excess Cash Flow shall be split between Village and Developer in accordance with the Cash Flow Split; provided that the portion of the Post-Stabilization Excess Cash Flow allocated to: (A) Village pursuant to the Cash Flow Split shall be applied to pay down the Developer Project Incentive (excluding any amount thereof comprised of the Acquisition Delay Increase); and (B) Developer pursuant to the Cash Flow Split shall be applied towards: (1) payment of the Guaranteed Developer Profit; and/or (2) repayment of the Developer Equity; as elected by Developer.

(f) Debt Service Adjustment. In connection with determining the amount of the Developer Loan, the Parties are assuming that Real Estate Taxes per Unit will be \$2,250.00. If, at the time of the first full assessment of the Developer Project: (i) the Real Estate Taxes per Unit actually are \$2,500.00 or more; and (ii) a Debt Service Coverage Ratio equal to the Debt Service Coverage Level is not being maintained, presumably due to the higher than anticipated Real Estate Taxes per Unit; then the amount of the Debt Service shall be reduced (e.g., by causing a portion of the principal balance of the Developer Loan to become interest free, or by temporarily removing a portion of the principal balance from the Developer Loan for purposes of determining the amount of the Debt Service) so that a Debt Service Coverage Ratio equal to the Debt Service Coverage Level is maintained notwithstanding the higher than anticipated Real Estate Taxes per Unit. At the Liquidation Event, the entire outstanding principal balance of the Developer Loan (including the portion that became interest free or that temporarily was removed from the Developer Loan pursuant to this Subsection), will be included in the Liquidation Event Payment Amount. An example of how the terms and conditions of this Subsection would work in practice is set forth on Exhibit I.

(g) Liquidation Event. The Liquidation Event shall occur on the Liquidation Event Date.

(i) If Developer is able to obtain the Full Take-Out Loan, then: (A) the Full Take-Out Loan shall be the Liquidation Event Facility; and (B) at the Liquidation Event, Developer shall deliver the GL Payments Replacement Note to Village if, in connection with the Liquidation Event, Village is not repaid 100% of the Developer Project Incentive. If Developer determines that it is able to obtain the Full Take-Out Loan, then, prior to obtaining the Full Take-Out Loan: (A) Developer shall provide the Full Take-Out Availability Notice to Village; and (B) Village shall have the right, for 15 days after receipt of the Full Take-Out Availability Notice, to elect to provide the loans and/or equity contributions: (1) with an interest rate payable to Village (in the case of loans) and/or the return provided to Village (in the case of equity contributions) that are more favorable to Developer than those identified in the Full Take-Out Availability Notice; and (2) otherwise on the same, or better, terms and conditions that are identified in the Full Take-Out Availability Notice (including, without limitation, amount, term, and amortization period). If Village timely exercises the foregoing election, then: (A) the loans and/or equity contributions provided by Village shall be deemed to be the Full Take-Out Loan (and not a Village Full Refinancing); and (B) all references in this Agreement to the Full Take-Out Loan shall be deemed to be references to the loans and/or equity contributions provided by Village.

(ii) If Developer is not able to obtain the Full Take-Out Loan (and Village is not able to provide the loans and/or equity contributions contemplated pursuant to the second full sentence of Subsection 5(g)(i)), despite the exercise of commercially reasonable, good faith efforts, then the Village Full Refinancing shall be the Liquidation Event Facility; provided that, if:

(A) market interest rates are lower than the interest rate offered by Village in connection with the Village Full Refinancing; and

(B) Developer is able to obtain a Partial Take-Out Loan;

then Developer may require that the Take-Out Loan/Partial Refinancing be the Liquidation Event Facility.

(iii) If the Liquidation Event Facility is either the Full Take-Out Loan or the Take-Out Loan/Partial Refinancing, then, in connection with the Liquidation Event, Village shall convey the Project Site to Developer.

(iv) If: (A) the Liquidation Event Facility is the Take-Out Loan/Partial Refinancing; and (B) the amount of the private loans and/or equity contributions from persons and/or entities other than Village that Developer is able to obtain is less than the Outstanding Loan Amount; then, at the Liquidation Event, Village may make a draw against the Guaranty in the amount of the difference between: (A) the Outstanding Loan Amount; and (B) the amount of such private loans and/or equity contributions; provided that the amount of such draw against the Guaranty shall be applied to reduce the original principal amount of the loan comprising the VPR Primary

Portion.

(v) If: (A) the Liquidation Event Facility is the Village Full Refinancing; and (B) Developer has the ability to obtain private loans and/or equity contributions from persons and/or entities other than Village, but the conditions of Subsection 5(g)(ii) are not satisfied such that Developer may require Village to elect to have the Liquidation Event Facility be the Take-Out Loan/Partial Refinancing; then, at the Liquidation Event, Village may make a draw against the Guaranty in the amount of the difference between: (A) the Outstanding Loan Amount; and (B) the amount of the private loans and/or equity contributions that Developer would have been able to obtain had Village elected (or been required to elect) the Take-Out Loan/Partial Financing; provided that the amount of such draw against the Guaranty shall be applied to reduce the original principal amount of the loan comprising the Village Full Refinancing.

(vi) Notwithstanding anything to the contrary set forth herein (including in clause (b) of each of the definitions of VPR Primary Portion and Village Full Refinancing), if, at the time of the Liquidation Event, the Liquidation Event Facility is either the Take-Out Loan/Partial Refinancing or the Village Full Refinancing, and:

(A) the average rental rate being paid at the time for Units is less than \$1.42 per RSF; then Developer shall not be paid the Remaining Guaranteed Developer Profit in connection with the occurrence of the Liquidation Event (but the Remaining Developer Equity shall continue to be repaid in connection with the occurrence of the Liquidation Event); provided that, so long as Developer has not waived payment of the Guaranteed Developer Project in full or in part and there is Remaining Guaranteed Developer Profit and/or Remaining Developer Equity to which Developer is entitled, the Remaining Guaranteed Developer Profit shall be paid post Liquidation Event in accordance with Subsection 5(h);

(B) the average rental rate being paid at the time for Units is between \$1.42 and \$1.59 per RSF; then Developer shall be paid only \$2,000,000.00 (and not more) of the Remaining Guaranteed Developer Profit (but, if the Remaining Guaranteed Developer Profit is less than \$2,000,000.00, then Developer shall be paid only the amount of the Remaining Guaranteed Developer Profit, and not a full \$2,000,000.00) in connection with the occurrence of the Liquidation Event (but the Remaining Developer Equity shall continue to be repaid in connection with the occurrence of the Liquidation Event); provided that: (A) if there is Remaining Guaranteed Developer Profit after the payment contemplated by this Subsection; and (B) so long as Developer has not waived payment of the Guaranteed Developer Project in full or in part and there is Remaining Guaranteed Developer Profit and/or Remaining Developer Equity to which Developer is entitled; such Remaining Guaranteed Developer Profit shall be paid post

Liquidation Event in accordance with Subsection 5(h); or

(C) the average rental rate being paid at the time for Units is \$1.60 or more per RSF; then there shall be no effect on the payment of the Remaining Guaranteed Developer Profit or the repayment of the Remaining Developer Equity (stated alternatively, it shall continue to be the case that, in connection with the Liquidation Event: (1) the Remaining Guaranteed Developer Profit is paid in full; and (2) the Remaining Developer Equity is repaid in full).

(vii) Upon the occurrence of the Liquidation Event, it shall be the case that: (A) the Liquidation Event Payment Amount is paid; (B) the Developer Loan is refinanced, taken out, paid off, and replaced by the Liquidation Event Facility; (C) the Guaranteed Developer Profit is paid (or payment is waived in full or in part), except as provided to the contrary in Subsection 5(g)(vi); and (D) the Developer Equity is repaid (or repayment is waived in full or in part). The foregoing shall be true regardless of which Liquidation Event Facility applies, and notwithstanding that, in the case of the Take-Out Loan/Partial Refinancing, the Partial Take-Out Loan may be less than the Outstanding Loan Amount (by virtue of the draw against the Guaranty pursuant to Subsection 5(g)(iv)).

(viii) Upon the occurrence of the Liquidation Event, this Agreement shall terminate and any remaining obligations of Village and Developer hereunder (including, without limitation, the obligations set forth in Subsection 5(h)) shall be set forth in: (A) the documents evidencing and/or securing the Liquidation Event Facility; and/or (B) other documents executed contemporaneously with the Liquidation Event.

(h) Debt Service-Post Liquidation Event.

(i) All of the Post-Liquidation Event NOI shall be applied first to pay the Debt Service; provided that, if the Liquidation Event Facility is the Take-Out Loan/Partial Refinancing, then the Post-Liquidation Event NOI shall be applied: (A) first, to pay Debt Service attributable to the Partial Take-Out Loan; and (B) second, to pay Debt Service attributable to the Village Partial Refinancing. The full amounts of all Village Spread Payments made by Developer to Village shall be credited as a reduction of the Remaining Profit/Equity Recovery Amount and/or the Remaining Developer Project Incentive. Examples of the crediting of the Village Spread Payments against the Remaining Profit/Equity Recovery Amount and/or the Remaining Developer Project Incentive are included on Exhibit H.

(ii) If, at the time that a payment of Debt Service is due, there is sufficient Post-Liquidation Event NOI to pay the full amount of the Debt Service, then the Post-Liquidation Excess Cash Flow shall be split between Village and Developer in accordance with the Cash Flow Split; provided that the portion of the Post-Liquidation Excess Cash Flow allocated to:

(A) Village pursuant to the Cash Flow Split shall be applied to payment of: (1) first, VFR Additional Principal or the principal amount of the Village Partial Refinancing (if

the Liquidation Event Facility is the Village Full Refinancing or the Take-Out Loan/Partial Refinancing, respectively); and (2) second, the Remaining Developer Project Incentive and, if applicable, the Remaining Profit/Equity Recovery Amount; and

(B) Developer pursuant to the Cash Flow Split shall be applied first to payment of the Remaining Developer Equity and/or the Remaining Guaranteed Developer Profit if Developer: (1) has not waived payment of the Guaranteed Developer Profit or the Developer Equity in full or in part; and (2) did not receive, in connection with the Liquidation Event, the full amount of the Remaining Developer Equity and/or the Remaining Developer Profit not waived by Developer.

(iii) If there is a Capital Event, then, in connection with the Capital Event, and in addition to repayment of the Village Full Refinancing or the Village Partial Refinancing (if the Liquidation Event Facility is the Village Full Refinancing or the Take-Out Loan/Partial Refinancing, respectively), Developer shall pay to Village the lesser of: (A) the Remaining Developer Project Incentive plus the Remaining Profit/Equity Recovery Amount; or (B) 8% of the Capital Event Net Proceeds; provided that, if the Liquidation Event Facility is the Village Full Refinancing, then, in addition to the foregoing: (A) Developer shall pay to Village an amount equal to: (1) \$1,000,000.00 (representing the total rent payable under the Ground Lease); minus (2) the aggregate amount of all payments of rent made by Developer under the Ground Lease as of the date of the Capital Event; and (B) Village shall convey the Project Site to Developer. Payment by Developer of the amount required pursuant to this Subsection shall discharge in full all obligations of Developer pursuant to Subsection 5(h)(ii); accordingly, thereafter Village shall have no further right to a share of any Post-Liquidation Excess Cash Flow.

6. Developer Conditions. The obligations of Developer with respect to proceeding with the Closing shall be subject to the satisfaction or waiver in writing, within the Due Diligence Period or such other period as is specified by the terms and conditions of this Section, of the following:

(a) **Title.** Within 30 days after the Execution Date, Village shall have provided the Title Commitment to Developer.

(b) **Survey.** Within 45 days after the Execution Date, Village shall have provided the Survey to Developer.

(c) **Phase One.** Within 30 days after the Execution Date, Village shall have provided the Environmental Assessment to Developer.

(d) **Title Review.** Developer shall have determined that the Title Insurer will insure the leasehold interest of Developer in the Project Site, free of all exceptions other than the Permitted Exceptions.

(e) **Survey Review.** Developer shall have determined that the Survey does not disclose any condition that prohibits or interferes with the construction or use of the Developer Project in accordance with the terms and conditions of this Agreement. The Survey shall establish

the precise legal description of the Project Site for purposes of the Leasehold Policy and the Lender's Policy.

(f) Environmental Condition. Developer shall have determined that there: (i) is no contamination or pollution of the Project Site or any groundwater thereunder by any hazardous waste, material, or substance in violation of any Laws; (ii) are no underground storage tanks located on the Project Site; and (iii) are no wetlands on the Project Site.

(g) Physical Condition. Developer shall have determined that no test, inspection, examination, study, or investigation of the Project Site establishes that there are conditions that would materially interfere with the construction and use of the Developer Project in accordance with the terms and conditions of this Agreement.

(h) Required Permits. Developer shall have obtained, or determined that it will be able to obtain, all Required Permits.

(i) Utility Availability. Developer shall have determined that gas, electricity, telephone, cable, water, storm and sanitary sewer, and other utility services in adjoining public rights-of-way or properly granted and recorded utility easements are serving or will serve the Project Site at adequate pressures, and in sufficient quantities and volumes, for the construction and use of the Developer Project in accordance with the terms and conditions of this Agreement.

(j) Final Plans. As of the Closing Date, the Final Plans shall have been completed pursuant to the Plan Refinement Process, and Developer and Village shall have agreed upon the amount of the Developer Project Incentive.

(k) Construction Contract. As of the Closing Date, a bid shall have been selected, and the Construction Contract shall have been executed, pursuant to Subsection 9(h).

(l) Ground Lease. As of the Closing Date, Developer and Village shall have agreed to the form and substance of the Ground Lease.

(m) Guaranty. As of the Closing Date: (i) Village shall have received third-party confirmation of the net worth of the Guarantor; and (ii) Village and the Guarantor shall have agreed to the form and substance of the Guaranty.

(n) Debt Instrument. As of the Closing Date, Village shall have determined that it will be able to issue and sell the Debt Instrument: (i) at a Debt Instrument Interest Rate that is acceptable to Developer and Village; and (ii) in substantial accordance with the Debt Instrument Issuance Schedule.

(o) Loan Documents. As of the Closing Date, Developer and Village shall have agreed to the form and substance of the Developer Loan Documents.

(p) Access. As of the Closing Date, Developer shall have determined that it will have: (i) adequate construction access to the Project Site; and (ii) an adequate area for staging, mobilization, and use of a crane; such that Developer reasonably will be able to meet its obligations with respect to the construction of the Developer Project in accordance with the Construction Schedule.

(q) No Breach. As of the Closing Date: (i) there shall be no Event of Default by Village; and (ii) all of the representations and warranties set forth in Subsection 8(a) shall be true and accurate in all respects.

If one or more of the conditions set forth in this Section is not, or cannot be, timely and completely satisfied, then, as its sole and exclusive remedy, Developer either may elect to: (a) waive in writing satisfaction of the conditions and to proceed to Closing; or (b) terminate this Agreement by a written notice to Village; provided that, with respect to breaches of this Agreement by Village, Developer shall have the rights and remedies set forth in Section 16. Notwithstanding anything to the contrary set forth herein, Developer shall work diligently and in good faith to satisfy the conditions set forth in this Section.

7. Village Conditions. The obligations of Village with respect to proceeding with the Closing shall be subject to the satisfaction or waiver in writing, within the Due Diligence Period or such other period as is specified by the terms and conditions of this Section, of the following:

(a) **Title.** Village shall have: (i) obtained a satisfactory commitment for the Lender's Policy; and (ii) determined that the Title Insurer is prepared to issue the Lender's Policy in conformity with such commitment.

(b) **Final Plans.** As of the Closing Date, the Final Plans shall have been completed pursuant to the Plan Refinement Process, and Developer and Village shall have agreed upon the amount of the Developer Project Incentive.

(c) **Construction Contract.** As of the Closing Date, a bid shall have been selected, and the Construction Contract shall have been executed, pursuant to Subsection 9(h).

(d) **Ground Lease.** As of the Closing Date, Developer and Village shall have agreed to the form and substance of the Ground Lease.

(e) **Guaranty.** As of the Closing Date: (i) Village shall have received third-party confirmation of the net worth of the Guarantor; and (ii) Village and the Guarantor shall have agreed to the form and substance of the Guaranty.

(f) **Debt Instrument.** As of the Closing Date, Village shall have determined that it will be able to issue and sell the Debt Instrument: (i) at a Debt Instrument Interest Rate that is acceptable to Developer and Village; and (ii) in substantial accordance with the Debt Instrument Issuance Schedule.

(g) **Loan Documents.** As of the Closing Date, Developer and Village shall have agreed to the form and substance of the Developer Loan Documents.

(h) **Developer Information.** Village shall have received: (A) financial statements for Developer and the Developer Affiliates with respect to calendar years 2005-2010; (B) a summary of projects undertaken by Developer and/or the Developer Affiliates during the calendar years 2005-2010; (C) a description of any and all pending litigation with respect to which Developer and/or any Developer Affiliate is a party; (D) a description of any threatened litigation with respect to which Developer and/or any Developer Affiliate: (1) has knowledge; and (2) will be a party; (E) a Dunn & Bradstreet business credit report with respect to Developer and the Developer Affiliates, if such a report is available; and (F) credit and background checks with respect to Developer and the Developer Affiliates.

(i) **No Breach.** As of the Closing Date: (i) there shall be no Event of Default by Developer; and (ii) all of the representations and warranties set forth in Subsection 8(b) shall be true and accurate in all respects.

If one or more of the conditions set forth in this Section is not, or cannot be, timely and completely satisfied, then, as its sole and exclusive remedy, Village either may elect to: (a) waive in writing satisfaction of the conditions and to proceed to Closing; or (b) terminate this Agreement by a written notice to Developer;

provided that, with respect to breaches of this Agreement by Developer, Village shall have the rights and remedies set forth in Section 16. Notwithstanding anything to the contrary set forth herein, Village shall work diligently and in good faith to satisfy the conditions set forth in this Section.

8. Representations

- (a) Developer. Developer represents and warrants to Village that:
- (i) Developer shall not enter into any contracts or undertakings that would limit, conflict with, or constitute a breach of this Agreement.
 - (ii) Developer is and, during the continuance of this Agreement shall remain, a limited liability company duly organized and validly existing under the laws of the State of Indiana and authorized to do business in the State of Illinois. Developer is not a "foreign corporation", "foreign partnership", "foreign trust", or "foreign estate" (as those terms are defined in the Internal Revenue Code of 1986, as amended, and the Income Tax Regulations promulgated thereunder).
 - (iii) Developer has the power to enter into, and perform its obligations under, this Agreement and the Developer Loan Documents.
 - (iv) Developer has been authorized by proper action to execute and deliver, and perform its obligations under, this Agreement and the Developer Loan Documents.
 - (v) No manager, member, employee, or agent of Developer has directly or indirectly made, offered, or given to any of the Corporate Authorities or any officer, employee, or agent of Village any money or item of value as a gift, bribe, or other means of influencing his, her, or its actions in his, her, or its capacity with Village.
 - (vi) This Agreement is the legal, valid, and binding obligation of Developer.
 - (vii) Upon execution thereof, the Developer Loan Documents shall be the legal, valid, and binding obligations of Developer.
 - (viii) As provided in Subsection 10(a), Developer shall construct the Developer Project in compliance with the Law commonly known as the Illinois Prevailing Wage Act, to the extent applicable.
 - (ix) To the best of its knowledge, Developer has the skill, experience, and expertise to construct the Developer Project.
 - (x) Developer shall implement a program under which qualified local subcontractors will be given due consideration, along with other bidders.
- (b) Village. Village represents and warrants to Developer that:
- (i) Village shall not enter into any contracts or undertakings that would limit, conflict with, or constitute a breach of this Agreement.
 - (ii) Village is an Illinois home rule municipal corporation pursuant to

Article VII, Section 6 of the Illinois Constitution.

(iii) Village has the power to enter into, and perform its obligations under, this Agreement.

(iv) Village has been authorized by proper action to execute and deliver, and perform its obligations under, this Agreement.

(v) No officer, employee, or agent of Village, and, to the best of Village's knowledge, no Corporate Authority, has received any money or item of value from Developer or any manager, member, employee, or agent of Developer as a gift, bribe, or other means of influencing his, her, or its actions in his, her, or its capacity with Village.

(vi) This Agreement is the legal, valid, and binding obligation of Village.

(vii) Upon execution thereof, the Developer Loan Documents shall be the legal, valid, and binding obligations of Village.

(c) Disclosure. Developer has: (i) disclosed to Village the names, addresses, and ownership interests of the members and managers of Developer; and (ii) provided to Village reasonable supporting documentation with respect to such names, addresses, and ownership interests (including, without limitation, a copy of Developer's operating agreement). If, during the term of this Agreement, new members and/or managers are added to Developer, then Developer shall provide Village written notice of the names, addresses, and ownership interests of such new members and/or managers. Village shall maintain the confidentiality of the information received by it pursuant to this Subsection to the extent permitted by the Laws.

9. Plan Refinement.

(a) Estimated Construction Cost. Each of Village and Developer agree that, as of the Execution Date, the Estimated Construction Cost is an amount not to exceed 105% of \$52,500,000.00. If, at any stage of the Plan Refinement Process, Village and Developer agree to increase the amount of the Estimated Construction Cost, then all references to the Estimated Construction Cost shall refer to: (i) an amount not to exceed 105% of \$52,500,000.00; plus (ii) the aggregate amount of all increases to which Village has agreed.

(b) Schematic Design Drawings.

(i) In accordance with the Plan Schedule, Developer shall prepare the Schematic Design Drawings; provided that Developer shall use commercially reasonable, good faith efforts to prepare Schematic Design Drawings reflecting a Developer Project with respect to which Construction Costs will not exceed the Estimated Construction Cost. Upon completion of the Schematic Design Drawings, Developer shall submit the Schematic Design Drawings to Village for its review and approval, which review and approval shall be undertaken in accordance with the Laws.

(ii) Within 15 business days after Village receives the Schematic Design Drawings, Village shall deliver to Developer written notice that it approves or rejects the Schematic Design Drawings; provided that, if Village rejects all or any part of the Schematic Design Drawings, then such notice shall: (A) specify the part or parts that Village is rejecting; and (B) include

the specific basis for such rejection.

(iii) Upon approval by Village of the Schematic Design Drawings, the approved Schematic Design Drawings shall be final, subject to modifications: (A) as necessary or permitted pursuant to Subsections 9(c)(iv) and/or 9(h); or (B) after completion of the Final Plans, by Change Orders.

(c) Initial Design Development Documents.

(i) At such time as the Schematic Design Drawings are final (subject to modifications pursuant to Subsection 9(b)(iii)), and otherwise in accordance with the Plan Schedule, Developer shall prepare the Initial Design Development Documents; provided that Developer shall use commercially reasonable, good faith efforts to prepare Initial Design Development Documents reflecting a Developer Project with respect to which Construction Costs will not exceed the Estimated Construction Cost. Upon completion of the Initial Design Development Documents, Developer shall submit the Initial Design Development Documents to Village for its review and approval, which review and approval shall be undertaken in accordance with the Laws.

(ii) Within 15 business days after Village receives the Initial Design Development Documents, Village shall deliver to Developer written notice that it approves or rejects the Initial Design Development Documents; provided that, if Village rejects all or any part of the Design Development Documents, then such notice shall: (A) specify the part or parts that Village is rejecting; and (B) include the specific basis for such rejection.

(iii) Upon approval by Village of the Initial Design Development Documents pursuant to Subsection 9(c)(ii), and in accordance with the Plan Schedule, Developer shall obtain pricing proposals for the Developer Project based upon the approved Initial Design Development Documents (which proposals shall be broken down by major Construction Trade) for the purpose of determining the likelihood that, based upon the approved Initial Design Development Documents, the Construction Costs will not exceed the Estimated Construction Cost.

(iv) If the pricing proposals obtained by Developer reflect that, based upon the approved Initial Design Development Documents, the Construction Costs likely will exceed the Estimated Construction Cost, then, taking into account the information received by Developer in connection with obtaining the pricing proposals, Developer shall revise the Initial Design Development Documents (and, if necessary or appropriate, the Schematic Design Drawings) with input from Village in an attempt to cause the Initial Design Development Documents to reflect a Developer Project with respect to which Construction Costs will not exceed the Estimated Construction Cost. Thereafter, Developer shall submit the revised Initial Design Development Documents (and, if applicable, the revised Schematic Design Drawings) to Village for its review and approval in accordance with Subsection 9(c)(ii). Upon approval by Village of the revised Initial Design Development Documents (and, if applicable, the revised Schematic Design Drawings) pursuant to Subsection 9(c)(ii), Developer once again shall obtain informal pricing proposals in accordance with Subsection 9(c)(iii). This process shall

continue until such time as Developer has obtained pricing proposals reflecting that, based upon the approved Initial Design Development Documents and the approved Schematic Design Drawings, the Construction Costs likely will not exceed the Estimated Construction Cost.

(d) Remaining Design Development Documents.

(i) At such time as Developer has obtained pricing proposals reflecting that, based upon the approved Initial Design Development Documents and the approved Schematic Design Drawings, the Construction Costs likely will not exceed the Estimated Construction Cost, and otherwise in accordance with the Plan Schedule, Developer shall prepare the remaining Design Development Documents and the Construction Schedule; provided that Developer shall use commercially reasonable, good faith efforts to prepare Design Development Documents reflecting a Developer Project with respect to which Construction Costs will not exceed the Estimated Construction Cost. Upon completion of the remaining Design Development Documents and the Construction Schedule, Developer shall submit the remaining Design Development Documents and the Construction Schedule to Village for its review and approval, which review and approval shall be undertaken in accordance with the Laws

(ii) Within 15 business days after Village receives the remaining Design Development Documents and the Construction Schedule, Village shall deliver to Developer written notice that it approves or rejects the remaining Design Development Documents and/or the Construction Schedule; provided that, if Village rejects all or any part of the remaining Design Development Documents and/or the Construction Schedule, then such notice shall: (A) specify the part or parts that Village is rejecting; and (B) include the specific basis for such rejection.

(iii) Upon approval by Village of all of the Design Development Documents with respect to any Construction Trade, the Design Development Documents shall be final as to such Construction Trade, subject to modifications: (A) as permitted pursuant to Subsection 9(h); or (B) after completion of the Final Plans, by Change Orders. Upon approval by Village of the Construction Schedule, the Construction Schedule shall be the final construction schedule with respect to construction of the Developer Project, subject to modifications: (A) as permitted pursuant to Subsection 9(h); or (B) after completion of the Final Plans, by Change Orders.

(e) Construction Drawings.

(i) At such time as the Design Development Documents are final (subject to modifications pursuant to Subsection 9(d)(iii)), and otherwise in accordance with the Plan Schedule, Developer shall submit the Initial Construction Drawings with respect to each Construction Trade to Village for its review and approval, which review and approval shall be undertaken in accordance with the Laws. Within 15 business days after Village receives the Initial Construction Drawings with respect to a Construction Trade, Village shall deliver to Developer written notice that it approves or rejects the Initial Construction Drawings with respect to such Construction Trade; provided that, if Village rejects all or any part of the Construction Drawings,

then such notice shall: (A) specify the part or parts that Village is rejecting; and (B) include the specific basis for such rejection.

(ii) In accordance with the Plan Schedule, Developer shall obtain pricing proposals for the Developer Project based upon the Initial Construction Drawings (which proposals shall show all Construction Trades) for the purpose of determining the likelihood that, based upon the Initial Construction Drawings, the Construction Costs likely will not exceed the Estimated Construction Cost. The price obtained by Developer pursuant to this Subsection shall be subject to the approval of Village; provided that Village shall be deemed to have approved such price if it does not exceed an amount equal to the Estimated Construction Cost. Once approved (or deemed to be approved) by Village, the price obtained by Developer pursuant to this Subsection shall be the "Not-to-Exceed Price". Unless (and except to the extent) approved by Village, the Not-to-Exceed Price shall not exceed the Estimated Construction Cost

(iii) At such time as the Not-to-Exceed Price has been determined, and otherwise in accordance with the Plan Schedule, Developer shall prepare the remaining Construction Drawings; provided that Developer shall use commercially reasonable, good faith efforts to prepare Design Development Documents reflecting a Developer Project with respect to which Construction Costs will not exceed the Not-to-Exceed Price. Upon completion of the remaining Construction Drawings, Developer shall submit the remaining Construction Drawings to Village for its review. Thereafter, the Construction Drawings shall be final construction drawings with respect to the applicable Construction Trade, subject to modifications: (A) as permitted pursuant to Subsection 9(h); or (B) after completion of the Final Plans, by Change Orders.

(f) Re-submissions. If, at any stage of the Plan Refinement Process, Village, rather than approving any drawings, documents, or schedules, instead rejects any of the foregoing, then, within 15 business days after Developer receives notice from Village that it has rejected any drawings, documents, or schedules, Developer shall: (i) revise the drawings, documents, or schedules; and (ii) resubmit the drawings, documents, or schedules to Village. Within ten days after Village receives a re-submission, Village shall deliver to Developer written notice that it approves or rejects the resubmitted drawings, documents, or schedules; provided that, if Village rejects all or any part of the foregoing, then such notice shall: (i) specify the part or parts that Village is rejecting; and (ii) include the specific basis for such rejection. Upon approval of the resubmitted drawings, documents, or schedules, the resubmitted drawings, documents, or schedules shall become part of the Final Plans, subject to modification as specifically provided by this Section (including, without limitation, by Change Orders). Notwithstanding the involvement of Village in the Plan Refinement Process, Developer shall be responsible for insuring that revisions submitted by Developer to Village in writing are implemented in the Final Plans.

(g) Final Plans. Upon completion of the Final Documents and Drawings through the Plan Refinement Process, the aggregated Final Documents and Drawings shall constitute the complete Final Plans, subject to modification as specifically provided by this Section (including, without limitation, by Change Orders). All references herein to the Final Plans shall be deemed to be references to the Final Documents and Drawings, until such time as all of the Final Documents and Drawings are completed; provided that, when all of the Final Documents and Drawings are completed, all references herein to the Final Plans shall be deemed to be references to the Final Plans, modified as permitted by this Section (including,

without limitation, by Change Orders).

(h) Bidding.

(i) In accordance with the Plan Schedule, Developer shall: (A) prepare a bid package (including a form Construction Contract); (B) solicit and/or obtain bids for the construction of the Developer Project in accordance with the Final Plans.

(ii) If bids are obtained that specify a price to construct the Developer Project that does not exceed an amount equal to the Not-to-Exceed Price, then one such bid shall be selected by Developer (and, as a result, the General Contractor shall be selected and the Guaranteed Maximum Price shall be set). The price specified in the selected bid shall become the "Guaranteed Maximum Price".

(iii) If no bids are obtained that specify a price to construct the Developer Project that is equal to, or less than, an amount equal to the Not-to-Exceed Price, then Developer shall have an opportunity to repeat the Plan Refinement Process for the purpose of modifying the Schematics Design Drawings, the Design Development Documents, the Construction Schedule, and/or the Construction Drawings to obtain a new set of Final Plans. If Developer undertakes the opportunity to repeat the Plan Refinement Process, then the new set of Final Plans shall be subject to the terms and conditions of this Subsection (excluding the right to repeat the Plan Refinement Process; accordingly, for purposes of clarification, Developer shall have only one opportunity to repeat the Plan Refinement Process).

(iv) At such time as a bid is selected (and, as a result, the General Contractor is selected and the Guaranteed Maximum Price is set), Developer shall enter into the Construction Contract. Promptly after execution thereof, Developer shall provide a copy of the executed Construction Contract to the Village Representative.

(i) Changes. If Developer desires to make any material changes to the Final Plans, then Developer shall submit a Change Order Request to Village for review and approval. Within ten business days after Village receives the Change Order Request, Village shall deliver to Developer written notice that it approves or rejects the Change Order Request; provided that: (i) Village shall not withhold its approval unreasonably; and (ii) if Village rejects all or any part of the Change Order Request, then such notice shall: (A) specify the part or parts that Village is rejecting; and (B) include the specific basis for such rejection. If Village fails to approve or reject any Change Order Request within ten business days after receipt thereof, then Village shall be deemed to have approved such Change Order Request. If Village approves a Change Order Request, then Village and Developer shall execute a Change Order. Notwithstanding anything to the contrary set forth herein: (i) Developer shall not be required to obtain the approval of Village with respect to a Permitted Change; and (ii) a Change Order with respect to a Permitted Change shall be effective if executed only by Developer; provided that, with respect to a Permitted Change, Developer shall submit a Change Order Request to Village for its review.

(j) Budgets.

(i) At such time as the Not-to-Exceed Price has been determined

pursuant to Subsection 9(e)(ii), and otherwise in accordance with the Plan Schedule, Developer and Village shall prepare and agree upon preliminary Budgets; provided that the preliminary Developer Project Budget shall reflect, with respect to Construction Costs, the Not-to-Exceed Price. The preliminary Budgets shall include such line items as reasonably are agreed by Developer and Village.

(ii) At such time as a bid is selected (and, as a result, the Guaranteed Maximum Price is set), and otherwise in accordance with the Plan Schedule, Developer and Village shall finalize the Budgets; provided that the final Developer Project Budget shall reflect, with respect to Construction Costs, the Guaranteed Maximum Price. The Budgets shall include such line items as reasonably are agreed by Developer and Village.

(k) Design and Fees. As provided in the Fee Letter Agreement, Village is responsible for payment of the first \$300,000.00 of fees with respect to the design of the Developer Project (including architectural and engineering fees). Developer acknowledges that a portion of such fees have been paid prior to the date hereof. Village agrees that, with respect to the portion of such fees not paid prior to the date hereof, such fees shall be payable by Village promptly upon receipt of an invoice therefor.

(l) Permits. Prior to commencing construction of the Developer Project, Developer shall obtain and submit to Village for its review the Required Permits, as applicable to construction (as opposed to use) of the Developer Project.

10. Developer Project Construction.

(a) General. Developer shall construct the Developer Project: (i) in a good and workmanlike manner; (ii) in substantial accordance with the Final Plans and the terms and conditions of this Agreement; and (iii) in compliance with the Laws, including, without limitation: (A) all provisions in the building, plumbing, mechanical, electrical, storm water management, fire prevention, property maintenance, zoning, and subdivisions codes of Village; (B) all other germane codes and ordinances of Village in effect from time to time during construction of the Developer Project; and (C) the Law commonly known as the Illinois Prevailing Wage Act, to the extent applicable. Prior to commencing construction of the Developer Project, Developer shall obtain the Required Permits, to the extent applicable to construction (as opposed to use) of the Developer Project. Developer shall provide to Village a copy of each subcontract that is: (i) in an amount in excess of \$25,000.00; and (ii) for the performance of work under the Construction Contract.

(b) Inspections.

(i) If Developer submits an Inspection Request to the Village Representative, then, within five business days after receipt of the Inspection Request (or within such other longer time period as may be specified in the Inspection Request), the Village Representative shall: (A) conduct an Interim Inspection or the Final Inspection, as applicable; and (B) deliver a Non-Compliance Notice (if applicable) to Developer.

(ii) If the Village Representative delivers a Non-Compliance Notice to Developer, then Developer shall correct, or cause to be corrected, as soon as reasonably is practicable, all Material Defects identified in the Non-Compliance Notice.

(iii) Promptly after the Village Representative either: (A) completes an Interim Inspection or the Final Inspection, as applicable, and determines that there are no Material Defects; or (B) confirms that Developer has corrected all Material Defects identified in a Non-Compliance Notice; the Village Representative shall: (A) certify such fact to Developer and Village in writing; and (B) deliver a copy of the certification to the Village Loan Administrator.

(iv) Notwithstanding anything to the contrary set forth herein: (A) no certification by the Village Representative pursuant to this Subsection shall be applicable with respect to any Latent Defects; and (B) a certification by the Village Representative pursuant to this Subsection shall not mean that Developer has been relieved of responsibility for: (1) compliance with the Laws; (2) the proper application of construction means or methods; or (3) correcting any portion of the Developer Project, if it later is determined that such portion is inconsistent with the proper completion of a subsequent portion of the Developer Project.

(v) In addition to Interim Inspections and Final Inspections, Village or the Village Representative, from time to time and upon delivery of written notice to Developer at least three business days in advance, may perform a Permitted Inspection; provided that Permitted Inspections that are "spot" inspections may be performed without prior written notice in accordance with (and to the extent that such "spot" inspections are permitted by) current Village policies. If, in connection with any Permitted Inspection, the Village Representative delivers a Non-Compliance Notice to Developer, then Developer shall correct, or cause to be corrected, as soon as reasonably is practicable, all Material Defects identified in the Non-Compliance Notice.

(vi) In connection with an Inspection, the Village Representative shall:

(A) comply with all health and safety rules of which it has been informed that have been established for personnel present on the construction site; and

(B) coordinate the Inspection with the General Contractor so that it does not interfere with the performance of construction.

(c) Books and Records.

(i) Developer shall maintain the Books and Records with respect to the construction of the Developer Project until the date that is one year after the occurrence of Substantial Completion.

(ii) Developer shall maintain the Books and Records with respect to Net Operating Income and Debt Service Coverage Ratio, including Debt Service, Developer Project Reserves, Developer Project Revenue, Operating Expenses, and amounts paid into the Tax Escrow Account, until the date that is one year after: (A) the Liquidation Event, if the Liquidation Event Facility is the Full Take-Out Loan; or (B) repayment of the Village Partial Take-Out Loan or the Village Full Refinancing if the Liquidation Event Facility is the Take-Out Loan/Partial Refinancing or the Village Full Refinancing, respectively.

(iii) Developer shall permit the Village Representative, the Village Loan Administrator, Village, and the attorneys and accountants for the Village Representative, the Village Loan Administrator, and/or Village, to have access to the Books and Records at any time during normal business hours upon receipt of written notice at least three days in advance; provided that the parties conducting such inspections of the Books and Records shall maintain the confidentiality of the information set forth therein to the extent reasonably practicable and as permitted by the Laws.

(d) **Construction Management Fees.** The Base CM Fee shall be paid in accordance with the terms and conditions of the Construction Contract. If: (i) Substantial Completion occurs on or before the date set forth in the Construction Schedule (reflecting all updates); and (ii) actual Construction Costs are less than the Guaranteed Maximum Price; then, promptly after the occurrence of Substantial Completion, Village shall pay the Construction Management Bonus to Developer. This Subsection shall not be deemed or construed as having any effect on (or in any way releasing Developer from) the obligation of Developer to construct the Developer Project in accordance with the Construction Schedule (reflecting all updates).

(e) **Savings Bonus.** If, and to the extent, that actual Construction Costs exceed the Guaranteed Maximum Price, then Developer shall be responsible for payment of such excess Construction Costs in a timely manner. If there is a Savings Bonus, then: (i) the Savings Bonus shall be split equally between Village and Developer; and (ii) promptly after the occurrence of Substantial Completion, Village shall pay to Developer 50% of the Savings Bonus out of the Project Escrow Deposits.

11. Disbursement Requirements. Unless expressly waived by Village in writing, the obligation of Village to disburse Project Escrow Deposits; shall be subject to, and conditioned upon, satisfaction of each of the requirements set forth in this Section.

(a) The Village Loan Administrator shall have received the Construction Contract and subcontracts required pursuant to Subsection 10(a); provided that the foregoing shall be required only before the first disbursement of Project Escrow Deposits and, once provided, shall not be required in connection with subsequent disbursements except in the case of modifications of the Construction Contract or such required subcontracts, in which case the modified Construction Contract and/or required subcontracts shall be provided to the Village Loan Administrator.

(b) The Village Loan Administrator shall have received two original executed copies of a disbursement request, in form and substance as reasonably is required by Village, accompanied by: (i) a certification by Developer that the Project Escrow Deposits will be used only to pay Developer Project Costs; and (ii) such other approvals and/or certifications by the Village Loan Administrator, Developer, and/or the General Contractor as Village or the Village Loan Administrator reasonably may request.

(c) The Village Loan Administrator shall have received: (i) original invoices for Developer Project Costs from all contractors, subcontractors, fabricators, and suppliers to which payment will be made; and (ii) a certification from an inspecting architect employed by Village or the Village Representative at the expense of Village certifying the values of: (A) the work in place; (B) materials properly stored on the Project Site for construction of the Developer Project; and (C) materials properly stored offsite at a secure facility; based upon the percentage of completion of each such line item on the Developer Project Budget. Each draw request submitted by Developer shall be reviewed and approved by the Village Loan Administrator to confirm that such draw request is complete.

(d) The Village Loan Administrator shall have received original lien waivers from all contractors, subcontractors, fabricators, and suppliers that otherwise would have the right to assert liens against the Project Site for: (i) work or services performed; or (ii) supplies, material, or equipment provided; in each case through the date of the last invoice; provided that, if lien waivers are not available, then the Village Loan Administrator shall have received acknowledgments from all such contractors, subcontractors, fabricators, and suppliers: (i) of payment in full for services rendered through the date of the last invoice; and (ii) that no lien may be asserted against the Project Site for: (A) work or services performed; or (B) supplies, material, or equipment provided; in each case through the date of the last invoice.

(e) The Village Loan Administrator shall have received reasonably satisfactory evidence that: (i) no mechanics' liens have been filed with respect to the Project Site; and (ii) no other liens or encumbrances have been recorded with respect to the Project Site; provided that, in the event of the filing of any such mechanics' lien, Developer shall be entitled to satisfy the requirements of this Subsection by: (i) bonding over such mechanics' lien in accordance with the Laws; (ii) escrowing, with the Title Insurer, an amount equal to 120% of the amount of such mechanics' lien pending resolution thereof; or (iii) providing, through the Title Insurer, affirmative title insurance coverage over such mechanics' lien for the benefit of Village.

(f) The Village Loan Administrator shall have received a current certificate from the Architect: (i) stating that the portions of the Developer Project completed to date: (A) have been constructed in substantial accordance with the Final Plans and the Laws such that, upon Substantial Completion, Village will be able to issue a conditional occupancy certificate; and (B) do not encroach upon any easements or rights-of-way, or across any building set-back lines or utility lines; and (ii) certifying the estimated values, and percentage of completion, of work in place on the Project Site, and evidencing payment due to Developer in an amount not less than the pending draw request.

(g) The Village Representative shall have performed an Interim Project Inspection and determined with respect to the portions of the Developer Project constructed to date either that: (i) there are no Material Defects; or (ii) all Material Defects identified in a Non-Compliance Notice have been corrected by Developer. If: (i) in the case of an Interim Project Inspection, the Village Representative delivers a Non-Compliance Notice to Developer; and (ii) the Material Defects identified in the Non-Compliance Notice do not apply to the entirety of the portion of the Developer Project that is the subject of the Interim Project Inspection, but, instead, apply to a discrete aspect thereof; then, upon receipt of written request by Developer: (i) the Village Representative shall certify to Village and the Village Loan Administrator the portions of the Developer Project that: (A) are the subject of the Interim Project Inspection; and (B) do not contain any Material Defects; and (ii) Village shall not disapprove the disbursement request, to the extent that: (A) Project Escrow Deposits will be used only to pay Developer Project Costs for portions of the Developer Project that do not contain any Material Defects; and (B) Developer is correcting the Material Defects identified in the Non-Compliance Notice.

(h) All required Agency Inspections in connection with the portions of the Developer Project completed to date shall have been completed, the Agencies shall have approved the portions of the Developer Project completed to date, and Developer shall have satisfied all requirements of the Agencies. If an Agency Inspection reveals a defect or a deficiency that does not apply to the entirety of the portion of the Developer Project that was the subject of the Agency Inspection, but, instead, applies to a discrete aspect thereof, then Village shall not disapprove the disbursement request, to the extent that: (A) Project Escrow Deposits will be used only to pay Developer Project Costs for portions of the Developer Project that are not part of, or affected by, the defect or deficiency; and (B) Developer is correcting the defect or deficiency.

(i) The Village Loan Administrator shall have received an updated Developer Project Budget, certified by the manager of Developer, that: (i) reflects all Change Orders; (ii) shows, on a line item basis, all amounts previously spent and projected to be spent; (iii) details, on a line item basis, the amount of any costs savings or overruns; (iv) reflects, on a line item basis, projected cost savings or overruns; (v) shows, on a line item basis, shifts of costs savings and/or projected costs savings; and (vi) certifies that: (A) such revised and updated Developer Project Budget has been prepared on a basis consistent with those previously provided to Village or the Village Loan Administrator; and (B) except as indicated therein, the assumptions upon which the updated Developer Project Budget has been prepared are reasonable, and have not been changed from previous submissions; which updated Developer Project Budget shall be in form and substance consistent with Developer Project Budgets previously provided to, and accepted by, Village.

(j) The Village Loan Administrator and the Village Representative shall have received an updated Construction Schedule, certified by the manager of Developer, that: (i) reflects all Change Orders; (ii) reflects which portions of the Developer Project: (A) have been completed; and (B) remain uncompleted; (iii) reflects the projected completion dates for each portion of the Developer Project that remains uncompleted; and (iv) certifies that: (A) such updated Construction Schedule has been prepared on a basis consistent with those previously provided to Village, the Village Loan Administrator, and/or the Village Representative; and (B) except as indicated therein, the assumptions upon which the updated Construction Schedule has been prepared are reasonable, and have not been changed from previous submissions; which updated Construction Schedule shall be in form and substance consistent with the Construction Schedules previously provided to, and accepted by, Village.

(k) Developer shall have established to the reasonable satisfaction of Village and the Village Loan Administrator that the Developer Loan is, and will remain, in balance pursuant to Subsection 13(d).

(l) The Village Loan Administrator shall have received a certificate by the manager of Developer that: (i) all representations and warranties in this Agreement and the Developer Loan Documents remain true, correct, and accurate in all respects; and (ii) there is no material default by Developer under any term or condition of this Agreement or any of the Developer Loan Documents.

12. Final Disbursement Requirements. Unless expressly waived by Village in writing, the obligation of the Village Loan Administrator to make the final disbursement of Project Escrow Deposits shall be subject to, and conditioned upon, satisfaction of each of the requirements set forth in this Section (which requirements shall be in addition to the requirements of Section 11).

(a) Substantial Completion shall have occurred, as evidenced by the following:

(i) A final Architect's certification of Substantial Completion, which certification shall include, without limitation, the Architect's certification: (A) that the Developer Project: (1) has been constructed in substantial accordance with the Final Plans and the Laws such that Village is able to issue a conditional occupancy certificate; and (2) does not encroach upon any easements or rights-of-way, or across any building set-back lines or utility lines; and (B) of the estimated values of work in place on the Project Site, in a manner consistent with the line items set forth in the Developer Project Budget, and evidencing payment due to Developer in an amount not less than the then pending draw request.

(ii) A certification by the Village Representative, reflecting that the Village Representative has: (A) completed the Final Project Inspection; (B) determined either that: (1) there are no Material Defects; or (2) all Material Defects identified in a Non-Compliance Notice have been corrected by Developer; and (C) determined that Substantial Completion has occurred.

(iii) A certification by the General Contractor stating: (A) that Substantial Completion has occurred; (B) that: (1) all required Agency Inspections have been completed; (2) the Agencies have approved the Developer Project; and (3) Developer has satisfied in full all requirements of the Agencies; (C) that utilities with adequate pressures, voltages, and capacity have been connected to Developer Project, and such utilities are provided by public providers; (D) that the General Contractor and all contractors, subcontractors, fabricators, and suppliers have been, or, with proceeds of the final disbursement, will be, paid in full for all work; (E) that, upon receipt of the final payments that are the subject of the final draw request, no such contractor, subcontractor, fabricator, or supplier claims (or has or will have a right to claim) a valid mechanics' or similar lien on all or any part of the Project Site; and (F) such other representations as Village reasonably may require.

(iv) Such other evidence as Village or the Village Loan Administrator reasonably may require to establish that: (A) Substantial Completion has occurred; (B) all Agency Inspections have been completed, the Agencies have approved the Developer Project, and Developer has satisfied in full all requirements of the Agencies; (C) a certificate of full occupancy issued by Village and all other Required Permits have been obtained or received by Developer; and (D) utilities with adequate pressures, voltages, and capacity have been connected to the Developer Project, and such utilities are provided by public providers.

(v) Two original signed copies of the final disbursement request, in form and substance as reasonably is required by Village or the Village Loan Administrator, accompanied by: (A) a certification by Developer that the Project Escrow Deposits will be used only to pay Developer Project Costs; and (B) such other approvals and/or certifications by the Village Loan Administrator, the Village Representative, Developer, and/or the Construction Manager as Village reasonably may request.

(vi) Original final invoices for Developer Project Costs from all contractors, subcontractors, fabricators, and suppliers to which payment will be made.

(vii) Original final lien waivers from all contractors, subcontractors, fabricators, and suppliers, that otherwise would have the right to assert liens against the Project Site for: (A) work or services performed; or (B) supplies, material, or equipment provided. If lien waivers are not available, then: (A) the Village Loan Administrator shall have received acknowledgments from all such contractors, subcontractors, fabricators, and suppliers: (1) of payment in full for services rendered through the date of the last invoice; and (2) that no lien may be asserted against the Project Site for: (aa) work or services performed; or (bb) supplies, material, or equipment provided; through the date of the last invoice; and (B) within ten business days after

the final disbursement, Developer shall provide to the Village Loan Administrator final acknowledgments from all such contractors, subcontractors, fabricators, and suppliers reflecting: (1) payment in full for all services rendered; and (2) that no lien may be asserted against the Project Site for any work or services performed, or supplies, materials, or equipment provided.

(viii) If requested by Village, photographs of the Developer Project, certified by the photographer as to the date and location.

(b) Village and the Village Loan Administrator shall have received reasonably satisfactory evidence that: (i) no mechanics' liens have been filed with respect to the Project Site; and (ii) no other liens or encumbrances have been recorded with respect to the Project Site; provided that, in the event of the filing of any such mechanics' lien, Developer shall be entitled to: (i) bond over such mechanics' lien in accordance with the Laws; (ii) escrow, with the Title Insurer, an amount equal to 120% of the amount of such mechanics' lien pending resolution thereof; or (iii) provide, through the Title Insurer, affirmative title insurance coverage over such mechanics' lien for the benefit of Village.

(c) the Village Loan Administrator shall have received an as-built survey of the Developer Project, showing that the Developer Project: (i) has been constructed in accordance with the Final Plans; and (ii) does not encroach upon any easements or rights-of-way, or across any building setback lines or utility lines; accompanied by proof of payment in full to the surveyor.

(d) Developer shall have reimbursed Village for all fees, charges, costs, and expenses owed Village hereunder or under any of the Developer Loan Documents.

13. Disbursements Generally.

(a) Village Approval. Each request for disbursement of Project Escrow Deposits shall be: (i) subject to approval by the Village Loan Administrator as provided herein; and (ii) deemed to be a request and consent to the disbursement of Project Escrow Deposits up to the amount set forth in such disbursement request.

(b) Disbursement. If the Village Loan Administrator approves a disbursement request, then the Village Loan Administrator, in the ordinary course of its business, shall: (i) communicate such approval to Developer and Village; and (ii) disburse Project Escrow Deposits in accordance with the approved disbursement request. Disbursements of Project Escrow Deposits shall not be made more frequently than monthly. The Village Loan Administrator shall disburse Project Escrow Deposits only for: (i) work in place and approved by the Village Representative and the Village Loan Administrator; (ii) materials properly stored on the Project Site for construction of the Developer Project; (iii) materials properly stored offsite at a secure facility reasonably acceptable to the Village Representative; and (iv) other Developer Project Costs shown on the Developer Project Budget. The initial disbursement of Project Escrow Deposits shall include a reimbursement to Developer of all Developer Project Costs incurred by Developer prior to the date of such disbursement.

(c) Retainage.

(i) The maximum disbursement of Project Escrow Deposits to which Developer shall be entitled with respect to construction items shall equal:

(A) the value (based on the actual percentage of

completion) of work in place and approved by the Village Representative, less prior disbursements with respect thereto;

(B) less retainage of 10% of the value (based on the actual percentage of completion) of work in place until such time as the Developer Project is 50% complete (notwithstanding that, after the Developer Project is 50% complete, withholding of further retainage may not be required pursuant to this Subsection, the amounts withheld as retainage with respect to any particular contract and/or subcontract: (1) shall not be disbursed until such time as the work to be completed pursuant to such contract and/or subcontract is 100% complete; but (2) may be disbursed following satisfaction of the conditions precedent to disbursement that are set forth below); and

(C) plus the cost of materials stored on the Project Site (or stored offsite at an approved secure facility) for construction of the Developer Project, less prior disbursements with respect thereto;

provided that the percentage of the Loan Proceeds disbursed (as opposed to the percentage of Project Escrow Deposits disbursed) shall not exceed at any time the percentage of completion of the Developer Project.

(ii) Developer shall:

(A) withhold retainage under all contracts and subcontracts in an amount not less than 10% from each of its contractors, subcontractors, fabricators, and suppliers until such time as the work to be performed under each such contract or subcontract is 50% complete (notwithstanding that, after each such contract or subcontract is 50% complete, withholding of further retainage may not be required pursuant to this Subsection, the amounts withheld as retainage to date: (1) shall not be disbursed until such time as the contractor, subcontractor, fabricator, and/or supplier is entitled to receipt of such retainage, as set forth below; but (2) may be disbursed following satisfaction of the conditions precedent to disbursement that are set forth below); and

(B) indicate the amount of retainage withheld on its disbursement requests and on updates of the Developer Project Budget.

(iii) The Village Loan Administrator shall not disburse Project Escrow Deposits for retainage, unless and until: (i) Developer requests disbursement for retainage on a disbursement request; and (ii) the contractor, subcontractor, fabricator, and/or supplier is entitled to receipt of such retainage; provided that the contractor, subcontractor, fabricator, and/or supplier shall not be entitled to receipt of such retainage until the date that is 60 days following satisfactory completion of 100% of the work to be

completed under the applicable contract or subcontract. If, at the time of Substantial Completion, there are "punch-list" items, then the Village Loan Administrator may withhold 120% of the cost to complete such "punch-list" items until such time as the "punch-list" items have been completed. Notwithstanding anything to the contrary set forth herein, there shall be no retainage on materials that have been installed in the Developer Project.

(iv) Notwithstanding anything to the contrary set forth herein, retainage shall not apply with respect to payment of the Base CM Fee, Developer Overhead, Residential Leasing Fees, or Retail Leasing Fees.

(d) **Loan in Balance.** The Village Loan Administrator shall not disburse any Project Escrow Deposits with respect to any item of cost, expense, or payment in excess of the amount shown for such item on the Developer Project Budget, except to the extent that such excess is allocated with the approval of Village (which approval shall not be withheld unreasonably) from another line item, as a result of a cost savings with respect to such line item. If, in the reasonable opinion of Village or the Village Loan Administrator, it appears that the remaining undisbursed Project Escrow Deposits are insufficient to: (i) complete the Developer Project in accordance with the Final Plans and the terms and conditions of this Agreement; and (ii) pay all of the costs and expenses of the Developer Project shown on the Developer Project Budget; then the Village Loan Administrator shall not disburse any further Project Escrow Deposits, unless and until Developer deposits into the Project Escrow Account, as additional collateral to be held for disbursement in accordance with the terms and conditions hereof, such amounts of cash equity (or other appropriate and equivalent security for the payment thereof as may be approved by Village) as Village reasonably shall deem to be necessary to complete the Developer Project and pay all such costs and expenses.

14. Insurance. During construction of the Developer Project, Developer shall maintain the policies of insurance (including the types, coverages, insureds, and terms (including terms with respect to policies being primary and non-contributing) described on Exhibit F, which Exhibit F shall control in the event of any inconsistencies between the information on Exhibit F and the text of this Section. Each such policy shall: (a) be written by a company reasonably acceptable to Village; (b) provide that it shall not be modified or canceled without written notice to Village at least 30 days in advance; and (c) contain a waiver of the right of subrogation. Any policy of general liability insurance required by this Section to be maintained by Developer shall name Village as an additional insured. Developer shall deliver to the Village Loan Administrator certificates of the insurance policies required by this Section, executed by the insurance company or the general agency writing such policies.

15. No Discrimination. Developer shall comply with all Laws with respect to equal employment opportunity, and all advertisements for employees placed by or on behalf of Developer shall state that all qualified applicants will receive consideration for employment without regard to race, age, color, religion, gender, sexual orientation, disability, national origin, or ancestry. To the extent permitted by the Laws, Developer shall use reasonable efforts to employ qualified residents of the Village.

16. Defaults and Remedies.

(a) **Events of Default.** It shall be an "Event of Default":

(i) if any representation or warranty made by Developer or Village: (A) in this Agreement; or (B) in any written certificate, notice, demand, or request; is false, untrue, or incorrect in any material respect at the time made; provided that the foregoing shall not be an Event of Default if it is cured or corrected by Developer or Village within 30 days after receipt of

written notice from Village or Developer, respectively;

(ii) if there is a breach by Developer or Village of any covenant in this Agreement with respect to the existence, structure, or financial condition of Developer or Village, respectively; provided that: (A) such breach shall not be an Event of Default if it is cured or corrected by Developer or Village within 30 days after receipt of written notice from Village or Developer, respectively; and (B) if the breach is of a nature that it cannot be cured or corrected within 30 days, despite reasonably diligent efforts, then the 30-day period shall be extended as reasonably may be necessary for Developer or Village, as applicable, to cure or correct the failure, so long as Developer or Village, as applicable: (1) commences to cure or correct the breach within the 30-day period; and (2) diligently pursues such cure or correction to completion;

(iii) if either Developer or Village fails to perform or observe any term, condition, or covenant of this Agreement to be performed or observed by it with respect to the obligation to pay money; provided that: (A) such failure shall not be an Event of Default if it is cured by Developer or Village within ten business days after receipt of written notice from Village or Developer, respectively, that such payment is overdue; and (B) notwithstanding the foregoing, the terms and conditions of Subsection 5(e)(ii)(C) shall control with respect to accrued payments of Debt Service; accordingly, the 18-month cure period set forth in such Subsection shall apply.

(iv) if either Developer or Village fails to perform or observe any term, condition, or covenant of this Agreement to be performed or observed by it, other than those addressed in Subsections 16(a)(i), (ii), or (iii); provided that: (A) such failure shall not be an Event of Default if it is cured or corrected by Developer or Village within 30 days after receipt of written notice from Village or Developer, respectively; and (B) if such failure is of a nature that it cannot be cured or corrected within 30 days, despite reasonably diligent efforts, then the 30-day period shall be extended as reasonably may be necessary for Developer or Village, as applicable, to cure or correct the failure, so long as Developer or Village, as applicable: (1) commences to cure or correct the breach within the 30-day period; and (2) diligently pursues such cure or correction to completion;

(v) if either Developer or Village fails to perform or observe any term or condition of the Developer Loan Documents, and such failure is not cured within the applicable cure period (if any) under the Developer Loan Documents;

(vi) by Developer if there is a Bankruptcy Default;

(vii) by Developer if the Liquidation Event Date has not occurred as of the maturity date of the Debt Instrument; and

(viii) by Developer if the Guarantor fails to perform its obligations under the Guaranty, and such is not cured within the applicable cure period (if any) under the Guaranty.

(b) Remedies. Whenever an Event of Default occurs, the non-defaulting Party may take whatever actions at law or in equity are necessary or appropriate to:

(i) collect any payments due under this Agreement and/or the

Developer Loan Documents;

(ii) protect the rights granted to the non-defaulting Party under this Agreement and/or the Developer Loan Documents;

(iii) enforce the performance or observance by the defaulting Party of any term or condition of this Agreement and/or the Developer Loan Documents (including, without limitation, the right to specifically enforce any such term or condition); or

(iv) cure, for the account of the defaulting Party, any failure of the defaulting Party to perform or observe a material term or condition of this Agreement and/or the Developer Loan Documents to be performed or observed by it.

If there is an Event of Default by Developer, then, in addition to the foregoing remedies, Village may exercise any remedies available to it under the Developer Loan Documents or the Ground Lease. To entitle a non-defaulting Party to exercise any of its rights or remedies, it shall not be necessary for the non-defaulting Party to give notice to the defaulting Party, other than such notice as expressly may be required by this Section or by the Laws.

(c) No Remedy Exclusive. No right or remedy herein conferred upon, or reserved to, a non-defaulting Party is intended to be exclusive of any other available right or remedy, unless otherwise expressly stated; instead, each and every such right or remedy shall be cumulative and in addition to every other right or remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission by a non-defaulting Party to exercise any right or remedy upon any Event of Default shall impair any such right or remedy, or be construed to be a waiver thereof, and any such right or remedy may be exercised from time to time, and as often as may be deemed to be expedient.

(d) Expenses. If the non-defaulting Party incurs any costs or expenses in connection with exercising its rights and remedies under, or enforcing, this Agreement (including, without limitation, reasonable attorneys' fees), then the defaulting Party shall reimburse the non-defaulting Party for all such costs and expenses, together with interest at the rate of 12% per annum; provided that the obligation of Village under this Subsection shall be subject to the Law commonly known as the Illinois Prompt Payment Act.

17. Indemnifications.

(a) Village. Village shall indemnify and hold harmless Developer and its members, employees, agents, attorneys', and contractors from and against any and all Claims arising from or connected with: (i) mechanics' liens filed against the Developer Project or the Project Site for work performed by Village or any party acting by, under, through, or on behalf of Village (and not by, under, through, or on behalf of Developer); (ii) breaches by Village under contracts to which Village is a party, to the extent that such contracts relate to the performance of any work on or about the Project Site by Village or any party acting by, under, through, or on behalf of Village (and not by, under, through, or on behalf of Developer); (iii) injury to, or death of, persons or loss of, or damage to, property, suffered in connection with performance of any work on or about the Project Site by Village or any party acting by, under, through, or on behalf of Village (and not by, under, through, or on behalf of Developer); (iv) the negligence or wilful misconduct of Village or any party acting by, under, through, or on behalf of Village (and not by, under, through, or on behalf of Developer); or (v) the breach by Village of any term or condition of this Agreement.

(b) Developer. Developer shall indemnify and hold harmless Village and its officers, employees, agents, attorneys', contractors, and volunteers from and against any and all Claims arising from or connected with: (i) mechanics' liens filed against the Developer Project or the Project Site for work performed by Developer or any party acting by, under, through, or on behalf of Developer (and not by, under, through, or on behalf of Village); (ii) breaches by Developer under contracts to which Developer is a party, to the extent that such contracts relate to the performance of any work on or about the Project Site by Developer or any party acting by, under, through, or on behalf of Developer (and not by, under, through, or on behalf of Village); (iii) injury to, or death of, persons or loss of, or damage to, property, suffered in connection with performance of any work on or about the Project Site by Developer or any party acting by, under, through, or on behalf of Developer (and not by, under, through, or on behalf of Village); (iv) the negligence or willful misconduct of Developer or any party acting by, under, through, or on behalf of Developer (and not by, under, through, or on behalf of Village); or (v) the breach by Developer of any term or condition of this Agreement or any Developer Loan Document.

(c) Survival. Notwithstanding anything to the contrary set forth herein, the obligations of Village and Developer under this Section shall survive the termination of this Agreement.

(d) Tort Immunity Act. Nothing in this Section shall constitute a waiver of any privileges, defenses, or immunities that Village may have with respect to any claim brought by a third party under the Law commonly known as the Local Government and Governmental Employees Tort Immunity Act.

18. Acquisition Portion.

(a) Acknowledgments. The Parties acknowledge that: (i) the Acquisition Portion, together with additional real estate adjacent to the Project Site, has been the subject of an ongoing eminent domain proceeding with respect to which a settlement agreement recently was reached; (ii) the settlement agreement was entered with the applicable court on August 2, 2011; (iii) there currently is a building located on the Acquisition Portion, which building will have to be demolished, and the site cleaned up, prior to delivery of possession of the Acquisition Portion to Developer; (iv) tenants currently occupy such building; (v) there are utilities that must be relocated from the Acquisition Portion prior to delivery of possession of the Acquisition Portion to Developer; (vi) pursuant to such settlement agreement, Village will obtain title to the Acquisition Portion on February 14, 2012; (vii) until such time as Village obtains title to the Acquisition Portion, the Ground Lease will not include the Acquisition Portion; provided that, by its terms the Ground Lease will contemplate the addition of the Acquisition Portion upon acquisition thereof by Village; and (viii) Village intends to deliver possession of the Acquisition Portion to Developer by no later than May 1, 2012.

(b) Delay. Though Village does not anticipate any delay with respect to acquiring title to the Acquisition Portion, demolishing the existing building, cleaning up the site, relocating the existing tenants, relocating the utilities, and delivering possession of the Acquisition Portion to Developer, Village and Developer acknowledge: (i) the possibility of such a delay; and (ii) that such a delay would result in increased costs in connection with the construction of the Developer Project (including, without limitation, costs that are incurred as a result of there being inadequate construction access to the Project Site, and inadequate space for staging, mobilization, and use of a crane), which increases are not within the control of Developer.

(c) Increase. The Parties agree that the determination that the Estimated Construction Cost will not exceed 105% of \$52,500,000.00 was made assuming that: (i) Village will have acquired the Acquisition Portion by no later than February 14, 2012; (ii) all tenants will have vacated the building located on the Acquisition Portion, and Village will have demolished the

building located on the Acquisition Portion, and cleaned up the site, prior to delivery of possession of the Acquisition Portion to Developer; (iii) Village will have relocated the utilities as necessary from the Acquisition Portion prior to delivery of possession of the Acquisition Portion to Developer; and (iv) Village will deliver possession of the Acquisition Portion to Developer by no later than May 1, 2012; so that, as of May 1, 2012, the full Project Site will be subject to the Ground Lease and Developer will have possession of the Acquisition Portion and, therefore, the right and ability to commence construction of the Developer Project on the Acquisition Portion; provided that, if the foregoing is not the case, then the Estimated Construction Cost (and, accordingly, the Not-to-Exceed Price and the Guaranteed Maximum Price) shall be increased dollar for dollar by the amount of any costs and expenses incurred by Developer as a result thereof in connection with the construction of the Developer Project (which increased costs and expenses shall be documented in writing by Developer and provided to Village), which amount is the "Acquisition Delay Increase".

(d) **Developer Project Incentive.** If the Estimated Construction Cost (and, accordingly, the Not-to-Exceed Price and the Guaranteed Maximum Price) is increased by the Acquisition Delay Increase, then the Developer Project Incentive shall be increased dollar for dollar by the Acquisition Delay Increase; provided that nothing in this Agreement shall be deemed to require Developer to repay, or apply any amounts against or to reduce, the portion of the Developer Project Incentive that is comprised of the Acquisition Delay Increase.

(e) **Acquisition.** Village: (i) has no reason to believe that there is any condition with respect to the Acquisition Portion or any of the other real estate that is the subject of the eminent domain proceeding that would cause Village to abandon the eminent domain proceeding and not take title to the Acquisition Portion; and (ii) shall act in good faith in connection with proceeding with the closing of the acquisition of the Acquisition Portion.

19. Assignment. Neither Village nor Developer shall assign this Agreement without the prior written approval of the Developer or Village, respectively. Notwithstanding any assignment permitted under this Section, Village or Developer, as the case may, shall remain liable to perform all of the terms and conditions to be performed by it under this Agreement, and the approval by the other Party of any assignment shall not release Village or Developer, as the case may be, from such performance.

20. Notices. All notices permitted or required to be given hereunder shall be in writing, and shall be deemed to be delivered: (a) when delivered personally; or (b) on the day following the day sent by national overnight courier; in all events to the following addresses: to Village at 14700 South Ravinia Avenue, Orland Park, Illinois 60462, Attn: Village Manager, with a copy to Thomas P. Bayer and Gregory T. Smith, Klein Thorpe and Jenkins, Ltd., 20 North Wacker Drive, Suite 1660, Chicago, Illinois 60606-2903; and to Developer at 8900 Keystone Crossing, Suite 1200, Indianapolis, Indiana 46240, Attn: P. Christopher Kirles and David Flaherty, with a copy to Karl P. Haas, Esq., Wallack Somers & Haas, PC, One Indiana Square, Suite 2300, Indianapolis, Indiana 46204. Either Developer or Village may change its address for notice by written notice delivered to the other Party as provided in this Section.

21. Authority. Each undersigned person executing this Agreement on behalf of Village and Developer represents and certifies that: (a) he or she has been empowered and authorized by all necessary action of Village and Developer, respectively, to execute and deliver this Agreement; (b) he or she has full capacity, power, and authority to enter into and carry out this Agreement; and (c) the execution, delivery, and performance of this Agreement duly have been authorized by Village and Developer, respectively.

22. No Personal Liability. No covenant or agreement in this Agreement shall be deemed to be the covenant or agreement of: (a) the Corporate Authorities in any of their individual capacities; or (b) any elected official, officer, partner, member, director, agent, employee, or attorney of Village or Developer in his or her individual capacity. No elected official, officer, partner, member, director, agent, employee, or attorney of Village or Developer shall be: (a) liable personally under this Agreement; or (b) subject to any personal liability

or accountability by reason of, in connection with, or arising out of the execution, delivery, and/or performance of this Agreement (or the failure to execute, deliver, or perform under this Agreement).

23. Force Majeure. Notwithstanding anything to the contrary set forth herein, if either Party is delayed in, or prevented from, observing or performing any of its obligations under, or satisfying any term or condition of, this Agreement as a result of Force Majeure; then: (a) the Party asserting Force Majeure shall deliver written notice to the other Party; (b) such observation, performance, or satisfaction shall be excused for the period of days that such observation, performance, or satisfaction is delayed or prevented; and (c) the deadlines for observation, performance, and satisfaction, as applicable, shall be extended for the same period.

24. Subsequent Phases.

(a) **Subsequent Projects.** During the period: (i) commencing on the Execution Date; and (ii) ending on the tenth anniversary of the Execution Date; at such time as Village is ready to develop a phase of the TIF District other than the phase consisting of the Developer Project with a project that either is entirely or primarily residential or is a vertically integrated mixed-use project with a substantial residential component: (i) Village shall deliver written notice to Developer; and (ii) thereafter, for a period of 60 days from the date on which such notice is delivered, Village and Developer shall conduct discussions with respect to: (A) the conceptual nature of the project that Village would like to have constructed for such phase; and (B) what type of project is practical, financeable, and compatible with the Developer Project. After the first to occur of the conclusion of the discussions by Village and Developer or the expiration of the 60-day period: (i) Village shall determine the actual nature of the project that it would like to have constructed in such phase, taking into account the discussions previously held with Developer; and (ii) if the nature of the project that Village determines that it would like to have constructed in such phase is entirely or primarily residential or is a vertically integrated mixed-use project with a substantial residential component, then Village shall prepare and send to Developer for its review and comment a term sheet for the desired project.

(b) **No Offering.** If: (i) the Later Phase Prerequisites have been met; and (ii) the Laws do not require a public offering in connection with developing such phase of the TIF District; then Developer shall have a period of 30 days within which to accept the terms of the term sheet; provided that, if Developer does not communicate its election to Village within such 30-day period, then Developer shall be deemed to have rejected the terms of the term sheet. If Developer timely accepts the terms of the term sheet, then Developer shall work with Village in good faith and in a commercially reasonable manner to enter into a redevelopment agreement consistent with the term sheet within 90 days after Developer accepts the terms of the term sheet; provided that if such a redevelopment agreement is not executed within such 90-day period for any reason other than due to the failure of Village to act in good faith and/or in a commercially reasonable manner, then the acceptance by Developer of the terms of the term sheet shall be deemed to be rescinded and Village shall have no further obligation to deal with Developer in connection with the development of such phase of the TIF District.

(c) **Offering.** If: (i) the Later Phase Prerequisites have been met; but (ii) either: (A) the Laws require a public offering in connection with developing such phase of the TIF District; or (B) no such public offering is required, but Developer does not accept the terms of the term sheet within the 30-day period provided in Subsection 24(b); then, if Village conducts a public offering on the terms set forth in the term sheet, Village agrees that it will accept the best bid, taking into account: (i) the quality and nature of the proposed project; (ii) the extent of the public incentive required in connection with the proposed project; (iii) the financial wherewithal of the bidder to complete the proposed project; and (iv) the track record of the bidder in completing other redevelopment projects.

25. Miscellaneous.

- (a) Subject to Section 19, this Agreement shall inure to the benefit of, and be binding upon, Village and Developer, and their respective successors and assigns.
- (b) All Exhibits to this Agreement are attached hereto and incorporated herein by reference. Time is of the essence of this Agreement.
- (c) Whenever in this Agreement a singular word is used, it also shall include the plural wherever required by the context, and vice versa.
- (d) This Agreement may be signed in one or more counterparts, each of which shall constitute an original, but all of which together shall constitute a single document.
- (e) This Agreement shall be recorded, by Village and at the expense of Developer, in the Office of the Recorder of Cook County.
- (f) Except to the extent specifically provided to the contrary herein (and in documents contemplated by this Agreement to be executed, including the Developer Loan Documents), this Agreement is the entire agreement between Developer and Village with respect to the subject matter hereof and supersedes all prior agreements, negotiations, and discussions related to the subject matter hereof.
- (g) This Agreement may be amended or modified only by a written agreement signed by both Village and Developer.
- (h) Village and Developer agree to execute, acknowledge, and deliver (or cause the execution, acknowledgment, or delivery of) such additional instruments as reasonably may be required to carry out the intentions of the Parties under this Agreement, to the extent that the foregoing additional instruments are permitted by the Laws.
- (i) This Agreement is not intended, and shall not be deemed, to create any:
 - (i) third-party beneficiary rights; or
 - (ii) relationship of agency, joint venture, or partnership between Developer and Village.
- (j) Village and Developer each agree that, within 15 days after receipt of written request from Developer or Village, respectively, it shall execute an estoppel certificate certifying:
 - (A) that this Agreement is in full force and effect (or specifying the extent to which that is not the case);
 - (B) that there is not any Event of Default by the requesting Party (or, if there is an Event of Default, specifying the nature of the Event of Default); and
 - (C) such other matters as reasonably may be requested by the requesting Party.If either Village or Developer fails to comply with the terms and conditions of this Subsection, then, with respect to the specific estoppel certificate that Village or Developer has failed to execute, Village or Developer, as applicable, shall be deemed to have appointed Developer or Village, respectively, as its attorney-in-fact for execution of such certificate.
- (k) The invalidity, illegality, or unenforceability of any one or more of the terms and conditions of this Agreement shall not affect the validity, legality, or enforceability of the remaining terms and conditions hereof. To the extent that any term or condition of this Agreement conflicts with any ordinance, resolution, rule, order, or provisions of the code of ordinances of Village, the term or condition of this Agreement shall control to the extent permitted by the Laws. All obligations of the Parties hereunder are limited to the extent required by the Laws.

(l) This Agreement shall be governed by, and construed in accordance with, the Laws of the State of Illinois, without regard to principles of conflicts of law. All proceedings arising in connection with this Agreement shall be: (i) tried and litigated only in the state courts in Cook County, Illinois, or the United States District Court, Northern District of Illinois, Eastern Division, as the case may be; and (ii) governed by the Laws of the State of Illinois. The Parties waive, to the extent permitted under the Laws and with respect to any proceeding brought in accordance with the terms and conditions of this Section, the right to a trial by jury.

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

METRA TRIANGLE FC, LLC

By: _____

Printed: _____

Title: _____

VILLAGE OF ORLAND PARK, ILLINOIS

By: _____

Printed: _____

Title: _____

Acknowledgment and Acceptance

David Flaherty acknowledges that: (a) he is the Guarantor; and (b) pursuant to, and subject to the terms and conditions of, this Agreement, he is obligated to: (i) execute the Guaranty at the Closing; and (ii) comply with the terms and conditions of, and perform all of his obligations under, the executed Guaranty.

By: _____

David Flaherty

INDEX TO EXHIBITS

Exhibit A	Redevelopment Project Area (legal and depiction), TIF District, Project Site (legal and depiction)
Exhibit B	Description of Debt Instrument
Exhibit C	Debt Instrument Issuance Schedule
Exhibit D	Preliminary budget for construction of the Developer Project (the final budget will be the Developer Project Budget). Includes preliminary estimates of Developer Project Costs
Exhibit E	Plan Schedule
Exhibit F	Required insurance (Developer during construction of Developer Project)
Exhibit G	Site Plan showing Developer Project as agreed to date (include more detail here on what the Developer Project consists of)
Exhibit H	Sample calculation of Liquidation Event Payment Amount, along with examples of the crediting of the Village Spread Payments against the Remaining Profit/Equity Recovery Amount and/or the Remaining Developer Project Incentive pursuant to Subsection 5(h)(i)
Exhibit I	Sample calculation of property tax loan evaluation and any resulting adjustment, as contemplated pursuant to Subsection 5(f)

Exhibit A – TIF District Boundary

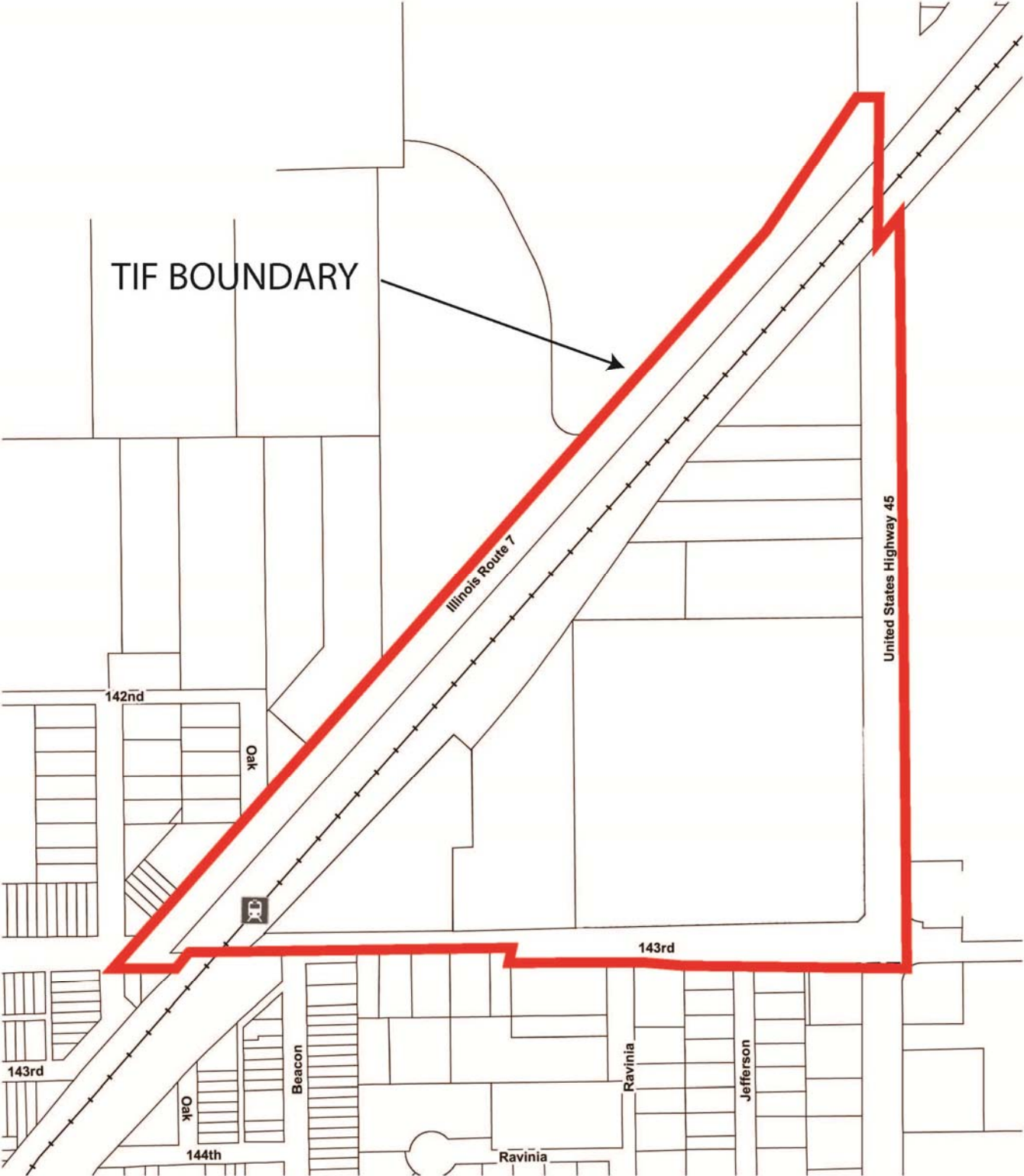


Exhibit A – Project Site Legal Description

PROPOSED LOT 2 (ORLAND PARK BUILDING CORPORATION):

PARCEL 1

THAT PART OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 36 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT 50 FEET NORTH OF THE SOUTH LINE OF SAID SECTION AND 269 FEET WEST OF THE EAST LINE OF SAID SECTION; THENCE NORTH 01 DEGREES 34 MINUTES 53 SECONDS WEST, ON A LINE PARALLEL TO THE EAST LINE OF SAID SECTION FOR A DISTANCE OF 462.00 FEET (461.89 FEET – RECORD) TO A POINT ON A LINE PERPENDICULAR TO THE EAST LINE OF SAID SECTION AT A POINT 510 FEET (AS MEASURED ALONG THE EAST LINE OF SAID SECTION) NORTH OF THE SOUTHEAST CORNER OF SAID SECTION; THENCE SOUTH 88 DEGREES 25 MINUTES 07 SECONDS WEST, ALONG SAID PERPENDICULAR LINE, 471.82 FEET TO A POINT ON THE WEST LINE OF PARCEL II AS DESCRIBED IN TRUST DEED RECORDED AS DOCUMENT 90059367; THENCE SOUTH 01 DEGREES 34 MINUTES 53 SECONDS EAST, ALONG SAID WEST LINE, 265.66 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 88 DEGREES 25 MINUTES 08 SECONDS EAST, 50.50 FEET; THENCE SOUTH 01 DEGREES 34 MINUTES 53 SECONDS EAST, ALONG A LINE PARALLEL WITH THE EAST LINE OF SAID SECTION, 189.14 FEET TO A POINT ON A LINE 60.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID SECTION; THENCE SOUTH 87 DEGREES 59 MINUTES 26 SECONDS WEST, ALONG SAID PARALLEL LINE, 50.50 FEET TO THE SOUTHWEST CORNER OF PARCEL II AS DESCRIBED IN TRUST DEED RECORDED AS DOCUMENT 90059367; THENCE NORTH 01 DEGREES 34 MINUTES 53 SECONDS WEST, ALONG THE WEST LINE OF SAID PARCEL II, 189.52 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS;

PARCEL 2:

THAT PART OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 36 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT 50 FEET NORTH OF THE SOUTH LINE OF SAID SECTION AND 269 FEET WEST OF THE EAST LINE OF SAID SECTION; THENCE NORTH 01 DEGREES 34 MINUTES 53 SECONDS WEST, ON A LINE PARALLEL TO THE EAST LINE OF SAID SECTION FOR A DISTANCE OF 462.00 FEET (461.89 FEET – RECORD) TO A POINT ON A LINE PERPENDICULAR TO THE EAST LINE OF SAID SECTION AT A POINT 510 FEET (AS MEASURED ALONG THE EAST LINE OF SAID SECTION) NORTH OF THE SOUTHEAST CORNER OF SAID SECTION; THENCE SOUTH 88 DEGREES 25 MINUTES 07 SECONDS WEST, ALONG SAID PERPENDICULAR LINE, 471.82 FEET TO A POINT ON THE WEST LINE OF PARCEL II AS DESCRIBED IN TRUST DEED RECORDED AS DOCUMENT 90059367; THENCE SOUTH 01 DEGREES 34 MINUTES 53 SECONDS EAST, ALONG SAID WEST LINE, 28.00 FEET TO THE POINT OF BEGINNING;

THENCE EASTERLY 51.25 FEET, ALONG THE ARC OF A NON-TANGENT CIRCLE TO THE LEFT, HAVING A RADIUS OF 262.37 FEET AND WHOSE CHORD BEARS NORTH 79 DEGREES 08 MINUTES 26 SECONDS EAST, 51.17 FEET TO A POINT ON A NON-TANGENT LINE; THENCE SOUTH 01 DEGREES 34 MINUTES 53 SECONDS EAST, ALONG A LINE PARALLEL WITH THE EAST LINE OF SAID SECTION, 180.27 FEET; THENCE SOUTH 88 DEGREES 25 MINUTES 08 SECONDS WEST, 50.50 FEET TO A POINT ON THE WEST LINE OF PARCEL II AS DESCRIBED IN TRUST DEED RECORDED AS DOCUMENT 90059367; THENCE NORTH 01 DEGREES 34 MINUTES 53 SECONDS WEST, ALONG SAID WEST LINE, 172.02 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PROPOSED LOT 2 (VILLAGE OF ORLAND PARK):

THAT PART OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 36 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT 50 FEET NORTH OF THE SOUTH LINE OF SAID SECTION AND 269 FEET WEST OF THE EAST LINE OF SAID SECTION; THENCE NORTH 01 DEGREES 34 MINUTES 53 SECONDS WEST, ON A LINE PARALLEL TO THE EAST LINE OF SAID SECTION FOR A DISTANCE OF 462.00 FEET (461.89 FEET – RECORD) TO A POINT ON A LINE PERPENDICULAR TO THE EAST LINE OF SAID SECTION AT A POINT 510 FEET (AS MEASURED ALONG THE EAST LINE OF SAID SECTION) NORTH OF THE SOUTHEAST CORNER OF SAID SECTION; THENCE SOUTH 88 DEGREES 25 MINUTES 07 SECONDS WEST, ALONG SAID PERPENDICULAR LINE, 471.82 FEET TO A POINT ON THE WEST LINE OF PARCEL II AS DESCRIBED IN TRUST DEED RECORDED AS DOCUMENT 90059367; THENCE SOUTH 01 DEGREES 34 MINUTES 53 SECONDS EAST, ALONG SAID WEST LINE, 28.00 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING SOUTH 01 DEGREES 34 MINUTES 53 SECONDS EAST, 427.54 FEET TO A POINT ON A LINE 60.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID SECTION; THENCE SOUTH 87 DEGREES 59 MINUTES 26 SECONDS WEST, ALONG SAID PARALLEL LINE, 317.91 FEET; THENCE NORTH 01 DEGREES 34 MINUTES 53 SECONDS WEST, 281.40 FEET TO A POINT OF CURVATURE; THENCE NORTHERLY 36.51 FEET, ALONG THE ARC OF A TANGENT CIRCLE TO THE RIGHT, HAVING A RADIUS OF 50.00 FEET AND WHOSE CHORD BEARS NORTH 19 DEGREES 20 MINUTES 21 SECONDS EAST, 35.71 FEET TO A POINT OF TANGENCY; THENCE NORTH 40 DEGREES 15 MINUTES 35 SECONDS EAST, 105.60 FEET TO A POINT OF CURVATURE; THENCE NORTHEASTERLY 54.98 FEET, ALONG THE ARC OF A TANGENT CIRCLE TO THE LEFT, HAVING A RADIUS OF 1269.00 FEET AND WHOSE CHORD BEARS NORTH 39 DEGREES 01 MINUTES 07 SECONDS EAST, 54.98 FEET TO A POINT OF TANGENCY; THENCE NORTH 37 DEGREES 46 MINUTES 38 SECONDS EAST, 52.40 FEET; THENCE EASTERLY 175.14 FEET, ALONG THE ARC OF A NON-TANGENT CIRCLE TO THE LEFT, HAVING A RADIUS OF 262.37 FEET AND WHOSE CHORD BEARS SOUTH 76 DEGREES 08 MINUTES 24 SECONDS EAST, 171.91 FEET TO A POINT TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

NINETY 7 FIFTY ON THE PARK
RDA Exhibits B & C
Debt Instrument Description and Issuance Schedule

The current financing plan for the Ninety 7 Fifty on the Park Project is as follows:

September 2011 - Establish Line of Credit with bank - \$25,000,000 – 30,000,000

Draw on Line of Credit to fund project

When Line of Credit balance reaches approximately \$15,000,000, begin bond issue process (Taxable GO Bonds, Series 2012A - approximately April 2012)

Issue \$20,000,000 - 25,000,000 of taxable GO bonds to pay down Line of Credit

Use remaining bond proceeds to fund project

Second draw on Line of Credit

When Line of Credit balance reaches approximately \$15,000,000, begin bond issue process (Taxable GO Bonds, Series 2012B - approximately September 2012)

Issue \$20,000,000 - 25,000,000 of taxable GO bonds to pay down Line of Credit

Use remaining bond proceeds to fund project

Third draw on Line of Credit

At project completion, the capital stack will consist of –

Bank Line of Credit - \$14,000,000 - 24,000,000 (Variable Rate)

Taxable GO Bonds, Series 2011B - \$20,000,000 – 25,000,000 (Fixed Rate)

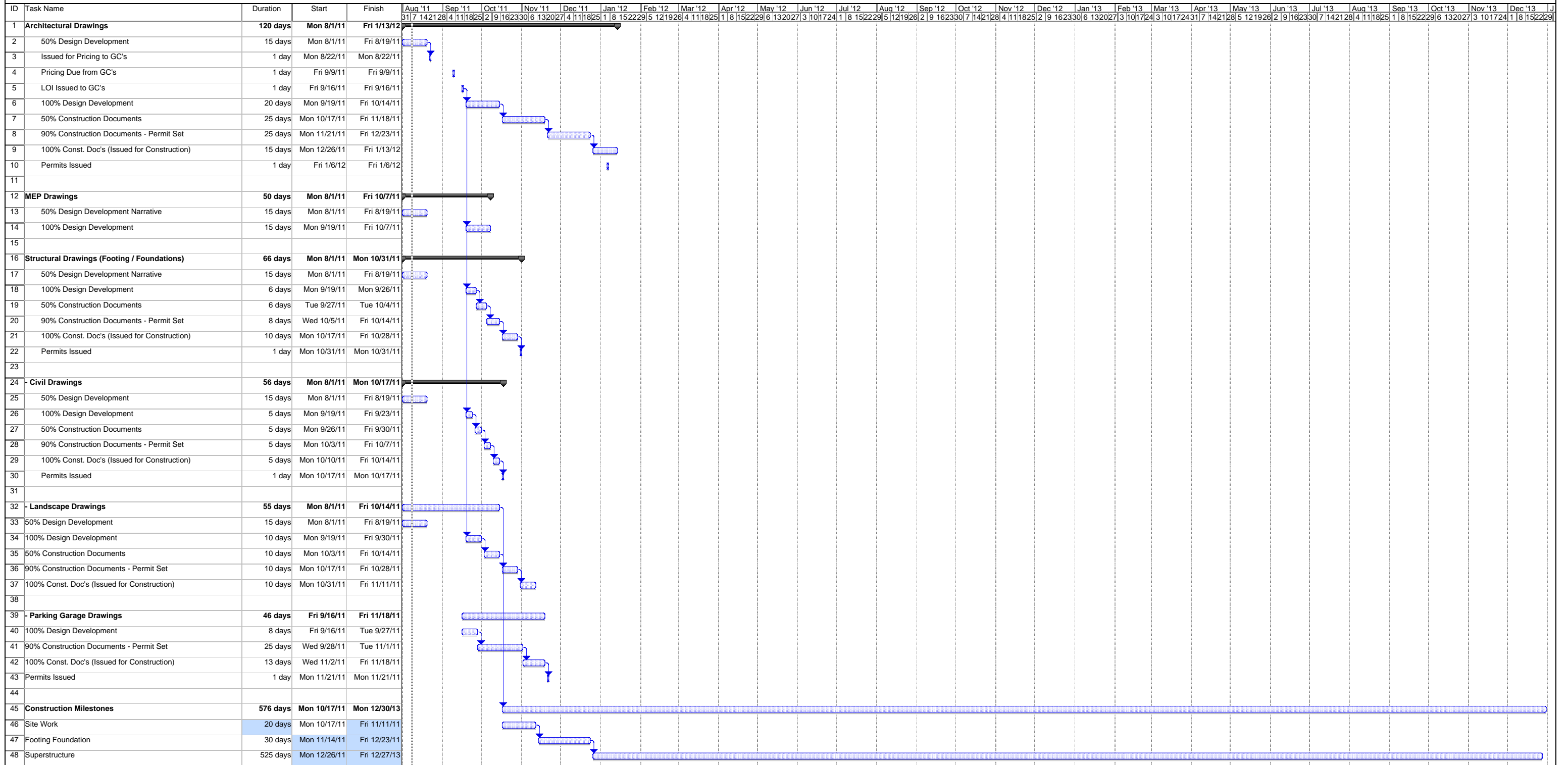
Taxable GO Bonds, Series 2011C - \$20,000,000 – 25,000,000 (Fixed Rate)

EXHIBIT D
PRELIMINARY BUDGET

MULTIFAMILY INCOME										DEVELOPER PROJECT COSTS			
	Unit SF	Units	Unit Mix	Rents	Monthly	Annual	RSF	Rent/SF		Total	/Unit	/NSF	
One Bedroom / One Bath	771	178	60%	\$1,323	235,550	2,826,600	137,199	1.72		\$0	\$0	\$0.00	
Two Bedroom / Two Bath	1,192	117	40%	\$1,768	206,850	2,482,200	139,411	1.48		\$52,500,000	\$177,966	\$189.80	
TOTAL / AVERAGE	938	295	100%	\$1,500	\$442,400	\$5,308,800	276,610	\$1.60					
Vacancy				10.00%	(\$44,240)	(\$530,880)							
EFFECTIVE INCOME - MULTIFAMILY					\$398,160	\$4,777,920							
COMMERCIAL INCOME													
				SF	Rent/SF	Monthly	Annual						
Retail Gross Income				4,000	\$15.00	5,000	60,000						
Less: Vacancy				10.0%	\$ (1.50)	(657)	(7,880)						
Less: Expenses (incl. Taxes)					\$ (5.41)	(1,803)	(21,637)						
NNN Reimbursable					\$ 4.70	1,567	18,800						
EFFECTIVE INCOME - COMMERCIAL					4,000	\$ 12.32	\$4,107	\$49,283					
OTHER INCOME													
				Units	Rents	Monthly	Annual						
Garages				0	0.00	-	-						
Miscellaneous				295	42.16	12,436	149,230						
TOTAL						\$12,436	\$149,230						
Vacancy					10.00%	(1,244)	(14,923)						
EFFECTIVE OTHER INCOME						\$11,192	\$134,307						
TOTAL EFFECTIVE INCOME						\$409,352	\$4,961,510						
OPERATING EXPENSES - MULTIFAMILY													
						Unit/Year	Annual						
Operating Expenses - Non-Controllable						3,795	1,119,459						
Property Insurance						200	59,000						
Real Estate Taxes						2,250	663,750						
OPERATING EXPENSES (BEFORE RESERVES)						\$6,245	\$1,842,209						
Replacement Reserves						200	59,000						
OPERATING EXPENSES					<i>% of Gross Income</i>	<i>38.32%</i>	\$6,445	\$1,901,209					
PROJECTED NOI							\$3,060,301						
ECONOMIC VALUE													
						Value	Return						
Net Operating Income						3,060,301							
Market Capitalization Rate							7.00%						
Income Based Value						43,718,589							
Total Development Cost						63,348,138	4.83%						
DEVELOPER PROJECT COSTS													
Land										\$0	\$0	\$0.00	
Construction Costs										\$52,500,000	\$177,966	\$189.80	
Architectural & Engineering													
Architectural & Engineering Fees										1,804,245	6,116	6.52	
Construction Period Costs													
Real Estate Attorney										100,000	339	0.36	
Construction Loan Legal										80,000	271	0.29	
Title Insurance & Recording										40,000	136	0.14	
Lender Inspections/Owner's Rep										-	-	-	
Interest Reserve						5.00%	2,705,693			9,172	9.78		
Financing Fee - Construction										-	-	-	
Furnishings & Equipment (FF&E)										250,000	847	0.90	
Other Period Costs													
Property Taxes - Construction Period										300,000	1,017	1.08	
Retail Leasing Fees						6.00%	32,400			110	0.12		
Working Capital/Lease-up Marketing										436,015	1,478	1.58	
Residential Leasing Fees						\$300	88,500			300	0.32		
Connection & Impact Fees										-	-	-	
Appraisal										15,000	51	0.05	
Insurance										200,000	678	0.72	
Organizational (e.g. Partnership)										5,000	17	0.02	
Construction Management Fee/Bonus						2.00%	1,050,000			3,559	3.80		
Development Contingency						3.00%	1,575,000			5,339	5.69		
Tenant Improvements										400,000	1,356	1.45	
Total Development Cost										\$61,581,853	\$208,752	\$222.63	
Developer Overhead						3.00%	1,766,285			5,987	\$6.39		
TOTAL PROJECT COSTS										\$63,348,138	\$214,739	\$229.02	
SOURCES OF FUNDS													
										Total	/Unit	/SF	
Developer Project Incentive						36%	23,114,138			78,353	83.56		
Developer Loan						60%	38,234,000			129,607	138.22		
Developer Cash Contribution						2%	1,000,000			3,390	3.62		
Developer Fee Contribution						2%	1,000,000			3,390	3.62		
Interim Income						0%	(0)			(0)	(0.00)		
TOTAL SOURCES										\$63,348,138	\$214,739	\$229.02	
UNDERWRITING													
						Rate	Amort	Debt Service	DSC Level	Loan			
Developer Loan						4.50%	25	2,550,251	1.20	\$38,234,707			

Exhibit E - Plan Schedule

Ninety 7 Fifty on the Park



Project: 9750 on the Park Design Schem
Date: Mon 8/8/11

Task [Task bar icon] Split [Split bar icon] Progress [Progress bar icon] Milestone [Milestone diamond icon] Summary [Summary bar icon] Project Summary [Project Summary bar icon] External Tasks [External Tasks bar icon] External Milestone [External Milestone diamond icon] Deadline [Deadline down arrow icon]



Exhibit F - Required Insurance CERTIFICATE OF LIABILITY INSURANCE

OP ID: PH

DATE (MM/DD/YYYY)

08/24/11

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Brown & Brown of Indiana, Inc. 11555 N. Meridian St., Ste 220 Carmel, IN 46032 Bruce Siegmann, CPCU, CIC		317-574-5000 317-471-1700	CONTACT NAME: PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS: PRODUCER CUSTOMER ID #: F&CRE-1														
INSURED Flaherty & Collins Construction, Inc.; Flaherty & Collins Develop, &/or F & C Devel. Inc Attn: Brian Ploss 8900 Keystone Cross. #1200		<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A : *Westfield Insurance Company</td> <td>24112</td> </tr> <tr> <td>INSURER B : Wausau Underwriters Ins. Co.</td> <td>26042</td> </tr> <tr> <td>INSURER C : Lloyd of London</td> <td></td> </tr> <tr> <td>INSURER D : Travelers Cas & Sure Co. of Am</td> <td>31194</td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </tbody> </table>		INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : *Westfield Insurance Company	24112	INSURER B : Wausau Underwriters Ins. Co.	26042	INSURER C : Lloyd of London		INSURER D : Travelers Cas & Sure Co. of Am	31194	INSURER E :		INSURER F :	
INSURER(S) AFFORDING COVERAGE	NAIC #																
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INSURER E :																	
INSURER F :																	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC	X	X	CMM3912597	07/23/11	07/23/12	EACH OCCURRENCE	\$ 1,000,000
	DAMAGE TO RENTED PREMISES (Ea occurrence)						\$ 100,000	
							MED EXP (Any one person)	\$ 5,000
							PERSONAL & ADV INJURY	\$ 1,000,000
							GENERAL AGGREGATE	\$ 2,000,000
							PRODUCTS - COMP/OP AGG	\$ 2,000,000
								\$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	X		CMM3912597	07/23/11	07/23/12	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
	BODILY INJURY (Per person)						\$	
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
								\$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$			CMM3912597	07/23/11	07/23/12	EACH OCCURRENCE	\$ 10,000,000
	AGGREGATE						\$ 10,000,000	
								\$
								\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	X	WCJZ91457415011	07/23/11	07/23/12	<input checked="" type="checkbox"/> WC STATUTORY LIMITS	OTHER
	E.L. EACH ACCIDENT						\$ 500,000	
	E.L. DISEASE - EA EMPLOYEE						\$ 500,000	
							E.L. DISEASE - POLICY LIMIT	\$ 500,000
C	E&O R.E/Const Mgmt			ANE120201311	03/07/11	03/07/12		2,000,000
D	Employee Theft-			104982110	07/23/11	07/23/12	\$10K Ded.	1,000,000

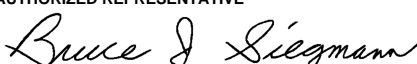
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

RE: Metra Triangle, Orland Park, IL

(see attached note)

CERTIFICATE HOLDER

CANCELLATION

ORLAND The Village of Orland Park, etal. attn: Contract Administrator 14700 S. Ravinia Ave Orland Park,, IL 60462	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
--	---

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NOTEPAD:

HOLDER CODE **ORLAND**
INSURED'S NAME **Flaherty & Collins Construc-**

F&CRE-1
OP ID: PH

PAGE 2
DATE **08/24/11**

Add. Ins: Certificate holder, their respective officers, trustees, directors, employees and agents as respects this project including completed operations of the named insured. Primary, Non-contributory; Waiver of Subro applies GL/WC.

Policy is being endorsed to show 30 day notice of cancellation to holder.

EXHIBIT G

DEVELOPER PROJECT & SITE PLAN

Project Description

The Project, as depicted in the attached site plan and architectural drawings, consists of 295 residential units, 4,000 square feet of first floor commercial space, 8,666 square feet of residential amenity space, and 365 onsite parking garage stalls situated on 150,165 square feet of land (3.446 acres). The Project will be located in one building wrapped around a centrally located four story parking garage with public parking on the first floor and secured parking for the residents on the floors above. The building will be a total of 6 stories in height along Crescent Park (4 stories of residential over double height commercial/amenity space), 5 stories of residential along Main Street and Ravinia Avenue and 4 stories of residential along 143rd Street.

Site Data Summary	
Land Area (Sq. Ft.)	150,165
Acreage	3.446
Number of Units	295
Commercial Space (Sq. Ft.)	4,000
Residential Amenity Space (Sq. Ft.)	8,666
Parking Garage Stalls	365

Features & Amenities

The residential units are anticipated to have 9' ceilings, upgraded cabinet packages, granite countertops with under mount sinks, track and pendant lighting, brushed nickel hardware, upgraded hard surfaces in the kitchens and entries, patios/balconies, 2" blinds faux wood, roman soaking tubs with tile surrounds, upgraded carpet, washer/dryer, faux stainless steel appliances; including a gas stove with self-cleaning oven, microwave oven, dishwasher, garbage disposal and double door frost-free refrigerator.

The residential amenity space will be located along Crescent Park and wrapping the building corner along Main Street. The pool is located on the north side of the parking garage between the buildings and a courtyard is located on the south side of the parking garage between the buildings.

RTKL

ARCHITECTS
1000 WEST WASHINGTON AVENUE, SUITE 1000
CHICAGO, ILLINOIS 60606
TEL: 312.427.1000
WWW.RTKL.COM

PROJECT NAME: DOWNTOWN ORLAND PARK
PROJECT NUMBER: 10-1100-001
DATE: 08/15/2011

NINETY 7 FIFTY ON THE PARK DOWNTOWN ORLAND PARK

ARCHITECT: RTKL
ENGINEER: STANTEC
LANDSCAPE ARCHITECT: RTKL
PLANNING: RTKL
PHOTOGRAPHER: RTKL

DATE: 08/15/2011
ILLUSTRATIVE
RENDERING

NAME: **G-001**



AERIAL PERSPECTIVE

NOT FOR CONSTRUCTION



EXHIBIT H
For Presentation Purposes Only

DEAL TERMS SUMMARY			
Uses of Funds		Sources of Funds	
Total Development Uses	\$ 63,445,795	Total Sources of Funds	\$ 63,445,795
Hard Construction Costs	52,500,000	Developer Equity	2,000,000
Soft Costs (20.85% of Hard Costs)	10,945,795	Loan	38,241,819
Developer Loan (\$1.60 Rent, 25Yr Amort, 4.5%, 1.2DCR)	38,241,819	Developer Project Incentive (DPI) w/o Fees	23,203,976
		Developer Project Incentive (DPI) w/ Fees	26,839,061

Rent Rates =/ < \$1.41			
Estimated NOI @ Stabilization (\$1.41 Rent Rates)	\$ 2,496,091	Developer Profit	\$ -
Annual Debt Service Payments @ Stabilization	2,550,725	Developer Equity	2,000,000
Annual Excess Cash Flow (Post-Stabilization)	(54,634)		
Principle Paid at time of Liquidation Event	6,813,057	Loan Balance @ Take Out	31,428,762
Liquidation Event (earliest year 7 after stabilization - year 10 after project start)		Remaining Profit Due to FC @ Take Out	-
Excess NOI Years 1 - 7 after Stabilization	(382,438)	Remaining Equity Due to FC @ Take Out	2,000,000
Cumulative F&C Share of Excess Cash Flow - 75%	-	Remaining DPI @ Take Out	26,839,061
Cumulative Village Share of Excess Cash Flow - 25%	-		

Rent Rates =\$1.42 - \$1.59			
Estimated NOI @ Stabilization (\$1.51 Rent Rates)	\$ 2,794,830	Developer Profit	\$ 2,000,000
Annual Debt Service Payments @ Stabilization	2,550,725	Developer Equity	2,000,000
Principle Paid at time of Liquidation Event	6,813,057	Loan Balance @ Take Out	31,428,762
Liquidation Event (earliest year 7 after stabilization - year 10 after project start)		Remaining Profit Due to FC @ Take Out	718,450
Excess NOI Years 1 - 7 after Stabilization	1,708,733	Remaining Equity Due to FC @ Take Out	2,000,000
Cumulative F&C Share of Excess Cash Flow - 75%	1,281,550	Remaining DPI @ Take Out	26,411,877
Cumulative Village Share of Excess Cash Flow - 25%	427,183		

Rent Rates \$1.60 or greater			
Estimated NOI @ Stabilization (\$1.60 Rent Rates)	\$ 3,063,695	Developer Profit	\$ 3,500,000
Annual Debt Service Payments @ Stabilization	2,550,725	Developer Equity	2,000,000
Annual Excess Cash Flow (Post-Stabilization)	512,970		
Principle Paid at time of Liquidation Event	6,813,057	Loan Balance @ Take Out	31,428,762
Liquidation Event (earliest year 7 after stabilization - year 10 after project start)		Remaining Profit Due to FC @ Take Out	806,909
Excess NOI Years 1 - 7 after Stabilization	3,590,788	Remaining Equity Due to FC @ Take Out	2,000,000
Cumulative F&C Share of Excess Cash Flow - 75%	2,693,091	Remaining DPI @ Take Out	25,941,364
Cumulative Village Share of Excess Cash Flow - 25%	897,697		

Rent Rates \$1.90 (Full payback of incentive without fees)			
Estimated NOI @ Stabilization (\$1.90 Rent Rates)	\$ 3,959,911	Developer Profit	\$ 3,500,000
Annual Debt Service Payments @ Stabilization	2,550,725	Developer Equity	2,000,000
Annual Excess Cash Flow (Post-Stabilization)	1,409,186		
Principle Paid at time of Liquidation Event	6,813,057	Loan Balance @ Take Out	31,428,762
Liquidation Event (earliest year 7 after stabilization - year 10 after project start)		Remaining Profit Due to FC @ Take Out	-
		Remaining Equity Due to FC @ Take Out	-
Excess NOI Years 1 - 7 after Stabilization	9,864,303	Remaining DPI @ Take Out	23,073,576
Cumulative F&C Share of Excess Cash Flow #1 - Up to Total Profit 75%	3,500,000		
Cumulative Village Share of Excess Cash Flow #1 25%	1,166,667		
Cumulative F&C Share of Excess Cash Flow #2 - After Profit 50%	2,598,818		
Cumulative Village Share of Excess Cash Flow #2 50%	2,598,818		

EXHIBIT H
For Presentation Purposes Only

LIQUIDATION EVENT SCENARIOS

	Scenario #1	Scenario #2	Scenario #3	Scenario #4
Take Out Rent Rate	\$1.41	\$1.51	\$1.60	\$1.90
Calculated Project Value @ Take Out	\$ 35,658,448	\$ 39,926,145	\$ 43,767,073	\$ 56,570,164
Loan Due to Village @ Take Out	31,428,762	31,428,762	31,428,762	31,428,762
Excess Return	4,229,686	8,497,383	12,338,311	25,141,402
Waterfall #1 - Up to Developer Project Incentive (DPI)	<i>Waterfall Includes Fees and Owners Agent (not included in Project Costs)</i>			
Paid to F&C	8% 338,375	679,791	987,065	2,011,312
Paid to Village	92% 3,891,311	7,817,593	11,351,246	22,504,251
Waterfall #2 - After Developer Project Incentive (DPI)				
Paid to Village	8% -	-	-	50,067
Paid to FC	92% -	-	-	575,772
LIQUIDATION EVENT PAYMENT AMOUNT	\$ 35,320,073	\$ 39,246,354	\$ 42,780,008	\$ 53,983,080
% of Project Value	99.05%	98.30%	97.74%	95.43%
F&C ROI at Liquidation Event	5.81%	9.84%	14.12%	26.55%
Village ROI at Liquidation Event	11.80%	24.99%	37.13%	79.79%

LIQUIDATION EVENT FACILITY

Village Full Refinancing				
Monthly NOI	\$ 208,008	\$ 232,903	\$ 255,308	\$ 329,993
1.10 DCR	1.1 189,098	211,730	232,098	299,993
Amortization (required to meet DCR)	45	44	34	32
Interest Rate (@ refinance)	6.00%	6.00%	5.50%	5.50%
Developer Project Incentive (DPI)	\$ 26,839,061	\$ 26,839,061	\$ 26,839,061	\$ 26,839,061
Pre-Stabilization Excess Cash Flow Sharing	569,325	569,325	569,325	569,325
Post-Stablization Excess Cash Flow Sharing	-	427,183	897,697	3,765,485
Remaining DPI @ Take Out	26,269,736	25,842,552	25,372,039	22,504,251
Waterfall #1 - Up to DPI	3,891,311	7,817,593	11,351,246	22,504,251
Unpaid DPI @ Liquidation Event	22,378,424	18,024,960	14,020,793	-
Waterfall #2 - After Full Payment of DPI	-	-	-	50,067
Interest Savings to Village (1.5% or 1.0% 10 Years)	2,520,190	4,744,306	3,982,346	9,490,274
Post Liquidation Excess Cash Flow Split to Village (92%) - 10 years after Liquidation Event	1,167,640	1,417,494	1,642,363	3,311,926
Ground Lease Payments	1,000,000	1,000,000	1,000,000	-
Unpaid DPI @ Completion of Refinance Term	17,690,595	10,863,159	7,396,084	(12,852,267)
Cash payment to F&C - Remaining Profit/Equity	2,000,000	2,718,450	2,806,909	-
Interest Expense	7,226,702	7,226,702	7,226,702	7,226,702
Developer Interest - Difference between 4.50% & Village Cost	(2,933,805)	(2,933,805)	(2,933,805)	(2,933,805)
Property Tax Increment through end of TIF	(8,364,616)	(8,364,616)	(8,364,616)	(8,364,616)
Less: Village Fees	(3,372,585)	(3,372,585)	(3,372,585)	(3,372,585)
Village Cost of Project w/developer profit	\$ 12,246,290	\$ 6,137,305	\$ 2,758,689	\$ (20,296,571)
Village Cost of Project + Land/Infra/Fees	\$ 25,138,769	\$ 19,029,784	\$ 15,651,168	\$ (7,404,092)

EXHIBIT H
For Presentation Purposes Only

LIQUIDATION EVENT SCENARIOS

	Scenario #1	Scenario #2	Scenario #3	Scenario #4
LIQUIDATION EVENT FACILITY				
Village Partial Refinancing	<i>At a minimum, Developer Loan repaid.</i>			
75% of Project Value	\$ 26,743,836	\$ 29,944,609	\$ 32,825,304	\$ 42,427,623
Owed to Village by Developer	35,320,073	39,246,354	42,780,008	53,983,080
Second Mortgage (2% over Village Cost of Money)	8,576,237	9,301,746	9,954,703	11,555,457
<hr/>				
Developer Project Incentive (DPI)	\$ 26,839,061	\$ 26,839,061	\$ 26,839,061	\$ 26,839,061
Pre-Stabilization Excess Cash Flow Sharing	569,325	569,325	569,325	569,325
Post-Stablization Excess Cash Flow Sharing	-	427,183	897,697	3,765,485
Unpaid DPI @ Take Out	26,269,736	25,842,552	25,372,039	22,504,251
Waterfall #1 - Up to Total DPI	3,891,311	7,817,593	11,351,246	22,504,251
Unpaid DPI @ Liquidation Event	22,378,424	18,024,960	14,020,793	-
Waterfall #2 - After Full Payment of DPI	-	-	-	50,067
Interest Savings to Village (2.0% 5 Years)	475,020	515,205	551,365	640,030
Post Liquidation Excess Cash Flow Split to Village (92%) - 5 years until Original Principal Amount is repaid in full	583,820	708,747	821,182	1,655,963
Post Liquidation Excess Cash Flow Split to Village (8%) - 5 years after Original Principal Amount is repaid in full	50,767	61,630	71,407	-
Ground Lease VPR Secondary Portion Note	1,000,000	1,000,000	1,000,000	-
Unpaid DPI @ Completion of Refinance Term	20,268,817	15,739,377	11,576,839	(2,346,060)
Cash payment to F&C - Remaining Profit/Equity	2,000,000	2,718,450	2,806,909	-
Interest Expense	7,226,702	7,226,702	7,226,702	7,226,702
Developer Interest - Difference between 4.50% & Village Cost	(2,933,805)	(2,933,805)	(2,933,805)	(2,933,805)
Property Tax Increment through end of TIF	(8,364,616)	(8,364,616)	(8,364,616)	(8,364,616)
Less: Village Fees	(3,372,585)	(3,372,585)	(3,372,585)	(3,372,585)
Village Cost of Project w/developer profit	\$ 14,824,513	\$ 11,013,523	\$ 6,939,444	\$ (9,790,364)
Village Cost of Project + Land/Infra/Fees	\$ 27,716,992	\$ 23,906,002	\$ 19,831,923	\$ 3,102,115

LIQUIDATION EVENT FACILITY				
Full Take Out Loan	<i>Conventional Financing</i>			
Paid to Village by Developer	\$ 35,320,073	\$ 39,246,354	\$ 42,780,008	\$ 53,983,080
<hr/>				
Developer Project Incentive (DPI)	\$ 26,839,061	\$ 26,839,061	\$ 26,839,061	\$ 26,839,061
Pre-Stabilization Excess Cash Flow Sharing	569,325	569,325	569,325	569,325
Post-Stablization Excess Cash Flow Sharing	-	427,183	897,697	3,765,485
Unpaid DPI @ Take Out	26,269,736	25,842,552	25,372,039	22,504,251
Waterfall #1 - Up to Total DPI	3,891,311	7,817,593	11,351,246	22,504,251
Unpaid DPI @ Liquidation Event	22,378,424	18,024,960	14,020,793	-
Waterfall #2 - After Full Payment of DPI	-	-	-	50,067
Post Liquidation Excess Cash Flow Split to Village (8%) - 10 years after Liquidation Event	101,534	123,260	142,814	-
GL Payments Replacement Note	1,000,000	1,000,000	1,000,000	-
Unpaid Village Incentive @ Completion of 10 Year Term	21,276,890	16,901,700	12,877,979	(50,067)
Cash payment to F&C - Remaining Profit/Equity	2,000,000	2,718,450	2,806,909	-
Interest Expense	7,226,702	7,226,702	7,226,702	7,226,702
Developer Interest - Difference between 4.50% & Village Cost	(2,933,805)	(2,933,805)	(2,933,805)	(2,933,805)
Property Tax Increment Receipts through end of TIF	(8,364,616)	(8,364,616)	(8,364,616)	(8,364,616)
Less: Village Fees	(3,372,585)	(3,372,585)	(3,372,585)	(3,372,585)
Village Cost of Project (w/developer profit)	\$ 15,832,586	\$ 12,175,846	\$ 8,240,584	\$ (7,494,371)
Village Cost of Project + Land/Infra/Fees	\$ 28,725,065	\$ 25,068,325	\$ 21,133,063	\$ 5,398,108

EXHIBIT I

PROPERTY TAX LOAN EVALUATION

	Budget	Actual
		Full Assessment
Real Estate Taxes (per unit)	\$2,250	\$3,000
Threshold	\$2,500	
Tax Difference		\$147,500
Net Operating Income	\$3,060,301	\$2,912,801
Debt Service Coverage Level	1.20	1.20
Debt Service Payment	\$2,550,251	\$2,427,334
Amortization Period (years)	25	25
Interest Rate	4.50%	4.50%
Developer Loan	\$38,234,000	\$36,391,876
Developer Loan (Interest-Free)		\$1,842,124
Liquidation Event Payment Amount *	\$38,234,000	\$38,234,000

** Does not reflect any amortization of Principal*