

## PURCHASE AND REDEVELOPMENT AGREEMENT

**THIS PURCHASE AGREEMENT** (this "**Agreement**") is made as of \_\_\_\_\_, 2017 ("**Effective Date**"), by and between the Village of Orland Park, an Illinois home rule municipality ("**Seller**"), and Bradford Orland Park 4 LLC, an Illinois limited liability company ("**Purchaser**").

### RECITALS:

A. Seller is the owner of a parcel of real property, having an area of approximately 1.506 acres (the exact area to be certified on the Survey (as herein defined)), located at the southeast corner of 142<sup>nd</sup> Street and Crescent Park Circle, Village of Orland Park ("**Village**"), Cook and Will Counties, Illinois, which is legally described on **Exhibit A** attached hereto and made a part hereof, together with all improvements thereon and all easements, rights, privileges, servitudes and appurtenances thereunto belonging or appertaining, including all right, title and interest of Seller, if any, in and to the streets, alleys, and rights-of-way adjacent thereto (collectively, the "**Property**"). The Property is within the area known as the "Main Street Triangle", bounded by LaGrange Road (U.S. 45), 143<sup>rd</sup> Street and Southwest Highway.

B. Seller has agreed to sell to Purchaser, and Purchaser has agreed to purchase from Seller, the Property, upon and subject to all the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration paid by Purchaser to Seller, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser hereby agree as follows:

1. Agreement to Sell and Purchase. Seller hereby agrees to sell to Purchaser, and Purchaser hereby agrees to purchase from Seller, the Property, subject to all the terms and conditions set forth herein.

2. Purchase Price. The purchase price for the Property ("**Purchase Price**") shall be an amount equal to One Million and 00/100 Dollars (\$1,000,000.00). The Purchase Price shall be paid at Closing (as herein defined), subject to adjustments and prorations as described herein, and subject to the credit for the Earnest Money to be paid by Purchaser as described below. The Purchase Price shall be paid by wire transfer of immediately available funds.

Within 10 days following the Effective Date, the parties shall establish an escrow at Chicago Title Insurance Company (the "**Title Company**"), and Purchaser shall deposit in such escrow an amount equal to \$5,000.00. The amount so deposited plus the amounts deposited pursuant to Paragraph 7 hereof, if any, together with interest thereon less any investment fees related thereto are hereinafter collectively referred to as the "**Earnest Money**", all or a portion of which shall, at Purchaser's election, be credited against the Purchase Price at Closing, or returned to Purchaser at Closing.

3. Inspections by Purchaser. Pursuant to the Authorization, Acknowledgment and Indemnification for Testing Work and Temporary Access Agreement attached hereto as **Exhibit B** and made a part hereof, Purchaser and its agents (including any prospective tenants, purchasers, investors or lenders) shall have the right to enter upon the Property or any portion thereof and make such engineering, land use, physical, market or soil tests, investigations and studies concerning the Property (collectively, the "**Tests**") that they may elect to perform. Purchaser agrees to indemnify and hold harmless Seller from any loss, cost or expense (including reasonable attorneys' fees) for death, bodily injury or damage to the Property to the extent caused by such entry, except to the extent attributable to any preexisting defects in the Property, including the location of any hazardous substances, provided Seller shall tender defense of any claim subject to Purchaser's indemnity to Purchaser in sufficient time to avoid prejudice, and Purchaser shall have the right to assume and control the defense thereof with counsel selected by Purchaser and reasonably acceptable to Seller. Within 10 days after the Effective Date, Seller shall provide to

Purchaser all feasibility studies, soil reports, environmental audits and other appraisals, inspections, tests, reports, studies or information in the possession or reasonable control of Seller with respect to the Property.

4. Conditions Precedent. Purchaser's obligation to consummate the transaction contemplated by this Agreement is subject to satisfaction of all of the conditions set forth in this Paragraph 4 within the time periods prescribed herein. Purchaser may waive any or all of such conditions in whole or in part but any such waiver shall be effective only if made in writing. No such waiver shall constitute a waiver by Purchaser of any of its rights or remedies nor release Seller from any of its liabilities under this Agreement. Satisfaction of such conditions shall not waive any representation or warranty made by Seller.

a. As of the date ("**Contingency Date**") which is 360 days following the Effective Date, Purchaser shall be satisfied, in its sole and absolute discretion, with the condition of the Property and any matter concerning the Property or Purchaser's proposed development thereof, including, without limitation, the Approvals (as herein defined), which the Purchaser shall pursue with all due diligence, and that all applicable appeal periods with respect to the Approvals shall have expired without the filing of an appeal by any party with respect to issuance thereof. If, as of the Contingency Date, Purchaser is not satisfied with any matter concerning the condition of the Property and Purchaser's proposed development thereof, for any commercially reasonable reason in Purchaser's sole and absolute discretion, then Purchaser shall have the right to terminate this Agreement, by written notice given to Seller on or before the Contingency Date, and the Earnest Money shall promptly be returned to Purchaser. If, however, as of the Contingency Date, Purchaser is satisfied with any matter concerning the condition of the Property and Purchaser's proposed development thereof, or has failed to give the said written notice to Seller on or before the Contingency Date, Purchaser shall thereupon deposit an additional \$50,000.00 in the escrow, as additional Earnest Money, which shall be non-refundable to Purchaser unless (i) Seller is unable to deliver title to the Property in the manner required by this Agreement; (ii) Closing fails to occur by reason of a breach or default of Seller, (iii) Closing fails to occur by reason of failure of one or more of the conditions precedent set forth in Paragraph 4(b), or (iv) this Agreement is terminated pursuant to the provisions of Paragraphs 6 and 16 of this Agreement.

b. As of the Closing Date (as herein defined):

(i) Seller shall not be in default in the performance of any covenant or agreement to be performed by Seller under this Agreement.

(ii) All representations and warranties made by Seller under this Agreement shall be true and correct in all material respects.

(iii) The Title Company shall be prepared to issue an Owner's Title Insurance Policy (ALTA Form 2006) ("**Title Policy**"), at Seller's expense, in the amount of the Purchase Price insuring title to the Property to be good and marketable and free from exceptions other than the Permitted Exceptions and insuring any appurtenant easements. The Title Policy shall have extended coverage over the general exceptions contained therein, and shall otherwise be in form and contain endorsements reasonably satisfactory to Purchaser.

(iv) No Material Event (as herein defined) shall have occurred. For purposes hereof, the term "**Material Event**" shall mean and include any of the following that has occurred after the Contingency Date (as the same may be extended as provided herein): (w) any material change in the condition of the Property including, without limitation, the environmental condition thereof, (x) any amendment to, or enactment of any new, law, rule, regulation or ordinance, or issuance of any judicial or other legal imposition that would materially affect the zoning, use, occupancy or operation of the Property or Purchaser's proposed development thereof, (y) the institution or issuance by any applicable governmental authority having jurisdiction of notice of any pending or proposed moratorium with respect to the Property or any portion thereof that would materially affect Purchaser's proposed development or use of the Property, and (z) the issuance by any applicable governmental authority having jurisdiction of any notice of any violation of law, or institution of any litigation, suit or proceeding against the Property, any part thereof, or Seller which materially affects Purchaser's proposed development or use of the Property.

(v) The Property shall be in its current pad-ready condition, free and clear of all construction debris, with all utilities (water, storm sewer, sanitary sewer, natural gas, and electric) stubbed within five feet (5') of the Property. The Seller will make no further modifications to the pad.

(vi) The Approvals shall be in full force and effect and all appeal periods with respect to the Approvals have expired without the filing of an appeal by any party with respect to issuance thereof.

If Closing shall not occur due to any one or more of the conditions precedent set forth in this Paragraph 4(b) having not occurred, then Purchaser may elect to extend the time for such conditions precedent to occur (and if Purchaser so elects to extend the time, then Purchaser shall reserve the right to terminate this Agreement following any such extension) or may elect to terminate this Agreement. If Purchaser terminates this Agreement, then the Earnest Money shall promptly be returned to Purchaser.

5. Title/ Survey. Within 30 days after the Effective Date, Seller, at its sole cost and expense, shall cause to be delivered to Purchaser (i) a title insurance commitment (the "**Commitment**") issued by the Title Company in the amount of the Purchase Price, which shall commit the Title Company to issue the Title Policy, with copies of all documents referred to therein which constitute encumbrances on title, (ii) customary searches (collectively, the "**Searches**") for bankruptcies, judgment liens, tax liens, and special assessments, showing all levied, pending and deferred special assessments and real estate taxes, and (iii) an ALTA/NSPS urban class survey (the "**Survey**") prepared in accordance with Purchaser's specifications.

If the Commitment, the Searches, or the Survey discloses defects or exceptions that are objectionable to Purchaser, then Purchaser shall notify Seller (the "**Title Notice**"), in writing, within 20 days after the later to occur of receipt of the Commitment, the Searches, and the Survey by Purchaser. If Purchaser so notifies Seller of such objections, then Seller shall be allowed a period of 15 days from the date Purchaser delivers the Title Notice to provide Purchaser with assurances satisfactory to Purchaser that any such objectionable matters will be removed or endorsed over, in form and substance acceptable to Purchaser, on or before Closing, and Seller shall use commercially reasonable efforts to do so and Seller shall notify Purchaser promptly if Seller determines that Seller will not be able to do so, it being understood that Seller may, but shall not be required to, provide such assurances (other than with respect to any mortgage, tax, mechanics, judgment or other lien or encumbrance of a definitive or ascertainable amount, which Seller shall satisfy and remove prior to Closing). Matters disclosed by the Commitment, the Searches, and the Survey which are not objected to by Purchaser or which are objected to but which are waived by Purchaser shall constitute "**Permitted Exceptions**"; any other matters shall constitute "**Unpermitted Exceptions**". Failure by Purchaser to deliver the Title Notice within the time period described above shall constitute an election by Purchaser to take title to the Property subject to all such matters as are disclosed by the Commitment, the Searches, and the Survey. If Seller shall not deliver assurances satisfactory to Purchaser that any such objectionable matters will be so removed or endorsed over within the 15-day period prescribed above, then Purchaser may elect, within 10 days following expiration of the 15-day period prescribed above: (i) to have the Title Company issue its endorsement insuring against damage caused by said objectionable matter and take title as it then is, with the right to deduct from the Purchase Price amounts equal to all liens or encumbrances of a definite or ascertainable amount, (ii) to terminate this Agreement and receive a return of the Earnest Money, or (iii) to extend the time for Seller to deliver such assurances to Purchaser (and if Purchaser elects to so extend the time as described herein, Purchaser shall have the same rights concerning matters at the end of the extended period as Purchaser had at the end of the original period). Further, if the objectionable matter is a matter which was intentionally caused by Seller, then Purchaser's rights set forth in the immediately preceding sentence shall be in addition to, and not in lieu of, any other rights and remedies available to Purchaser for a default by Seller.

6. Representations and Warranties of Seller. Seller represents and warrants to and covenants with Purchaser that:

a. Seller has good and marketable, fee simple title to the Property, subject only to the Permitted Exceptions, and that Seller has the power and authority to enter into and perform the terms and conditions of this Agreement, and such performance will not conflict with or result in a breach of any of the terms, conditions or provisions of any agreement or instrument to which Seller is a party or by which it is bound, or constitute a

default under any of the foregoing; this Agreement is valid, binding and enforceable against Seller in accordance with its terms.

b. Seller has not received any notice of any violation of any law, municipal ordinance or other governmental requirement affecting the Property, and Seller has no knowledge that any governmental authority contemplates issuing such a notice, or that any such violation exists.

c. Seller has not received any written notice of any condemnation or eminent domain proceedings, or negotiations for purchase in lieu of condemnation, relating to the Property, or any portion thereof; and Seller has no knowledge that any condemnation or eminent domain proceedings have been commenced or threatened in connection with the Property, or any portion thereof.

d. To the best of Seller's knowledge, no hazardous substances are located on or have been stored, generated, used, processed or disposed of on or released or discharged from (including ground water contamination) the Property and no above or underground storage tanks exist on, or have been removed from, the Property. Anything in this Agreement to the contrary notwithstanding, it is expressly understood and agreed that Purchaser does not assume or agree to be responsible for, and Seller hereby agrees to defend, indemnify and hold Purchaser harmless from and against, any and all claims, obligations and liabilities and all costs, expenses and attorney's fees incurred, based upon or arising out of any obligation, liability, loss, damage or expense, of whatever kind or nature, contingent or otherwise, known or unknown, incurred under or imposed by any environmental laws arising out of any act or omission by Seller or its employees or representatives prior to Closing.

e. No litigation or proceedings are pending or, to the best of Seller's knowledge, threatened or anticipated, relating to the Property, or any portion thereof.

f. Seller has no knowledge of any unrecorded agreements, undertakings or restrictions which affect the Property. There are no tenants, persons or entities occupying any portion of the Property, and no claim exists against any portion of the Property by reason of adverse possession or prescription.

g. To the best of Seller's knowledge, (i) there are no special or other assessments, nor are there any pending, which have or will become a lien on the Property, or any part thereof, except for Special Service Area taxes described in Paragraph 9 hereof; (ii) there is no obligation with respect to the Property for any assessment, annexation fee, payment, donation or the like, which is required to be made by the owner of the Property; and (iii) there are no obligations in connection with the Property of any recapture, development (except as provided for in the Seller's Village Land Development Code applicable to all developments in the Village), annexation or like agreement or charge for work or services done upon or relating to the Property or otherwise.

If, prior to the Closing Date, Seller obtains knowledge of a fact or circumstance the existence of which would constitute a breach by Seller of its representations and warranties hereunder or would render any such representations and warranties untrue or incorrect, Seller shall promptly notify Purchaser in writing of the same. Under said circumstances, and in addition to any other right or remedy that may be available to Purchaser, Purchaser, at its option, may terminate this Agreement without further liability by giving written notice thereof to Seller, in which event the Earnest Money shall be returned to Purchaser, and Seller shall pay to Purchaser all of Purchaser's costs and expenses of any kind or nature whatsoever paid or incurred in connection with the Property including, without limitation, any amounts expended by Purchaser as part of Purchaser's development activities for the Property, including design, marketing, environmental, engineering, legal and other due diligence costs (collectively, "**Purchaser's Expenses**") within five (5) days after Purchaser's demand therefor.

All representations and warranties made herein shall be deemed remade as of Closing and shall be true and correct in all material respects as of the Closing Date, and shall survive Closing and execution and delivery of the Deed (as herein defined) for a period of 18 months following the Closing Date, except that the same shall not expire as to any matter as to which Purchaser has given written notice to Seller prior to expiration of said 18-month period, and as to which Purchaser has instituted litigation proceedings within 6 months following expiration of said 18-month period.

Any reference to "Seller's knowledge" in this Paragraph 6 shall mean the actual knowledge of one or more of Seller's Village Manager, Assistant Village Manager, Director of the Department of Public Works or Director of the Department of Development Services, being the Village officers and employees having the most knowledge of the matters above set forth in this Paragraph 6.

7. Closing. The conveyance of the Property to Purchaser, or Purchaser's nominee, and the payment of the Purchase Price to Seller ("**Closing**") shall occur at the office of the Title Company at 10 S. LaSalle St., Suite 2850, Chicago, Illinois 60603, on a date ("**Closing Date**") selected by Purchaser upon at least five (5) days prior written notice to Seller and within 30 days after the Contingency Date, or at such other date, time and place as the parties may mutually agree, subject to delays by reason of operation of Paragraph 4(b); provided, however, Purchaser shall have the right and option to extend the Closing Date for one (1) period of 30 days, the extension period ending 60 days after the Contingency Date (as the Contingency Date may be extended). Purchaser shall exercise its right and option to extend the Closing Date, as aforesaid, if at all, by: (i) giving Seller notice of such election on or before the date which is 30 days following the Contingency Date (as the Contingency Date may be extended), and (ii) within five (5) days following the date Purchaser gives notice to Seller depositing with the Title Company an additional Earnest Money sum equal to \$20,000.00. If Purchaser exercises its right and option to extend the Closing Date as provided herein, then the additional Earnest Money shall be non-refundable unless (i) Seller is unable to deliver title to the Property in the manner required by this Agreement, (ii) Closing fails to occur by reason of a breach or default of Seller, (iii) Closing fails to occur by reason of failure of one or more of the conditions precedent set forth in Paragraph 4(b) above, or (iv) this Agreement is terminated pursuant to the provisions of Paragraphs 6 or 18 of this Agreement.

Closing shall occur through an escrow with the escrow department of the Title Company ("**Escrowee**"), in accordance with the general provisions of Escrowee's usual form of deed and money escrow agreement, with special provisions inserted in the escrow agreement as may be required to conform to this Agreement and subject to the terms of a separate money lender's escrow, if any. The escrow agreement shall provide that Purchaser shall not be required to deposit funds in the escrow until the Escrowee is prepared to disburse such funds and insure title to the Property as required herein. The attorneys for both Seller and Purchaser are authorized to sign the escrow agreement. Upon the creation of such escrow, payment of the Purchase Price and delivery of the Deed shall be made through the escrow. The cost of the deed and money escrow shall be divided equally between Seller and Purchaser. The cost of any money lender's escrow shall be borne by Purchaser. This Agreement shall not be merged into nor in any manner superseded by the escrow agreement.

The Property shall be conveyed to Purchaser, or Purchaser's nominee, by special warranty deed (the "**Deed**"), conveying good and marketable, fee simple title subject to no exceptions to title other than the Permitted Exceptions.

At Closing, Seller and Purchaser shall each execute and deliver or cause to be executed and delivered such documents, closing statements, affidavits, searches, declarations, lien waivers, certificates, indemnities or deposits as shall be customary, necessary or appropriate to complete the transaction and cause the issuance of the Title Policy. At Closing, Seller shall deliver physical possession of the Property to Purchaser in substantially the same condition as exists on the Effective Date. At Closing, Seller shall also execute and deliver or cause to be executed and/or delivered:

a. Certification with respect to Seller's non-foreign status sufficient to comply with the requirements of Section 1445 of the Internal Revenue Code of the United States of America and all regulations applicable thereto.

b. Certification to Purchaser, or its nominee, that the representations and warranties contained in this Agreement shall be true, correct and complete in all material respects as of the Closing Date.

8. Apportionments. At and as of the Closing, Seller and Purchaser shall make adjustments for and apportion all expenses with respect to the Property including, without limitation, adjustments and apportionments with respect to real estate taxes, and all expenses accrued prior to and on the Closing Date shall be paid by Seller and all expenses with respect to the Property accruing after the Closing Date shall be paid by Purchaser. If required, at or prior to Closing, Seller shall prepare a petition for tax division ("**Petition**") which shall



be filed with the Cook County Assessor's Office, petitioning for a division of the tax parcel or parcels presently applicable to the Property so that the Property will become a separate tax parcel. Purchaser shall sign the Petition, if required, and shall cooperate with Seller in obtaining a separate permanent index number for the Property. The parties' obligations with respect to this paragraph shall survive the Closing and execution and delivery of the Deed.

Purchaser understands and acknowledges that the Property is currently exempt from the assessment or levy of real estate taxes and that the Seller is further exempt from the imposition of any state or county deed tax imposed by reason of the transfer of title to the Property. However, Purchaser understands and acknowledges that the Property is subject to Special Service Area taxes as a part of future real estate tax bills should it be necessary in the future for the Village to levy such taxes.

9. Development Matters.

a. From and after the Effective Date, Seller shall, at the request of Purchaser and to the extent permitted under existing Village codes and ordinances, cooperate and work together with Purchaser (at no out of pocket expense to Seller) and in a commercially reasonable manner (including, without limitation, joining in the execution of the materials described in clause (i) below) in connection with (i) applications, agreements, amendments, approvals, authorizations, permits, and consents (including, without limitation, any development or like agreement) relating to, among other things, zoning, site plan, planned development, subdivision, protective covenants, utility and other development matters to permit the development of the Property in accordance with Purchaser's proposed development plans, and (ii) any requirements of local, state or federal governments, or any agency thereof, or any public utility, relating to the proposed development of the Property (collectively, the "Approvals"). Seller shall, at the request of Purchaser and consistent with engineering plans approved by the Village, grant reasonably sized utility, water, sanitary sewer, storm sewer, roadway, drainage, access and other easements in favor of Purchaser in form and substance reasonably acceptable to Seller and Purchaser, and consistent with engineering plans approved by the Village, in locations and of sizes and configurations consistent with Purchaser's proposed development of the Property.

b. Purchaser plans to construct a 1-story building with an approximately 41,000 square foot theater, which may include a restaurant, ~~and with parking and related site improvements collectively,~~ (the "Purchaser's Development Work"). The building ~~and related improvements~~ shall be constructed from the curb northward with no setback from the front (south) lot line. Purchaser shall be responsible for the design of, obtaining entitlements and construction financing for, and constructing the Purchaser's Development Work. Seller shall have proof of Purchaser's construction financing being in place as a condition of Closing. Purchaser agrees to engage Seller's design architect, TOA Design, to prepare the initial base building plans for the Purchaser's Development Work, provided that TOA is qualified to provide design services for theater improvements and that TOA Design's fees are competitive with other design architects. TOA shall be required to cooperate with the architect engaged by the Anchor Tenant (as defined in Section 10) in order to integrate interior and exterior design services. Purchaser agrees to work with Seller to obtain all necessary design approvals for the Purchaser's Development Work. Once the design for the Purchaser's Development Work is approved, then Purchaser shall cause its general contractor to competitively bid the Purchaser's Development Work.

Seller shall reimburse Purchaser for costs and expenses (as hereinafter described) incurred by or on behalf of Purchaser with respect to the Purchaser's Development Work ~~(including, without limitation, all extra ordinary costs incurred by Purchaser as a result of existing pad and soils condition (e.g., compaction costs, piling costs or other expenses necessary to construct the proposed improvements on a foundation system other than spread footers)~~ to the extent such costs and expenses exceed an amount equal to One Hundred Fifty and 00/100 Dollars (\$150.00) per square foot of the base building improvements (i.e., the "Landlord's Work" as defined in the lease with the Anchor Tenant ~~(as defined in Section 10)~~, which excludes furniture, fixtures and equipment and other interior trade fixture improvements) included within the Purchaser's Development Work, which amount will be credited against the Purchase Price at Closing up to but not exceeding \$1,000,000. No later than five (5) days following the date Purchaser's general contractor is prepared to award subcontracts for the Purchaser's Development Work, with time, price and performance being among the determining factors, Purchaser shall prepare and submit to Seller ~~for approval, as hereinafter provided,~~ a budget (the "Budget") detailing the estimated cost to construct and install the Purchaser's Development Work. ~~Seller shall have fifteen (15) business days from the date of receipt of the proposed Budget to advise Purchaser in writing whether or not Seller approves such proposed Budget and, in the event Seller~~

~~does not approve such proposed Budget, under what conditions Seller's approval would be forthcoming. In the event Seller fails to advise Purchaser of the approval or disapproval of such Budget within said fifteen (15) business day period, such proposed Budget shall be deemed approved by Seller. If the Budget is greater than One Hundred Fifty and 00/100 Dollars (\$150.00) per square foot of the improvements included within the Purchaser's Development Work and Seller disapproves such proposed Budget, Purchaser shall within fifteen (15) business days from receipt thereof, undertake appropriate re-bidding or value engineering efforts, and revise and resubmit such proposed Budget to Seller, and Seller shall have seven (7) business days from receipt of such revised proposed Budget to approve or disapprove the same. In the event Seller does not approve such revised proposed Budget, the procedures set forth herein shall be followed until such time as Seller has approved such Budget.~~ Purchaser and Seller shall in good faith review and approve (or disapprove), process and perform any obligation pursuant to this Agreement concerning approval of the Budget, approval of Purchaser's design drawings for the Purchaser's Development Work or the construction of the Purchaser's Development Work with all due diligence and reasonable speed including, without limitation, approvals, reviews, bids, ~~value engineering~~, and inspections, with the objective of facilitating the construction of the Purchaser's Development Work as quickly as reasonably possible.

c. In addition to and separate from the Purchaser's Development Work, Purchaser agrees to perform, at Seller's sole cost and expense, certain site work on the portion of the Property outside the building to be constructed by Purchaser thereon and on the Seller's property adjacent to the improvements included within the Purchaser's Development Work including the construction of [parking areas](#), a plaza and certain other amenities [and related improvements](#) (the "**Purchaser's Plaza Work**") in accordance with plans prepared by Seller and approved by Purchaser. [Purchaser's Plaza Work shall also include, without limitation, all extra-ordinary costs incurred by Purchaser as a result of existing pad and soils condition \(e.g., compaction costs, geopiers, piling costs or other expenses necessary to construct the proposed improvements on a foundation system other than spread footers\).](#) Seller shall furnish to Purchaser Seller's proposed plans and specifications (the "**Plaza Plans**") depicting the Purchaser's Plaza Work for approval as hereinafter provided. Purchaser shall have ten (10) business days from the date of receipt of the Plaza Plans to advise Seller in writing whether or not Purchaser approves the Plaza Plans and, in the event Purchaser does not approve the Plaza Plans, under what conditions Purchaser's approval would be forthcoming. In the event Purchaser fails to advise Seller of the approval or disapproval of the Plaza Plans within said ten (10) business day period, the Plaza Plans shall be deemed disapproved by Purchaser. In the event Purchaser disapproves the Plaza Plans, Seller shall incorporate Purchaser's comments into the Plaza Plans within five (5) business days from receipt thereof and resubmit the same to Purchaser, and Purchaser shall have three (3) business days from receipt thereof to approve or disapprove the same. In the event Purchaser does not approve the revised Plaza Plans, the procedures set forth herein shall be followed until such time as Purchaser has approved the revised Plaza Plans. The Plaza Plans shall be approved by Seller and Purchaser by affixing thereon the signature or initials of an authorized officer or employee of each of the respective parties. The signature of an authorized officer or employee shall be deemed conclusive evidence of the approval indicated by such signature. Seller and Purchaser each agree to appoint competent personnel to work with the other in the preparation of the Plaza Plans. Neither party shall act in an unreasonable, arbitrary or capricious manner with respect to the approval, disapproval or revision of the Plaza Plans. Seller shall reimburse Purchaser for cost and expenses related to the Purchaser's Plaza Work in monthly progress payments. Purchaser shall submit to Seller an application for payment which payment amount shall be equal to the portion of costs allocable to the value of labor, services and materials incorporated in the Purchaser's Plaza Work and of materials stored at the site up to the date of each such application for payment, less the aggregate amount of previous payments for the Purchaser's Plaza Work made by Seller to Purchaser. Each such application for payment shall include a certificate of Purchaser's architect or engineer approving such application for payment. Even though Purchaser's Plaza Work is not being performed by the Seller, Purchaser's contractors and subcontractors shall conform to Village contract standards and requirements (such as payment of prevailing wages) as though Seller was the contracting party.

d. The covenants and agreements set forth in this [Paragraph 9](#) shall survive Closing and execution and delivery of the Deed.

10. [Leases](#). Seller's obligation to consummate the transaction contemplated by this Agreement is subject to the Seller's review and approval, in Seller's sole discretion, and signing of Purchaser's lease of the Property to the Village approved anchor tenant (the "**Anchor Tenant**"), and Purchaser shall provide to Seller proof of a signed lease with the Anchor Tenant within 45 days after signing this Agreement (or such later date as is reasonably necessary, provided Purchaser is diligently negotiating in good faith with the Anchor Tenant). Such

proof may be in the form of an affidavit from a member/manager of Purchaser setting forth the anchor tenant's identity, lease term and outline of the tenant's project scope, including number of screens, seating, etc. In addition, Purchaser covenants and agrees that all future leases of the Property, or any portion thereof, will be compatible with applicable zoning requirements and are consistent with retail development, as announced or identified from time to time by Seller, within the Main Street Triangle of which the Property is a part. This would exclude such uses as tattoo and massage parlors, package liquor stores, title and "pay day" loan offices, etc. The covenants and agreements set forth in this Paragraph 10 which shall be set forth in a separate recordable document shall survive the Closing and execution and delivery of the Deed and shall run with the land. Retailer leases shall provide that any and all Illinois sales tax returns and amended Illinois sales tax returns shall be promptly furnished to the Seller.

11. Parking Structure. Seller shall provide parking for employees and patrons of Purchaser's tenants through the use of the common multi-level parking structure located immediately south of the Property. ~~Prior to closing, and as a condition to Closing, the parties shall mutually agree on a formula pursuant to which the Purchaser will reimburse the Seller for Purchaser's equitable and proportionate share of the operational cost and routine maintenance of, and insurance on, the said parking structure, at no cost, expense or liability to Purchaser, the owner of the Property or any tenants or occupants thereof, other than any special service area charges that may be levied as part of any special service existing on the Effective Date.~~

12. Common Area Costs. Purchaser shall be responsible for all operating costs, including real estate taxes, insurance and maintenance, with respect to the Property. Seller shall operate, manage, keep, maintain, repair, replace and renew all common area improvements within the Main Street Triangle in a first class manner at no cost, expense or liability to Purchaser, the owner of the Property or any tenants or occupants thereof, other than any special service area charges that may be levied as part of any special service existing on the Effective Date.

13. Liquor License. Provided Purchaser's anchor tenant conforms with all Village of Orland Park requirements for issuance of a Class A liquor license as set forth in the Village Code of the Village of Orland Park, said tenant shall be granted a Class A liquor license for the Property to be issued by the Village Local Liquor Control Commissioner. The covenants and agreements set forth in this Paragraph 13 shall survive Closing and execution and delivery of the Deed.

14. Share of Profit on Future Sale of Property. Following completion of the building by Purchaser, as described in Paragraph 9 above, and the leasing of the building to the Anchor Tenant who shall have opened for business, should Purchaser elect to sell the Property, then Purchaser ~~and Seller shall mutually and reasonably agree on a date to market the Property for sale and use of an established commercial real estate broker~~ shall consult with Seller regarding potential purchasers, pricing and transaction timing. Seller shall potentially share in the Net Profits (as hereinafter defined) of said sale in the following manner:

a. Seller must first verify Purchaser's development costs as provided in paragraph 9(b) above, with Seller having full and complete access to review all of Purchaser's books and records related to such development costs, provided that Seller shall not have the right to retain copies of the same.

b. If the Capitalization Rate (i.e., the amount of the base rent payable by the Anchor Tenant divided by the sales price of the Property) is equal to or higher than a percentage which is 200 basis points below the Project Return (i.e., the amount of the base rent payable by the Anchor Tenant divided by the amount of Total Project Costs (as herein defined)), then Purchaser shall keep and retain all of the Net Profits from the sale. For example, if the Project Return is 10.5% and the Capitalization Rate is 8.75%, then Purchaser shall keep and retain all of the Net Profits from the sale because the Capitalization Rate is higher than 200 basis points below the Project Return.

c. If the Capitalization Rate is less than a percentage which is 200 basis points below the Project Return, then Seller shall receive seventy-five percent (75%) of the portion of Net Profits in excess of the Net Profits which would be retained by Purchaser if the Capitalization Rate were 200 basis points below the Project Return, not to exceed ONE MILLION DOLLARS (\$1,000,000.00), with the Purchaser retaining the balance of the Net Profits, subject to clause (d) below.



d. If the Net Profits from the sale of the Property payable to Seller would exceed the ONE MILLION DOLLARS (\$1,000,000.00) limit set forth in clause (c) above, then such additional amount of Net Profits shall be shared between Seller and Purchaser, with Seller receiving twenty-five per cent (25%) of such Net Profits and Purchaser receiving seventy-five per cent (75%) of such Net Profits.

e. The term "Net Profits" is herein defined as the gross sales price for the Property less customary selling expenses (broker's commission, title, survey and escrow costs, reasonable attorney's fees and usual and customary prorations). The term "Total Project Costs" means the sum of all costs and expenses paid or incurred (or committed) by Purchaser attributable to the Property, including without limitation all costs related to the acquisition of the Property and the development, financing, refinancing, construction, leasing, operation, ownership, management, repair and sale of the Project, including the return of and on any and all capital of Purchaser, and taking into account, among other items, fees, commissions, premiums, costs, expenses and other amounts attributable to the provision of legal, development, construction, leasing, financing, reserves and sale services.

15. Eminent Domain. In the event that between the Effective Date and the Closing Date, any eminent domain proceedings are initiated which might result in the taking of any part of the Property, or if Seller receives written notice from a governmental or quasi-governmental authority which states that such an action is contemplated, Purchaser may:

a. terminate this Agreement, in which event all rights and obligations of the parties hereunder shall terminate, and the Earnest Money shall promptly be returned to Purchaser; or

b. keep this Agreement in effect, and consummate the purchase of the Property or part thereof, in which event the Purchase Price shall be calculated without deduction for the loss of any portion of the Property taken or to be taken by eminent domain, and Seller shall cause to be conveyed and assigned to Purchaser all right, title and interest in and to any award made in connection with such eminent domain proceedings.

Seller shall notify Purchaser immediately, in writing, of the occurrence of any eminent domain proceedings, or the receipt of a written notice stating that such an action is contemplated. Purchaser shall then notify Seller within 30 days after Purchaser's receipt of Seller's notice whether Purchaser elects to exercise its right under Subparagraph a. or b. of this Paragraph 13. Closing shall be delayed until Purchaser makes such election. If Purchaser elects to consummate the transaction, the Closing Date shall be adjusted accordingly.

16. Covenants of Seller. Between the Effective Date and the Closing Date, Seller shall:

a. comply with all laws, ordinances, regulations and restrictions affecting the Property and its use;

b. not create any mortgage, lien, pledge or other similar encumbrance in any way affecting the Property, nor otherwise convey any interest in the Property;

c. not commit any waste or nuisance upon the Property; and

d. not, without first obtaining the written consent of Purchaser, enter into any contracts or agreements pertaining to the Property, except contracts or agreements which are not inconsistent with Purchaser's rights hereunder and which may be terminated on not more than 30 days' notice.

17. Project Announcement Signs/Confidentiality. Purchaser shall have the right to erect "project announcement" signs on the Property. Such signs shall comply with applicable code restrictions regarding size, design, location and number. Purchaser shall keep such signs in good condition. Seller shall not disclose any matters concerning this Agreement or the Property to any person or entity except as required by the Illinois Freedom of Information Act.

18. Default. If Closing does not occur, and the failure of such Closing to occur is caused by the default of Purchaser, and Purchaser fails to cure such default within 30 days after written notice from Seller to Purchaser, then Seller shall be entitled, as its sole and exclusive remedy, to retain the Earnest Money paid by

Purchaser as liquidated damages, and neither party shall have any further rights or obligations hereunder. If Closing does not occur, and the failure of such Closing to occur is caused by the default of Seller, then Purchaser shall be entitled to exercise any remedies available to Purchaser at law or equity for a default by Seller hereunder including, without limitation, the immediate refund of the Earnest Money, payment to Purchaser of Purchaser's Expenses, and the remedy of specific performance. If either party shall bring suit against the other to enforce the terms of this Agreement, the losing party shall pay to the substantially prevailing party that percentage of the substantially prevailing party's costs and expenses, including reasonable attorneys' fees, equal to the percentage that the value of the judgment or award received by the substantially prevailing party bears to the total value of the judgment or award claimed by such party.

19. Notices. All notices and demands herein required shall be in writing and shall be sent by United States Certified Mail return receipt requested, personal delivery, overnight courier (guaranteeing next day delivery) or facsimile:

a. To Seller:

Village of Orland Park  
14700 S. Ravinia Avenue  
Orland Park, Illinois 60462  
Attn: Village Manager  
Facsimile Number: (708) 349-4859

with a copy to:

Klein, Thorpe & Jenkins, Ltd.  
15010 S. Ravinia Avenue, Suite 10  
Orland Park, Illinois 60462  
Attn: E. Kenneth Friker  
Facsimile Number: (708) 349-1506

b. To Purchaser:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_  
Facsimile Number: (\_\_\_\_) \_\_\_\_\_

with a copy to:

Daspin & Aument, LLP  
  
300 S. Wacker Drive, Suite 2200  
Chicago, Illinois 60606  
Attn: James H. Marshall  
Facsimile No.: (312) 258-1955

All notices shall be deemed given 2 business days following deposit in the United States mail with respect to a certified or registered letter, 1 business day following deposit if delivered to an overnight courier guaranteeing next day delivery or on the same day if sent by personal delivery or telecopy (with proof of transmission). Attorneys for each party shall be authorized to give notices for such party. Any party may change its address for the service of notice by giving written notice of such change to the other party, in the manner above specified.

20. Brokers. Seller represents and warrants to Purchaser that in connection with the transaction contemplated hereby no third party broker or finder has been engaged or consulted by Seller or is entitled to compensation or commission in connection herewith other than HSA Commercial Real Estate ("**Broker**"). Seller shall be responsible for payment of any commission due and owing Broker, and Seller hereby agrees to defend, indemnify and hold harmless Purchaser from and against any and all claims of other brokers, finders or any like third party claiming any right to commission or compensation by or through acts of Seller in connection herewith. Purchaser represents and warrants to Seller that in connection with the transaction contemplated hereby no third party broker or finder has been engaged or consulted by Purchaser or is entitled to compensation or commission in connection herewith other than Broker. Purchaser hereby agrees to defend, indemnify and hold harmless Seller from and against any and all claims of brokers, finders or any like third party claiming any right to commission or compensation by or through acts of Purchaser in connection herewith. The indemnity obligations hereunder shall include all damages, losses, risks, liabilities, and expenses (including reasonable attorneys' fees and costs) arising from or related to matters being indemnified hereunder. Neither Broker nor any other broker, finder or like party shall be entitled to rely (as a third party beneficiary or otherwise) on the provisions herein in claiming any right to commission or compensation or otherwise. The covenants and agreements set forth in this Paragraph 15 shall survive Closing and execution and delivery of the Deed.

21. Miscellaneous. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Time is of the essence of this Agreement. If the time for performance of any obligations or satisfaction of any condition hereunder falls on a Saturday, Sunday or a day which is an Illinois state or federal holiday, the time for performance of such obligations or satisfaction of such condition shall be extended to the next day which is not a Saturday, Sunday or Illinois state or federal holiday. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois. Seller and Purchaser agree that either party may record a memorandum of this Agreement, and the other party shall render such assistance as is necessary and appropriate to the execution and recording of such a memorandum. The parties each agree to do, execute, acknowledge and deliver any and all other documents and instruments and to take all such further action before or after the Closing as shall be necessary or desirable to fully carry out this Agreement and to fully consummate and effect the transaction contemplated hereby. This Agreement and any document or instrument executed pursuant hereto may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any signatures to counterparts may be delivered by facsimile or other electronic transmission, and such signatures shall have the same force and effect as originals.

22. Seller Contingency: Alternate Proposals. As required by Section 11-74.4-4(c) of the Tax Increment Allocation Act (65 ILCS 5/11-74.4-1, et seq.), the Village has made public disclosure of the terms of the disposition of the Property and all bids and proposals made in response to the Village's request, and has provided reasonable opportunity for any person to submit alternative proposals or bids. In the event that the Village receives one or more alternate proposals or bids by 4:00 o'clock p.m. on Monday, November 27, 2017, that contain(s) terms that are more acceptable to the corporate authorities of Seller, as determined by said corporate authorities at their regular meeting of December 4, 2017, Seller shall have the right to terminate this Agreement by written notice given to Purchaser on or before December 6, 2017, in which case the Earnest Money shall be returned to Purchaser, and this Agreement shall have no further force or effect.

IN WITNESS WHEREOF, Seller and Purchaser have executed this Agreement as of Effective Date.

**PURCHASER:**

Bradford Orland Park 4 LLC,  
an Illinois limited liability company

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

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

**SELLER:**

Village of Orland Park,  
an Illinois home rule municipality

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

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

This Agreement Includes the Following Exhibits:

**Exhibit A** - Legal Description

**Exhibit B** – Authorization, Acknowledgment and Indemnification  
for Testing Work and Temporary Access Agreement

**Exhibit A**  
**Legal Description**

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

BEGINNING AT A THE INTERSECTION OF THE EAST LINE OF RAVINIA AVENUE AS DEDICATED BY DOCUMENT 1322519095 AND THE NORTH LINE OF STREET B AS DEDICATED BY DOCUMENT XXXXXXXXXX; THENCE NORTH 01 DEGREES 34 MINUTES 53 SECONDS WEST, ALONG THE EAST LINE OF SAID RAVINIA AVENUE, 235.43 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF CRESCENT PARK CIRCLE AS DEDICATED BY DOCUMENT 1322519095; THENCE NORTHEASTERLY 201.69 FEET, ALONG SAID SOUTHEASTERLY LINE BEING THE ARC OF A NON-TANGENT CIRCLE TO THE LEFT, HAVING A RADIUS OF 262.37 FEET AND WHOSE CHORD BEARS NORTH 32 DEGREES 13 MINUTES 46 SECONDS EAST, 196.76 FEET TO A POINT ON THE SOUTH LINE OF 142ND STREET AS DEDICATED BY DOCUMENT 0627822105; THENCE NORTH 88 DEGREES 25 MINUTES 07 SECONDS EAST, ALONG THE SOUTH LINE OF SAID 142ND STREET, 111.11 FEET TO A POINT ON A WEST LINE OF JEFFERSON AVENUE AS DEDICATED BY DOCUMENT XXXXXXXXXX; THENCE SOUTHERLY ALONG WESTERLY LINES OF SAID JEFFERSON AVENUE FOR THE NEXT THREE COURSES; THENCE SOUTHERLY 33.15 FEET, ALONG THE ARC OF A TANGENT CIRCLE TO THE RIGHT, HAVING A RADIUS OF 466.00 FEET AND WHOSE CHORD BEARS SOUTH 01 DEGREES 41 MINUTES 11 SECONDS WEST, 33.15 FEET TO A POINT COMPOUND CURVATURE; THENCE SOUTHERLY 93.72 FEET, ALONG THE ARC OF A TANGENT CIRCLE TO THE LEFT, HAVING A RADIUS OF 1012.00 FEET AND WHOSE CHORD BEARS SOUTH 01 DEGREES 04 MINUTES 18 SECONDS WEST, 93.69 FEET TO A POINT OF TANGENCY; THENCE SOUTH 01 DEGREES 34 MINUTES 53 SECONDS EAST, 173.79 FEET TO A POINT OF CURVATURE, ALSO BEING A POINT ON A NORTH LINE OF STREET B AS DEDICATED BY DOCUMENT XXXXXXXXXX; THENCE WESTERLY ALONG NORTHERLY LINES OF SAID STREET B FOR THE NEXT THREE COURSES; THENCE SOUTHWESTERLY 18.43 FEET, ALONG THE ARC OF A TANGENT CIRCLE TO THE RIGHT, HAVING A RADIUS OF 13.00 FEET AND WHOSE CHORD BEARS SOUTH 39 DEGREES 02 MINUTES 16 SECONDS WEST, 16.93 FEET TO A POINT OF REVERSE CURVATURE; THENCE SOUTHWESTERLY 99.90 FEET, ALONG THE ARC OF A TANGENT CIRCLE TO THE LEFT, HAVING A RADIUS OF 173.50 FEET AND WHOSE CHORD BEARS SOUTH 63 DEGREES 09 MINUTES 40 SECONDS WEST, 98.53 FEET TO A POINT OF REVERSE CURVATURE; THENCE WESTERLY 124.98 FEET, ALONG THE ARC OF A TANGENT CIRCLE TO THE RIGHT, HAVING A RADIUS OF 171.50 FEET AND WHOSE CHORD BEARS SOUTH 67 DEGREES 32 MINUTES 32 SECONDS WEST, 122.23 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

CONTAINING 65,587 SQUARE FEET OR 1.506 ACRES, MORE OR LESS.

P.I.N.: 27-04-417-017

Common Address: 9650 West 142<sup>nd</sup> Street  
Orland Park, Illinois 60462



## **Exhibit B**

### **AUTHORIZATION, ACKNOWLEDGMENT AND INDEMNIFICATION FOR TESTING WORK AND TEMPORARY ACCESS AGREEMENT**

This Authorization, Acknowledgment and Indemnification for Testing Work and Temporary Access Agreement ("Agreement") is entered into this \_\_\_\_ day of \_\_\_\_\_, 2017, by and between the VILLAGE OF ORLAND PARK, Cook and Will Counties, Illinois, (hereinafter "VILLAGE"), and BRADFORD ORLAND PARK 4 LLC, an Illinois limited liability company ("BRADFORD").

WHEREAS, the VILLAGE owns, operates, maintains or otherwise controls a certain real property located within the VILLAGE's boundaries having an area of approximately 1.506 acres located at the southeast corner of 142<sup>nd</sup> Street and Crescent Park Circle, Village of Orland Park, Cook County, Illinois, which is legally described on Exhibit A attached hereto and made a part hereof commonly known as 14600 Ravinia Avenue, Orland Park, Illinois (the "VILLAGE's Property"); and

WHEREAS, BRADFORD seeks the VILLAGE's permission for BRADFORD, its employees, agents and/or independent contractors to enter upon, inspect and/or conduct testing activities and applications concerning the VILLAGE's Property pursuant to the terms contained in this Agreement (the "Work"); and

WHEREAS, the VILLAGE is willing to grant BRADFORD a limited right of access to the VILLAGE's Property to perform the Work upon the terms and conditions set forth in this Agreement.

Now, Therefore, in consideration of the promises and mutual covenants contained in this Agreement, the parties agree as follows:

1. VILLAGE agrees that BRADFORD and its employees, agents and independent contractors (collectively, "BRADFORD's Representatives") shall have the right to enter upon the VILLAGE's Property to (i) inspect the VILLAGE's Property, including conducting a Phase I environmental site assessment; and (ii) conduct reasonable tests thereon, and to make such other examinations with respect thereto as BRADFORD, or its counsel, licensed engineers, surveyors or other representatives may deem reasonably necessary; provided, however, BRADFORD shall not conduct any subsurface or environmental investigations of the VILLAGE's Property (excepting only a non-invasive Phase I environmental assessment) without VILLAGE's prior written consent, which consent shall not be unreasonably withheld. Any tests, examinations or inspections of the VILLAGE's Property by BRADFORD and all costs and expenses in connection with such testing, examination, and inspection of the VILLAGE's Property shall be at the sole cost of BRADFORD.

BRADFORD may engage only qualified, independent contractors, subcontractors or consultants to assist with any environmental investigation of the VILLAGE's Property (Phase I and/or Phase II) and/or other Work on the VILLAGE's Property; however, no contractual, legal or other relationship will be created between VILLAGE and any such contractor, subcontractor or consultant as a result. The inspection shall not create any obligation on the part of VILLAGE to pay or to see that the payment of any sum is made to any such contractor, subcontractor or consultant.

In the event BRADFORD elects to perform any environmental study (such as a Phase I or Phase II environmental study) with respect to the VILLAGE's Property and/or other Work on the VILLAGE's Property, BRADFORD agrees that:

(i) BRADFORD shall provide VILLAGE with a copy of the proposed scope of work in connection with any such work and any and all modifications thereof, which scope of work shall be subject to the reasonable approval of VILLAGE;

(ii) BRADFORD shall provide VILLAGE with a verbal report of the consultant's site visit and a copy of the test data as soon as it is available;

(iii) BRADFORD shall provide VILLAGE with copies of the report in draft form in order to review it and provide comments before such report is finalized;

(iv) BRADFORD shall provide VILLAGE with a copy of the final reports (Phase I and/or Phase II);

(v) BRADFORD agrees that any reporting or disclosure obligation shall be performed by VILLAGE; and

(vi) BRADFORD shall notify VILLAGE at least two (2) business days prior to such tests, specifying a time and date when such tests will be performed so that VILLAGE's designee(s) may, at its option, be available during the taking of such tests and, at VILLAGE's option and expense, VILLAGE may take split samples of any test borings. Any tests, examinations or inspections of the VILLAGE's Property by BRADFORD and all costs and expenses in connection with such inspection of the VILLAGE's Property (or any part thereof) by BRADFORD shall be at the sole cost of BRADFORD, shall be performed in a manner not to interfere with VILLAGE's or any other person's use of the VILLAGE's Property, and shall not violate any law or regulation of any governmental authority.

To the extent BRADFORD's inspections or tests disclose the presence of any existing contamination on the VILLAGE's Property in violation of applicable law, then upon becoming aware of any hazardous substance, BRADFORD shall immediately cease any further testing and shall notify VILLAGE of the existence of such hazardous substance and provide such reasonable information as VILLAGE may request in connection therewith.

2. The proposed Work shall be located and constructed as agreed by the parties. BRADFORD's Representatives shall at all times conduct the Work in such a manner as to minimize hazards to those using the VILLAGE's Property. As between the VILLAGE and BRADFORD, BRADFORD agrees to assume all health and safety risks associated directly or indirectly with the Work. All signs required for safety purposes shall be furnished by BRADFORD's Representatives. No revisions or additions shall be made to the proposed Work on the VILLAGE's Property without the written permission of the VILLAGE Manager. BRADFORD's Representatives and its contractors and agents shall not interfere with the VILLAGE's operations during the course of the installation, testing or other operations authorized by this Agreement. BRADFORD's Representatives shall take all steps necessary to keep the VILLAGE's Property available for its intended purposes. BRADFORD's Representatives shall schedule the Work on days and times reasonably acceptable to the VILLAGE Manager. BRADFORD's Representatives acknowledge and agree that the VILLAGE may require, at any time, BRADFORD's Representatives to vacate all or part of the VILLAGE's Property. The VILLAGE shall not be held responsible in any way for any losses, damages or expenses suffered by BRADFORD's Representatives in BRADFORD's Representatives' vacating the VILLAGE's Property. The VILLAGE is not responsible for any damage caused by the VILLAGE or otherwise to BRADFORD's Representatives' equipment, property or Work. BRADFORD's Representatives shall bear the sole and entire risk of its property or equipment being located on the VILLAGE's Property.

3. BRADFORD's Representatives shall consult with the local utility companies to determine the existence and location of electrical, gas, water, cable and telephone service on the VILLAGE's Property. BRADFORD's Representatives shall be solely responsible for selecting the location for the ground penetration work provided, however, that any proposed soil borings shall be located and constructed to the satisfaction of the VILLAGE Manager or his duly authorized representatives. BRADFORD shall indemnify and hold the VILLAGE, its officers, Trustees, servants, employees, agents and successors and assigns both in their individual and official capacities (collectively, "VILLAGE Affiliates") harmless from any and all liability that may be incurred by damage or repair to utilities caused by the acts of BRADFORD's Representatives, its employees, servants, subcontractors and agents.

4. BRADFORD's Representatives shall not trim, cut or in any way disturb any trees or shrubbery on the VILLAGE's Property without the written approval of the VILLAGE Manager or his duly authorized representative. BRADFORD's Representatives will not do or permit any act or thing which may impair the value of the VILLAGE's Property or that materially increases the dangers or poses an unreasonable risk of harm to persons on or off the VILLAGE's Property arising from activities thereon, or that constitutes a public or private nuisance or waste to the VILLAGE's Property or any part thereof. BRADFORD's Representatives shall ensure the VILLAGE's

Property is free from all accumulations of waste material or rubbish caused directly or indirectly by the Work. Neither BRADFORD's Representatives nor its contractors shall represent or hold themselves out as employees or agents of the VILLAGE. This Agreement does not create any legal relationship such as a joint venture or partnership between the VILLAGE and BRADFORD's Representatives. In performing the Work hereunder, it is understood that BRADFORD's Representatives are acting as independent contractors and that any workers and any and all employees, agents, and representatives of such workers retained for the Work hereunder shall not be deemed, for any purpose, to be agents, servants, and/or employees of the VILLAGE. The VILLAGE is not undertaking by virtue of this Agreement any responsibility or liability for compliance with any laws, rules or regulations relating to contamination or the depositing, transporting, storage or control of any wastes within the area of the Property; nor shall the VILLAGE undertake any responsibility or liability for the testing, remediation, depositing, transporting, storing or disposing of any hazardous materials whatsoever. The VILLAGE shall not undertake any responsibility or liability for the means or methods used by BRADFORD's Representatives, or any worker in any construction, testing, remediation, depositing, transporting, storing or disposing of any material from the Property. The VILLAGE will not be identified at any time, in any place, document or manifest as the owner, operator or transporter of material, soil, water or liquid taken from Property. Prior to performing Work hereunder, BRADFORD shall provide to the VILLAGE the following information:

- (a) a list and key contacts of all workers that will be used to perform the Work. BRADFORD's Representatives shall immediately notify the VILLAGE of any changes to that list;
- (b) the name, address and telephone numbers and other pertinent information of each person who can be contacted in the event of an emergency situation at or related to the Work;
- (c) identification of equipment and materials to be used or stored on the VILLAGE's Property which must be approved by the VILLAGE Manager;
- (d) list and copies of all required permits; and
- (e) a project schedule.

5. In the course of performing the Work, BRADFORD's Representatives shall not use the VILLAGE's Property for any activities involving the use, generation, treatment, storage or disposal of any hazardous or toxic chemical, material, substance or waste. BRADFORD's Representatives shall not conduct any activity on the VILLAGE's Property or use the VILLAGE's Property in any manner (i) which would cause the VILLAGE's Property to become a hazardous waste treatment, storage or disposal facility, (ii) so as to cause a release or threat of a release of hazardous waste from the VILLAGE's Property, or (iii) so as to cause a discharge of pollutants or effluents into any water source or system.

6. In consideration for the VILLAGE's agreement to permit BRADFORD's Representatives to enter the VILLAGE's Property to perform the Work contemplated by this Agreement, BRADFORD agrees as follows:

A. BRADFORD shall defend, indemnify and hold harmless the VILLAGE and the VILLAGE Affiliates and each of them, from and against any and all civil liabilities, actions, responsibilities, obligations, losses, damages, and claims, and all costs and expenses, including but not limited to attorney's fees and expenses (collectively, "Losses") pursuant to any federal, state and local laws (including the common law), statutes, ordinances, rules, regulations and other requirements relating to or which the VILLAGE and/or the VILLAGE Affiliates may incur from or on account of (either directly or indirectly) the Work performed hereunder, including but not limited to any Losses incurred which are based on tort law, wrongful death, and/or a personal injury claim, suit or action and/or any Losses relating to environmental investigation, cleanup, or abatement, whether asserted or unasserted, direct or indirect, existing or inchoate, known or unknown, having arisen or to arise in the future, and in any manner whatsoever incurred relating to (i) any condition of the VILLAGE's Property (including the groundwater there under) or the existence of Hazardous Substances (herein defined as that term is defined in 42 U.S.C. §9601(14), Hazardous Waste (herein defined as that term is defined in 42 U.S.C. §9603(5)) or Petroleum (herein defined as that term is defined in 42 U.S.C. §6991(8)), on or emanating from the VILLAGE's Property (including the groundwater there under); (ii) the violation or claimed violation on the VILLAGE's Property (including the groundwater there under) of any environmental law or regulation (including civil penalties sought to be imposed by governmental

authorities for such violations); (iii) any condition of any property (including groundwater) or surface water alleged to have been caused by the migration, transportation, release (as defined by 42 U.S.C. §9601(22)) or threatened release (as defined by 42 U.S.C. §9601 (22)) of Hazardous Substances, Hazardous Waste, or Petroleum on or from the VILLAGE's Property (including the groundwater there under); and the imposition of any lien for the recovery of any costs related to the migration, release, or threatened release of Hazardous Substances, Hazardous Waste, or Petroleum (or allegations of the same) on or from the VILLAGE's Property (including the groundwater there under).

B. BRADFORD hereby agrees to release, waive, covenant not to sue and forever discharge the VILLAGE and the VILLAGE Affiliates, and each of them, for any claim, suit, or action, whether or not well founded in fact or in law, which BRADFORD's Representatives, their contractors, agents or employees have, or may have, arising out of any evaluation, examination, testing, sampling or environmental appraisal or the Work conducted by BRADFORD's Representatives, their contractors, agents or employees at or on the VILLAGE's Property. Notwithstanding any other provision of this Agreement, as between the VILLAGE and the VILLAGE Affiliates on one hand, and BRADFORD on the other hand, under no circumstances shall the VILLAGE and the VILLAGE Affiliates be liable for Losses arising from any condition on the VILLAGE's Property or Hazardous Substances, Hazardous Waste, or Petroleum emanating from or contained in the VILLAGE's Property (including the groundwater there under), and the duty to defend, hold harmless and indemnify under this Paragraph 6 shall apply to all such Losses.

C. BRADFORD shall assume the expense of defending all suits, administrative proceedings and disputes of any description with all persons, entities, political subdivisions or government agencies arising out of the matters to be indemnified under this Agreement. In the event that the VILLAGE or any of the VILLAGE Affiliates is/are named as a defendant(s) in any lawsuit arising out of the matters to be indemnified under this Agreement, the VILLAGE and/or any of the VILLAGE Affiliates shall have the right to choose the attorney(s) who represent(s) them in said lawsuit, and the costs, expenses and fees associated with said attorney(s) in relation to said lawsuit shall be paid by BRADFORD pursuant to the indemnification provisions herein.

D. The VILLAGE agrees to cooperate with BRADFORD's Representatives with respect to providing BRADFORD's Representatives reasonable access to complete the site investigation on the Property. Any and all actual out-of-pocket costs incurred by the VILLAGE in order to provide the foregoing cooperation shall be reimbursed to the VILLAGE within thirty (30) days of written notice of same and submission of sufficient evidence of such actual expenses from the VILLAGE.

E. BRADFORD shall also indemnify the VILLAGE for any costs, including reasonable attorney's fees, which the VILLAGE may incur in enforcing the provisions of this Agreement.

7. BRADFORD shall cause BRADFORD's Representatives to immediately deliver to the VILLAGE any and all records, documents (including writings, drawings, graphs, charts, photographs, phono records, and other data compilations from which information can be obtained, translated, if necessary, through detection devices into reasonably usable form), or reports of any kind (including all written, printed, recorded or graphic matter however produced or reproduced and all copies, drafts and versions thereof not identical in each respect to the original) which relate or refer to the environmental matters and/or conditions associated either directly or indirectly with the VILLAGE's Property, including but not limited to written reports of a site assessment, environmental audits, soil test reports, water test reports, laboratory analysis and documents, reports or writings relating or referring to the Work.

8. BRADFORD's Representatives and their agents, contractors, subcontractors and employees shall perform the Work in a workmen-like manner, and shall conduct all Work at the VILLAGE's Property in accordance with all applicable federal, state and local regulations, including without limitation Illinois Environmental Protection Agency and federal regulations applicable to soil borings and groundwater monitoring wells and all health and safety requirements. BRADFORD's Representatives and their agents, contractors, subcontractors and employees shall take all reasonable precautions to minimize damage to the VILLAGE's Property from the installation of any equipment and the Work on the VILLAGE's Property and shall restore the VILLAGE's Property to its original condition within twenty (20) days after completion of the Work or the termination of this Agreement. The restoration of the VILLAGE's Property must be to the VILLAGE Manager's reasonable satisfaction. In the event any equipment installed on the Property by the Authorized Parties is not timely removed by the end of the Term, the

VILLAGE will have the right to remove such equipment and BRADFORD agrees to be responsible for the reasonable costs of such removal.

9. BRADFORD shall be solely responsible for the testing, storage, treatment and disposal of all material removed from the soil borings, groundwater monitoring wells and/or which result from the Work, and BRADFORD shall indemnify and hold the VILLAGE and the VILLAGE Affiliates, their officers, employees and agents harmless from and against any and all costs and liabilities and Losses relating to such materials. The VILLAGE will not be identified at any time, in any place, document, record or manifest as the owner, generator or transporter of materials or soil taken from the VILLAGE's Property as a result of the Work.

10. BRADFORD agrees to obtain and furnish at its own expense insurance policies that are acceptable to the VILLAGE, protecting the VILLAGE and the VILLAGE Affiliates from any and all damages, claims and losses on a primary and noncontributory basis. BRADFORD's Representatives further agrees to cause Contractual Liability Endorsements to be issued by the insurance companies (and attached to the policies of insurance) to include under the coverage therein extended an obligation on the part of the insurers to insure against BRADFORD's Representative's liability hereunder and to identify the VILLAGE and the VILLAGE Affiliates against Losses, liability, costs, expenses, attorney's fees and court costs. Contractual Liability Endorsements to the policies shall include as named co-insured's the VILLAGE and the VILLAGE Affiliates. In addition, Certificates of Insurance adding the VILLAGE and the VILLAGE Affiliates as Additional Insured's on BRADFORD's Comprehensive General Liability Policy, Pollution Liability, Worker's Compensation, Auto Liability and Professional Errors and Omissions coverages shall be submitted to the VILLAGE. All such contracts of insurance shall provide for thirty (30) days advance notice to the VILLAGE of cancellation thereof. The Certificate of Insurance and policies and endorsements required hereunder shall be submitted to and approved by the VILLAGE before Work is permitted to be started.

11. This Agreement shall not be assigned by any party hereto.

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

13. In the event any term or provision of this Agreement shall be held illegal, invalid, unenforceable or inoperative as a matter of law, the remaining terms and provisions of this Agreement shall not be affected thereby, but each such term and provision shall be valid and shall remain in full force and effect.

14. This Agreement embodies the entire agreement between the parties hereto and supersedes any and all prior agreements and understandings, whether written or oral, and whether formal or informal. In addition, this Agreement embodies and merges the entire understanding between and among the parties hereto, and any and all prior correspondence, conversations, or memoranda relating the subject matter stated herein are being merged herein and replaced hereby. No change hereto shall be effective without the written consent and authorization of all of the parties hereto.

15. Notwithstanding anything to the contrary contained in this Agreement, the terms, provisions, conditions and indemnifications of this Agreement shall survive the termination of this Agreement.

16. This Agreement shall be governed by the laws of the State of Illinois. The provisions of this Agreement shall be enforceable in any action in law or in chancery. The parties hereto agree that any legal action to enforce any right or obligation contained in or arising out of this Agreement shall be brought in the Circuit Court of Cook County, Illinois.

17. In construing this Agreement and/or determining the rights of the parties hereunder, no party shall be deemed to have drafted or created this Agreement, or any portion thereof but BRADFORD acknowledges that it has requested this Agreement and shall fully comply with all of its terms.

18. All notices must be in writing and are effective five (5) days following deposit in the U.S. mail, certified and postage prepaid, or when sent via overnight delivery. Notices are to be sent to:



For the VILLAGE:

Village Manager  
Village of Orland Park  
14700 S. Ravinia Avenue  
Orland Park, Illinois 60462

with a copy to: E. Kenneth Friker, Esq. and  
Dennis G. Walsh, Esq.  
Klein, Thorpe & Jenkins, Ltd.  
15010 S. Ravinia – Suite 10  
Orland Park, Illinois 60462

For BRADFORD:

19. The VILLAGE does not waive or release any claims it has or may have in the future against BRADFORD. The failure of any party to this Agreement to enforce the provisions of this Agreement or require performance by another party under any of the Agreement provisions, shall not be construed as a waiver of such provision(s) or affect the right of the party to thereafter enforce the provisions of this Agreement. Waiver of any breach of this Agreement shall not be held to be a waiver of any other or subsequent breach of this Agreement.

20. The term ("Term") hereof shall be up to one hundred eighty (180) days from full execution of this Agreement and shall be revocable by either party at any time.

21. The executing representatives of the parties to this Agreement represent and certify that they are fully authorized to enter into the terms and conditions of this Agreement and to execute and legally bind that party to it.

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

VILLAGE OF ORLAND PARK,  
an Illinois municipal corporation

BRADFORD ORLAND PARK 4 LLC,  
an Illinois limited liability company

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

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

Name: \_\_\_\_\_

Name: \_\_\_\_\_

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

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

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

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

Contact Phone#: \_\_\_\_\_

Contact Phone#: \_\_\_\_\_