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2016K065713
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RECORDED: 11/29/2016 02:09 PM
REC FEE: 64.00
PAGES: 21

**AMENDMENT TO THE
REDEVELOPMENT AGREEMENT
BETWEEN
THE VILLAGE OF CARPENTERSVILLE
and
THE SPRING HILL CENTER FOR COMMERCE & INDUSTRY
PROPERTY OWNERS ASSOCIATION**

VILLAGE OF CARPENTERSVILLE
1200 WEST BESINGER DRIVE
CARPENTERSVILLE, IL 60110

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AMENDMENT TO A REDEVELOPMENT AGREEMENT

THIS AMENDMENT ("*Amendment*") dated this 20th day of September 2016 is to a REDEVELOPMENT AGREEMENT, dated May 3, 1995 ("*RDA*"), which is by and between the VILLAGE OF CARPENTERSVILLE, Kane County, Illinois, an Illinois municipal corporation and home rule unit of local government ("*Village*"), and the SPRING HILL CENTER FOR COMMERCE & INDUSTRY PROPERTY OWNERS ASSOCIATION ("*Developer*"), an Illinois not-for-profit corporation, as successor in interest to THE SPRING HILL CENTER FOR COMMERCE & INDUSTRY, LLC ("*LLC*").

RECITALS

WHEREAS, on May 2, 1995, the Village adopted the TIF Approval Ordinances approving the Redevelopment Plan and Project ("*Redevelopment Plan*"), designating the Spring Hill Center for Commerce and Industry Redevelopment Area as Carpentersville Tax Increment Financing District #1 ("*TIF District*"), and adopting tax increment financing for the TIF district; and

WHEREAS, the Village and the LLC entered into the RDA in order to develop an industrial park within the TIF District; and

WHEREAS, pursuant to an assignment agreement dated January 19, 2016, which was approved by the Corporate Authorities pursuant to Resolution No. 16-03, the LLC transferred and assigned all of its rights, interests, and obligations under the RDA to the Developer, and the Developer has accepted the assignment and transfer of such rights, interests, and obligations; and

WHEREAS, the Developer currently owns a dilapidated wood monument sign located at the northeast corner of Route 31 and Commerce Parkway, within the TIF District; and

WHEREAS, the Developer has requested that the Village provide financial assistance to facilitate the design and construction of a new freestanding monument sign with an integral electronic changeable copy sign ("*Combined Sign*") to replace the existing dilapidated wood sign ("*Project*"); and

WHEREAS, on January 21, 2016, the Corporate Authorities approved the Zoning Approval Ordinance to permit the Developer to construct the Combined Sign; and

WHEREAS, the Village is authorized under the IJRL to finance Redevelopment Project Costs in accordance with the conditions and requirements of the IJRL and the Redevelopment Plan; and

WHEREAS, the Project qualifies as a Redevelopment Project Cost eligible for TIF funds under the IJRL and the Redevelopment Plan; and

WHEREAS, to stimulate and induce the construction of the Project on the Property, the Village has agreed to reimburse the Developer in an amount not to exceed \$69,000 for the cost of the Project, in the manner provided in this Amendment; and

WHEREAS, the Corporate Authorities, after due and careful consideration, have concluded that the completion of the Project by the Applicant and the provision by the Village of the Reimbursement Amount described herein, pursuant to this Amendment, will be in furtherance of the Redevelopment Plan and will increase employment opportunities, improve the environment of the Village, increase the assessed valuation of the real estate situated within the Village, increase the tax revenues realized by the Village and the various taxing districts authorized to levy taxes within the TIF District, foster increased

economic activity within the Village, and otherwise be in the best interests of the Village and the health, safety, morals and welfare of its residents and taxpayers.

NOW THEREFORE, in consideration of the foregoing recitals, the mutual covenants and promises as contained in this Amendment and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

ARTICLE I INCORPORATION OF RECITALS

The foregoing recitals are material to this Amendment and are incorporated into and made a part of this Amendment as though they were fully set forth in this Article I.

ARTICLE II MUTUAL ASSISTANCE

The Village and the Developer (hereinafter each a "*Party*", and collectively, the "*Parties*") agree to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications (and in the Village's case, the adoption of such ordinances or resolutions), as may be necessary or appropriate, from time to time, to carry out the terms, provisions and intent of this Amendment to the RDA and to aid and assist each other in carrying out said terms, provisions and intent.

ARTICLE III REDEVELOPMENT PROJECT

Section 301. Redevelopment Project.

(a) The Developer will cause to be prepared final installation plans ("*Project Plans*") for the Project, and in a timely manner will apply for the approvals and permits from the Village required to initiate installation of the Project in accordance with the Requirements of Law.

(b) The Developer agrees and covenants that the Project will consist of the design and construction of the Combined Sign as provided in the Project Plans, and will comply with the requirements of this Amendment, except for minor changes and site work approved by the Village Director of Community Development and Village Engineer (for matters within their respective permitting authorities) in accordance with all applicable Village standards.

(c) The Developer agrees to provide to the Village a copy of the competitive quotations for the project prior to the Developer signing any contracts for construction of the Project, including the technical specifications it has obtained for the supplier of the integral electronic changeable copy sign portion of the Combined Sign.

(d) The Village will have no obligation to issue any permit or approval for the Project unless and until the Developer has satisfied all applicable Village Code requirements for the Project.

(e) All work on the Property will be subject to inspection and approval by Village representatives at all times.

(f) The Developer will maintain the site of the Project and all streets, sidewalks, and other public property in and adjacent to the Project in a good and clean condition at all times during of the Project. Further, the Developer will: (1) regularly clean all mud, dirt, or debris deposited on any street, sidewalk, or other public property in or adjacent to the site of the Project by the Developer or any agent of

or contractor hired by, or on behalf of, the Developer; and (2) repair any damage that may be caused by the activities of the Developer or any agent of or contractor hired by, or on behalf of, the Developer.

(g) The Developer shall carry out the Project in conformity with the Requirements of Law.

(h) The Developer shall proceed with commercially reasonable diligence to complete construction of the Project on or before the expiration of the TIF District.

Section 302. Force Majeure. If either Party is delayed or hindered in or prevented from the performance of any act required hereunder because of strikes, lockouts, inability to procure labor or materials, failure of power, restrictive laws, riots, insurrection, war, fire, inclement weather or other casualty or other reason of a similar or dissimilar nature beyond the reasonable control of the Parties, financial inability excepted (each, a "*Force Majeure Event*"), performance of such act will be excused for the period of delay caused by the Force Majeure Event, subject to Section 302(h) of this Amendment.

Section 303. Environmental Remediation Delays. Time is of the essence of this Amendment; however, the completion date for the Project may be extended in the event that environmental conditions on the Site are discovered that require significant remediation activities prior to further construction and/or development activities taking place, and the Developer vigorously pursues such remediation. In the event of the discovery of such conditions, the Developer shall, within two weeks of said discovery, inform the Village of the discovery and of the anticipated delay associated with remediation of such conditions. Extensions will be granted by Village staff as necessary, subject to Section 301(h) of this Amendment.

ARTICLE IV REIMBURSEMENT FOR PROJECT COSTS

Section 401. Reimbursement of the Owner for Project Costs. The Parties acknowledge that the Developer will pay, or has paid, for some or all of the costs necessary to construct and complete the Project in accordance with the Project Plans and this Amendment ("*Project Costs*"). The Corporate Authorities hereby agree to reimburse the Developer for a portion of the Project Costs ("*Reimbursement Amount*") and to pay the Developer the Reimbursement Amount in accordance with the terms and provisions set forth in this Article IV and such other terms as may be mutually agreed to by the Parties.

Section 402. Terms of Payment and Limit of Reimbursement Amount. The Reimbursement Amount shall consist of a reimbursement to the Developer of an amount not to exceed \$69,000, which shall be allocated solely to reimburse the Developer for documented Redevelopment Project Costs for the design and construction of the Combined Sign, including professional service costs incurred by the Developer for services performed in connection with the Project, but which shall not include landscaping or administrative costs.

Section 403. Submission of Certification Requests.

(a) The Parties agree and acknowledge that only expenditures that qualify as Redevelopment Project Costs are to be reimbursed pursuant to Article IV of this Amendment.

(b) To establish a right of reimbursement for the Reimbursement Amount, the Developer shall submit to the Director of Community Development a written request for reimbursement in a form agreeable to the Developer and the Director of Community Development or his designee ("*Request for Reimbursement*"). Each Reimbursement Request will include all of the Project Costs for which the Developer seeks reimbursement from the Village. The Developer may not submit more than three Reimbursement Requests, and no Reimbursement Request may be submitted more than six months after

the last Project Costs have been paid by the Developer. Each Reimbursement Request must be accompanied by: (i) sworn statements and lien waivers for any material, fixtures, apparatus, machinery, services, or labor provided by any contractor, subcontractor, or other person or entity entitled to file a lien under the Mechanics Lien Act, 770 ILCS 60/1, included in the Project Costs for which reimbursement is sought; (ii) bills, contracts, and invoices relative to the Project Costs; and (iii) other documents or information that the Village may reasonably require to evidence appropriate payment of Project Costs. To facilitate the certification of Project Costs as provided herein, the Developer will: (i) require its contractors, suppliers, and others with whom it enters into contracts for Project Costs to submit pay requests, invoices, and bills that include only amounts that are Redevelopment Project Costs; and (ii) take such other actions as are reasonably necessary or desirable to identify Redevelopment Project Costs separately from other costs. If the Developer does not fulfill its obligations as set forth in this Section 403(b), the Village will have no obligation to certify or reimburse the Developer for Redevelopment Project Costs that have not been separately identified as required herein.

Section 404. Eligibility for Payment. Notwithstanding any other provision of this Amendment, the Developer will be entitled to be reimbursed for Project Costs only if:

- (a) The Developer actually incurs such Project Costs;
- (b) Such Project Costs are also Redevelopment Project Costs as defined in the IJRL;
- (c) Such Project Costs are certified as provided in Section 403 of this Amendment and approved as provided in Section 405 of this Amendment;
- (d) The Village Director of Community Development has determined that, based upon an inspection, the Project has been completed in accordance with the Project Plans and this Amendment, and has provided the Developer with written acceptance of the Project; and
- (e) The Developer is not in default or breach of any obligation under this Agreement which constitutes an Event of Default.

Section 405. Review of Certification Requests. The Village shall have 60 days after receipt of the Reimbursement Requests from the Developer to approve or disapprove that the items submitted in the Reimbursement Request. If the Request for Reimbursement is disapproved, the Director of Community Development or his designee must provide the Developer in writing and in detail with an explanation as to why the expenditures by the Developer to complete the Project were not properly documented.

Section 406. Prevailing Wage. Developer must comply with the requirements of the Illinois Prevailing Wage Act (820 ILCS 130/0.01 *et seq.*), as they may be applicable to the performance and completion of the Project.

ARTICLE V SPECIAL COVENANTS OF THE DEVELOPER

Section 501. Compliance with Laws. The Developer represents and warrants to the Village, both as of the date of execution and delivery of this Amendment and for the Term of the Amendment, as follows:

- (a) The Developer represents and warrants that the Project shall be constructed and fully completed in a good and workmanlike manner in accordance with all applicable federal, state and county laws and regulations and the Village codes, ordinances and regulations, including but not limited to the Village of Carpentersville Zoning Code, and other regulations, including but not limited to the building, electric, and fire codes that are applicable to the Project.

- (b) The Developer further certifies that:
- (i) It is not barred from contracting with any unit of state or local government as a result of violating Section 33E-3 or 33E-4 of the Illinois Criminal Code (720 ILCS 5/33E-3 and 33E-4).
 - (ii) It shall comply with the Illinois Drug Free Work Place Act (30 ILCS 580/1 et seq.).
 - (iii) It shall comply with the Equal Opportunity Clause of the Illinois Human Rights Act and the Rules and Regulations of the Illinois Department of Human Rights (775 ILCS 5/1 et seq.).
 - (iv) It shall comply with the Americans with Disabilities Act (45 U.S. Code § 1201) and Article 2 of the Illinois Human Rights Act (775 ILCS 5/2-101 et seq.).
 - (v) Any construction contracts entered into by the Developer relating to the construction of the Project shall require all contractors and subcontractors to comply with the Illinois Fair Employment Practices Act.
 - (vi) It is not delinquent in the payment of any tax administered by the Illinois Department of Revenue nor is delinquent in the payment of any money owed to the Village.
 - (vii) It shall comply with all applicable federal laws, state laws and regulations including without limitation, such laws and regulations relating to minimum wages to be paid to employees, limitations upon the employment of minors, minimum fair wage standards for minors, payment of wages due employees, and health and safety of employees. The Developer agrees to pay its employees, if any, all rightful salaries, medical benefits, pensions and social security benefits pursuant to applicable labor amendments and federal and state statutes, and further agrees to make all required withholdings and deposits therefore. The Developer agrees to maintain full compliance with changing government requirements that govern or apply to the construction of the Project. The Developer understands and agrees that the most recent of such federal, county, state, and local laws and regulations will govern the administration of this Amendment at any particular time. Likewise, new federal, county, state and local laws, regulations, policies and administrative practices may be established after the date of the Amendment has been executed and may apply to this Amendment and the Project. Any lawsuit or complaint of violation of laws that is received by the Developer relative to this Amendment or the Project shall be immediately forwarded to the Director of Community Development.
 - (viii) It shall be in compliance with the Village's property maintenance regulations. Further, Developer shall remedy any code violations prior to any payment of the incentive to Developer.

ARTICLE VI SIGN OPERATION

Section 601. Village Allowed To Post Community Electronic Messages. The Village shall be allowed to post messages on the electronic changeable copy portion ("*Digital Element*") of the Combined Sign, according to the following parameters:

(a) The Village's Director of Information Technology, or his designee ("*IT Director*"), shall be provided with either: (1) a log-in to a web-based program that will provide access to the manager of the Digital Element hired by the Developer, or its successor ("*Sign Manager*"); or (2) a log-in to access the Digital Element directly, in order to allow for the web-based administration of the sign as needed by the Village as described in Sections 601(b) and 601(c) of this Amendment ("*Digital Element Access*").

(b) The Village shall be permitted to display public service alerts for such events, including but not limited to, AMBER Alerts, tornado warnings, and flash flood warnings ("*Emergency Notifications*"). The Village shall be permitted to display Emergency Notifications at any time of day, all days of the year, using the Digital Element Access. Emergency Notifications will override the normal scheduled sign copy and will remain displayed on the Digital Element until the IT Director sends a message to stop the Emergency Notification at which time the normal scheduled sign copy will resume. At no cost to the Village, the Sign Manager shall make available for Village use, stock alerts for the Emergency Notifications such as tornado warnings, flash flood warnings, and hazardous driving conditions. AMBER Alerts are specific to the missing child and will be programmed by the IT Director or QuadCom 911, the Village's joint emergency dispatch agency, under the supervision of the IT Director. Emergency Notifications will be unlimited, and displayed at no charge to the Village.

(c) Except for Emergency Notifications, other messages from the Village will be prepared by the IT Director and uploaded directly to the Digital Element with no assistance from the Sign Manager. However, if the Village requires assistance from the Sign Manager to prepare a message, the Village must send directions to the Sign Manager five business days prior to the first day the message will be displayed, or a schedule agreed to by the Parties, in order to give the Sign Manager time to create the content and post the message. Messages displayed by the Village will be at no charge to the Village.

(d) The messages described in Section 601(c) of this Amendment will be repeated on a regular cycle throughout the day until they are altered, replaced or deleted by the Village.

(e) The placing of any Village messages will generally reflect the provisions listed in the Village Electronic Communication and Social Media Policy.

Section 602. Operation of the Digital Element of the Combined Sign.

(a) The Digital Element shall display static messages only, with no animation, no effects simulating animation, and no video. The messages shall not dissolve, fade, scroll, travel, flash, spin, revolve, shake or include any other type of movement or motion. The interval (the amount of time in between the event) of change of any such static messages shall be no less than 15 seconds, i.e., each message displayed shall be displayed for a minimum period of 15 seconds.

(b) The Digital Element shall be equipped with photosensitive equipment that is programmed to automatically adjust the brightness and contrast of the sign in direct relation to the ambient outdoor illumination. Maximum brightness levels for the electronic changeable copy sign shall not exceed 5,000 nits when measured from the sign's face at its maximum brightness, during daylight hours, and 500 nits when measured from the sign's face at its maximum brightness between dusk and dawn, i.e., the time of day between sunrise and sunset.

(c) The Digital Element shall be programmed or set in a manner such that the display will turn dark and emit no light in case of a malfunction.

(d) The private use of the Digital Element shall be limited to the marketing of vacant sites and current businesses located within the RPA, or, from and after January 1, 2019, the marketing of vacant sites and current businesses located within the contiguous Old Town Redevelopment Project Area.

(e) The Developer will provide the material for the marketing of vacant sites and current businesses located within the RPA, and the Village will provide the material for the marketing of vacant sites and current businesses in the contiguous Old Town Redevelopment Project Area.

(f) The Village will be granted administrative rights to the electronic changeable copy sign in order to remove content that violates this Amendment or community standards.

Section 603. Freestanding Sign Land Use Requirement. The Combined Sign must be constructed and operated in accordance with the terms and conditions of the Zoning Approval Ordinance.

Section 604. Village Has The Right Of Access To Electronic Changeable Copy Sign for Maintenance Purposes. As necessary to allow for the proper operation and maintenance of the Digital Element of the Combined Sign, the Village shall have the right, but not the obligation, to enter the Developer's property to maintain or repair the Digital Element, pursuant to the rights to be granted to the Village as part of this Amendment. Reasonable notice will be given to the Developer by the Village prior to the entry by any Village employee or contractor upon the property where the Digital Element is located to perform any maintenance or repair of the Digital Element.

Section 605. Insurance.

(a) The Developer, and any successor in interest to same, shall obtain or cause to be obtained and continuously maintained when required during the term of this Amendment, insurance as set forth below. The Developer shall provide a copy of all policies to the Village with proof that the premiums for such insurance have been paid and the insurance is in effect. The insurance coverage described below is the minimum insurance coverage that the Developer must obtain and continuously maintain prior to and during the construction of the Project, the Developer shall obtain (or cause its contractor to obtain) and continuously maintain the following:

(i) Workers' compensation insurance within statutory limits;

(ii) Commercial general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations and contractual liability insurance) together with limits against bodily injury and property damage of not less than \$1,000,000 for each occurrence (to accomplish the above-required limits, an umbrella excess liability policy may be used), written on an occurrence basis. The Village shall be named as an "additional insured" with respect to such policy and protected in accordance with a clause in form and content satisfactory to the Village. Developer's Policy shall be primary and non-contributory.

(b) After completion of construction of the Project and for so long as the Developer owns the electronic sign, the Developer shall obtain and continuously maintain the following: (i) fire insurance and extended coverage on a replacement basis for 100% of the insurable value, minus a reasonable deductible, of the Project at the date of completion, and (ii) commercial general liability insurance meeting the requirements of Section 605(a)(ii) above.

(c) All insurance required pursuant to this Section 605 shall be obtained and continuously maintained in responsible insurance companies selected by the Developer or its successors that are authorized under the laws of the State of Illinois to assume the risks covered by such policies. Unless

otherwise provided in this Article, each policy must contain a provision that the insurer will not cancel nor modify the policy without giving written notice to the insured and the Village at least 30 days before the cancellation or modification becomes effective. Not less than fifteen 15 days prior to the expiration of any policy, the Developer, or its successor or assign, must renew the existing policy or replace the policy with another policy conforming to the provisions of this Article. In lieu of separate policies, the Developer or its successor or assign, may maintain a single policy, blanket or umbrella policies, or a combination thereof, having the coverage required herein.

(d) In the event of damage or destruction to the Project by fire or other casualty during installation or thereafter, any insurance proceeds received from such loss (after deducting any expenses incurred in collection thereof) shall be applied to the restoration, reconstruction and repair of the Project to at least the value and substantially the same character as prior to the damage or destruction.

Section 606. Assignment. The assignment of the Developer's rights and duties to others under this Amendment shall be in accordance with Section 8.4 of the RDA.

Section 607. Payment of Taxes and Fees. The Developer agrees to promptly pay or cause to be paid as the same become due, any and all fees, rent, taxes and governmental charges of any kind that may at any time be lawfully assessed with respect to the Project or required under this Amendment. The Developer certifies that it is not delinquent in the payment of any tax administered by the Illinois Department of Revenue or any tax or fee administered by the Village. The Developer further certifies that it does not owe the Village any money prior to the execution of this Amendment nor knows of any proposed additional tax or assessment against it by any governmental authority that would be reasonably likely to have a material adverse effect on the business, condition (financial or otherwise) or operations of the Developer.

Section 608. Environmental Matters. The Developer shall not dispose of or release any hazardous substance, material, contaminant, or pollutant, as defined by any federal or state environmental laws, in, under, on or adjacent to the Project. The Developer, at its costs, shall remediate any hazardous substance, contaminant or pollution or other dangerous environmental condition that it (or its employees, agents or contractors) creates or causes with respect to the Project in accordance with all federal, state, county and local applicable laws and regulations. The Developer shall indemnify and hold the Village and its elected or appointed officers and officials, trustees, agents, volunteers, representatives and/or employees harmless against any claim, suit, loss, liability or damage, including, attorneys' fees and expenses incurred by the Village and/or its elected or appointed officers and officials, trustees, agents, volunteers, representatives and/or employees in defending itself or complying with applicable laws and regulations, arising out of or relating to the disposal or release of any hazardous substance, material, contaminant, or pollutant during performance of the Project in, under, on or about the Project by the Developer.

ARTICLE VII REPRESENTATIONS AND WARRANTIES

Section 701. Developer Representations, Covenants, and Warranties. The Developer, and the person executing this Amendment on behalf of the Developer, represent, warrant, and covenant, as of the date of this Amendment, that:

(a) the Developer is an Illinois not-for-profit corporation duly organized and validly existing qualified to do business in Illinois;

(b) the Developer has the right, power, and authority to enter into, execute, deliver and perform this Agreement, and the Developer is in compliance with all Requirements of Law, the failure to

comply with which could affect the ability of the Developer to perform its obligations under this Amendment;

(c) the execution, delivery and performance by the Developer of this Amendment has been duly authorized by all necessary corporate action, and does not and will not violate its organizational documents, as amended and supplemented, any of the applicable Requirements of Law, or constitute a breach of or default under, or require any consent under, any agreement, instrument, or document to which the Developer is now a party or by which the Developer is now or may become bound;

(d) there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened, or affecting the Developer which would impair its ability to perform under this Amendment;

(e) the Developer, to the extent it elects to proceed with the Project, will apply for or cause to be applied for, and upon receipt, thereafter, use good faith diligent efforts to maintain or caused to be maintained, all government permits, certificates, and consents (including, without limitation, appropriate environmental approvals) necessary to conduct its business and to perform and complete the Project as required by this Amendment; and

(f) the Developer has access to sufficient financial and economic resources to implement and complete its obligations under this Amendment. The Developer has no knowledge of any liabilities, contingent or otherwise, of Developer which might have a material adverse effect upon its ability to perform its obligations under this Amendment.

Section 702. Village Representations, Covenants, and Warranties. The Village represents, warrants and agrees as the basis for the undertakings on its part contained in this Amendment that:

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

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

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

ARTICLE VIII LIABILITY AND INDEMNITY OF THE VILLAGE

Section 801. Indemnification of Village. The Developer and its successors and assigns shall defend, indemnify and hold harmless the Village and its elected or appointed officers and officials, trustees, agents, volunteers, representatives and/or employees, 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 its elected or appointed officers and officials, trustees, agents, volunteers, representatives and/or employees may incur from or on account of Developer's construction of the Project, 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 un-asserted, direct or indirect, existing or inchoate, known or unknown, having arisen or to arise in the future, and in any manner whatsoever incurred by reason of Developer's or worker's activities on the Project. It is expressly understood, agreed upon and the specific intent of this Amendment that the Village and its elected or appointed officers and officials, trustees, agents, volunteers, representatives and/or employees will at no time assume responsibility or liability for the actions of Developer or any of the workers or other persons completing the Project. As between the Village and its elected or appointed officers and officials, trustees, agents, volunteers, representatives and/or employees and Developer, Developer shall at all times be held solely responsible to all persons working on the Project. The Developer and its successors and assigns hereby agree to release, waive, covenant not to sue and forever discharge the Village and its elected or appointed officers and officials, trustees, agents, volunteers, representatives and/or employees, for any claim, suit or action, whether or not well founded in fact or in law, which Developer and the workers have, or may have, arising out of the Project.

Section 802. Defense Expense. The Developer will, and does hereby agree to, pay all expenses, including legal fees and administrative expenses, incurred by the Village in defending itself with regard to any of the claims referenced in Section 801 of this Amendment.

Section 803. Village Review. The Developer acknowledges and agrees that the Village is not, and will not be, in any way liable for any damages or injuries that may be sustained as the result of the Village's review and approval of the Project, any other plans related to the Project, or the issuance of any approvals, permits, certificates, or acceptances, for the Project, and that the Village's review and approval of any such plans and the Project and issuance of any such approvals, permits, certificates, or acceptances does not, and will not, in any way, be deemed to insure the Developer, or any of its heirs, successors, assigns, tenants, and licensees, or any third party, against damage or injury of any kind at any time.

Section 804. Village Procedure. The Developer acknowledges and agrees that all notices, meetings, and hearings have been properly given and held by the Village with respect to the approval of this Amendment, the Zoning Approval Ordinance, and the TIF Ordinances and agrees not to challenge such approval on the grounds of any procedural infirmity or of any denial of any procedural right.

Section 805. No Individual or Personal Liability. Notwithstanding any other statement in this Amendment, the Parties agree that the representations made by the Village in this Amendment and incentives offered in this Article IV are made on behalf of the Village, and the Corporate Authorities are not making such representations personally, are not parties to this Amendment, and shall incur no personal liability in conjunction with this Amendment.

Section 806. Enforcement. The parties to this Amendment may, in law or in equity, by suit, action, mandamus or any other proceeding, including without limitation, specific performance, enforce or compel the performance of this Amendment: provided, however, that the Developer agrees that it will not seek, and does not have the right to seek, to recover a judgment for monetary damages against the Village or any elected or appointed officials, officers, employees, agents, representatives, engineers, or attorneys thereof, on account of the negotiation, execution, or breach of any of the terms and conditions of this Amendment. In addition to every other remedy permitted by law for the enforcement of the terms of this Amendment, the Village will be entitled to withhold the issuance of permits for any part of the Project at any time when the Developer has failed or refused to meet fully any of its obligations under this Amendment after notice and an opportunity to cure. In the event of a judicial proceeding brought by one party to this Amendment against the other party to this Amendment, the prevailing party in such judicial

proceeding will be entitled to reimbursement from the unsuccessful party of all costs and expenses, including reasonable attorneys' fees, incurred in connection with such judicial proceeding.

Section 807. Default.

(a) **Section 8.2 of RDA Repealed.** Section 8.2, titled "Breach," of the RDA is hereby repealed.

(b) **Events of Default by the Developer.** The following will be Events of Default with respect to the RDA and this Amendment:

1. If any representation made by the Developer in the RDA or this Amendment, or in any certificate, notice, demand or request made by the Developer, in writing and delivered to the Village pursuant to or in connection with any of said documents, proves to be untrue or incorrect in any material respect as of the date made; provided, however, that such default will constitute an Event of Default only if the Developer does not remedy the default, within 15 days after written notice from the Village.

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

3. Default by the Developer for a period of 15 days after written notice thereof in the performance or breach of any covenant, warranty or obligation contained in the RDA or this Amendment; provided, however, that such default will not constitute an Event of Default if such default cannot be cured within said 15 days and the Developer, within said 15 days initiates and diligently pursues appropriate measures to remedy the default and in any event cures such default within 60 days after such notice.

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

5. The commencement by the Developer of a voluntary case under the federal bankruptcy laws, as now or hereafter constituted, or any other applicable federal or state bankruptcy, insolvency or other similar law, or the consent by the Developer to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or similar official) of the Developer or of any substantial part of the Property, or the making by any such entity of any assignment for the benefit of creditors or the failure of the Developer generally to pay such entity's debts as such debts become due or the taking of action by the Developer in furtherance of any of the foregoing, or a petition is filed in bankruptcy by others.

6. Failure to have funds to meet the Developer's obligations.

7. The Developer abandons the Project. Abandonment will be deemed to have occurred when, after the commencement of the Project, the Project stops for more than 60 days for any reason other than a Force Majeure Event. The failure of the Developer to secure any approvals required for the Project will not be a valid defense to abandonment.

8. The Developer fails to comply with the Requirements of Law in relation to the Project for a period of 30 days after written notice thereof; provided, however, that such failure will not constitute an Event of Default if such failure cannot be cured within said 30 days and the Developer, within said 30 days initiates and diligently pursues appropriate measures to remedy the failure and in any event remedies such failure within 60 days after such notice.

(c) **Events of Default by the Village.** The following will be Events of Default with respect to the RDA and this Amendment:

1. If any material representation made by the Village in the RDA or this Amendment, or in any certificate, notice, demand or request made by a party hereto, in writing and delivered to the Developer pursuant to or in connection with any of said documents, proves to be untrue or incorrect in any material respect as of the date made; provided, however, that such default will constitute an Event of Default only if the Village does not remedy the default, within 15 days after written notice from the Developer.

2. Subject to a Force Majeure Event, default by the Village in the performance or breach of any material covenant contained in the RDA or this Amendment concerning the existence, structure or financial condition of the Village; provided, however, that such default or breach will constitute an Event of Default if the Village does not, within 15 days after written notice from the Developer, initiate and diligently pursue appropriate measures to remedy the default.

3. Default by the Village in the performance or breach of any material covenant, warranty or obligation contained in the RDA or this Amendment; provided, however, that such default will not constitute an Event of Default if the Village, commences cure within 15 days after written notice from the Developer and in any event cures such default within 60 days after such notice, subject to a Force Majeure Event.

(d) **Remedies for Default.** In the case of a Party's Event of Default under the RDA or this Amendment:

1. The defaulting party will, upon written notice from the non-defaulting party, take immediate action to cure or remedy such Event of Default. If, in such case, any monetary Event of Default is not cured, or if in the case of a non-monetary Event of Default, action is not taken or not diligently pursued, or if action is taken and diligently pursued but such Event of Default or breach is not be cured or remedied after the applicable and notice and cure period set forth in the this Amendment (unless extended by mutual Agreement), the non-defaulting party may institute such proceedings as may be necessary or desirable in its opinion to cure or remedy such default or breach, including, but not limited to: (A) proceedings to compel specific performance of the defaulting party's obligations under the RDA and this Amendment; and (B) proceedings to compel repayment by the Developer of all or a portion of the Reimbursement Amount.

2. In the case of an Event of Default by the Developer occurring and continuing after the expiration of any applicable notice and cure period set forth in this Amendment, the Village may, and without prejudice to any other rights and remedies available to the Village, enter the Property, cause the Project to be completed, and charge the Developer for the costs thereof.

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

ARTICLE IX GENERAL PROVISIONS

Section 901. Entire Agreement; Successors and Assigns; Amendments. This Amendment, the RDA, and the Exhibits attached to the RDA and this Amendment contain the entire agreement between the Parties in connection with these transactions, and there are no oral agreements, representations or inducements existing between the parties relating to these transactions which are not expressly set forth in the RDA and this Amendment. The RDA and this Amendment shall be binding upon and inure to the benefit of the parties to the RDA, their respective heirs, legal representatives, administrators, successors, successors in interest and assigns.

Section 902. Governing Law; Interpretation; Partial Invalidity. The RDA and this Amendment shall be governed by the laws of the State of Illinois. The captions, section numbers and article numbers appearing in this Amendment are inserted only as a matter of convenience and do not define, limit, construe or describe the scope or intent of such paragraphs or articles of the RDA nor in any way affect the RDA. The invalidity of any provision of this Amendment or portion of a provision shall not affect the validity of any other provision of the RDA or the remaining portions of the applicable provision of the Amendment.

Section 903. Costs. Any cost and expense incurred by either Party with regard to the preparation of this Amendment shall be borne exclusively by such Party with no right to reimbursement from the other except as provided in this Amendment.

Section 904. Recording. The Parties agree that this Amendment will be recorded by the Village, at its cost, with the Kane County Recorder's Office after execution thereof by the Parties.

Section 905. No Joint Venture. Nothing contained in this Amendment is intended by the Parties to create a joint venture between the Parties. It is understood and agreed that this Amendment does not provide for the joint exercise by the Parties of any activity, function or service, nor does it create a joint enterprise, nor does it constitute either Party being an agent of the other for any purpose.

Section 906. Amendments and Modifications. No amendment or modification to this Amendment will be effective unless and until it is reduced to writing and approved and executed by all parties to this Amendment in accordance with all applicable statutory procedures.

Section 907. Governing Law. This Amendment will be governed by, and enforced in accordance with, the internal laws, but not the conflicts of laws rules, of the State of Illinois.

Section 908. Changes in Laws. Unless otherwise explicitly provided in this Amendment, any reference to any Requirements of Law will be deemed to include any modifications of, or amendments to such Requirements of Law as may, from time to time, hereinafter occur.

Section 909. Non-Waiver. The Village will be under no obligation to exercise any of the rights granted to it in this Amendment. The failure of the Village to exercise at any time any right granted to the Village will not be deemed or construed to be a waiver of that right, nor will the failure void or affect the Village's right to enforce that right or any other right.

Section 910. Severability. It is hereby expressed to be the intent of the parties hereto that should any provision, covenant, agreement, or portion of this Amendment or its application to any person, entity, or property be held invalid by a court of competent jurisdiction, the remaining provisions of this Amendment and the validity, enforceability, and application to any person, entity, or property will not be impaired thereby, but the remaining provisions will be interpreted, applied, and enforced so as to achieve, as near as may be, the purpose and intent of this Amendment to the greatest extent permitted by applicable law.

Section 911. No Third Party Beneficiaries. No claim as a third party beneficiary under this Amendment by any person, firm, or corporation will be made, or be valid, against the Village or the Developer.

Section 912. Exhibits. Exhibits A through B attached to this Amendment are, by this reference, incorporated in and made a part of this Amendment. In the event of a conflict between an exhibit and the text of this Agreement, the document or provision that gives the greatest control and protection for the Village, as determined by the Village Manager, will control.

Section 913. Effective Date of Amendment. This Amendment shall be deemed dated and become effective on the date the Corporate Authorities approve this Amendment and shall remain in effect thereafter.

Section 914. Notice. Any notice or communication required or permitted to be given under this Amendment will be in writing and will be delivered: (i) personally, (ii) by a reputable overnight courier, (iii) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid. Unless otherwise expressly provided in this Amendment, notices will be deemed received upon the earlier of (a) actual receipt; (b) one business day after deposit with an overnight courier as evidenced by a receipt of deposit; or (c) three business days following deposit in the U.S. mail, as evidenced by a return receipt. By notice complying with the requirements of this Section 808, each party will have the right to change the address or the addressee, or both, for all future notices and communications to such party, but no notice of a change of addressee or address will be effective until actually received.

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

Village of Carpentersville
1200 L.W. Besinger Drive
Carpentersville, IL 60110
Attention: Village Manager

With a copy to:

Holland & Knight LLP
131 S. Dearborn, 30th Floor
Chicago, Illinois 60603
Attention: Hart M. Passman, Village Attorney

Notices and communications to the Owner will be addressed to, and delivered at, the following addresses:

Spring Hill Center for Commerce & Industry Property Owners Association
Carl Swanson, President and Managing broker
Commercial Property Associates, Inc.
2314 West Algonquin Road, S422
Algonquin, Illinois 60102

With copies to:

Keith D. Sloan
Madsen, Sugden & Gottemoller
1 North Virginia Street, Suite A
Crystal Lake, Illinois 60014

ARTICLE X DEFINITIONS AND TERMS OF CONSTRUCTION

Section 1001. Definitions. Whenever used in this Amendment, the following terms will have the following meanings unless a different meaning is required by the context:

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

"IJRL": The Illinois Industrial Jobs Recovery Law, 65 ILCS 5/11-74.6-1, *et seq.*, as may be amended.

"Parties": The Developer and the Village.

"Redevelopment Project Costs": All qualifying redevelopment project costs authorized and defined by Section 11-74.6-10(o) of the IJRL and the Redevelopment Plan.

"Reimbursement Amount": See Section 401 of this Agreement.

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

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

"TIF Approval Ordinances": Village Ordinance No. 95-26, Ordinance No. 95-27, Ordinance No. 95-28, and Ordinance No. 98-29 collectively.

"TIF District": The Spring Hill Center for Commerce and Industry designated by the Corporate Authorities as Carpentersville Tax Increment Financing District #1 pursuant to Village Ordinance No 95-26.

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

“Village Code”: The “Carpentersville Municipal Code,” as the same has been and may from time to time hereafter, be amended.

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

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

“Zoning Approval Ordinance”: Ordinance No. 16-__ approved by the Corporate Authorities, and as may be amended, approving variations from the Zoning Code to permit the construction of the Combined Sign.

“Zoning Code”: The zoning ordinance of the Village of Carpentersville, being Title 16 of the Village Code, as the same has been and may, from time to time hereafter, be amended.

Section 1002. Rules of Construction.

(a) **Grammatical Usage and Construction.** In construing this Amendment, pronouns include all genders, and the plural includes the singular and vice versa.

(b) **Headings.** The headings, titles, and captions in this Amendment have been inserted only for convenience and in no way define, limit, extend, or describe the scope or intent of this Amendment.

(c) **Calendar Days.** Unless otherwise provided in this Amendment, any reference in this Amendment to “day” or “days” means calendar days and not business days. If the date for giving of any notice required to be given, or the performance of any obligation, under this Amendment falls on a Saturday, Sunday, or federal holiday, then the notice or obligation may be given or performed on the next business day after that Saturday, Sunday, or federal holiday.

(d) **Other Defined Terms.** Capitalized terms not defined in this Amendment or in the RDA have the meanings set forth in the Zoning Code.

[END OF TEXT - SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties to this Amendment have set their hands and seals to this Amendment on the day and year first above written.

VILLAGE OF CARPENTERSVILLE

By: Ed Ritter
Ed Ritter, Village President

Date: 11/11/16

SPRING HILL CENTER FOR COMMERCE AND INDUSTRY PROPERTY OWNERS ASSOCIATION

By: [Signature]
Its: President
Date: 10/13/16

ATTEST:

By: Sonda Delpalazzo
~~Therese M. Witte, Village Clerk~~
SONDA DELPALAZZO DEPUTY
Date: 11/11/16

ATTEST:

By: _____
Its: _____
Date: _____

ACKNOWLEDGMENTS

STATE OF ILLINOIS)
) SS
COUNTY OF KANE)

On _____, 2016, Ed Ritter, as Village President, and Therese M. Wilde, as Village Clerk, of the Village of Carpentersville, Kane County, Illinois, a municipal corporation, and home rule unit of local government, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me in person, and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act and as the free and voluntary act of the Village of Carpentersville, for the uses and purposes therein set forth.

Given under my hand and official seal this ____ day of _____, 2016.

Notary Public

STATE OF ILLINOIS)
) SS
COUNTY OF KANE)

On Oct 13, 2016, CARL SWANSON, personally known to me to be the PRESIDENT of the Spring Hill Center for Commerce and Industry Property Owners Association, a domestic (not-for-profit) Illinois corporation, and the same person whose name is subscribed to the foregoing instrument, appeared before me in person, and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

Given under my hand and official seal this 13th day of OCT, 2016.



Notary Public

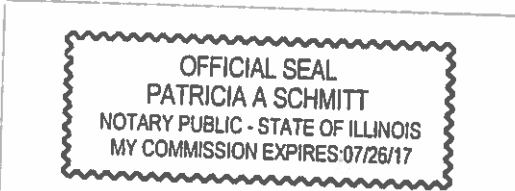


EXHIBIT A

LEGAL DESCRIPTION

TIF #1 - (Spring Hill Center for Commerce and Industry)

Part of Outlot A of Rivers End Unit 1, being a subdivision of part of Sections 10, 15, and 16, Township 42 North, Range 8 East of the Third Principal Meridian, and also part of the Northeast Quarter of said Section 16, described as follows: Beginning at the Northwest corner of said Northwest Quarter of Section 15; thence South 89 degrees 55 minutes 36 seconds East along the North line of said Northwest Quarter (also being the North line of said Outlot A), a distance of 1010.23 feet to a point 330.0 feet West of the Southwest corner of Lot C of said Rivers End Unit 1; thence South 36 degrees 05 minutes 21 seconds West along the Westerly boundary of Kane County Forest Preserve Property, 720.0 feet; thence South 42 degrees 41 minutes 32 seconds East along said Westerly boundary, 369.69 feet; thence South 36 degrees 05 minutes 21 seconds West along sold Westerly boundary, 400.0 feet to the most Easterly corner of Lot 54 in Block 9 of sold Unit 1; thence North 53 degrees 57 minutes 29 seconds West along the Northeasterly line of said Unit 1, a distance of 693.77 feet to a jog in said Unit 1; thence North 89 degrees 52 minutes 39 seconds West along the Northerly line of said Unit 1, a distance of 701.42 feet to a jog in said North line (being the Northwest corner of Lot 35 in said Block 9); thence South 61 degrees 17 minutes 51 seconds West along said North line 53.52 feet to the Northeast corner of Lot 9 in Block 6 in said Unit 1; thence South 81 degrees 49 minutes 07 seconds West along said North line 100.09 feet to the Northwest corner of said Lot 9; thence South 82 degrees 08 minutes 23 seconds West, 271.09 feet to the center line of State Route 31; thence North 07 degrees 51 minutes 37 seconds West along said center line, 473.23 feet; thence Northwesterly along said center line, being on a curve to the right having a radius of 5928.43 feet and an arc distance of 380.80 feet to the intersection of said centerline with the North line of the Northeast Quarter of Section 16 aforesaid (the chord of the last described line bearing North 06 degrees 03 minutes 51 seconds West, 380.74 feet); thence South 89 degrees 54 minutes 55 seconds East along said North line of the Northeast Quarter, 1180.73 feet to the point of beginning, containing 38.0085 Acres, in Kane County, Illinois.

EXHIBIT B
PROJECT PLAN