



**SECTION 2 [Sections 2 through 5 must be completed for each redevelopment project area listed in Section 1.]**

**FY 2021**

Name of Redevelopment Project Area (below):	<b>Oak Forest TIF No. 5</b>
---	-----------------------------

<b>Primary Use of Redevelopment Project Area*:</b> Combination
--

\* Types include: Central Business District, Retail, Other Commercial, Industrial, Residential, and Combination/Mixed.

Retail Residential <b>If "Combination/Mixed" List Component Types:</b> Commercial
--

Under which section of the Illinois Municipal Code was Redevelopment Project Area designated? (check one):	<input type="checkbox"/> Tax Increment Allocation Redevelopment Act <input checked="" type="checkbox"/> Industrial Jobs Recovery Law
--	---

**Please utilize the information below to properly label the Attachments.**

	No	Yes
Were there any amendments to the redevelopment plan, the redevelopment project area, or the State Sales Tax Boundary? [65 ILCS 5/11-74.4-5 (d) (1) and 5/11-74.6-22 (d) (1)] <b>If yes, please enclose the amendment (labeled Attachment A).</b>	X	
Certification of the Chief Executive Officer of the municipality that the municipality has complied with all of the requirements of the Act during the preceding fiscal year. [65 ILCS 5/11-74.4-5 (d) (3) and 5/11-74.6-22 (d) (3)] <b>Please enclose the CEO Certification (labeled Attachment B).</b>		X
Opinion of legal counsel that municipality is in compliance with the Act. [65 ILCS 5/11-74.4-5 (d) (4) and 5/11-74.6-22 (d) (4)] <b>Please enclose the Legal Counsel Opinion (labeled Attachment C).</b>		X
Statement setting forth all activities undertaken in furtherance of the objectives of the redevelopment plan, including any project implemented and a description of the redevelopment activities. [65 ILCS 5/11-74.4-5 (d) (7) (A and B) and 5/11-74.6-22 (d) (7) (A and B)] <b>If yes, please enclose the Activities Statement (labeled Attachment D).</b>		X
Were any agreements entered into by the municipality with regard to the disposition or redevelopment of any property within the redevelopment project area or the area within the State Sales Tax Boundary? [65 ILCS 5/11-74.4-5 (d) (7) (C) and 5/11-74.6-22 (d) (7) (C)] <b>If yes, please enclose the Agreement(s) (labeled Attachment E).</b>		X
Is there additional information on the use of all funds received under this Division and steps taken by the municipality to achieve the objectives of the redevelopment plan? [65 ILCS 5/11-74.4-5 (d) (7) (D) and 5/11-74.6-22 (d) (7) (D)] <b>If yes, please enclose the Additional Information (labeled Attachment F).</b>	X	
Did the municipality's TIF advisors or consultants enter into contracts with entities or persons that have received or are receiving payments financed by tax increment revenues produced by the same TIF? [65 ILCS 5/11-74.4-5 (d) (7) (E) and 5/11-74.6-22 (d) (7) (E)] <b>If yes, please enclose the contract(s) or description of the contract(s) (labeled Attachment G).</b>	X	
Were there any reports <u>submitted to</u> the municipality <u>by</u> the joint review board? [65 ILCS 5/11-74.4-5 (d) (7) (F) and 5/11-74.6-22 (d) (7) (F)] <b>If yes, please enclose the Joint Review Board Report (labeled Attachment H).</b>	X	
Were any obligations issued by the municipality? [65 ILCS 5/11-74.4-5 (d) (8) (A) and 5/11-74.6-22 (d) (8) (A)] <b>If yes, please enclose any Official Statement (labeled Attachment I). If Attachment I is answered yes, then the Analysis must be attached and (labeled Attachment J).</b>	X	
An analysis prepared by a financial advisor or underwriter setting forth the nature and term of obligation and projected debt service including required reserves and debt coverage. [65 ILCS 5/11-74.4-5 (d) (8) (B) and 5/11-74.6-22 (d) (8) (B)] <b>If attachment I is yes, then Analysis <u>MUST</u> be attached and (labeled Attachment J).</b>	X	
Has a cumulative of \$100,000 of TIF revenue been deposited into the special tax allocation fund? 65 ILCS 5/11-74.4-5 (d) (2) and 5/11-74.6-22 (d) (2) <b>If yes, please enclose Audited financial statements of the special tax allocation fund (labeled Attachment K).</b>		X
Cumulatively, have deposits of incremental taxes revenue equal to or greater than \$100,000 been made into the special tax allocation fund? [65 ILCS 5/11-74.4-5 (d) (9) and 5/11-74.6-22 (d) (9)] <b>If yes, the audit report shall contain a letter from the independent certified public accountant indicating compliance or noncompliance with the requirements of subsection (q) of Section 11-74.4-3 (labeled Attachment L).</b>		X
A list of all intergovernmental agreements in effect to which the municipality is a part, and an accounting of any money transferred or received by the municipality during that fiscal year pursuant to those intergovernmental agreements. [65 ILCS 5/11-74.4-5 (d) (10)] <b>If yes, please enclose the list only, not actual agreements (labeled Attachment M).</b>	X	

**SECTION 3.1 - (65 ILCS 5/11-74.4-5 (d)(5)(a)(b)(d)) and (65 ILCS 5/11-74.6-22 (d) (5)(a)(b)(d))**  
**Provide an analysis of the special tax allocation fund.**

**FY 2021**

**Oak Forest TIF No. 5**

Special Tax Allocation Fund Balance at Beginning of Reporting Period      \$ 100,375

SOURCE of Revenue/Cash Receipts:	Revenue/Cash Receipts for Current Reporting Year	Cumulative Totals of Revenue/Cash Receipts for life of TIF	% of Total
Property Tax Increment	\$ 24,342	\$ 138,227	100%
State Sales Tax Increment			0%
Local Sales Tax Increment			0%
State Utility Tax Increment			0%
Local Utility Tax Increment			0%
Interest	\$ (40)	\$ (40)	0%
Land/Building Sale Proceeds			0%
Bond Proceeds			0%
Transfers from Municipal Sources			0%
Private Sources			0%
			0%

**All Amount Deposited in Special Tax Allocation Fund**      \$ 24,302

**Cumulative Total Revenues/Cash Receipts**      \$ 138,187      100%

**Total Expenditures/Cash Disbursements (Carried forward from Section 3.2)**      \$ 32,218

**Transfers to Municipal Sources**      \$ -

**Distribution of Surplus**      \$ -

**Total Expenditures/Disbursements**      \$ 32,218

**Net/Income/Cash Receipts Over/(Under) Cash Disbursements**      \$ (7,916)

**Previous Year Adjustment (Explain Below)**      \$ -

**FUND BALANCE, END OF REPORTING PERIOD\***      \$ 92,459

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

**Previous Year Explanation:**











**SECTION 4 [65 ILCS 5/11-74.4-5 (d) (6) and 65 ILCS 5/11-74.6-22 (d) (6)]**

**FY 2021**

**TIF NAME:**

**Oak Forest TIF No. 5**

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

**X**

**Check here if no property was acquired by the Municipality within the Redevelopment Project Area.**

**Property Acquired by the Municipality Within the Redevelopment Project Area.**

Property (1):	
Street address:	
Approximate size or description of property:	
Purchase price:	
Seller of property:	

Property (2):	
Street address:	
Approximate size or description of property:	
Purchase price:	
Seller of property:	

Property (3):	
Street address:	
Approximate size or description of property:	
Purchase price:	
Seller of property:	

Property (4):	
Street address:	
Approximate size or description of property:	
Purchase price:	
Seller of property:	

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

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

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

Property (8):	
Street address:	
Approximate size or description of property:	
Purchase price:	
Seller of property:	

**SECTION 5 - 20 ILCS 620/4.7 (7)(F)**

**FY 2021**

**TIF Name: Oak Forest TIF No. 5**

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

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

<b>1. NO</b> projects were undertaken by the Municipality Within the Redevelopment Project Area.	X
--	---

<b>2.</b> The Municipality <b>DID</b> undertake projects within the Redevelopment Project Area. (If selecting this option, complete 2a.)	
<b>2a.</b> The total number of <b>ALL</b> activities undertaken in furtherance of the objectives of the redevelopment plan:	

LIST <b>ALL</b> projects undertaken by the Municipality Within the Redevelopment Project Area:			
<b>TOTAL:</b>	<b>11/1/99 to Date</b>	<b>Estimated Investment for Subsequent Fiscal Year</b>	<b>Total Estimated to Complete Project</b>
Private Investment Undertaken (See Instructions)	\$ -	\$ -	\$ -
Public Investment Undertaken	\$ -	\$ -	\$ -
Ratio of Private/Public Investment	0		0

\*PROJECT NAME TO BE LISTED AFTER PROJECT NUMBER

**Project 1\*:**

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

**Project 2\*:**

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

**Project 3\*:**

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

**Project 4\*:**

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

**Project 5\*:**

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

**Project 6\*:**

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



Attachment B

Re: City of Oak Forest TIF No. 5

I, Henry L. Kuspa, the duly elected Chief Executive Officer of the City of Oak Forest, County of Cook, State of Illinois, do hereby certify that to the best of my knowledge, the City complied with the requirements pertaining to the Illinois Tax Increment Redevelopment Allocation Act during the fiscal year beginning May 1, 2020 and ending April 30, 2021.

Hy L. Kuspa

Mayor

1.25.22

Date



20 N. Wacker Drive, Ste 1660  
Chicago, Illinois 60606-2903  
T 312 984 6400 F 312 984 6444

15010 S. Ravinia Avenue, Ste 10  
Orland Park, Illinois 60462-5353  
T 708 349 3888 F 708 349 1506

DD 312 984 6421  
sfuhler@ktjlaw.com

www.ktjlaw.com

**OPINION OF COUNSEL**

**RE:** Oak Forest TIF No. 5  
Redevelopment Project Area  
(Date Designated - 2/26/13)

**FROM:** Klein, Thorpe & Jenkins, Ltd.

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*February 16, 2022*

This review is being conducted pursuant to Section 11-74,4-5(d)(4) the Illinois Tax Increment Allocation Redevelopment Act.

We serve as legal counsel to the City of Oak Forest, Illinois. We have reviewed all information provided to us by the City staff regarding the above designated redevelopment area in the City of Oak Forest. To the best of our knowledge and belief, it is our opinion that the City of Oak Forest has provided the proper information to comply with the applicable requirements of the Illinois Tax Increment Redevelopment Allocation Act set forth thereunder for the fiscal year beginning May 1, 2020 and ending April 30, 2021 related to this **ANNUAL TAX INCREMENT FINANCE REPORT**.

Klein, Thorpe & Jenkins, Ltd.

Scott F. Uhler

**Attachment D** Statement setting forth all activities undertaken in furtherance of the objectives of the Redevelopment Plan, including:

- A. Any project implemented during the reporting fiscal year beginning; and
- B. A description of the redevelopment activities undertaken.

No new projects were undertaken in the reporting Fiscal Year. The City continued to monitor several sites for potential redevelopment projects.

**Attachment E**

Description of Agreements Regarding Property Disposition or Redevelopment

The City entered a Redevelopment Agreement with HD Hotels LLC. On April 27, 2021 for Property located at 4375 Frontage Road.

See Attachment



# *CITY COUNCIL AGENDA MEMO*

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**ATE:** APRIL 22, 2021  
**TO:** MAYOR HENRY L. KUSPA, CITY COUNCIL  
**FROM:** PAUL RUANE, COMMUNITY PLANNER  
**SUBJECT:** ORDINANCE No. 2021-04-0837O APPROVING A REDEVELOPMENT AGREEMENT WITH HD HOTELS, LLC FOR PROPERTY AT 4375 FRONTAGE ROAD

## **Background**

The property located at 4375 Frontage Road consists of an existing Best Western Hotel. The developer is planning to construct a new Holiday Inn Express hotel including 90 rooms, ancillary dining and conference space.

City Council has already approved Ordinance 2018-03-0684O allowing a Special Use Permit for a hotel in the I1 – Industrial District and a Variation to allow 164 parking spaces where 199 are required; also a Variation to allow a four (4) story principal structure where three (3) stories are permitted at the property commonly referred to as 4375 Frontage Road.

Additionally City Council approved Resolution 2018-03-0329R approving a minor plat of subdivision to consolidate from three (3) lots to two (2) lots one for each hotel.

HD Hotels LLC. Has demonstrated that it is an experienced and successful developer, with reliable financing. The development will bring substantial development and incremental tax revenue to the TIF area. The allocation of the incremental tax revenues generated by the property will be that the City will provide up to 20% of the total project costs, not to exceed \$2,200,000 for the payment of eligible project costs solely from the incremental property taxes generated by the project on the property.

The developer has been able to finalize the Redevelopment Agreement (RDA) with the City to finalize the deal to construct the new hotel. The redevelopment agreement requires the developer to complete the project and apply for a certificate of occupancy no later than twenty-eight (28) months from the effective date of the RDA. The developer still needs to finalize the Class 8 incentive application to the Cook County Assessor's Office.

## **Action Requested**

Approval of Ordinance No. 2021-04-0837O, allowing a redevelopment agreement with, HD Hotels, LLC, for Property at 4375 Frontage Road.

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**CITY OF OAK FOREST**

---

**ORDINANCE NO. 2021-04-08370**

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**AN ORDINANCE APPROVING A REDEVELOPMENT AGREEMENT WITH HD  
HOTELS LLC.**

Passed by the City Council, APRIL 27, 2021

Printed and Published, APRIL 27, 2021


Printed and Published in Pamphlet Form

By Authority of the Board of Trustees

**CITY OF OAK FOREST  
COOK COUNTY, ILLINOIS**

I hereby certify that this document  
was properly passed and published  
on the dates stated above.

City Clerk



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## **ORDINANCE NO. 2021-04-08370**

### **AN ORDINANCE APPROVING A REDEVELOPMENT AGREEMENT WITH HD HOTELS LLC.**

**WHEREAS**, the City of Oak Forest (the “CITY”) is a home rule municipality pursuant to Section 6(a) of Article VII of the Constitution of the State of Illinois and is authorized to exercise and perform any function pertaining to its government and affairs; and

**WHEREAS**, the State of Illinois has adopted tax increment financing pursuant to the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq., as from time to time amended (the “TIF Act”); and

**WHEREAS**, pursuant to prior Ordinances adopted by the CITY, the CITY approved a tax increment redevelopment plan and project in 2013 and designated the tax increment redevelopment project area known as the City of Oak Forest 167<sup>th</sup> Business Park East TIF 5 (the “TIF Area”), which includes the property at 4375 Frontage Road, Oak Forest, Illinois (the “Property”); and

**WHEREAS**, HD Hotels LLC. (the “Developer”) desires to develop the Property within a portion of the TIF 5 Area, to construct a 90 room hotel building and related improvements (the “Project”); and

**WHEREAS**, the Developer has submitted preliminary plans and information and documentation for the construction and operation of the development for a hotel to the Mayor and City Council of the City of Oak Forest which will result in substantial development and incremental tax revenue for the Property; and

**WHEREAS**, the Developer has presented information to the City indicating the Project is not viable on the Property without the support of incremental property tax funding; and

**WHEREAS**, Developer has proposed a redevelopment property agreement and real estate purchase agreement (the “Purchase Agreement”) for the Project within the TIF Area, which sets forth the terms and conditions for the completion of the Project on the Property, pursuant to which the Developer will proceed with the Project (the “Redevelopment Agreement”); and

**WHEREAS**, the Mayor and City Council of the City of Oak Forest find that the Project proposal of the Developer for the redevelopment of the Property needs TIF Area

funding support from the Property and that such redevelopment is a benefit to the City and its residents; and

**WHEREAS**, in accordance with the TIF Act and the CITY's home rule powers it is in the best interests of the City to approve the Redevelopment Agreement, pursuant to the TIF Act.

**BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF OAK FOREST, COOK COUNTY, ILLINOIS, AS FOLLOWS:**

**SECTION 1:** Each recital above is incorporated by reference into this Section 1 and made a part hereof as material and operative provisions of this Ordinance.

**SECTION 2:** Based upon the foregoing, and pursuant to the TIF Act, The Mayor and City Council of the City of Oak Forest hereby approve the Redevelopment Agreement between the City and HD Hotels LLC. in substantial conformity with the document attached hereto as **EXHIBIT 1**, for the Property described therein. The Mayor and Clerk of the City of Oak Forest are hereby authorized and directed to execute a final version of said Agreement in substantial conformity with the document attached hereto, on behalf of the CITY, and they are further authorized and directed to execute and deliver such other instruments as may be necessary or convenient to carry out the terms of said Redevelopment Agreement.

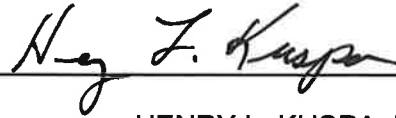
**SECTION 3:** That this Ordinance shall be in full force and effect from and after its adoption, approval and publication in pamphlet form as provided by law.

ADOPTED

This 27<sup>th</sup> Day of April, 2021

APPROVED By Me

This 27<sup>th</sup> Day of April, 2021



HENRY L. KUSPA, MAYOR

ATTEST:



JOHN F. JANOZIK, CITY CLERK

Aldermen	Aye	Nay	Abstain	Absent
Laura Gray First Ward	✓			
Richard D. Simon Second Ward				✓
Diane Wolf Third Ward	✓			
Paul Selman Fourth Ward	✓			
James Emmett Fifth Ward	✓			
James Hortsman Sixth Ward	✓			
Denise Danihel Seventh Ward	✓			
Henry L. Kuspa Mayor				

**Exhibit 1**  
Redevelopment Agreement and Real Estate Purchase Agreement

**PROPERTY ADDRESS:**

**4375 Frontage Road  
Oak Forest, IL 60452**

**Permanent Index Number(s):**

\_\_\_\_\_  
\_\_\_\_\_

**RETURN TO:**

**City Clerk  
City of Oak Forest  
15440 S. Central Avenue  
Oak Forest, Illinois 60452**

**REDEVELOPMENT AGREEMENT**

THIS REDEVELOPMENT AGREEMENT (the "Agreement"), made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2021 by and between the CITY OF OAK FOREST, an Illinois municipal corporation (the "City"), and HD Hotels, LLC, an Illinois Limited Liability Company (the "Developer").

WITNESSETH:

**RECITALS**

**WHEREAS**, the Developer under this Agreement is HD Hotels, LLC, located at 4375 Frontage Road in Oak Forest; and

**WHEREAS**, the Developer proposes to develop that parcel consisting of approximately 2.58 acres and located on the frontage road at 4375 Frontage Road, near 167<sup>th</sup> Street and Interstate 57 in Oak Forest (the "Property"), said Property legally described in **Exhibit A** hereto; and

**WHEREAS**, the Developer proposes to construct a hotel facility consisting of approximately 90 rooms, with ancillary dining and conference space as a Holiday Inn Express & Suites (the "Project"); and

**WHEREAS**, the Project has City zoning, building and land use approvals; and

**WHEREAS**, the Project is located within the previously established Oak Forest TIF 5 Redevelopment Area, described in **Exhibit B** hereto, coordinated with the City's redevelopment project known as the TIF District in an area located in the City (the "Redevelopment Project Area"); and

**WHEREAS**, the Developer is requesting certain property development incentives and approvals from the City as set forth in this Agreement as part of the Project; and

**WHEREAS**, the City has the authority pursuant to the laws of the State of Illinois, to promote the health, safety, and welfare of the City and its inhabitants, to encourage private development in order to

enhance the local tax base, to support the development with tax increment financing, to increase employment, and to enter into contractual agreements with third parties for the purpose of achieving these purposes; and

**WHEREAS**, the City is seeking to have the Property developed to complete this Project in order to serve the needs of the City and to produce increased tax revenues for the City and taxing districts authorized to levy taxes upon the Property, to stimulate and induce the development of the Property, all subject to the terms of this binding redevelopment agreement, the Tax Increment Allocation Redevelopment Act and all other applicable provisions of law; and

**WHEREAS**, the Developer, has demonstrated to the City Council that it is an experienced and successful developer, with reliable financing, with a plan to construct a hotel facility consisting of approximately 90 rooms, with ancillary dining and conference space as a Holiday Inn Express & Suites, not exceeding 4 stories on the Property, which will bring substantial development and incremental tax revenue to the TIF area; and

**WHEREAS**, the Developer has represented and the City has concluded that “but for” the support of the Project with TIF funds, the Project would not be feasible; and

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

**NOW THEREFORE**, in consideration of the premises and mutual promises contained herein, the parties agree that:

**SECTION 1: RECITALS INCORPORATED.**

1. The above-stated Recitals are a material part of this Agreement and are hereby incorporated in this Section 1.1 by reference.

**SECTION 2: DEFINITIONS.**

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

“**Affiliate**” means any person or entity directly or indirectly controlling, controlled by or under common control with the Developer.

“**Approved Project Plans**” means collectively, the following:

- AN ORDINANCE APPROVING A SPECIAL USE PERMIT TO ALLOW A HOTEL IN THE I1-INDUSTRIAL DISTRICT; A VARIATION TO SECTION 9-104(F)(1)(E)(2) TO ALLOW 164 PARKING SPACES WHERE 199 ARE REQUIRED; AND A VARIATION TO SECTION 7-109(A)(2) TO ALLOW A FOUR (4) STORY PRINCIPAL STRUCTURE WHERE 3 STORIES ARE PERMITTED AT THE PROPERTY COMMONLY REFERRED TO AS 4375 FRONTAGE

ROAD; ORDINANCE NO. 2018-03-06840 (HD Hotels, LLC – Chirag Patel – PZC Case No. 17-015), passed by City Council of the City of Oak Forest on March 13, 2018.

- That EASEMENT AND OPERATING AGREEMENT creating easement rights and obligations over the Property, dated 1/9/2020 and recorded on 1/24/2020 as Document No. 2002416063
- The Final Plat of Subdivision for HD Hospitality Subdivision, executed by the City of Oak Forest on December 17, 2019.
- The Project elevations submitted to and approved by the City attached hereto as Exhibit E.

**“Certified Total Project Costs”** means the final Project costs certified to the City, and confirmed by the City in writing, to the Developer, following the completion of the Project, and prior to issuance of a certificate of occupancy.

**“Change in Law”** means the occurrence, after the Effective Date, of an event described in section (a) below, provided such event materially changes the costs or ability of the party relying thereon to carry out its obligations under this Agreement and such event is not caused by the Party relying thereon:

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

**“Commencement Date”** shall mean the date the Developer commences construction of the foundations and footings for the Project.

**“Completion Date”** shall mean the date the City issues a certificate of occupancy for the Project.

**“Corporate Authorities”** means the Mayor and City Council of the City of Oak Forest, Illinois.

**“Developer”** means HD Hotels, LLC, located at 4375 Frontage Road in the City of Oak Forest, and its successors and assigns.

**“Effective Date”** means the later date that both parties, either the Developer or the City, executes this Agreement when this Agreement goes into effect.

**“Eligible Project Costs”** means all lawful TIF eligible costs and expenses for facilities and improvements necessary to implement the Project, including but not limited to, assembly and acquisition of real estate, demolition, site preparation, portions of the construction, permanent interest, engineering and other eligible activities under the TIF Act. The Developer must provide an itemized list of TIF-eligible activities for this project for reimbursement purposes and to be set forth in **Exhibit D** attached hereto and made a part hereof.

**“General Contractor”** means the general contractor hired by the Developer for the Project.

**“Incremental Property Taxes”** means that portion of the *ad valorem* real estate taxes, if any, arising from the taxes levied upon the Property, which taxes are actually collected and which are attributable to the increase in the equalized assessed valuation (“EAV”) of the Property over and above the EAV of the Property at the time of the formation of the TIF District, all as determined by the Cook County Clerk, Illinois, pursuant to and in accordance with the TIF Act, the TIF Ordinances and this Agreement, and which have been received by the City on and after the Effective Date, after the payment, if any, of the new student reimbursements to the elementary and high school districts impacted by the TIF District, as

provided for in 65 ILCS 5/11-74.4-3(q)(7.5) and after the payment, if any, of the new patrons reimbursement to the library district impacted by the TIF District, as provided for in 65 ILCS 5/11-74.4-3(q)(7.7).

**“Initial EAV”** means the equalized assessed value of the Property for the applicable tax year as certified by the County Clerk of Cook County for the purposes of establishing the base equalized assessed value for the TIF District.

**“Lender Financing”** means funds borrowed by the Developer from lenders, secured by the Property.

**“Mayor”** means the Mayor of the City of Oak Forest.

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

**“Permitted Assignee”** means (i) any lender providing Lender Financing; (ii) any assignee, successor or nominee of any lender providing Lender Financing in the event of a foreclosure or acceptance of a deed in lieu; (iii) a Person who has, at the time of the assignment of the rights and obligations pursuant to this Agreement: (a) not been convicted of fraud or felonious criminal conduct, and (b) has significant positive experience and reputation owning or managing, directly or indirectly through a third party management company, comparable development; and (c) is not in violation of any provision of the City Municipal Code. Any such assignment shall be made subject to the terms of this Agreement governing the terms and conditions of the Development and Project, including the continuing obligations under this Agreement which shall run with the Property until released by the City, as provided in Section 11.2 of this Agreement.

**“Person”** means any individual, corporation, partnership, limited liability company, joint venture, association, trust, or government or any agency or political subdivision thereof, or any agency or entity created or existing under the compact clause of the United States Constitution.

**“Plans”** means the required engineering plans, construction plans, building plans and/or site plans for the Project.

**“Project”** means the approved final plan for the proposed improvements to construct a hotel facility consisting of approximately 90 rooms, with ancillary dining and conference space as a Holiday Inn Express & Suites and related parking, all to be constructed on the Property, as more fully described in the Approved Project Plans and on **Exhibit C** pursuant to this Agreement.

**“Project Budget”** means the Project and startup costs projection, demonstration of need and request for assistance, attached hereto as **Exhibit D**.

**“Project Site Plan”** means the preliminary, proposed depiction and layout of the proposed Project and Property with parking, ingress and egress and related construction on the Property, as more fully described in the Approved Project Plans and as shown in **Exhibit C**.

**“Property”** means that land legally described on **Exhibit A** upon which the Project will be implemented and constructed.

**“Redevelopment Project Area”** means the area legally described in **Exhibit B** and referenced herein as “TIF #5”.

**“Reimbursement Amount”** means an amount equal to the net present value of Eligible Project Costs to be reimbursed to Developer, including but not limited to proper site improvement and construction costs, professional and contractor costs and fees, select financing, said amount to be up to 20% of total Project costs, but not to exceed Two Million Two Hundred Thousand Dollars (\$2,200,000.00) for Eligible Project Costs, or such payments as are made hereunder from Incremental Property Taxes as defined hereinabove generated for the remaining term of the TIF District solely from TIF increment generated by the Project on the Property.

**“Special Tax Allocation Fund” or “Project Fund”** means the separate City account into which the Incremental Property Taxes and other incremental taxes generated within the TIF District are, from time to time, deposited.

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

**“TIF District”** means the City of Oak Forest TIF 5 Area Redevelopment Project Area in the City legally described in **Exhibit B**.

**“TIF Ordinances”** means those Ordinances which have been adopted by the City of Oak Forest establishing TIF 5 pursuant to the Act.

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

- (a) is beyond the reasonable control of and without the fault of the Party relying thereon: and
- (b) is one or more of the following events:
  - (i) a Change in Law;
  - (ii) insurrection, riot, civil disturbance, sabotage, act of the public enemy, explosion, fire, nuclear incident, war or naval blockade;
  - (iii) epidemic, disease, pandemic, hurricane, tornado, landslide, earthquake, lightning, fire, windstorm, other extraordinary or ordinary weather conditions or other similar act of nature;
  - (iv) governmental condemnation or taking other than by the City;
  - (v) strikes, labor disputes or work stoppages;
  - (vi) unreasonable delay in the issuance of building or other permits or approvals by the City or other governmental or quasi-governmental, authority having jurisdiction;
  - (vii) shortage or unavailability of essential materials, which materially change the ability of the Party relying thereon to carry out its obligations under this Agreement;
  - (viii) unknown or unforeseeable geo-technical or environmental conditions;
  - (ix) major or material environmental disturbances;
  - (x) vandalism; or
  - (xi) terrorist acts, acts of war, invasion, hostilities (whether war is declared or not);
  - (xii) declarations of national emergency, declarations of public health emergency, travel restrictions or travel bans;
  - (xiii) governmental laws, court orders, and regulations imposed after the fact, or restraints or delays affecting travel
- (xiv) other causes which are beyond the Developer’s control.

Uncontrollable Circumstances shall not include: economic hardship; unavailability of materials (except as described in b(vii) above); or a failure of performance by a contractor (except as caused by events which are Uncontrollable Circumstances as to the contractor).

For each day that the City or the Developer is delayed by an Uncontrollable Circumstance, the dates set forth in this Agreement shall be extended by one (1) business day.

Except for a strike or lockout by or against either party's own employees or suppliers, an act or omission shall not be deemed to be “beyond the Developer’s control” if committed, omitted or caused by the Developer, or the Developer’s employees, officers or agents or a subsidiary, affiliate or parent of the Developer, or by any corporation or other business entity that holds a controlling interest in the Developer, whether held directly or indirectly.

**“City”** means the City of Oak Forest, Illinois, an Illinois home rule municipal corporation.

SECTION 3: CONSTRUCTION OF AGREEMENT.

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

3.1.1. **Definitions.** Definitions include both singular and plural.

3.1.2. **Pronouns.** Pronouns include both singular and plural and cover all genders.

3.1.3. **Scope.** The word “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.”

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

3.1.5. **Exhibits.** All exhibits attached to this Agreement shall be and are operative provisions of this Agreement and shall be and are incorporated by reference in the context of use where mentioned and referenced in this Agreement. In the event of a conflict between any exhibit and the terms of this Agreement, the exhibits shall control. The following list of exhibits are attached to this Agreement and incorporated herein:

<b><u>Exhibit A:</u></b>	Legal Description of Property
<b><u>Exhibit B:</u></b>	Legal Description of TIF District
<b><u>Exhibit C:</u></b>	Final approved plan for the Project
<b><u>Exhibit D:</u></b>	Project Budget, Project and startup costs projection, demonstration of need and request for assistance,
<b><u>Exhibit E:</u></b>	Project elevations submitted to/approved by City

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

3.1.7. The City’s Mayor shall be deemed the Authorized City Representative, unless applicable law requires action by the Corporate Authorities, shall have the power and authority to make or grant or do those things, certificates, request, demands, notices and other actions required that are ministerial in nature or described in this Agreement for and on behalf of the City and with the effect of binding the City as limited by this Agreement. The Developer is entitled to rely on the full power and authority of the Persons executing this Agreement on behalf of the City as having been properly and legally given by the City. The City shall have the right to change its Authorized City Representative by providing the Developer with written notice of such change which notice shall be sent in accordance with Section 16.5 of this Agreement.

3.1.8. In connection with the foregoing and other actions to be taken under this Agreement,

and unless applicable documents require action by the Developer in a different manner, the Developer hereby designates Harshil Patel as its authority to make or grant or do all things, supplemental agreements, certificates, requests, demands, approvals, consents, notices and other actions required or described in this Agreement for and on behalf of the Developer and with the effect of binding the Developer in that connection (such individual being an "Authorized Developer Representative"). The Developer shall have the right to change its Authorized Developer Representative by providing the City with written notice of such change which notice shall be sent in accordance with Section 16.5 of this Agreement.

#### SECTION 4: CITY AND DEVELOPER COOPERATION.

1. **Cooperation.** The City and the Developer agree to cooperate in implementing the Project in accordance with the parties' respective obligations set forth in this Agreement and specific approvals by the City now or in the future of the Plans for the Property and Project and any applicable permits. This cooperation shall include but not be limited to any approvals, changes, site design, ingress and egress or grants of easement for the Property or Project, issues related to this Agreement or procedures for any further zoning or building approvals, as amended to the present, and any future improvements related to the Project to be completed on the Property and/or dedicated to the City.

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

3. **Governmental Approvals.** The current Approved Project Plans set forth the Project details and existing approvals. City agrees to cooperate with the Developer in the Developer's attempts to obtain all necessary approvals from any governmental or quasi-governmental entity other than the City and upon request of the Developer, will promptly execute any applications or other documents which the Developer intends to file with such other governmental or quasi-governmental entities with respect to the Project. The City shall further promptly process, and consider reasonable requests of the Developer for relief or variances from any City ordinances; applicable excavation or grading permits; building permits; driveway permits; curb cuts or other permits necessary for the construction of the Project. Approval of any building permit applications and/or engineering plans shall be contingent on the Developer providing all required and requested documentation including but not limited to engineering reports, calculations and plans required to substantiate that said improvements fully conform with all applicable state statutes and also all City ordinances and codes, as well as receipt of all required approvals from any federal, state, regional or county agencies having applicable jurisdiction. The City agrees to perform any inspections necessary for a certificate of occupancy and take all other actions necessary for the issuance of such certificate within ten (10) business days of a request for such inspections. If the City is not able to issue the certificate of occupancy within said period, it shall provide the Developer of a detailed list of such actions that are necessary for issuance of the certificate of occupancy. After the Developer has taken such actions, the City shall re-inspect the Project within three (3) business days after receiving a request for re-inspection. The City and Developer agree that the actions and cooperation herein are required to be and shall be in full compliance with all legal requirements and procedures.

#### SECTION 5: REDEVELOPMENT OF THE PROPERTY.

1. **General Project Phasing.** The Developer agrees to the following time frames for the

commencement and completion of the Project on the Property.

5.1.1. The Developer agrees to apply for, or cause to be applied for, and diligently pursue, or cause to be diligently pursued, all necessary zoning, building elevations, engineering, site, construction plans, permits and approvals from all governmental agencies having applicable jurisdiction over the Project, which have not already been approved or issued, as may be required to commence construction of the Project and related infrastructure and improvements and to begin construction within six (6) months of the Effective Date subject to Uncontrollable Circumstances and the other provisions of this Agreement, and further provided that Developer shall be entitled to four (4) consecutive thirty (30) day extensions to extend the date by which the Project is to be completed by giving written notice prior to the expiration of the then expiration date.

5.1.2. Developer shall complete the construction of the Project and related exterior improvements and parking and be issued a certificate of occupancy by the City of Oak Forest for the Project Holiday Inn Express & Suites no later than 24 months after the Effective Date subject to Uncontrollable Circumstances and the other provisions of this Agreement, and further provided that Developer shall be entitled to four (4) consecutive thirty (30) day extensions to extend the date by which the Project is to be completed by giving written notice prior to the expiration of the then expiration date. For good cause shown, the City of Oak Forest agrees to grant a further reasonable extension of this timeline for completion (not to exceed another 4 months).

5.1.3. In the event of a failure by the lender providing Lending Financing, the bankruptcy of the general contractor or the bankruptcy of a prime contractor during construction, the Developer shall be granted an additional ninety (90) days to replace such lender or contractor and then complete the Project. The Commencement Date shall be evidenced by written notice provided by the Developer to the City. The Developer shall construct, or cause to be constructed, the Project in substantial conformance with the Site and related Plans attached hereto and made a part hereof as **Exhibit E**, subject to supplements, amendments and corrections submitted by the Developer and approved by the City (such approval not to be unreasonably withheld or delayed), and engineering plans and other required plans for the Project to be approved by the City.

2. **Financial Condition.** The Developer estimates that the total cost of the Project will be Eleven Million Two Hundred and Fifty dollars (\$11,250,000) and hereby certifies to the City that Incremental Property Taxes to be pledged by the City pursuant to Section 6.1 below, together with Lender Financing and equity, shall be sufficient to fund the estimated costs to complete the Project. It is understood by the parties that no Incremental Property Taxes shall be paid for any costs other than the TIF Eligible Project Costs, and that the City shall pledge and rely solely on the Incremental Property Taxes from the Property for reimbursement. The City will provide up to 20% of total Project costs, not to exceed Two Million Two Hundred Thousand Dollars (\$2,200,000.00) for the payment of Eligible Project Costs. The City will not use or rely on any other revenue sources for reimbursements to the Developer.

3. **Failure to Complete.** None of the Eligible Project Costs shall be eligible for reimbursement under this Agreement until the completion of the Project set forth in **Exhibit C** and the issuance of the Certificate of Occupancy by the City. If the Developer fails to complete the Project in accordance with Section 5.1 and the remaining terms of this Agreement, such will constitute a material breach of this Agreement, no certificate of occupancy permit will be issued, and the City will have the right to terminate this Agreement, and no further City funds will be paid to the Developer. The provisions of this subsection shall survive the termination of this Agreement.

4. **Reimbursement of Eligible Project Costs.** The City shall pay to the Developer, from the Project Fund, as otherwise provided herein and following receipt of Developer's invoice therefor, any TIF Eligible Project Costs documented by the Developer to have been incurred by the Developer (which

documentation shall accompany each such invoice, along with proper lien waivers). Prior to the payment of any reimbursement and the issuance of a certificate of occupancy, Developer's costs must be certified to the City. Requests for reimbursement of TIF Eligible Redevelopment Costs paid by the Developer shall be forwarded to the City's Finance Director, accompanied by a copy of the paid receipt therefor. Requests for payment of TIF Eligible Project Costs that are to be incurred by the Developer shall be forwarded to the City's Finance Director, accompanied by the invoice relative thereto. Unless the City has good cause to believe that the Developer's invoice seeks reimbursement or payment for non-TIF Eligible Redevelopment Costs or are not properly verified, the City shall pay such invoice within ten (10) days of the date of its receipt of same. If the City elects to withhold or deny such payment based on alleged "good cause," the City shall promptly advise the Developer in writing as to the specific basis for the City's position.

5. **Certified Total Project Costs.** Following the completion of the Project and prior to issuance of the certificate of occupancy the Developer shall also submit its final total project costs, certified to the City. The figure shall then be confirmed by the City in writing, to the Developer. If needed, the City shall request such additional information from Developer as may be needed to confirm the Developer's Project Costs, and to determine the final total Project cost.

5.5.1 The Developer acknowledges and understands that it is not entitled to reimbursement hereunder until the City issues a Certificate of Completion. The City will not issue a Completion Certificate until the following conditions have been met:

5.5.1.1 The Project has been constructed and the City has issued final certificate of occupancy ("C of O").

5.5.1.2 The Developer has obtained all necessary hotel franchise and operation agreements.

The City will issue the Completion Certificate within 30 days of all necessary documentation being submitted to the City.

6. **Compliance with Applicable Laws.** The Developer shall at all times acquire, install, construct, operate and maintain the Project in conformance with all applicable laws, rules, ordinances and regulations. All work with respect to the Project shall conform to all applicable federal, state and local laws, regulations and ordinances, including, but not limited to, zoning and planned unit development codes, building codes, environmental codes, life safety codes, property maintenance codes and any other applicable codes and ordinances of the City in effect on the date that an application for a building permit and/or earth moving permit for such development or construction is filed, and from time to time during construction that are applicable, except as otherwise provided herein, and to the extent all such codes and ordinances are of general applicability to property with the City. The Developer has examined and is familiar with all the covenants, conditions, restrictions, building regulations, zoning ordinances, property maintenance regulations, environmental regulations and land use regulations, codes, ordinances, federal, state and local ordinances, and the like, and represents and warrants that the Project will be developed in accordance with same. All work performed at the Property will be conducted in a professional manner with a contractor(s) licensed by the City or the State of Illinois, as required.

7. **Withholding of Permits.** The City may reasonably withhold the issuance of any permits if the Developer has failed or refused to fulfill any of its respective obligations with respect to the Project on the Property pursuant to this Agreement and the applicable provisions of the City Code. The Developer shall pay the City's standard permit inspection fees as are required for all development under City Code and ordinances, provided Developer can apply for Enterprise Zone status which is estimated to result in a 50% reduction in the building permit cost/fee.

8. **City Permits.** The Developer acknowledges and agrees that the City shall require all necessary actions for the Developer to obtain applicable permits for the construction of the Project on the Property, and the Developer shall absorb all costs and risks related to such enforcement.

9. **Progress Meetings.** The Developer shall provide reports, on request, to the Corporate Authorities and City staff and make written presentations to the Corporate Authorities and City staff as reasonably requested by the City in order to keep the City apprised of the progress of the Project construction.

## SECTION 6: CITY COVENANTS AND AGREEMENTS.

1. **Initial Payment Pledge.** The City and Developer agree that the basic formula for allocation of the incremental tax revenues generated by the Property will be that the City will provide up to 20% of total project costs, not to exceed \$2,200,000 for the payment of Eligible Project Costs solely from the Incremental Property Taxes generated by the Project on the Property.

2. **Special Tax Allocation Fund.** The City hereby pledges and agrees to pay to the Developer the Reimbursement Amount from the Special Tax Allocation fund, as follows:

6.2.1 In each year after the date upon which an occupancy permit is granted for the Project, during the remaining term of the TIF, beginning with the first year for which increment is assessed against the Property following the completion of the Project, the cost sharing between the Developer and the City will be divided between the City and the Developer, for years 1 through 5, with 75% of each year's net Incremental Property Taxes, as defined in Section 2, to be reimbursed to the Developer as otherwise provided herein and the other 25% retained by the City. For the remaining term of the TIF, the net Incremental Property Taxes will be shared evenly between the City and the Developer each year, with 50% of said amount shared with each party, until the Reimbursement Amount has been paid or the TIF expires. In the event that the funds to be withheld under the Tax Increment Allocation Redevelopment Act exceed the amounts claimed and distributed to the School District(s) and/or Library District, one hundred percent (100%) of such additional increment reserves shall be distributed to Developer up the maximum reimbursement amount authorized in this Agreement or the expiration of the TIF District.

6.2.2 At least annually the City shall make the applicable percentage reimbursement to Developer from the net Incremental Property Taxes on or before January 31st for each year that a payment is due. The City shall only be required to make such payment once per tax year. The City, however, may elect, in its sole discretion, to make multiple payments in any given tax year.

6.2.3 The City agrees that, during the term of this Agreement, it shall not declare any Incremental Property Taxes as surplus and it shall not disburse any surplus Incremental Property Taxes, arising out of the Property described on **Exhibit A**, unless and until Developer has received its maximum allowable reimbursement.

6.2.4 The City may reimburse for eligible Project expenses incurred prior to the execution of the Redevelopment Agreement, provided that the Developer has provided expense documentation acceptable to the City. The City shall count Project expenses incurred prior to the execution of the Redevelopment Agreement toward the final budget, provided the Developer has documented these costs in a manner acceptable to the City.

3. **Deposits into Special Tax Allocation Fund.** For the term of this Agreement, the City shall deposit into the Special Tax Allocation Fund all Incremental Property Taxes within five (5) business days after receipt thereof.

4. **Property Tax Reporting.** At the time of each annual payment of a Cook County Property Tax Bill for the Property by the Developer, the Developer shall file a copy of such bill and payment record with the City’s Finance Director. Within five (5) days of the Finance Director’s receipt of the Property tax bill and payment record, the Finance Director shall calculate and certify to the City the amount of Incremental Property Taxes due to the Developer in accordance with this Agreement.

6.4.1 The overall “**Reimbursement Amount**” of up to 20% of total Project costs, but not to exceed Two Million Two Hundred Thousand Dollars (\$2,200,000.00) for Eligible Project Costs, shall be reduced dollar for dollar due to any reduction in the property tax expense figures set forth below for any year in which reimbursement may be owed under this Agreement, during the remaining term of the TIF, beginning with the first year for which increment is assessed against the Property following the completion of the Project, as follows:

Year	Tax Expense
1	\$ 316,944
2	\$ 336,689
3	\$ 357,574
4	\$ 368,207
5	\$ 379,345
6	\$ 390,737
7	\$ 402,382
8	\$ 414,406
9	\$ 426,937
10	\$ 439,721
11	\$ 448,516
12	\$ 457,486
13	\$ 466,636
14	\$ 475,969
15	\$ 485,488
16	\$ 495,198
17	\$ 505,101
18	\$ 515,204
19	\$ 525,508
20	\$ 536,018

The foregoing allocation of tax expense by year is based on the current anticipated tax expenses. In the event the Cook County Assessor changes or modifies its methodology resulting in a revised tax expense, the foregoing allocation shall be amended and the Reimbursement Amount shall be applied based on the actual tax expense.

5. **Annual Accounting and Adjustments.** Shortly after the close of each calendar year during the term of this Agreement, the City shall cause its Finance Director or other financial officer charged with responsibility for the Special Tax Allocation Fund to provide to the Developer, upon Developer’s request, an account of the receipts and expenditures from the Special Tax Allocation Fund applicable to the Project at the close of the calendar year. The maximum aggregate amount of the Net Incremental Property Taxes payable to the Developer under this Agreement shall be equal to the Reimbursement Amount certified to the City by the Developer from time to time.

## SECTION 7: DEVELOPER COVENANTS AND AGREEMENTS.

1. **Prevailing Wages.** Developer acknowledges that the Illinois Department of Labor currently takes the position as a matter of its enforcement policy that the TIF Incentive Rebate relative to the Project under this Agreement does not subject the Project to the Illinois Prevailing Wage Act (820 ILCS 130/0.01 *et seq.*) unless the Project also receives funding from another public source. The Village makes no representation as to any such application of the Prevailing Wage Act to the Project, and any failure by the Developer to comply with the Illinois Prevailing Wage Act, relative to the Project, if and to the extent subsequently found to be applicable to the Project, by any legal authority having jurisdiction, shall not be deemed an "Event of Default" under this Agreement. Notwithstanding the foregoing sentence, the Developer agrees to assume all responsibility for any such compliance (or noncompliance) with the Illinois Prevailing Wage Act in connection with the Project under this Agreement in the event of any action by any party to enforce its provisions.

2. **Financial Statements.** The Developer must provide the City with such Developer financial statements the City may reasonably require; provided, however, the Developer may submit such financial statements as confidential business information not for disclosure under the Freedom of Information Act. In the event of a Freedom of Information Act request relating to the Project, the City shall not disclose the financial statements unless consented to by the Developer or required by law.

3. **Enterprise Zone Status.** Prior to commencing construction, Developer shall apply for and pursue to completion, approval for the Property and Project under the Illinois Enterprise Zone Act in the applicable Cal-Sag Enterprise Zone. Such approval is not required for the Project or the benefits to Developer under this Agreement unless expressly stated herein.

4. **Material Project Changes.** The Project is comprised of the Approved Project Plans. Significant changes to the Project scope, design, materials, and budget shall be subject to the prior review and approval of the City which consideration of and decisions on shall not be unreasonably delayed. For this Project, the following changes will be considered "significant": (1) changes that either reduce or increase the square footage of the Project by more than 15%; or (2) changes which reflect a change in the basic use of the Property. Other required City approvals are outside the scope of this document.

## SECTION 8: INDEMNIFICATION HOLD HARMLESS AND RELEASE

1. **Liability.** The Developer hereby undertakes and assumes all potential liability for any injuries, deaths, losses, damages, claims or judgments of any nature whatsoever resulting from or in connection with its construction at the Property, and the Developer shall hold harmless, indemnify and defend the City against any such losses according to the provisions of Section 8.3 below.

2. **No Liability for City Review.** The Developer acknowledges and agrees that: (i) the City is not, and shall not be, in any way liable for any violations of restrictive covenants applicable to the Property that may occur, or for any damages or injuries that may be sustained as the result of the City's review and approval of any plans for the Property, or as a result of the issuance of any approvals, permits, certificates or acceptances for the development or use of any portion of the Property; and (ii) the City's review and approval of any plans and the issuance of any approvals, permits, certificates or acceptances does not, and shall not, in any way be deemed to insure the Developer, or any of its successors, assigns, tenants, or licensees, or any third party, against restrictive covenant violations or damage or injury of any kind at any time.

3. **Indemnification.** The Developer shall indemnify, hold harmless and defend the City, its agents, officials, and employees, against all injuries, deaths, losses, damages, claims, suits, liabilities, liens, including mechanic's liens, judgments, costs and expenses, including reasonable attorney's fees, which may in any way arise from or accrue against the City as a consequence of this Agreement or which may in any way result therefrom, other than those indemnified matters which arise from or relate to the City's negligence or willful misconduct. The provisions of this Section and any other indemnification obligations on the part of the Developer shall survive the termination or expiration of this Agreement for a period of two (2) years. In any such action against the City, the Developer shall, at its own expense, appear, defend and pay all charges of reasonable attorney's fees and all reasonable costs and other reasonable expenses arising therefrom or incurred in connection therewith, and, if any judgment shall be rendered against the City in any such action, the Developer shall at its own expense, satisfy and discharge such judgment.

4. **No City Warranty or Representation – Environmental Conditions.** The City makes no warranties or representations regarding, nor does it indemnify the Developer with respect to, the existence or nonexistence on or in the vicinity of the Property, or anywhere within the TIF District of any toxic or hazardous substances of wastes, pollutants or contaminants (including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products, or any hazardous substance as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. §§ 961-9657, as amended) (collectively, the "Hazardous Substances"). The foregoing disclaimer relates to any Hazardous Substance allegedly generated, treated, stored, released or disposed of, or otherwise placed, deposited in or located on or in the vicinity of the Property, or within the TIF District, as well as any activity claimed to have been undertaken on or in the vicinity of the Property or within the TIF District, that would cause or contribute to causing (1) the Property to become a treatment, storage or disposal facility within the meaning of, or otherwise bring the Property within the ambit of, the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. §691 *et seq.*, or any similar state law or local ordinance, (2) a release or threatened release of toxic or hazardous wastes or substances, pollutants or contaminants, from the Property, within the meaning of, or otherwise bring the Property within the ambit of, CERCLA, or any similar state law or local ordinance, or (3) the discharge of pollutants or effluents into any water source or system, the dredging or filling of any waters or the discharge into the air of any emissions, that would require a permit under the Federal Water Pollution Control Act, 33 U.S.C. §1251 *et seq.*, or any similar state law or local ordinance. Further, the City makes no warranties or representations regarding, nor does the City indemnify the Developer with respect to, the existence or nonexistence on or in the vicinity of the Project, or anywhere within the Property or the TIF District, of any substances or conditions in or on the Property, that may support a claim or cause of action under RCRA, CERCLA, or any other federal, state or local environmental statutes, regulations, ordinances or other environmental regulatory requirements. The City makes no representations or warranties regarding the existence of any above ground or underground tanks in or about the Property, or whether any above or underground tanks have been located under, in or about the Property, have subsequently been removed or filled.

5. **Waiver by Developer.** Developer waives any claims against the City, and its members and officials, for indemnification, contribution, reimbursement or other payments arising under federal, state and common law or relating to the environmental condition of the land comprising the Property.

6. **Costs and Attorney's Fees.** The non-prevailing party shall indemnify the prevailing party for any costs, including reasonable attorney's fees, in enforcing the provisions of this Agreement.

7. **Enforcement of Agreement.** 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.

8. **Enforcement of City Code.** Nothing contained in this Agreement shall be construed as a prohibition or limitation on the City's right to enforce any and all applicable City regulations, ordinances and Code provisions with respect to the Property and the construction permitted pursuant to this Agreement.

## **SECTION 9: REPRESENTATIONS AND WARRANTIES OF DEVELOPER.**

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

2. **Non-Conflict or Breach.** Neither the execution and delivery of this Agreement by Developer, the consummation of the transactions contemplated hereby by the Developer, nor the fulfillment of or compliance with the terms and conditions of this Agreement by the Developer conflicts with or will result in a breach of any of the terms, conditions or provisions of any offerings or disclosure statement made or to be made on behalf of Developer (with the Developer's prior written approval), any organizational documents, any restriction, agreement or instrument to which the Developer or any of its partners or venturers is now a party or by which the Developer or any of its partners or its venturers is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any prohibited lien, charge or encumbrance whatsoever upon any of the assets or rights of the Developer, any related party or any of its venturers under the terms of any instrument or agreement to which the Developer, any related party or any of its partners or venturers is now a party or by which the Developer, any related party or any of its venturers is bound.

3. **Financial Resources.** As of the Effective Date, the Developer has or will have sufficient financial and economic resources to implement and complete the Developer's obligations contained in this Agreement, other than those future obligations as set forth herein. The Developer will provide all necessary debt and equity financing to complete the Project, except as specifically provided herein. Prior to the issuance of the Certificate of Completion, the Developer may not enter into a transaction that would materially or adversely affect its ability to finance this Project.

4. **Developer Existence.** The Developer shall do or cause to be done all things necessary to preserve and keep in full force and effect its existence and good standing in whatever states it may operate, so long as this Agreement is in effect or the Developer has any remaining obligation pursuant to the terms of this Agreement. In the event that the Developer changes its state of organization, it shall provide notice of such change to the City in accordance with the provisions of Section 16.5.

5. **Project Construction and Term.** The Developer shall diligently pursue obtaining

all required permits and the Developer shall cause construction of the Project on the Property to be prosecuted and completed pursuant to the terms hereof with due diligence, in good faith, and without delay, subject to Uncontrollable Circumstances and the other provisions of this Agreement. The Project shall be completed and apply for its certificate of occupancy no later than twenty-eight (28) months from the Effective Date of this Agreement, provided this time period shall be extended by the number of days of any delay caused by the City. The City agrees to an extension of this time period for completion, for good cause shown by Developer, approval of which will not be unreasonably withheld by the City.

6. **Environmental Matters.** The Developer represents and warrants to the City that, prior to the date that Developer acquires the Property, the Developer will review or conduct environmental studies sufficient to conclude that the Project may be constructed, completed and operated in accordance with all environmental laws and this Agreement.

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

8. **Disclosure.** Concurrently with the execution of this Agreement, the Developer shall disclose to the City the names, addresses and ownership interests of all Persons that directly own the Developer. At the time of execution of this Agreement, no change shall be made in the Persons comprising such owners of the Developer without notice to the City.

9. **Conflicts of Interest.** Pursuant to Section 5/11-74.4-4(n) of the Act, 65 ILCS 5/11-74.4-4(n), the Developer represents, warrants and covenants that, to the best of its knowledge, no member, official, or employee of the City, or any consultant hired by the City or the Developer with respect thereto, owns or controls, has owned or controlled or will own or control any interest in the Property, and no such person shall represent any person, as agent or otherwise, who owns or controls, has owned or controlled, or will own or control any interest, directly or indirectly, in the Developer's business or the Property.

10. **Assignment.** The Developer shall have the right to assign this agreement to a Permitted Assignee. A Permitted Assignee shall include successor owner or tenant of the area described in Exhibit B, or such other person approved by the City. Such approval to an assignment to such other person shall not be unreasonably withheld. Upon assignment of this Agreement, the assignor shall have no further rights or liability pursuant to this Agreement to the extent so assigned and the assignee shall assume all rights and liabilities under this Agreement that have been assigned. In the event the Developer shall sell the subject property, the Developer may elect to retain the rights to future payments reimbursement of Eligible Project Costs as provided herein.

11. **Use of City Funds.** City funds shall be used by the Developer solely to reimburse the Developer for its payment for Eligible Project Costs.

## **SECTION 10: REPRESENTATIONS AND WARRANTIES OF THE CITY.**

1. **Organization and Authorization.** The City is an Illinois municipal corporation duly incorporated and existing under the laws of the State of Illinois, and is authorized to and has the power to

enter into, and by proper action has been duly authorized to execute, deliver and perform the Agreement.

2. **Non-Conflict or Breach.** Neither the execution and delivery of this Agreement by the City, the consummation of the transactions contemplated hereby by the City, nor the fulfillment of or compliance with the terms and conditions of this Agreement by the City conflicts with or will result in a breach of any of the terms, conditions or provisions of any offerings or disclosure statement made or to be made on behalf of the City.

3. **Class 8 Incentive.** The City also agrees to support a Class 8 incentive application to be submitted to the Cook County Assessor's Office. The reimbursements shall be based upon the Developer's estimate of tax burden including the Class 8 incentive and achieving a certain benchmark return. The tax payments will be monitored annually in relation to the Developer's pro forma.

#### **SECTION 11: BINDING EFFECT AND TERM.**

1. **Term.** This Agreement shall be effective on the Effective Date and shall terminate on the earlier of the following to occur: (i) the date on which the Redevelopment Project Area is no longer in effect; or (ii) the date on which the final payment of Incremental Property Taxes are paid to the Developer pursuant to Section 6 of this Agreement. Upon the expiration of the term of this Agreement, the City shall provide to the Developer, at the Developer's written request, a written notice in recordable form providing that the term of this Agreement has expired. The City shall not seek to amend the scheduled Project Area TIF termination date to an earlier date until the Developer has been paid the Reimbursement Amount.

#### **SECTION 12: EVENTS OF DEFAULT AND REMEDIES.**

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

12.1.1. If any material representation made by the Developer in this Agreement, or in any certificate, notice, demand or request made by a party hereto, in writing and delivered to the City pursuant to or in connection with any of said documents, shall prove to be untrue or incorrect in any material respect as of the date made; provided, however, that such default shall constitute an Event of Default only if the Developer does not remedy the default, within thirty (30) days after written notice from the City. provided, however, that such default or breach shall not constitute an Event of Default if such default cannot be cured within said thirty (30) days and the Developer, within said thirty (30) days initiates and diligently pursues appropriate measures to remedy the default and in any event cures such default within one hundred eighty (180) days after such notice.

12.1.1. Default by the Developer for a period of thirty (30) days after written notice thereof in the performance or breach of any material covenant contained in this Agreement, or any other agreement, financing or otherwise, concerning the existence, structure or financial condition of the Developer and/or the Project and Property; provided, however, that such default or breach shall not constitute an Event of Default if such default cannot be cured within said thirty (30) days and the Developer, within said thirty (30) days initiates and diligently pursues appropriate measures to remedy the default and in any event cures such default within one hundred eighty (180) days after such notice.

12.1.2. Default by the Developer for a period of thirty (30) days after written notice thereof in the performance or breach of any material covenant, warranty or obligation contained in this Agreement; provided, however, that such default shall not constitute an Event of Default if such default cannot be cured within said thirty (30) days and the Developer, within said thirty (30) days initiates and diligently pursues appropriate measures to remedy the default and in any event cures such default within one hundred eighty (180) days after such notice.

12.1.3. 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 one hundred and twenty (120) consecutive days.

12.1.4. 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 for bankruptcy by others and not dismissed within one hundred and twenty (120) consecutive days.

12.1.5. Failure to have funds to meet the Developer's obligations as and when needed; provided, however, that such default shall constitute an Event of Default only if the Developer does not remedy the default within thirty (30) days after written notice from the City. Opposing or contesting a bill in good faith shall not violate the foregoing.

12.1.6. The Developer abandons the Project on the Property. Abandonment shall be deemed to have occurred when work stops on the Property for more than sixty (60) days for any reason other than: (i) Uncontrollable Circumstances or (ii) if the Developer is ahead of its planned construction schedule to complete the Project as required by Section 5.1 of this Agreement.

12.1.7. The Developer materially fails to comply with applicable governmental codes and regulations in relation to the construction and maintenance of the buildings contemplated by this Agreement; provided, however, that such default shall constitute an Event of Default only if the Developer does not, within thirty (30) days after written notice from the City, remedy the default provided, , however, that such default or breach shall not constitute an Event of Default if such default cannot be cured within said thirty (30) days and the Developer, within said thirty (30) days initiates and diligently pursues appropriate measures to remedy the default and in any event cures such default within one hundred eighty (180) days after such notice.

2. **City Events of Default.** The following shall be Events of Default with respect to this Agreement:

12.2.1. If any representation made by the City in this Agreement, or in any certificate, notice, demand or request made by a Party hereto, in writing and delivered to the Developer

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

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

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

3. **Remedies for Default.** In the case of an Event of Default hereunder:

12.3.1. The defaulting party shall, upon written notice from the non-defaulting party, pursuant to Section 16.1 of this Agreement, take immediate action to cure or remedy such Event of Default. If, in such case, any Event of Default is not cured within the applicable cure period, or if action is taken and diligently pursued but such Event of Default or breach shall not be cured or remedied within a reasonable time, but in no event more than one hundred eighty (180) additional days unless extended by mutual agreement, the non-defaulting party may institute such proceedings as may be necessary or desirable in its opinion to cure or remedy such default or breach, including, but not limited to, proceedings to compel specific performance of the defaulting party's obligations under this Agreement.

12.3.2. In case the City shall have proceeded to enforce its rights under this Agreement and such proceedings shall have been discontinued or abandoned for any reason, then, and in every such case, the Developer and the City shall continue as though no such proceedings had been taken.

12.3.3. In the case of an Event of Default by the Developer, in addition to any other remedies at law or in equity, the City shall be relieved of its obligations under this Agreement, and the City may terminate this Agreement and may suspend disbursement of City funds. The City may, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy. Nothing contained herein shall require the repayment of any Reimbursement sums previously disbursed to the Developer.

12.3.4. In the event that either Party fails to timely perform a monetary obligation as and when required hereunder, the Party to whom funds are owed may demand payment within thirty (30) days. In the event that the Party with the monetary obligation fails to pay the amounts due within such 30-day period, such amount due shall accrue interest after the due date at a rate of one-half percent (0.5%) per month. Any such accrued interest shall be added to such outstanding amounts due and owing until paid in full and shall be included in the calculation of such amounts due.

4. **Lender Rights**

12.4.1. The City shall cooperate with the Developer and any lender providing Lender Financing to provide such information as is reasonably requested by such lender regarding the Project.

This Agreement and all liens and rights of City hereunder shall at all times be subordinate to any and all mortgages or deeds of trust hereinafter placed upon the Property or Project herein, now or in the future, or any part thereof, by any Lender, and to all future modifications, consolidations, replacements, extensions and renewals of, and all amendments and supplements to said mortgages or deeds of trust. The provisions of this paragraph shall be self-operative, but City acknowledges and agrees that as a material consideration inducing Developer to enter into this Agreement, City shall acknowledge same by executing and delivering to Developer or any future owner of the Property or Project herein, on demand at any time or times, any and all instruments in order to subordinate this Agreement and City's rights hereunder, to any Lender of Developer or any successor owner or purchaser of the Property or Project herein and execute a written subordination of the rights and liens under this Agreement to such Lender or purchaser upon request from Lender or purchaser.

12.4.2. Upon a Developer Event of Default, the City shall promptly give any lender providing Lender Financing a notice of the Developer Event of Default (the "Default Notice"). Such lender shall have 180 days after receipt of the Default Notice to cure such default. However, with respect to any cure which requires such lender to possess and control the Property, if such lender undertakes such cure, by written notice to the City within 30 days of receiving the Default Notice, the cure period shall continue for such additional time as may reasonably be required to obtain possession and control of the Property and thereafter cure the default, but in no event shall the period from the Default Notice to completion of such cure exceed 365 days. Such lender may, upon notice to City, abandon exercise of its cure rights without liability to the City or any other party. If a lender does abandon its exercise of its cure rights, the City may suspend any payments due hereunder and/or terminate this Agreement. The City shall accept cure by such lender in fulfillment of Developer's obligations, for the account of Developer and with the same force and effect as if performed by Developer.

12.4.3. If Developer collaterally assigns this Agreement to a lender, such Lender shall have the right to perform any term, covenant, condition or agreement and to remedy, in accordance with the terms of this Agreement, any default by Developer under this Agreement, and the City shall accept such performance by any such Lender with the same force and effect as if furnished by Developer. No lender shall be liable or obligated to perform the obligations of the Developer under the Agreement unless and until such lender takes possession of the Property as a mortgagee or by a receiver appointed at the request of mortgagee or becomes the owner of the fee estate, as applicable, under this Agreement by foreclosure, or deed in lieu of foreclosure or otherwise. Further, any such lender shall have no liability for any Developer Events of Default which accrued prior to the lender taking possession of the Property. Such lender, its successors or nominees shall, however, have all rights under this Agreement and shall be liable for any obligations which arise after possession of the Property is taken under this Agreement.

### SECTION 13: MAINTAINING RECORDS/RIGHT TO INSPECT

1. **Books and Records.** The Developer shall keep and maintain separate, complete, accurate and detailed books and records necessary to reflect and fully disclose the actual total cost of the Project and the disposition of all funds from whatever source allocated thereto, and to monitor the Project. All such books, records and other documents, including, but not limited to the Developer's loan statements, if any, general contractors' and contractors' sworn statements, general contracts, subcontracts, purchase orders, waivers of lien, paid receipts and invoices, shall be available at the Developer's offices for inspection, copying, audit and examination by an authorized representative of the City, at the Developer's expense. The Developer shall incorporate this right to inspect copy, audit

and examine all books and records into all contracts entered into by the Developer with respect to the Project.

2. **Inspection Rights.** Upon three (3) business days' notice, any authorized representative of the City shall have access to all portions of the Project and the Property during normal business hours for the term of this Agreement; provided, however, such representative shall not interfere with any lawful use of or on the Property and shall adhere to all Property safety rules and regulations.

#### **SECTION 14: EFFECT OF THIS AGREEMENT.**

1. **Entire Agreement.** This Agreement contains the entire agreement between the parties respecting the matters herein set forth and supersedes all prior agreements among the parties hereto respecting such matters, if any, there being no other oral or written promises, conditions, representations, understandings, warranties or terms of any kind as conditions or inducements to the execution hereof and none have been relied upon by either party, except to the matters set forth in the Purchase and Sale Agreement.

2. **Merger.** All negotiations between the parties are merged in this Agreement, and there are no understandings or agreements, verbal or written, other than those incorporated in this Agreement.

#### **SECTION 15: NON-WAIVER.**

1. **No waiver by breach.** Except as herein expressly provided, no waiver by a party of any breach of this Agreement by the other party shall be deemed to be a waiver of any other breach by such other party (whether preceding or succeeding and whether or not of the same or similar nature), and no acceptance of payment or performance by a party after any breach by the other party shall be deemed to be a waiver of any breach of this Agreement or of any representation or warranty hereunder by such other party whether or not the first party knows of such breach at the time it accepts such payment or performance.

2. **Failure to enforce not a waiver.** No failure or delay by a Party to exercise any right it may have by reason of the default of any other party shall operate as a waiver of default or as a modification of this Agreement or shall prevent the exercise of any right by the first party while the other party continues to be so in default.

#### **SECTION 16: MISCELLANEOUS**

1. **Cumulative Remedies.** The parties' rights and remedies hereunder shall be cumulative, and the exercise of any rights or remedies shall neither preclude enforcement of other rights and remedies nor waive other rights and remedies. The failure of either party to exercise any rights or remedies shall neither preclude enforcement of any rights or remedies nor constitute a waiver of any rights or remedies.

2. **Governing Law and Venue.** This Agreement shall be governed by the laws of the State of Illinois both as to interpretation and performance, and any legal proceeding of any kind arising from this Agreement shall be filed in the Circuit Court of Cook County, Illinois.

3. **Enforceability.** This Agreement shall be enforceable by any of the parties hereto by an



9. **No Discrimination.** The Developer will comply with all federal, state and local laws relating to equal employment opportunity.

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

11. **Contractors.** Any contracts made by the Developer with any general contractor, agent, employee, independent contractor or any other Person in connection with the Project shall contain language similar to that recited in Section 16.9 and Section 16.10 above.

12. **Local Vendors and Contractors.** The Developer shall use good faith efforts to employ local vendors and contractors when economically feasible in the construction process and in the ongoing marketing and management of the Project. This includes advertising in local publications and media for available positions that are not filled by re-assignment of existing employees, notifying the City when the Developer is seeking contractors or employees.

13. **Termination.** In the event Developer or the City shall be prohibited in any material respect from performing covenants and agreements or enjoying the rights and privileges herein contained, including Developer's duty to construct the Project, by the order of any court of competent jurisdiction or in the event that all or any part of any ordinances adopted by the City in connection with the Project shall be declared invalid or unconstitutional, in whole or in part, by a final decision of a court of competent jurisdiction and such declaration shall materially affect the Development, or the covenants and agreements or rights and privileges of Developer or the City, then in any such event, the party materially affected may, at its election, cancel or terminate this Agreement with respect to that portion of the Project materially affected by giving written notice thereof to the other party within sixty (60) days after such final decision or amendment. If the City terminates this Agreement, to the extent it is then appropriate, the City may also terminate its duties, obligations and liability under all or any related documents and agreements.

14. **Time is of the Essence.** Time is of the essence for this Agreement.

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

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

17. **No Personal Liability of City Officials.** No covenant or agreement contained in this Agreement shall be deemed to be the agreement of any official, agent, employee, consultant or attorney of the City, in his or her individual capacity, and no official, employee or attorney of the City shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of or in connection with or arising out the execution, delivery, and performance of this Agreement, or any failure in connection therewith.

18. **Repealed.** To the extent that any ordinance, resolution, rule, order or provision of the City Code, or any part thereof, is in conflict with the provisions of this Agreement, the provisions of this Agreement shall be controlling to the extent lawfully permitted.

19. **Presumptions and Interpretation.** This Agreement shall be deemed to have been negotiated by and between the parties such that no presumption of draftsmanship shall inure to the detriment or benefit to either party. Moreover, this Agreement is to be liberally construed in order to give force and effect of the interest of parties to effectuate the orderly and efficient construction, completion and maintenance of the Project contemplated herein.

20. **Estoppel Certificates.** Each of the Parties hereto agrees to provide the other upon not less than ten (10) business days prior request, a certificate ("Estoppel Certificate") certifying that this Agreement is in full force and effect (unless such is not the case, in which such Party shall specify the basis for such claim), that the requesting Party is not in default of any term, provision or condition of this Agreement beyond any applicable notice and cure provision (or specifying each such claimed default) and certifying such other matters reasonably requested by the requesting Party. If either Party fails to comply with this provision within the time limit specified, it shall be deemed to have appointed the other as its attorney-in-fact for execution of same on its behalf as to that specific request only.

21. **Authority to Execute.** The Parties hereby acknowledge and agree that all required notices, meetings, and hearings have been properly given and held by the City with respect to the approval of this Agreement and agree not to challenge this Agreement or any of the obligations created by it on the grounds of any procedural infirmity or any denial of any procedural right. The City is a home-rule community under the law of the State of Illinois and enters into this Agreement pursuant to such authority and by exercise of its home-rule powers. The City hereby warrants and represents to the Developer that the person executing this Agreement on its behalf has been properly authorized to do so by the Mayor and City Council of the City. The Developer further represents that, (1) the Developer has the full and complete right, power, and authority to enter into this Agreement and to agree to the terms, provisions, and conditions set forth herein and to bind the Property as set forth herein, (2) all legal actions needed to authorize the execution, delivery, and performance of this Agreement have been taken, and (3) neither the execution of this Agreement nor the performance of the obligations assumed by, as applicable, the Developer hereunder will (i) result in a breach or default under any agreement to which the Developer is a party or to which the Developer or the Property is bound, or (ii) violate any statute, law, restriction, court order, or agreement to which the Developer, or the Property is subject.

22. **Recordation of Agreement.** The Parties agree to record a memorandum of this Agreement, executed by the then current owners of the Property in the appropriate land or governmental records. Developer shall pay the recording charges. In the event that any of the rights, duties or obligations hereunder are considered subject to the doctrine of merger relative to the purchase, sale and closing on the properties which are the subject of this Agreement, the rights, duties or obligations set forth in this Agreement shall survive closing.

23. **Successors in Interest.** At any time, the Developer may assign its rights or obligations under this Agreement for the purpose of obtaining financing for the Project or any portion thereof to any entity in which the Developer owns a controlling interest. Developer may not otherwise assign its rights or obligations under this Agreement to any other person or entity without prior written consent of the City, in its sole discretion.

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

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

26. **Assignment.** This Agreement and the rights and obligations hereunder, may not be assigned by Developer prior to completion of the Project (as evidenced by issuance of certificate(s) of occupancy for the entire Project by the City to the Developer) unless the City in the exercise of its sole and absolute discretion consents in writing to such assignment. After the issuance of the aforesaid certificate(s) of occupancy by the City, the Developer shall have the right to assign this Agreement and its rights and obligations hereunder, subject to the consent in writing of the City, such consent not to be unreasonably withheld. Notwithstanding the foregoing, the City's right to consent to an assignment shall expire ten (10) years from the Effective Date.

**[SIGNATURES APPEAR ON FOLLOWING PAGE]**

IN WITNESS WHEREOF, the parties set their hands and seals as of the date first written above.

CITY OF OAK FOREST

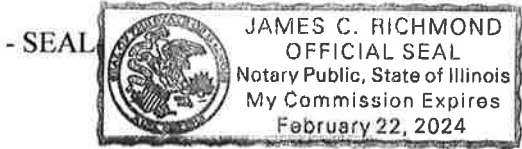
Attest:

By: Henry L. Kuspa  
Henry Kuspa, Mayor

By: [Signature]  
City Clerk

State of Illinois )  
 ) ss  
County of Cook )

The foregoing instrument was acknowledged before me by Henry Kuspa, Mayor, and JOHN F. JAWOZIK, City Clerk, this 27<sup>th</sup> day of APRIL, 2021.



James C. Richmond  
Notary Public

---

HD Hotels, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

State of Illinois )  
 ) ss  
County of \_\_\_\_\_ )

The foregoing instrument was acknowledged before me by HD Hotels, LLC., \_\_\_\_\_ of HD Hotels, LLC. this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

- SEAL-

\_\_\_\_\_  
Notary Public

**Exhibit A**

Legal description of Property

Exhibit B

**LEGAL DESCRIPTION OF REDEVELOPMENT PROJECT AREA**

## **Exhibit C**

Project approval final plan/site plan

## Exhibit D

Project budget and startup costs projection,  
demonstration of need and request for assistance

HD Hotels, LLC,

Hon Henry Kuspa, Mayor  
City of Oak Forest  
15440 S. Central Ave  
Oak Forest, IL 60452

\_\_\_\_\_, 2021

Dear Mayor Kuspa:

RE: Request for Public Assistance for the Project:

We are writing to you to request the net present value of \$2,200,000 in public assistance for our proposed development of the Project in the City of Oak Forest.

The amount referenced above would provide assistance with approximately \$ \_\_\_\_\_ in TIF-eligible costs, preliminary estimates of which are presented below.

Type of Expenditure	Description	Estimated Cost
Land Acquisition costs		
Off-Site Improvements	Road Improvements	
	Utilities	
On-Site Improvements	Demolition	N/A
	Environmental Remediation – Special Waste Removal	unknown (soils investigation needed)
	Mass Excavation/Site preparation	\$
	Drive/parking/sidewalks/Trash enclosure	
	Utilities – Electric/Phone/Gas	
	Utility Extensions/Relocation (Interior Water, Storm & Sanitary Sewer)	
Soft Costs	Architect and Engineering Fees	\$
	Survey and Platting	
	Development Consulting Fees	\$
	Legal and Accounting	
	Loan Points/Fees	
	Interim Interest	
Total		\$

We appreciate your consideration to provide the public assistance, which will enable us to quickly move forward to put the land to productive use, create jobs within the community, generate local sales/use tax revenue, send favorable marketing signals and generate other economic activity within the community.

If you have any questions or would like to discuss the proposed project in further detail, please call contact us at \_\_\_\_\_.

Sincerely,

## Exhibit E

Developer submittal and City approved elevations for the Project



**CITY OF OAK FOREST, ILLINOIS**

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**TAX INCREMENT FINANCING DISTRICT FUNDS**

**REPORT ON COMPLIANCE  
WITH PUBLIC ACT 85-1142**

**For the Year Ended April 30, 2021**



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**CITY OF OAK FOREST, ILLINOIS**  
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1415 West Diehl Road, Suite 400  
Naperville, IL 60563  
630.566.8400

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## **INDEPENDENT ACCOUNTANT'S REPORT**

The Honorable Mayor  
Members of the City Council  
City of Oak Forest, Illinois

We have examined management of the City of Oak Forest's (the City) assertion that the City complied with the provisions of subsection (q) of Section 11-74.4-3 of the Illinois Tax Increment Redevelopment Allocation Act (Illinois Public Act 85-1142) during the year ended April 30, 2021. The City's management is responsible for its assertion. Our responsibility is to express an opinion on management's assertion about the City's compliance based on our examination.

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

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

In our opinion, management's assertion that the City of Oak Forest complied with the aforementioned requirements, included in the Report on Compliance with Public Act 85-1142 for the year ended April 30, 2021, is fairly stated, in all material respects.

This report is intended solely for the information and use of the City Council, management, the Joint Review Board, and the Illinois Department of Revenue and is not intended to be and should not be used by anyone other than these specified parties.

*Sikich LLP*

Naperville, Illinois  
November 30, 2021

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

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## **INDEPENDENT AUDITOR'S REPORT ON SUPPLEMENTARY INFORMATION**

The Honorable Mayor  
Members of the City Council  
City of Oak Forest, Illinois

We have audited the financial statements of the governmental activities, the business-type activities, each major fund, the aggregate remaining fund information of the City of Oak Forest, Illinois as of and for the year ended April 30, 2021, which collectively comprise the basic financial statements of the City of Oak Forest, Illinois, and have issued our report thereon dated November 30, 2021, which expressed an unmodified opinion on those statements.

Our audit was conducted for the purpose of forming an opinion on the basic financial statements as a whole. The supplemental data as listed in the table of contents is presented for purposes of additional analysis and is not a required part of the basic financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. The information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated in all material respects in relation to the basic financial statements as a whole.

*Sikich LLP*

Naperville, Illinois  
November 30, 2021

## **SUPPLEMENTAL DATA**

**CITY OF OAK FOREST, ILLINOIS**

TAX INCREMENT FINANCING DISTRICT FUNDS

COMBINING BALANCE SHEET

APRIL 30, 2021

	<b>1986 TIF</b>	<b>1996 TIF Bond Series</b>	<b>TIF III Capital Projects</b>	<b>TIF IV Capital Projects</b>	<b>TIF V Capital Projects</b>	<b>TIF VI Capital Projects</b>	<b>TIF VII Capital Projects</b>	<b>Total</b>
<b>ASSETS</b>								
Cash and cash equivalents	\$ 310,483	\$ -	\$ -	\$ 593,832	\$ 97,121	\$ 829	\$ 260,855	\$ 1,263,120
<b>TOTAL ASSETS</b>	<b>\$ 310,483</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 593,832</b>	<b>\$ 97,121</b>	<b>\$ 829</b>	<b>\$ 260,855</b>	<b>\$ 1,263,120</b>
<b>LIABILITIES AND FUND BALANCES</b>								
<b>LIABILITIES</b>								
Accounts payable	\$ 115,157	\$ -	\$ 7,713	\$ 1,096	\$ 4,662	\$ 6,143	\$ 10,529	\$ 145,300
Line of credit	-	-	-	392,453	-	315,244	-	707,697
Due to other funds	-	-	45,765	-	-	-	-	45,765
Advances from other funds	-	-	1,500,000	-	-	-	-	1,500,000
Total liabilities	115,157	-	1,553,478	393,549	4,662	321,387	10,529	2,398,762
<b>FUND BALANCE</b>								
Restricted for economic development	195,326	-	-	200,283	92,459	-	250,326	738,394
Unassigned (deficit)	-	-	(1,553,478)	-	-	(320,558)	-	(1,874,036)
Total fund balances	195,326	-	(1,553,478)	200,283	92,459	(320,558)	250,326	(1,135,642)
<b>TOTAL LIABILITIES AND FUND BALANCES</b>	<b>\$ 310,483</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 593,832</b>	<b>\$ 97,121</b>	<b>\$ 829</b>	<b>\$ 260,855</b>	<b>\$ 1,263,120</b>

(See independent auditor's report.)

**CITY OF OAK FOREST, ILLINOIS**

TAX INCREMENT FINANCING DISTRICT FUNDS

COMBINING STATEMENT OF REVENUES, EXPENDITURES,  
AND CHANGES IN FUND BALANCES

For the Year Ended April 30, 2021

	<b>1986 TIF</b>	<b>1996 TIF Bond Series</b>	<b>TIF III Capital Projects</b>	<b>TIF IV Capital Projects</b>	<b>TIF V Capital Projects</b>	<b>TIF VI Capital Projects</b>	<b>TIF VII Capital Projects</b>	<b>Total</b>
<b>REVENUES</b>								
Taxes	\$ 285,076	\$ 356,719	\$ 456,150	\$ 311,580	\$ 24,342	\$ 25,020	\$ 14,711	\$ 1,473,598
Investment income	(70)	618	(110)	250	(40)	(259)	(625)	(236)
Miscellaneous	-	-	-	22,200	-	-	-	22,200
Total revenues	285,006	357,337	456,040	334,030	24,302	24,761	14,086	1,495,562
<b>EXPENDITURES</b>								
General government								
Administration	119,396	1,861	83,086	1,376	32,218	22,174	6,205	266,316
Debt service								
Principal	150,000	-	265,000	-	-	-	-	415,000
Interest and fiscal charges	20,309	-	205,670	15,120	-	12,470	1,631	255,200
Total expenditures	289,705	1,861	553,756	16,496	32,218	34,644	7,836	936,516
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	(4,699)	355,476	(97,716)	317,534	(7,916)	(9,883)	6,250	559,046
<b>OTHER FINANCING SOURCES (USES)</b>								
Transfers in	200,000	-	-	-	-	125,000	466,704	791,704
Transfers (out)	-	(666,704)	-	-	-	-	-	(666,704)
Total other financing sources (uses)	200,000	(666,704)	-	-	-	125,000	466,704	125,000
NET CHANGE IN FUND BALANCES	195,301	(311,228)	(97,716)	317,534	(7,916)	115,117	472,954	684,046
FUND BALANCES (DEFICIT) , MAY 1	25	311,228	(1,455,762)	(117,251)	100,375	(435,675)	(222,628)	(1,819,688)
<b>FUND BALANCES (DEFICIT), APRIL 30</b>	<b>\$ 195,326</b>	<b>\$ -</b>	<b>\$ (1,553,478)</b>	<b>\$ 200,283</b>	<b>\$ 92,459</b>	<b>\$ (320,558)</b>	<b>\$ 250,326</b>	<b>\$ (1,135,642)</b>

(See independent auditor's report.)

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## **INDEPENDENT ACCOUNTANT'S REPORT**

The Honorable Mayor  
Members of the City Council  
City of Oak Forest, Illinois

We have examined management of the City of Oak Forest's (the City) assertion that the City complied with the provisions of subsection (q) of Section 11-74.4-3 of the Illinois Tax Increment Redevelopment Allocation Act (Illinois Public Act 85-1142) during the year ended April 30, 2021. The City's management is responsible for its assertion. Our responsibility is to express an opinion on management's assertion about the City's compliance based on our examination.

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

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

In our opinion, management's assertion that the City of Oak Forest complied with the aforementioned requirements, included in the Report on Compliance with Public Act 85-1142 for the year ended April 30, 2021, is fairly stated, in all material respects.

This report is intended solely for the information and use of the City Council, management, the Joint Review Board, and the Illinois Department of Revenue and is not intended to be and should not be used by anyone other than these specified parties.

*Sikich LLP*

Naperville, Illinois  
November 30, 2021