

TABLE OF CONTENTS

	Page
Section 1. Recitals and Definitions	4
Section 2. Redevelopment Project Area	11
Section 3. Private Redevelopment Projects.	11
Section 4. Public Redevelopment Projects; Dedicated Improvements.	12
Section 5. Allocation of Cost of Public Redevelopment Projects.	13
Section 6. Additional Developer Contributions; Fiscal Impact Analysis.	15
Section 7. Allocation of TIF Revenue Stream; Application of Amounts on Deposit	20
Section 8. Project Inactivity Penalties	24
Section 9. Domestic Water Supply	25
Section 10. Boundaries of the TIF Redevelopment Project Area and Plan Amendments.	26
Section 11. Boundaries of School District, Park District and Fire Protection District	26
Section 12. Approval of Plan; Issuance of Permits	27
Section 13. TIF Financial Statements	28
Section 14. Street Names	29
Section 15-1. Documentation Required to Support Eligible Developer Expenditures	29
Section 15-2. Request For Issuance of Developer Notes	32
Section 15-3. Terms and Conditions of Developer Notes	34
Section 16. Issuance of Bonds	37
Section 17. Special Service Area Financing	38
Section 18. Project Coordinators	38

TABLE OF CONTENTS
(continued)

	<u>Page</u>
Section 19. No Exemption from Property Taxes	39
Section 20. Procedures Regarding Issuance of Bank Qualified Bonds	39
Section 21. Prompt Payment of Taxes	40
Section 22. Adherence to City Codes and Ordinances	40
Section 23. Limited Obligations	41
Section 24. Developer's Obligations	42
Section 25-1. Representations and Warranties of the Developer	42
Section 25-2. Representations and Warranties of the City	44
Section 26. Additional Covenants of the Developer	45
Section 27. Rights of Inspection and Right to Audit Books and Records; Sales Tax Reporting	50
Section 28. Liability and Risk Insurance.	51
Section 29. Events of Default and Remedies	52
Section 30. Equal Employment Opportunity	57
Section 31. Miscellaneous Provisions	58
Section 32. Effectiveness	65

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LIST OF EXHIBITS

<u>Exhibit</u>	<u>Description</u>
A	Description of the Redevelopment Project Area [Attached]
B	Description of the Subject Property [Attached]
C	General Site Plan (and Component Documents) [Provided under separate cover - See Ordinance approving General Site Plan]
C-1	Description of Permitted Signage [Attached]
D	Public Redevelopment Projects [Attached]
D-1	Description of \$2 Million in Other Redevelopment Project Costs [Attached]
E	Scope of Services of Fiscal Impact Analysis [Attached]
F	Memorandum Report Submitted by Ken Carmignani re Lake Michigan water [Attached]
G	Jim Connors letter re Lake Michigan water [Attached]
H	Form of Developer Note [Attached]
I	Form of Developer Note Summary [Attached]
J	Form of Bond Counsel Opinion [Attached]
K	Title Policy Commitment [Attached]

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REDEVELOPMENT AND FINANCING AGREEMENT

THIS REDEVELOPMENT AND FINANCING AGREEMENT (the "Agreement") is dated as of this first day of February, 1994, by and between the CITY OF WARRENVILLE, an Illinois municipal corporation (the "City") and WARRENVILLE DEVELOPMENT LIMITED PARTNERSHIP (the "Developer"), an Illinois limited partnership organized pursuant to the Partnership Agreement (as hereinafter defined).

W I T N E S S E T H :

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 prevent the spread of blight, to encourage private development in order to enhance the local tax base, to increase employment, and to enter into contractual agreements with third parties for the purpose of achieving the aforesaid purposes; and

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

WHEREAS, to stimulate and induce redevelopment pursuant to the Act, the City has previously adopted the following ordinances:

1. Ordinance No. 872, adopted December 15, 1986, titled "Ordinance Approving the City of Warrenville 1986 Tax Increment Redevelopment Plan and Project," and continued with respect to the Redevelopment Project Area by Ordinance No. 1157, adopted June 3, 1991, titled "An Ordinance of the City of Warrenville, Illinois Approving a Tax Increment Redevelopment Plan and Project";

2. Ordinance No. 873, adopted December 15, 1986, titled "Ordinance Designating Tax Increment Redevelopment Project Area," and continued by Ordinance No. 1158, adopted June 3, 1991, titled "An Ordinance of the City of Warrenville, Illinois Defining the Redevelopment Project Area";

3. Ordinance No. 874, adopted December 15, 1986, titled "Ordinance Adopting Tax Increment Financing," and continued with respect to the Redevelopment Project Area by Ordinance No. 1159, adopted June 3, 1991, titled "An Ordinance of the City of Warrenville, Illinois Adopting Tax Increment Allocation Financing for the Redevelopment Project Area"; and

4. Ordinance No. 875, adopted December 15, 1986, titled "Ordinance Respecting State Sales Tax Increment," and continued with respect to the Redevelopment Project Area by Ordinance No. 1160, adopted June 3, 1991, titled "An Ordinance of the City of Warrenville, Illinois Adopting State Sales Tax Increment Financing for a Portion of the Redevelopment Project Area"; and

WHEREAS, in order to regulate the development in the Redevelopment Project Area, the City has also adopted the following ordinances:

1. Ordinance No. 1102, adopted June 6, 1990, titled "Ordinance Amending Ordinance No. 1018, Zoning Ordinance of The City of Warrenville, With Regard to Special Development District".

2. Ordinance No. 1135, adopted January 21, 1991, titled "Ordinance Amending Ordinance No. 1018, Zoning Ordinance of the City of Warrenville, with Regard to Special Development District"; and

3. Ordinance No. 1136, adopted January 21, 1991, titled "Ordinance Granting Special Use Permit for Planned Development--Elmhurst-Chicago Stone Company"; and

WHEREAS, concurrently with the adoption of this Ordinance, the City has adopted various ordinances adopting and approving the Zoning and Land Use Controls (as defined in this Agreement); and

WHEREAS, the Redevelopment Project Area consists of an area of land located in Warrenville, Illinois, and more particularly described in Exhibit A (attached hereto and made a part hereof); and

WHEREAS, the City and the Developer propose to jointly finance the cost of certain public improvements within the Redevelopment Project Area, which will serve a public purpose by reducing or eliminating conditions that in part qualify the

Redevelopment Project Area as a blighted area and which are necessary to foster private development and redevelopment within the Redevelopment Project Area; and

WHEREAS, the City proposes to finance its share of the costs to be incurred in connection with the implementation of these public improvements by utilizing tax increment financing in accordance with the Act; and

WHEREAS, the Developer also proposes, in cooperation with the City, to develop and finance certain private improvements to be located on portions of the Redevelopment Project Area; described in Exhibit B (the "Subject Property") attached hereto and made a part hereof; improvements will also serve a public purpose by reducing or eliminating conditions that in part qualify the Redevelopment Project Area as a blighted area; and

WHEREAS, the City has received certification from the State that the Redevelopment Project Area qualifies for receipt of incremental State sales tax revenues in accordance with the provisions of the Act.

NOW, THEREFORE, the City and the Developer, in consideration of the premises and the mutual agreements herein contained and described, the sufficiency of which is hereby acknowledged, and subject to the conditions herein set forth, agree as follows:

Section 1. Recitals and Definitions.

A. Recitals. The foregoing recitals are incorporated by reference in this Agreement.

B. Definitions. Each of the following terms shall have the meaning set forth below:

"Agreement" shall mean this Redevelopment and Financing Agreement.

"Bonds" shall mean, collectively, the 1991 Bonds and any obligations of the City issued in accordance with the provisions of Section 16.

"Change in Law" shall mean the occurrence, after the Effective Date, of an event described in paragraph (a) below unless such event is excluded pursuant to paragraph (b) or paragraph (c) below:

(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; (ii) the order or judgment of any federal, state or local 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 Contract; or (iv) the adoption, promulgation, modification or

interpretation in writing of a written guideline or policy statement by a governmental agency (other than the City).

(b) An event described in paragraph (a) above shall not be a Change in Law unless the event materially changes the costs or ability of the Party relying thereon to carry out its obligations under this Agreement.

(c) An event which would otherwise be a Change in Law pursuant to paragraph (a) and paragraph (b) above shall not be a Change in Law if the event is caused by the Fault of the Party relying thereon.

"City Engineer" shall mean the Person so designated by the City to the Developer.

"Code" shall mean the United States Internal Revenue Code of 1986, as amended.

"County" shall mean DuPage County, Illinois.

"Day" shall mean a calendar day.

"Dedicated Improvements" shall mean the improvements which are constructed in connection with the Public Redevelopment Projects or the Private Redevelopment Projects and which are to be dedicated upon completion by the Developer to the City.

"Effective Date" shall mean the date on which the conditions described in Section 32 have been satisfied.

"Eligible Developer Expenditures" shall mean those costs incurred by the Developer in connection with the redevelopment of the Redevelopment Project Area which are subject to payment or

reimbursement from TIF Revenue Stream in accordance with Section 5 and Section 7.

"Net Proceeds" shall mean the proceeds derived from the issuance of any series of Bonds, net of any costs of issuance, underwriter's fee or discount, debt service reserve or similar requirements, deposits for the payment of capitalized interest or other similar types of funding requirements generally applicable in connection with the issuance of tax increment bonds.

"Party" means the City and/or the Developer, as the context requires.

"Permitted Encumbrances" shall mean: the mortgage securing the \$24,635,412 loan currently outstanding to the Developer made by Barclays Bank; all security interests granted by the Developer to Barclays Bank in connection with this mortgage loan and any amendments thereto; liens in favor of any Person lending money to the Developer to finance a Redevelopment Projects, or any portion thereof; liens in favor of any Person that arise in the ordinary course of business of the Developer and that do not in the aggregate materially impair the use and value of the Subject Property or the conduct of the Developer's business; and any customary exceptions to title that are contained in the Developer's title insurance policy.

"Person" means any individual, corporation, partnership, joint venture, association, joint-stock contractor, trust, unincorporated organization 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.

"Private Redevelopment Projects" shall mean privately owned buildings and improvements constructed on the Subject Property in accordance with the Zoning and Land Use Controls (as defined herein).

"Public Redevelopment Projects" shall mean the items set forth on Exhibit D (attached hereto and made a part hereof)

"Public Redevelopment Projects Account" shall mean the account within the Tax Allocation Fund established pursuant to Section 7 of this Agreement.

"Redevelopment Plan" shall mean the "Redevelopment Plan" as defined in Ordinance No. 872, as amended by Ordinance No. 1157.

"Redevelopment Project Costs" shall have the meaning set forth in §3(q) of the Act.

"Redevelopment Projects" shall mean, collectively, the Public Redevelopment Projects and the Private Redevelopment Projects.

"Remaining TIF Revenue Stream" shall mean the amounts to be credited to the TIF Municipal Account and the Public Redevelopment Projects Account pursuant to Section 7 of this Agreement.

"1991 Bonds" shall mean those Bonds issued by the City pursuant to an "Ordinance Authorizing the Issuance of Tax Increment Revenue Bonds, Series 1991A, of the City of Warrenville, Illinois."

"State" shall mean the State of Illinois.

"Tax Allocation Fund" shall mean the Special Tax Allocation Fund for the City of Warrenville 1986 TIF Revenue Stream Redevelopment Project Area established pursuant to an Ordinance No. 874 and continued pursuant to Ordinance No. 1159.

"TIF Municipal Account" shall mean the account within the Tax Allocation Fund established pursuant to Section 7 of this Agreement.

"TIF Revenue Stream" shall mean the portion of the real property taxes collected with respect to taxable real property in the Redevelopment Project Area that is required to be paid to the City Treasurer for deposit to the Tax Allocation Fund pursuant to Section 11-74.4-8 of the Act, as such provision may be amended from time to time, the municipal sales tax increment collected by the State and paid to the City for deposit in the Tax Allocation Fund pursuant to Section 11-74.4-8(a) of the Act, as such provision may be amended from time to time, the State Sales Tax Increment collected by the State and paid to the City for deposit in the Tax Allocation Fund pursuant to Section 11-74.4-8(a) of the Act, as such provision may be amended from time to time, the proceeds of any other tax or other source of legally available revenue which the City designates as "TIF Revenue Stream", including any revenues generated pursuant to the provisions of Section 23, and interest or other investment income earned on monies on deposit in the Tax Allocation Fund.

"Uncontrollable Circumstance" means any event which (a) is beyond the reasonable control of and without the fault of the

Party relying thereon; and (b) includes, but is not limited to, the following events:

- (i) a Change in Law;
- (ii) insurrection, riot, civil disturbance, sabotage, act of the public enemy, explosion, nuclear incident, war or naval blockade;
- (iii) epidemic, hurricane, tornado, landslide, earthquake, lightning, fire, windstorm, other extraordinary weather condition or other similar Act of God; or
- (iv) governmental condemnation or taking;
- (v) strikes or labor disputes, other than those caused by the unlawful acts of the Developer; or
- (vi) an event described in Section 32(B).

Uncontrollable Circumstance shall not include economic hardship, impossibility or impracticability of performance, commercial or economic frustration of purpose, strikes or labor disputes caused by the unlawful acts of the Developer or a failure of performance by a contractor (except as caused by events which are Uncontrollable Circumstances as to the contractor); provided, however, that the exclusion of economic hardship, impossibility or impracticability of performance, and commercial or economic frustration of purpose from this definition of Uncontrollable Circumstance shall not constitute a waiver by a Party of such as defenses at law or in equity.

Whenever the context may require any pronoun shall include the corresponding masculine, feminine and neuter forms.

The word "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation".

Section 2. Redevelopment Project Area. The City and the Developer undertake to implement the Redevelopment Plan through the development of the Redevelopment Project Area in accordance with their obligations as set forth in this Agreement and in the Redevelopment Plan.

Section 3. Private Redevelopment Projects. The Developer covenants and agrees that the Private Redevelopment Projects shall be developed in accordance with (A) the Approved General Site Plan and the Component Documents. (Exhibit C attached hereto and made a part hereof and collectively referred to in this Agreement as the "Zoning and Land Use Controls".) The Private Redevelopment Projects shall also comply with all applicable City ordinances as now existing or hereafter amended; provided, however, that the Developer shall be allowed to construct the Private Redevelopment Projects in accordance with the Zoning and Land Use Controls. Construction of the Private Redevelopment Projects shall also be subject to the following:

(i) Abutting the tollway, two two-sided development identification signs may be located along each side of the tollway to serve the entire development, provided that:

1) the sign is not located within 75 feet of the tollway right-of-way.;

2) the maximum sign area shall not exceed 392 square feet in area;

3) the content of the sign shall be as set forth on Exhibit C-1; and

4) any sign shall be immediately removed if it no longer is used as a marketing sign for the subject property, or if the content of the sign is changed without prior approval of the City Council.

(ii) Pursuant to the Development Control Regulations which are part of the General Site Plan, residential uses, including single family detached, two family, single family attached, townhouse and multi-family dwelling units are permitted uses in subarea A-East and A-West. Notwithstanding anything in the Development Control Regulations to the contrary, either subarea A-East or subarea A-West shall consist solely of owner-occupied dwelling units. One of said subareas shall be designated by the Developer as the owner-occupied subarea at the time that the first application for approval of a preliminary plan for a planned unit development is submitted for either subarea A-East or A-West. The designation shall thereafter be binding on the Developer; provided, however, that if no proposal for owner-occupied dwelling units is approved within the designated sub-area within three years after the development of the utilities needed to service the designated sub-area, the City shall

make all reasonable efforts to accommodate other proposals for residential uses within the designated sub-area.

Section 4. Public Redevelopment Projects; Dedicated Improvements.

A. The City and Developer shall, in accordance with the Zoning and Land Use Controls and other applicable City ordinances, and subject to the terms and conditions of this Agreement, develop and construct, or cause to be developed and constructed, the Public Redevelopment Projects.

B. The Developer shall dedicate to the City, in accordance with the codes and ordinances of the City, those Dedicated Improvements identified on Exhibits C and other Dedicated Improvements reasonably requested by the City and identified in the Approved PUD-Preliminary Plans and/or the Approved PUD-Final Plans. The City agrees to accept the dedication of these Dedicated Improvements in accordance with applicable codes and ordinances of the City in effect at the time; provided that the Dedicated Improvements have been constructed in substantial compliance with applicable codes and ordinances of the City and certified for acceptance by the City Engineer.

Section 5. Allocation of Cost of Public Redevelopment Projects. The City and the Developer agree that the improvements described in Items 1 through 24.3 of Exhibit D represent the Public Redevelopment Projects which are anticipated to be

undertaken and implemented by the Developer and which are to be financed by both the City and the Developer pursuant to this Redevelopment Agreement, in accordance with the following conditions and limitations:

A. To ensure that the objectives of the Redevelopment Plan are achieved as expeditiously as possible, the City agrees that certain of the costs to be incurred by the Developer in undertaking the Public Redevelopment Projects ("Eligible Developer Expenditures") shall be eligible for payment or reimbursement from a portion of the TIF Revenue Stream.

B. It is anticipated that the cost of implementing each Public Redevelopment Project will not exceed the amount set forth under "Project Cost" in Exhibit D. However, in the event that the actual cost for any Public Redevelopment Project is less than or more than the "Project Cost" set forth for that Project in Exhibit D, the Developer shall be entitled to allocate the savings or shortfall to or from the cost of any Public Redevelopment Project; provided that the aggregate amount of Eligible Developer Expenditures available for the implementation for the Public Redevelopment Projects does not exceed the amount set forth under subsection D.

C. The cost of each Public Redevelopment Project shall be allocated between the City and the Developer in accordance with the amounts and percentages set forth under "TIF Allocation" and "Developer Allocation" respectively in Exhibit D.

D. The maximum amount of Eligible Developer Expenditures which is subject to payment or reimbursement from the TIF Revenue Stream is \$39,166,891, calculated as the sum of (i) \$37,166,841, or the amounts set forth in Exhibit D under "TIF Allocation Cost" for each Public Redevelopment Project, and (ii) \$2,000,000, attributable to additional Redevelopment Project Costs incurred by the Developer as set forth on Exhibit D-1.

E. The obligation of the City to pay or reimburse Eligible Developer Expenditures from the TIF Revenue Stream shall be further limited in accordance with the provisions of Section 7 related to allocation of the TIF Revenue Stream and the provisions of Section 15 related to the issuance of Developer Notes.

F. As also set forth on Exhibit D, the Developer is obligated to incur certain costs in the implementation of the Public Redevelopment Projects which shall be excluded from the calculation of Eligible Developer Expenditures. These costs shall be not less than \$19,871,203. If the Developer does not incur costs equal to or greater than this amount, the City's obligation to pay or reimburse Eligible Developer Expenditures shall be diminished as provided in Section 8.

G. The Developer's obligation to incur Eligible Developer Expenditures and its right to be paid or reimbursed for such Expenditures may be satisfied by the purchaser of all or a portion of the Subject Property if, pursuant to the agreement to purchase such Property: the purchaser agrees to undertake all or

a portion of the Public Redevelopment Project; evidence of the expenditures made by such purchaser are properly documented and submitted to the City; and the purchaser performs the other obligations set forth in this Agreement related to the incurrence of Eligible Developer Expenditures.

Section 6. Additional Developer Contributions; Fiscal Impact Analysis. Notwithstanding the provisions of Sections 3 and 5 hereof, and in addition to the obligations of the Developer to finance a portion of the cost of the Public Redevelopment Projects, the Developer shall make or undertake the following additional dedications, contributions or obligations in connection with the redevelopment of the Redevelopment Project Area:

A. The Developer shall grant easements required for the construction, maintenance and operation of the Water System, Sanitary Sewer System, Storm Sewer System, Storm Water Management Plan, Wetland Mitigation Plan, Flood Plain Modification Plan, Pedestrian Walkway/Jogging System, and of underground utility systems including, without limitation, Northern Illinois Gas Company, Commonwealth Edison, Ameritech and cable television companies serving the Redevelopment Project Area.

B. Until all the Public Redevelopment Projects have been completed, in accordance with the provisions of this Agreement, the Developer shall reserve all impact fee credits it has received or will receive in the future pursuant to the County's

Impact Fee Ordinance (and related legislation) as a result of its ownership of the Subject Property, for use within the Redevelopment Project Area; provided, however, that impact fee credits may be sold to a qualified Person. Until the Public Redevelopment Projects have been completed in accordance with the provisions of this Agreement, if any impact fee credits are sold, the proceeds of such sale shall be applied to the costs of undertaking the Public Redevelopment Projects. After the Public Redevelopment Projects have been completed in accordance with the provisions of this Agreement, the use of the impact fee credits or the proceeds of any such sale shall be applied at the discretion of the Developer.

C. All required right-of-way for roadways and public utility easements, as shown on Exhibit C and other collector and/or local roadways as may be designated as "public roadways" at the time of the approval of the PUD-Preliminary Plans or PUD-Final Plans.

D. Donations of property, or the cash value equivalent in lieu thereof, in accordance with the codes and ordinances of the City, including donation requirements for school, library and park/recreational purposes.

E. The Developer shall cooperate with Commonwealth Edison Company in connection with the development and construction of an electrical substation or substations and necessary appurtenances within the Redevelopment Project Area needed to serve the Redevelopment Project Area, together with other properties, as Commonwealth Edison Company may reasonably require; provided,

however, that the Developer shall not be required to incur costs which would economically burden or otherwise materially inhibit the implementation of the Public or the Private Redevelopment Projects.

F. Land shall be reasonably reserved by the Developer to satisfy the terms and conditions of the City's Agreement for Sanitary Sewer Treatment with the City of Naperville.

G. The foregoing contributions, dedications and obligations shall be undertaken at the Developer's sole cost and expense, with the cost of such contributions, deductions and obligations excluded from any calculation of Eligible Developer Expenditures as set forth in Section 5; provided, however, that to the extent that the development of utility services for the Subject Property requires improvements to be located on property other than (i) the Subject Property or (ii) existing City rights-of-way, easements, or other interests, the City will promptly acquire, by dedication, condemnation or otherwise, the required fee simple rights-of-way, easements or other interest necessary for such improvements. The Developer shall reimburse the City for its reasonable costs and expenses incurred in connection with such acquisition, including reasonable attorney's fees and reasonable costs of obtaining title insurance.

H. With respect to any Dedicated Improvement, Developer will provide, at its expense, a title commitment, in the minimum applicable amount, to the City demonstrating proper title vesting in the City, or such public utility or other governmental entity

designated by the City, an ALTA survey and other similar and customary closing documents. The Developer shall not be obligated to pay for any of the City's legal, administrative, engineering or other professional service fees incurred in connection with these contributions or dedications provided that the Developer adheres to the codes and ordinances of the City.

I. (i) The City acknowledges that the Developer has obtained environmental reports and assessments on the Subject Property and has provided the City with a summary of such environmental reports. (A complete copy of these reports and assessments is available for review by the City.)

(ii) The Developer shall take any and all necessary corrective action reasonably required by these environmental reports and assessments, including all work necessary to be able to assure construction of the Public Redevelopment Projects.

(iii) The Developer shall provide the City copies of all reports on corrective action taken with respect to environmental conditions on the Subject Property. In addition, the Developer shall pay for the reasonable costs incurred by the City, not to exceed \$5,000, to retain an environmental consultant to review and report on the information and conclusions contained in the environmental reports and assessments provided to or made available to the City. A copy of any written report prepared for the City by this environment consultant shall be provided to the Developer and the Developer shall undertake reasonable corrective

action in response to any reports prepared by the City's environmental consultant.

J. In recognition of the impact the Public and Private Redevelopment Projects will have upon the City and the services it must provide in connection with the implementation of these Projects, particularly the need for maintenance and repair by the City of the Dedicated Improvements, maintenance and repair by the City of public improvements impacted by the Project, the need for additional services to be provided by the City, including the need to provide police services, public safety services, public works services, and related services, and to provide and construct facilities as may be needed to provide the services set forth hereinabove, and the need to discharge the obligations imposed upon the City pursuant to the terms of this Agreement pertaining to the Redevelopment Projects, the Developer shall provide \$1,550,000 to the City to be utilized by the City to discharge its obligations as set forth hereinabove and to discharge its obligations under the terms of this Agreement.

(The fiscal impact of the Public and Private Redevelopment Projects on the City and overlapping taxing districts, will be set forth in a fiscal impact analysis prepared by the City, with input from the Developer, in accordance with the scope of services attached as Exhibit E. The Developer shall contribute a maximum of \$5,000 towards the preparation of this fiscal impact analysis.) Until such time as payment is made to the City by the Developer, the Developer shall secure this obligation by

providing the City with an irrevocable letter of credit, in a form acceptable to the City, in its reasonable judgment, permitting the City to draw up to \$1,550,000 to be utilized for the purposes hereinabove set forth.

Section 7. Allocation of TIF Revenue Stream; Application of Amounts on Deposit. The City and the Developer recognize and agree that the City's obligation to pay or reimburse the Developer for Eligible Developer Expenditures is a limited obligation and wholly subject to the receipt of sufficient TIF Revenue Stream to provide for such payment or reimbursement.

The City and the Developer further agree that only a portion of the TIF Revenue Stream to be received by the City is necessary and appropriate to be used for the cost of the Public Redevelopment Projects allocated to the City. In furtherance thereof, the City and Developer therefore agree that the TIF Revenue Stream shall be allocated as described below:

A. Pursuant to Ordinance No. 874, and 1159, the City has established a special fund of the City known as the Tax Allocation Fund. Pursuant to the ordinance providing for the issuance of the 1991 Bonds, the City established within the Tax Allocation Fund the Series 1991 A Bond Service Account and the Series 1991 A Bond Reserve Account as special accounts held by the trustee (the "Trustee") for the 1991 Bonds and the Local Tax Account, the State Tax Account, the General Account and the Series 1991A Project Account as special accounts held with the

City. The following additional accounts within the Tax Allocation Fund are established:

- (i) the TIF Municipal Account, and
- (ii) the Public Redevelopment Projects Account.

B. TIF Revenue Stream which is on deposit in the Tax Allocation Fund on the Effective Date which is needed to pay principal and interest on the 1991 Bonds, to maintain any reserves or to pay any fees and expenses of the Trustee shall be transferred to the Series 1991 A Bond Service Account or the Series 1991A Bond Reserve Account or used to pay such fees and expenses, as the case may be.

C. Any amounts remaining in the Tax Allocation Fund on the Effective Date after the transfer described in B above shall be transferred to the TIF Municipal Account and shall be utilized by the City in its sole discretion in accordance with the Act.

D. TIF Revenue Stream which is received after the Effective Date shall be allocated annually in the following amounts and in the following order of priority:

- (i) Amounts needed to pay principal and interest on the 1991 Bonds, to maintain any reserve required for the 1991 Bonds or to pay any fees and expenses of the Trustee shall be transferred to accounts established for such purposes.

- (ii) The next \$500,000 of TIF Revenue Stream received shall be transferred to the TIF Municipal Account; provided that if less than \$500,000 of TIF Revenue Stream is available

in any year, any such shortfall shall not be carried forward or accumulated for payment in a subsequent year.

(iii) Remaining TIF Revenue Stream shall be credited, on a pro rata basis, to the Public Redevelopment Projects Account and the TIF Municipal Account in the following amounts in the following calendar years:

Period in which Remaining TIF Revenue Stream Received	<u>Remaining TIF Revenue Stream Allocated Annually</u>	
	<u>Public Redevelopment Projects Account</u>	<u>TIF Municipal Account</u>
Effective Date - 12/97	67½%	32½%
1/98 - 12/2001	Amount received in 1997 plus 65% of Additional TIF Revenue	Amount received in 1997 plus 35% of Additional TIF Revenue
1/02 - 12/05	Amount received in 2001 plus 55% of Additional TIF Revenue	Amount received in 2001 plus 45% of Additional TIF Revenue
1/06 Onward	Amount received in 2005 plus 50% of Additional TIF Revenue	Amount received in 2005 plus 50% of Additional TIF Revenue

For purposes of this subsection, "Additional TIF Revenue" shall mean: (i) for the years 1998 through 2001, any Remaining TIF Revenue Stream which exceeds the amount received and on deposit with the City in 1997; (ii) for the years 2002 through 2005, any Remaining TIF Revenue Stream which exceeds the amount received and on deposit with the City in 2001; and (iii) for the years 2006 and thereafter, any Remaining TIF Revenue Stream which exceeds the amount received and on deposit with the City in 2005.

E. Amounts on deposit in the TIF Municipal Account shall be applied in the City's sole discretion, in accordance with the Act.

F. Amounts on deposit in the Public Redevelopment Projects Account shall be used first for payments due under outstanding Developer Notes in accordance with the provisions of Section 15-4(D). Any amounts remaining shall be applied to pay the costs of Eligible Developer Expenditures for which Developer Notes have not been issued.

G. The City obligation to transfer Remaining TIF Revenue Stream to the Public Redevelopment Projects Account shall be subject to the provisions of Section 8.

H. As provided in Section 15-3(C), each Developer Note shall mature December 1, 2009. To the extent that (i) any principal of or interest on any Developer Note is unpaid on December 1, 2009, and (ii) the City is authorized, pursuant to the Act, to deposit TIF Revenue Stream generated by taxes levied before December 1, 2009, into the Tax Allocation Fund after December 1, 2009, the City agrees that it will transfer Remaining TIF Revenue Stream to the Public Redevelopment Projects Account, in accordance with the allocation formula set forth in subsection D above, to pay such unpaid principal and interest on Developer Notes.

Section 8. Project Inactivity Penalties.

A. The Developer's failure to meet each of the following within five (5) years from the Effective Date shall constitute a "Project Inactivity Event":

- Satisfaction of its obligations under the Tollway Interchange Funding Agreements with DuPage County;
- Execution of an agreement for sewer treatment with the City of Warrenville and compliance with the terms and conditions thereof by the Developer;
- Construction of the pump station and off-site sewer main necessary to convey sewage from the Subject Property to the Naperville Springbrook Plant;
- Payment of the initial payments required under an agreement for sanitary sewer treatment for the Subject Property;
- Implementation of the Public Redevelopment Projects described in line items 6 and 7 of Exhibit D;
- Expenditure, from and after the Effective Date, of at least \$8,000,000 on Public Redevelopment Projects not specifically enumerated above.

Upon the occurrence of a Project Inactivity Event, the City shall have no further obligation to issue additional Developer Notes, as provided in Section 15, or to provide for the payment or reimbursement of additional Eligible Developer Expenditures. The City shall remain obligated to transfer amounts to the Public Redevelopment Projects Account only as required to pay principal and interest on Developer Notes issued prior to the occurrence of a Project Inactivity Event.

B. At or prior to the time that the Developer has incurred the maximum amount of Eligible Developer Expenditures, as

provided in Section 5(D), the Developer shall demonstrate, to the reasonable satisfaction of the City, that it has also incurred or will incur additional amounts equal to or exceeding \$19,871,203 in the implementation of the Public Redevelopment Projects. In the event the Developer has not satisfied the condition set forth in the prior sentence, (i) the City shall not be obligated to issue any additional Developer Notes, or to pay or reimburse additional Eligible Developer Expenditures, and (ii) the principal amount of outstanding Developer Notes shall be reduced by the amount by which the Developer's expenditures are less than \$19,871,203. The City shall continue to deposit Remaining TIF Revenue Stream into the Public Redevelopment Projects Account, in accordance with the provisions of Section 7, to pay principal and interest on the previously issued and outstanding Developer Note.

Section 9. Domestic Water Supply. In accordance with the Water System Plan included in the General Site Plan, the Memorandum Report supplemental thereto dated May 26, 1993 and submitted by Kenneth G. Carmignani (attached as Exhibit G), and the letter from Jim Connors (attached as Exhibit H), the City will use its best efforts to ensure that water is provided in sufficient quantity to accommodate Private Redevelopment Projects on the Subject Property as contemplated in General Site Plan. It is the goal of the parties that Lake Michigan water, provided under the auspices of the DuPage Water Commission, be the principal water source serving the Subject Property. The City

shall use its best efforts to achieve this goal. If the efforts described in the preceding sentence to obtain Lake Michigan water are not successful, the City will permit the Developer to construct deep water wells in a number and capacity which are necessary to serve the Subject Property. The City also agrees that the water system for the Subject Property shall be and remain connected to the City's existing water system in such a way as to constitute a single, integrated water system, unless separation of the system for the Subject Property is required by the DuPage Water Commission to facilitate servicing of the property with Lake Michigan water.

Section 10. Boundaries of the TIF Redevelopment Project Area and Plan Amendments. The City reserves the right to alter the boundaries of the Redevelopment Project Area, and make such other modifications to the TIF Plan or Project as the City deems necessary; provided, however, such alteration is undertaken in accordance with the provisions of the Act and does not materially adversely impact the amounts available for deposit in the Public Redevelopment Projects Account pursuant to Section 7.

Section 11. Boundaries of School District, Park District and Fire Protection District. Developer shall reasonably cooperate with Community Unit School District No. 200, the Warrenville Park District and the Warrenville Fire Protection District in their

respective efforts to include the Redevelopment Project Area, or portions thereof, within their territorial boundaries.

Section 12. Approval of Plan; Issuance of Permits.

A. The City will use its best efforts to approve plans and issue permits expeditiously. The City will not unreasonably disapprove plans or withhold the issuance of permits.

B. Notwithstanding anything in the City's Subdivision Ordinance No. 807 to the contrary:

(i) The City Council may, within its reasonable discretion, authorize construction of infrastructure provided for in the General Site Plan or PUD-Preliminary Plan after such General Site Plan or Preliminary Plan approval. The Developer can obtain, and the City may issue, earth moving and infrastructure installation construction permits at the Developer's risk prior to General Site Plan approval. In each case, the infrastructure which may be installed shall be those particular infrastructure components which have received final engineering review and approval by the City Council.

(ii) The Developer can obtain an excavation/foundation permit for a building at the Developer's risk after Preliminary but before Final Plan approval, within the reasonable discretion of the City Council; provided that all storm water facilities serving such proposed building are completed and operational.

(iii) The Developer may request staff review of a building permit application after a request for Final Plan approval, has been filed but before Final Plan approval has been issued, but no building permit will be issued until after Final Plan approval.

(iv) A building permit may be issued immediately after Final Plan approval and before recording of the Final Plan, within the reasonable discretion of the City, provided that all storm water facilities serving such proposed building are completed and operational. It will be the City's responsibility to record the Final Plan as soon as possible.

C. The provisions of subsection B shall apply to the Developer and to any purchaser of the Subject Property or any portion thereof.

Section 13. TIF Financial Statements. The City agrees to provide to the State in a timely manner all information required to demonstrate continued compliance with the requirements of the Act. The City shall provide the Developer promptly with a copy of all such information submitted to the State. The City also agrees that the Developer shall have the right and authority to review from time to time and upon reasonable notice, the books and records of the City related to the Redevelopment Project Area and the Tax Allocation Fund.

Section 14. Street Names. The names of local and collector streets within the Subject Property will be proposed by the Developer and reviewed and approved by the City to ensure that said names are consistent with public safety policy considerations. The City will not unreasonably withhold approval of street names.

Section 15-1. Documentation Required to Support Eligible Developer Expenditures.

A. Within 30 days after entering into any agreement for services for which Developer will request the issuance of a Developer Note pursuant to Section 15-3, the Developer shall submit a copy of the executed contract, agreement for services, or purchase order and an initial sworn owners statement prepared and executed by the Developer listing, where applicable:

(i) the name and address of the contractor, sub-contractors, suppliers, consultants or vendors performing the services for the specific Public Redevelopment Project;

(ii) a listing of the contract amount and, where applicable, the unit costs and individual cost for the services to be performed;

(iii) the line item on Exhibit D to which the work relates; and

(iv) identifying any amounts paid prior to the date of the submittal of the contract pursuant hereto.

B. Following submission of information required in A. above, the Developer will submit a revised sworn owner's statement if there is a material change in:

- (i) the parties performing the work,
- (ii) the contract amount of the work to be performed,
- (iii) allocations to line items in Exhibit D.

(On or before the Effective Date, the Developer shall provide the City with a copy of contract, agreements, or purchase orders previously executed for which the Developer will seek reimbursement.)

C. Following submission of the information required in A. above, the Developer shall submit, no more often than monthly, a signed Memorandum of Payment prepared and executed by the Developer: (i) authorizing and requesting partial payment to the contractor for the preceding period in the case of expenditures for which a security escrow has been established with the City; or (ii) requesting a reduction in a letter of credit posted with the City; or (iii) documenting payment by the Developer of invoices for which no security escrow has been posted. The following information shall be attached to the Memorandum of Payment where applicable:

- (i) signed sworn statement and a contractor's affidavit, prepared and executed by the Contractor: listing the subcontractor(s) and material supplier(s) with the total contract price, the amount previously paid, the amount of this payment and the balance due;

(ii) invoice prepared by the contractor or vendor listing the value of the work completed to date, the amount previously paid on the contract, the amount due with this invoice and the retained amount (if any) to be deducted from the amount due and the amount due for this invoice;

(iii) partial waiver of liens, if applicable, for the amounts of the previously approved payout; and

(iv) where applicable, an invoice back up information for the Public Redevelopment Project listing the individual work items, contract quantity, unit price, contract amount, completed items to date, previously billed and amount due with the submitted invoice.

D. When submitting invoices for final payment for any Public Redevelopment Project, the Developer shall submit a signed Memorandum of Final Payment prepared and executed by the Developer (i) authorizing and requesting final payment to the contractor for the Public Redevelopment Project in the case of expenditures for which a security escrow has been established with the City; or (ii) requesting a full reduction in a letter of credit posted with the City; or (iii) documenting payment by the Developer of invoices for which no security has been posted (or required to be posted). The following information shall be attached to the Memorandum of Payment where applicable:

(i) signed sworn statement and a contractor's affidavit prepared and executed by the Contractor listing the subcontractor(s) and material supplier(s) with the total

contract price, the amount previously paid, the amount of this payment and the balance due;

(ii) invoice prepared by the contractor or vendor listing the value of the work completed to date, the amount previously paid on the contract, the amount due with this invoice.

(iii) final waiver of liens, if applicable, for the amounts of the previously approved payout;

(iv) where applicable, invoice back up information for the project listing the individual work items, contract quantity, unit price, contract amount, final quantities of all completed items, previously billed and the final amount due this invoice using the same form as used in Subsection A above; and

(v) A sworn statement prepared and executed by the Developer which states that all work performed and covered by this Final Payment request has been performed in substantial compliance with the approved contract or agreement and is eligible for reimbursement pursuant to the provisions of this Agreement.

Section 15-2. Request For Issuance of Developer Notes

A. The Developer may submit a Request For Issuance of a Developer Note no more often than quarterly. The Request for Issuance shall include the following information (provided that

the Developer shall not be required to resubmit information previously submitted in accordance with Section 15-1):

(i) All information listed in Section 15-1(A), (B), (C) and (D);

(ii) A completed Public Redevelopment Project Budget Summary Form;

(iii) A completed form of Developer Note, substantially in the form as Exhibit H;

(iv) A "Developer Note Summary", substantially in the form of Exhibit I.

B. The City shall have thirty (30) days from the date of submission of all of the information required pursuant to subsection A to approve the Request for Issuance of Developer Note or to request the Developer to supplement or revise the information submitted. In the event that the City shall request the Developer to supplement or revise this information, the Request for Issuance of Developer Note shall be approved with respect to those portions of the submission not requiring supplementing or revision.

C. Upon review and approval by the City of the Developer's Request For Issuance of Developer Note by the City, as specified in subsection B, the City will issue a Developer Note in accordance with the provisions of Section 15-3.

Section 15-3. Terms and Conditions of Developer Notes.

A. Each Developer Note shall be issued on the first day of the month immediately following the City's approval of the Request for Issuance of Developer Notes which relates to the Eligible Developer Expenditures which are to be financed by such Developer Note.

B. Each Developer Note shall be in the principal amount equal to the amount of Eligible Developer Expenditures which have been approved by the City, pursuant to Sections 15-1 and 15-2.

C. Each Developer Note shall mature December 1, 2009; provided, however, that any principal or interest which remains unpaid on December 1, 2009, shall be subject to the payment after December 1, 2009, in accordance with the provisions of Section 7(H) of this Agreement. Each Developer Note shall be subject to mandatory redemption, without premium, in whole, at any time, or in part, on any Interest Payment Date (as defined below) to the extent there are amounts in excess of \$50,000 on deposit in the Public Redevelopment Projects Account of the Tax Allocation Fund and which are not needed to pay interest to become due on outstanding Developer Notes on or prior to the first day of June next ensuing. In the event of any partial redemption of less than all the Developer Notes which are outstanding, the Developer Notes bearing interest at the highest rate of interest shall be those first to be redeemed. If less than all of the Developer Notes bearing interest at the same rate are to be redeemed, then the particular Developer Notes to be redeemed shall be selected

in the order in which they were issued. Each Developer Note shall be subject to redemption at the option of the City without premium, as a whole or in part, at any time.

D. Each Developer Note shall be dated as of its date of issuance. Interest on the Developer Notes shall be payable on each June 1, September 1, December 1 and March 1 (each defined as an "Interest Payment Date"), beginning June 1, 1994. Developer Notes shall bear interest as provided in the succeeding paragraph. Amounts on deposit in the Public Redevelopment Projects Account of the Tax Allocation Fund shall be applied first to the payment of interest on Developer Notes and then to the mandatory redemption of Developer Notes as provided above. In the event that, on any Interest Payment Date, there are insufficient moneys in the Public Redevelopment Projects Account of the Tax Allocation Fund to pay interest on any Developer Notes, as such interest comes due, (i) available moneys shall be applied to the payment of such interest in the order in which the Developer Notes were issued and (ii) interest on such unpaid interest shall accrue at the rate applicable to such Developer Note and shall be payable in accordance with the provisions of this subsection with respect to the payment of interest on Developer Notes.

E. It is the intent of both the City and the Developer that, to the maximum extent feasible, interest on the Developer Notes shall be exempt from federal income taxation. Moreover, the City shall be obligated to use its best efforts to obtain and provide

to the Developer, at the time of issuance of each Developer Note, an opinion of nationally recognized bond counsel satisfactory to the Developer, substantially to the effect as set forth in Exhibit J. Each Developer Note for which the City is able to provide the Developer with the opinion described in the preceding sentence shall bear interest at the lesser of 9% or the Certified Rate. Each Developer Note for which the City is unable to provide such an opinion, up to a maximum aggregate principal amount of \$5,873,383, (or 15% of the Eligible Developer Expenditures, calculated in accordance with Section 5(D)) shall bear interest at the lesser of 10% or the Certified Rate. Any Developer Note for which the City is unable to provide such an opinion, in excess of the limitation set forth in the preceding sentence, shall bear interest at the lesser of 9% or the Certified Rate. (For purposes of this subsection, Certified Rate means, with respect to any Developer Note, that rate of interest established by the City, in consultation with the Developer, at which a qualified Person other than the Developer is willing to purchase that Developer Note, in accordance with the terms and conditions provided in this Agreement.)

F. Principal of and interest on Developer Notes shall be payable in lawful money of the United States of America, either by check mailed to the Developer by the City Treasurer or, at the option of the Developer provided in writing at least fifteen days prior to an Interest Payment Date or the date on which the

Developer Notes mature, by wire transfer to an account specified by the Developer.

G. Developer Notes are not general obligations of the City and are payable only from amounts on deposit in the Public Redevelopment Projects Account of the Tax Allocation Fund and from the proceeds of any bonds issued by the City pursuant to Section 16(B).

H. The Developer shall pay for the reasonable fees and expenses of bond counsel incurred in connection with the issuance of the Developer Notes in an amount not to exceed \$15,000 for the issuance of the first Developer Note and in the aggregate amount not to exceed \$65,000 for the issuance of all Developer Notes pursuant to this Agreement, subject to adjustment in the event Developer Notes are issued more than four years after the Effective Date. All fees over the amounts set forth in the preceding sentence, and after such adjustment, shall be paid equally by the City and by the Developer.

Section 16. Issuance of Bonds.

A. In lieu of issuing any Developer Note, the City may issue Bonds to a Person other than the Developer and apply the Net Proceeds of such Bonds to the payment or retirement of any outstanding Developer Notes or to the reimbursement to the Developer of Eligible Developer Expenditures if such Bonds are issued with substantially the same terms and conditions as are specified in this Agreement for Developer Notes and bear interest

at a rate which is less than the applicable rate of interest set forth in Section 15-3(E). Bonds issued in accordance with the preceding sentence may be secured by amounts on deposit or to be deposited in the Public Redevelopment Projects account provided that no Bonds shall be issued which are secured, in whole or in part, by amounts on deposit or to be deposited in the Public Redevelopment Projects Account if the issuance of such bonds, and the provisions for the payment of debt service thereon, will materially adversely affect the timing or amount of any payment of principal or interest on any Developer Note issued or to be issued pursuant to the terms of this Redevelopment Agreement.

B. Additionally, at the discretion of the City, Bonds may be issued, which are secured solely by amounts on deposit or to be on deposit in the TIF Municipal Account and the proceeds of such Bonds shall be used by the City, at its sole discretion, in accordance with the Act.

C. No Bonds shall be issued pursuant to Section 16(A) or Section 16(B) without the City having provided the Developer with 30 days' prior written notice thereof. In connection with the issuance of any Bonds, the Developer agrees to provide any financial information reasonably required by the City.

D. Costs of issuance incurred in connection with the issuance of Bonds, including without limitation, fees of bond counsel shall be paid from the proceeds of such Bonds.

Section 17. Special Service Area Financing. The City and Developer agree to consider utilization of special service area financing, pursuant to 35 ILCS 235/1 et seq., if same is appropriate and feasible and does not adversely affect the tax-exempt status of the interest on any Developer Notes issued or to be issued.

Section 18. Project Coordinators. The City shall, within fifteen (15) Days after the Effective Date, provide the Developer with the name of its project coordinator with respect to matters that may arise during the performance of this Agreement, and such person shall have authority to transmit instruction and receive information and confer with the Developer's project coordinator. The Developer shall, within fifteen (15) Days after the Effective Date, provide the City with the name of its Project coordinator with respect to matters that may arise during the performance of this Agreement, and such person shall have authority to transmit instructions and receive information and confer with the City's project coordinator. The City or the Developer may change their respective designations of project coordinators from time to time by notice to the other Party.

Section 19. No Exemption from Property Taxes. The Developer covenants that it shall not apply for, seek, or authorize any exemption from the imposition of real estate taxes on said

Redevelopment Project, or any portion thereof, without first obtaining prior written approval of the City.

Section 20. Procedures Regarding Issuance of Bank Qualified Bonds. The City and the Developer acknowledge (i) that the City is presently limited as to the principal amount of "bank qualified bonds", as that term is defined in the Code, which the City may issue in any given calendar year and (ii) that the interest rate paid by the City on "bank qualified bonds" is less than the interest rate paid by the City on comparable bonds which have the same terms and conditions but are not "bank qualified". The Developer agrees that if, in any year that Developer Notes are issued, the City issues bonds or other obligations (other than Bonds issued pursuant to Section 16 of this Agreement) which, but for the issuance of Developer Notes, would be determined to be "bank qualified bonds", the City shall be "held harmless" with respect to the interest rate differential incurred by the City on such bonds or other obligations. The City and the Developer shall jointly determine the amount of this interest rate differential at the time of issuance of any bonds or other obligations which satisfy the requirements of the preceding sentence. The Developer may satisfy its "hold harmless" obligation either by compensating the City for the present value of this interest rate differential or by making annual payments to the City equal to the amount of the interest rate differential over the term of any bonds described above. Alternatively, the

Developer may request that the City defer the issuance of one or more Developer Notes otherwise authorized to be issued in accordance with Section 15. The City agrees, within thirty (30) days of the Effective Date and thereafter within the first calendar quarter of each subsequent year, to provide the Developer with a written statement of its reasonable expectations concerning the City's issuance during that year of bonds or other obligations.

Section 21. Prompt Payment of Taxes. In order to assure the flow of tax revenues anticipated pursuant to the Redevelopment Plan and this Agreement, the Developer covenants that it will promptly and timely pay all real estate taxes when due and will record a covenant running with the land providing that tenants and Purchasers of all or a portion of any Private Redevelopment Project shall promptly pay any applicable sales tax when due. The Developer shall provide the City with a copy of this covenant.

Section 22. Adherence to City Codes and Ordinances. All development and construction of the Public and Private Redevelopment Projects shall comply in all respects with the provisions in the Building, Plumbing, Mechanical, Electrical, Storm Water Management, Fire Prevention, Zoning and Subdivision Codes of the City and all other germane codes and ordinances of the City in effect on the date that an application for a building

permit for such development or construction is filed, except as otherwise provided herein.

Section 23. Limited Obligations.

A. The obligations of the City under this Agreement to pay or reimburse Eligible Developer Expenditures are not general obligations of the City, the County, the State, nor any political subdivision thereof; it being understood that these obligations are being incurred in connection with the Redevelopment Plan and are limited as set forth therein and the City shall have no responsibility to pay such obligations except from the allocation of the TIF Revenue Stream, as provided in Section 7.

B. In the event legislation is passed by the Illinois General Assembly which repeals, eliminates or reduces all or any portion of the TIF Revenue Stream, the City and the Developer agree that they will consult promptly in efforts to identify an appropriate replacement tax or taxes and, within the sole discretion of the City, consider whether it is prudent and appropriate to enact such a replacement tax or taxes.

Section 24. Developer's Obligations.

A. Adherence to Federal, State and Local Requirements. All work with respect to the Public and Private Redevelopment Projects shall conform to all applicable federal, state and local laws, regulations and ordinances, including but not limited to building codes, environmental codes and life safety codes.

B. Financing Authorization and Commitment. Prior to consideration of issuance of additional Bonds by the City, the Developer shall submit to the City such financial and other information as the City shall reasonably request.

C. Progress Reports. Until construction of the Public and Private Redevelopment Project has been completed, the Developer shall make quarterly progress reports to the City regarding the Project or upon special request of the City in such detail as may be reasonably required by the City.

Section 25-1. Representations and Warranties of the Developer.

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

A. Organization and Authorization. The Developer is an Illinois partnership duly organized and existing under the laws of the State of Illinois, authorized to do business in Illinois, and has the power to enter into, and by proper action has been duly authorized to execute, deliver and perform, this Agreement.

B. Non-conflict or Breach. To the best of the Developer's knowledge, neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement conflicts with or results in a breach of any of the terms, conditions or provisions of, any offering or disclosure statement made or to be made on behalf of the

Developer, 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 pursuant to this Agreement 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.

C. Pending Lawsuits. To the best of the Developer's knowledge, there are no lawsuits either pending or threatened that would affect the ability of the Developer to proceed with the construction and development of the Private Redevelopment Project on the Project Site.

D. Location of Private Redevelopment Projects. The Private Redevelopment Projects will be located within the Subject Property.

E. Conformance with Requirements and Regulations. The Developer has examined and is familiar with all the covenants, conditions, restrictions, building regulations, zoning ordinances, environmental regulations and land use regulations, codes, ordinances, federal, state and local ordinances, and the like, and represents and warrants that the Private Redevelopment

Projects will be developed in accordance with the representations set forth herein.

Section 25-2. Representations and Warranties of the City.

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

A. Organization and Authority. The City is a municipal corporation duly organized and validly existing under the law of the State of Illinois and has all requisite corporate power and authority to enter into this Agreement.

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

C. Authorization. To the best of the City's knowledge, the execution, delivery and the performance of this Agreement and the consummation by the City of the transactions provided for herein and the compliance with the provisions of this Agreement (i) have been duly authorized by all necessary corporate action on the part of the City; (ii) require no other consents, approvals or authorizations on the part of the City or the City Council in connection with the City's execution and delivery of this Agreement; and (iii) shall not, by lapse of time, giving of notice or otherwise result in any breach of any term, condition

or provision of any indenture, agreement or other instrument to which the City is subject.

D. Closing Documentation. In connection with the issuance of each Developer Note, the City will execute or provide closing certifications, representations and opinions of the type generally provided in connection with the issuance of municipal obligations similar to the Developer Notes.

Section 26. Additional Covenants of the Developer.

A. Developer Existence. The Developer will do or cause to be done all things necessary to preserve and keep in full force and effect its existence and standing as a limited partnership authorized to do business in the State, so long as the Developer maintains an interest in the Subject Project or has any other remaining obligations pursuant to the terms of this Agreement.

B. Construction of the Private Redevelopment Projects. Subject to conditions prevailing in the real estate market for the Private Redevelopment Project and to projects comparable to the proposed Private Redevelopment Projects, the Developer shall cause construction of such Private Redevelopment Project to be commenced and to be prosecuted with due diligence and in good faith and without delay.

C. Indemnification. The Developer for itself, its successors and assigns (use of the term "Developer" herein includes successors and assigns) agrees to indemnify, defend and hold the City and its officers, agents and employees harmless from and against any losses, costs, damages, liabilities, claims,

suits, actions, causes of action and expenses (including without limitation, reasonable attorneys' fees and court costs) suffered or incurred by the City which are caused as a result of (i) the failure of the Developer to comply with any of the terms, covenants or conditions of this Agreement or (ii) the failure of the Developer or any contractor to pay contractors, subcontractors, or materialmen in connection with the Redevelopment Projects or (iii) material misrepresentations or omissions of the Developer relating to the Redevelopment Projects, the Redevelopment Plan and this Agreement which are the result of information supplied or omitted by the Developer or by its agents, employees, contractors, or persons acting under the control or at the request of the Developer, or (iv) the failure of the Developer to cure any material misrepresentations or omissions of the Developer in this Agreement relating to the Redevelopment Projects, or (v) any claim or cause of action for injury or damage brought by a third party arising out of the construction or operation of the Redevelopment Projects by the Developer, or (vi) any violation by the Developer or any other person of state or federal securities law in connection with the offer and sale of limited partnerships in the Developer or any part of the Redevelopment Projects. The provisions of this Section shall not apply to a loss which arises out of intentional misconduct on the part of the indemnified party seeking indemnification, or a loss or portion thereof, or which arises, in whole or in part, out of negligence on the part of such

indemnified party, but only to the extent that such indemnified party's misconduct or negligence contributed to the loss, or that the loss is attributable to such indemnified party's misconduct or negligence.

D. Insurance. The Developer agrees to maintain all necessary insurance with respect to the Private Redevelopment Project in accordance with the requirements of this Agreement.

F. Further Assistance and Corrective Instruments. The City and Developer agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may be reasonably required for carrying out the intention of or facilitating the performance of this Agreement.

G. No Gifts. The Developer covenants that no officer, director, stockholder, employee or agent of Developer, or any other person connected with Developer, has made, offered or given, either directly or indirectly, to 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.

H. RESERVED.

I. Developer's Ownership of Project Site. Developer owns the Subject Property in fee simple, free and clear of any encumbrances other than Permitted Encumbrances and, as evidence thereof, the Developer shall submit to the City a title policy

commitment for the Subject Property substantially in the form attached as Exhibit K.

J. Conveyance. In recognition of the nature of the Redevelopment Project, and the City's projections of the need for incremental tax revenues to finance the Public Redevelopment Projects and other redevelopment project costs, in accordance with the Act, the Developer shall undertake to convey the Subject Property, and any portion thereof, to Persons whose ownership and use of such Property will not cause such Property to be exempt from payment of property taxes; provided, however, that in no event shall the Developer be obligated to convey the Subject Property, or any portion thereof to any Person on terms that are less favorable than those offered by a Person that is exempt from payment of property taxes.

K. Disclosure. The Developer shall: disclose to the City the names and addresses of all legal entities that comprise the Developer; upon request, make available for review and inspection a copy of the partnership agreement; and further disclose the respective ownership interests and rights and responsibilities of said legal entities in the Developer. Any proposed change in the ownership interests, rights or responsibilities disclosed hereunder shall be reported to the City no less than thirty (30) days prior to the effective date of such change. Recognizing the confidential and proprietary nature of the information described in this subsection and potential damage to the business and financial affairs of the Developer and its partners which would

result from any unauthorized disclosures, the City and its officers, employees, agent and representatives shall take all reasonable precautions to prevent disclosure to third parties except for disclosures that are required by applicable law. To the extent practicable, the City shall give the Developer at least ten (10) days' prior notice of, and permit the Developer to contest, any disclosure to be made in response to a claim that such disclosure is required by applicable law. This subsection shall survive termination of this Agreement.

L. Assignment or Transfer of Property. Any proposed assignee (other than Barclays Bank, as assignee pursuant to its mortgage loan to the Developer described under Permitted Encumbrances) of any of the Developer's obligations under this Agreement shall have the qualifications and financial responsibility necessary and adequate to fulfill these obligations (or, in the event the transfer is of or related to part of the Subject Property, such obligations to the extent that they relate to such part). The proposed assignee (other than Barclays Bank, as assignee pursuant to its mortgage loan to the Developer described under Permitted Encumbrances) shall execute a contractual undertaking agreeing to adhere to the terms and conditions of this Agreement, as they apply to said assignee, and shall submit such information, including financial information, as may be reasonably requested by the City.

M. Telephone Exchange/Mailing Address. To the extent permitted by Ameritech and the United States Post Office,

respectively, Developer shall, within the Subject Property and for the Redevelopment Project, utilize a Warrenville telephone exchange and a Warrenville mailing address.

Section 27. Rights of Inspection and Right to Audit Books and Records; Sales Tax Reporting.

A. Right to Audit Books and Records. The Developer agrees that the City shall have the right and authority to review and audit, from time to time, the Developer's books and records relating to the Public Redevelopment Projects (including the Developer's loan statements, general contractor's sworn statements, general contracts, material purchase orders, waivers of lien, paid receipts and invoices). The Developer shall also submit to the City such information about the Dedicated Improvements, the Public Redevelopment Projects, or other matters which are related to the terms and conditions of this Agreement, including financial information, as may be reasonably requested by the City to enforce the terms and provisions of this Agreement.

B. Sales Tax Reporting. The Developer shall record a covenant running with the land providing that all retail users of the Subject Property will provide the City with monthly copies of forms filed with the State of Illinois reflecting the monthly retail sales and sales tax paid by each business collected for businesses located in the Redevelopment Project Area (Form ST-1).

The Developer shall provide the City with a copy of this covenant.

Section 28. Liability and Risk Insurance.

A. Liability Insurance Prior to Completion. Prior to commencement of the Redevelopment Project, the Developer (or the Developer's contractor) shall procure and deliver to the City, at the Developer's (or such contractor's) cost and expense, and shall maintain in full force and effect until each and every obligation of Developer contained herein has been fully paid, or performed, a policy or policies of comprehensive liability insurance and, during any period of construction, contractor's liability insurance, structural work act insurance and worker's compensation insurance, with liability coverage under the comprehensive liability insurance to be not less than Five Million Dollars (\$5,000,000) each occurrence and Ten Million Dollars (\$10,000,000) total, all such policies to be in such form and issued by such companies as shall be acceptable by the City to protect the City and Developer against any liability incidental to the use of or resulting from any claim for injury or damage occurring in or about the Project or the improvements or the construction and improvement thereof. Each such policy shall name the City as a coinsured and shall contain an affirmative statement by the issuer that it will give written notice to the City at least thirty (30) days prior to any cancellation or amendment of its policy.

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

Section 29. Events of Default and Remedies.

A. Events of Default. The following shall be Events of Default with respect to this Agreement:

(i) If any material representation made by the Developer or City in this Agreement, or in any certificate, notice, demand or request made by the Developer or City, in writing and delivered to the other party 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 that such default shall constitute an Event of Default if the defaulting party does not, within 30 days after written notice from the non-defaulting party, initiate

and diligently pursue appropriate measures to remedy the default.

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

(iii) Default in the performance or breach of any other material covenant, warranty or obligation of either party in this Agreement; provided that such default shall constitute an Event of Default if the defaulting party does not, within 30 days after written notice from the non-defaulting party, initiate and diligently pursue appropriate measures to remedy the default.

(iv) 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 sixty (60) consecutive days.

(v) 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 Developer's 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.

B. Remedies For Default.

(i) In the case of an Event of Default by either party hereto or any successors to such party, such party or successor shall, upon written notice from the other, take immediate action to cure or remedy such Event of Default within sixty (60) days after receipt of such notice. If, in such case action is not taken, or not diligently pursued, or the Event of Default or breach shall not be cured or remedied within a reasonable time, the aggrieved 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 by the party in default or breach of its obligations.

(ii) In case the City or Developer shall have proceeded to enforce its rights under this Agreement and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the party initiating such proceedings, then and in every such case the Developer and the City shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the Developer and the City shall continue as though no such proceedings had been taken.

C. Agreement to Pay Attorney's Fees and Expenses.

(i) In the event the Developer shall commit an Event of Default which is not cured within the applicable cure periods and the City should employ an attorney or attorneys or incur other expenses for the collection of the payments due under this Agreement or the enforcement of performance or observance of any obligation or agreement on the part of the Developer herein contained, the Developer agrees that it will on demand therefor pay to the City the reasonable fees of such attorneys and such other expenses so incurred by the City.

(ii) In the event the City shall commit an Event of Default which is not cured within the applicable cure periods and the Developer should employ an attorney or attorneys or incur other reasonable expenses for the collection of the

payments due under this Agreement or the enforcement of performance or observance of any obligation or agreement on the part of the City herein contained, the City agrees that it will on demand therefor pay to the Developer the reasonable fees of such attorneys and such other reasonable expenses so incurred by the Developer.

(iii) In the event that one Party claims that the other Party has committed an Event of Default and this claim is litigated in a court of competent jurisdiction, the prevailing Party shall be entitled to the reasonable fees, of its attorneys and other expenses reasonably incurred in such litigation.

D. No Waiver by Delay. Any delay by the City in instituting or prosecuting any actions or proceedings or otherwise asserting its rights under this Agreement shall not operate to act as a waiver of such rights or to deprive it of or limit such rights in any way (it being the intent of this provision that the City should not be constrained so as to avoid the risk of being deprived of or limited in the exercise of the remedies provided in this Agreement because of concepts of waiver, laches or otherwise); nor shall any waiver in fact made by the City with respect to any specific Event of Default by the Developer under this Agreement be considered or treated as a waiver of the rights of the City under this Section or with respect to any event of Default under any section in this Agreement or with respect to

the particular Event of Default, except to the extent specifically waived in writing by the City.

E. Rights and Remedies Cumulative. The rights and remedies of the City to this Agreement (or its successors in interest) whether provided by law or by this Agreement, shall be cumulative, and the exercise by the City of any one or more of such remedies shall not preclude the exercise by it, at the time or different times, of any other such remedies for the same Event of Default. No waiver made with respect to the performance, nor the manner or time thereof, of any obligation of the Developer or any condition under the Agreement shall be considered a waiver of any rights of the City with respect to the particular obligation of the Developer or condition beyond those expressly waived in writing.

Section 30. Equal Employment Opportunity.

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

apprenticeship. The Developer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause.

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

Section 31. Miscellaneous Provisions.

A. Titles of Articles and Sections. Any titles of the several parts, articles and sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

B. Cancellation. In the event the Developer or the City shall be prohibited, in any material respect, from performing covenants and agreements or enjoying the rights and privileges herein contained, or contained in the Redevelopment Plan, by the order of any court of competent jurisdiction or as a result of an Uncontrollable Circumstance (other than an event described in subsection (c)(v) of the definition of Uncontrollable Circumstance), or in the event that all or any part of the Act or any ordinance adopted by the City in connection with the Redevelopment Projects, 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 Redevelopment Plan or the covenants and agreements or rights and privileges of the Developer or the City, then and in any such event, the party so materially affected may, at its election, cancel or terminate this Agreement by giving written notice thereof to the other within sixty (60) days after such final decision or amendment. To the extent it is then appropriate, the City, at its option, may also terminate its duties, obligations and liability under all or any related documents and agreements; provided, however: (i) the cancellation or termination of this Agreement shall have no effect on the authorizations granted to the Developer pursuant to the Zoning and Land Use Controls; and (ii) in the event of such cancellation or termination, the City shall continue to deposit Remaining TIF Revenue Stream into the Public Redevelopment Projects Account, in accordance with the provisions of Section 7(D), to pay principal and interest on the previously issued and outstanding Developer Notes.

C. Notices. All notices, certificates, approvals, consents or other communications desired or required to be given hereunder shall be given in writing at the addresses set forth below, by any of the following means: (i) personal service; (ii) electronic communications, whether by telex, telegram or telecopy; (iii) overnight courier; or (iv) registered or certified first class mail, postage prepaid, return receipt requested:

IF TO CITY: City of Warrenville
28 W 630 Stafford Place
Warrenville, Illinois 60555

Attention: City Administrator

with copies to:

City of Warrenville
28 W 630 Stafford Place
Warrenville, Illinois 60555

Attention: Mayor

Barry L. Moss
Moss and Bloomberg, Ltd.
305 West Briarcliff Road
P.O. Box 1158
Bolingbrook, Illinois 60440

IF TO DEVELOPER:

Warrenville Development Limited Partnership
LaSalle Partners Limited
11 South LaSalle Street
Chicago, Illinois 60603

Attention: Senior Vice President,
Development

with copies to:

Amprop Inc.
200 East Randolph Street
Mail Code 3504
Chicago, Illinois 60601

Attention: Jordan Hemphill

Amprop Inc.
c/o Law Department
200 East Randolph Street
Chicago, Illinois 60603

Attention: Suzanne Sawada

Mayer, Brown & Platt
190 South LaSalle Street

Chicago, Illinois 60603

Attention: David Narefsky

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

D. Time of the Essence. Time is of the essence of this Agreement.

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

F. Non-liability of City Officers and Employees. No member, official, employee or agent of the City shall be personally liable to Developer or any successor in interest in the event of any default or breach by the City or State for any amount which may become due to Developer or any successor or any obligation under the terms of this Agreement.

G. Disclaimer. Subject to the provisions of subsection O, nothing contained in this Agreement nor any act of the City or Developer shall be deemed or construed by any of the parties, or by third persons, to create any relationship of third-party beneficiary, or of principal or agent, or of limited or general partnership, or of joint venture, or of any association or relationship involving the City or the Developer.

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

I. Recordation of Agreement. The parties agree to record this Agreement in the appropriate land or governmental records.

J. Successors and Assignees. Except as otherwise provided in this Agreement, the terms and conditions of this Agreement are to apply to and bind the successors and assignees of the City and the successors and assigns of Developer.

K. Severability. If any provision of this Agreement, or any paragraph, sentence, clause, phrase or word, or the application thereof, in any circumstance, is held to be invalid, the remainder of this Agreement shall be construed as if such invalid part were never included herein, and this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

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

M. Meaning of "Developer". As used herein, "Developer" shall mean Warrenville Development Limited Partnership, an Illinois limited partnership.

N. Non-recourse. The liability of Developer and its partners, and any successors, assigns and nominees hereunder, shall be limited to their interest in Warrenville Development Partnership Limited and in the Subject Property and the Developer and its partners, and any successors, assigns and nominees, shall have no personal liability hereunder.

O. Rights of Lender to Notice and Cure. Notwithstanding anything contained herein to the contrary and provided any lender of the Developer (individually and collectively a "Lender") has provided the City with notice of the name and address of any such Lender the City shall not exercise any of its rights or remedies in the event of a default by Developer hereunder until the City shall have given the Lender notice of any such alleged default (which notice shall be given to Lender simultaneously with any default notice to Developer). In the event that the Lender notifies the party sending such default notice within thirty (30) days after the Lender's receipt of such notice that the Lender intends to proceed to attempt to cure or cause to be cured any such alleged default, the City shall be prohibited from exercising any rights or remedies they may have hereunder and at law and equity for so long as such Lender is proceeding in good faith to cure, or cause to be cured, such default.

P. Illinois Responsible Property Transfer Act. The City and Developer agree they will comply with the Illinois Responsible Property Transfer Act ("IRPTA"). If the condition which qualifies the Property as "Real Property" under IRPTA affects only portions of the Property (each such portion being hereinafter referred to as an "IRPTA Parcel"), the City shall, at the Developer's request, create and deliver to the Developer a separate legal description for each IRPTA Parcel and a separate legal description for the remainder of the Property (the "Non-IRPTA Parcel").

Q. Relief for Uncontrollable Circumstances. To the extent that an Uncontrollable Circumstance is the direct cause of the Developer's inability to satisfy any or all of the obligations of Section 8, the time by which the Developer shall be required to satisfy these obligations shall be reasonably extended in respect of the Uncontrollable Circumstance giving rise to the operation of this subsection; provided that in the case of an Uncontrollable Circumstance described in Section 32(B), "reasonable extension" shall mean the same number of days required by the City to satisfy its obligations under Section 32(B) subsequent to the date which is 90 days after the Effective Date.

Section 32. Effectiveness.

A. The Effective Date for this Agreement shall be the day on which the City shall have duly enacted and there shall be

effective an ordinance adopting a General Site Plan for the Subject Property which site plan shall have been approved by the Developer.

B. The City shall use its best efforts to negotiate and approve an agreement with the City of Naperville for sanitary sewer service required to serve the Subject Property within ninety (90) days from the Effective Date. If the City is, notwithstanding its best efforts, unable to satisfy the requirement set forth in the preceding sentence, (i) the City shall proceed with all reasonable actions in an attempt to ensure that the Subject Property is served by adequate sanitary sewer service, consistent with the provisions of the General Site Plan; and (ii) such event shall constitute an Uncontrollable Circumstance.

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

CITY OF WARRENVILLE

ATTEST:

Mayor

City Clerk

WARRENVILLE DEVELOPMENT
LIMITED PARTNERSHIP,
an Illinois limited partnership

AMPROP ILLINOIS I
LIMITED PARTNERSHIP,
an Illinois limited partnership
and its general partner

AMPROP, INC.,
a Delaware corporation,
its general partner