



Village of Hanover Park Administration

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VILLAGE MANAGER
JULIANA A. MALLER

VILLAGE OF HANOVER PARK

VILLAGE BOARD REGULAR WORKSHOP MEETING Municipal Building: 2121 W. Lake Street Hanover Park, IL 60133

Thursday, October 3, 2013
6:00 p.m.

AGENDA

1. CALL TO ORDER-ROLL CALL
2. ACCEPTANCE OF AGENDA
3. REGULAR BOARD MEETING AGENDA ITEM REVIEW
4. DISCUSSION ITEMS
 - a. Hanover Square Façade Final Design
 - b. Redevelopment Agreement for 1557-1559 Irving Park Road
 - c. Amendment to the Plant and Weed Abatement Ordinance
 - d. Amendment to Balcony Ordinance
 - e. Disposal of Trailer
 - f. Village Hall Improvements
 - g. Resolution – Supporting Retrofit of Rail Tank Cars
5. STAFF UPDATES
 - a. Hanover Square Update
6. NEW BUSINESS
7. ADJOURNMENT



TO: Village President and Board of Trustees

FROM: Juliana Maller, Village Manager
Shubhra Govind, Community & Economic Development Director
Katie Bowman, Village Planner

SUBJECT: Hanover Square Façade Final Design

ACTION

REQUESTED: Approval Concurrence Discussion Information

MEETING DATE: October 3, 2013 – Board Workshop

Executive Summary

Move to approve final façade design for Hanover Square Shopping Center and direct Staff to complete a return on investment analysis related to such improvements.

Discussion

As directed at the Board Workshop of August 1, 2013, Staff have worked with the Construction Manager and Architect to create final recommended façade design details for the Hanover Square Shopping Center. This design is based upon the Board's preference for Option 1, which updates the façade by alternating EIFS material and new standing seam roofing along the façade. The final recommended design is attached as Exhibit 1. The cost of such work will be within the overall budget as provided at the previous meeting and attached as Exhibit 2.

Additional architectural details have been added to this final version, including:

- A horizontal band of darker color across the upper and lower portions of the EIFS 'bump ups.' This balances the parapet element and helps break up the 'field' color across the length of the EIFS elements.
- Introduced smaller cylinder down lights at each column location and removed the up/down cylinder lights, which depending on tenant layout might have interfered with wall signage.
- Adjusted the forest green standing seam color to be more warm and muted – color as shown on screen and printed does not exactly match, actual color to be provided in material samples at meeting.
- Current tenant lineup and addresses added to better illustrate impact on center.

Agreement Name:

Executed By:

This option is recommended by Staff, Construction Manager, and Architect for several reasons. The standing seam roof style 'breaks up' the long façade, providing architectural detail and differentiation. The green color is recommended as a warm and natural color that highlights greenery in the area. The color and style of this roof correlates with other properties in the growing Village Center area, such as the Claremont medical facility, Church Street Station, and Hanover Park Fire Station. See Exhibit 3 for photos of surrounding properties.

The cost of additional finishes recommended at this time will be approximately \$44,021. This includes minor additional costs for additional EIFS color details, as well as improved structural support and weather protection on the columns, and the amended lighting at the columns. With this, the total cost for design, construction, and administration of the façade is estimated to be \$1,411,123. See Exhibit 2 for further detail.

The Finance Department has also performed an evaluation of financing options for façade work and the impact on such TIF and Village finances. To determine the best financing option for the Hanover Square façade project, the Finance Department looked at both loans and the issuance of bonds. It was determined that, for this particular project, obtaining a loan from a bank would be the best option.

Staff recommends that the Village obtain a construction type loan, which includes setting up a line of credit to draw down the loan money as it is needed and converting the money used on the project into a structured P&I payment loan once the project is completed.

The increment generated within TIF #3 will be the revenue source to pay back the loan. We are currently projecting that we will have enough revenues to pay for the loan entirely from TIF #3. However, in order to get the best rate from the banks, we will need to back the loan with the full faith and credit of the Village. This means that, if for any reason we were unable to pay for the loan from TIF #3 funds, we would have to pay for it from the General Fund. While at this point that prospect seems unlikely, it is an additional risk to the Village. Please see Exhibit 4 for the TIF #3 projections.

Overall, the process for planning of façade work includes:
(Additional steps taken since last discussion are in bold)

- ✓ Obtain a Construction Management firm to help develop and manage façade project
- ✓ Obtain an Architect to develop proposed designs for center
- ✓ Obtain preliminary estimates of financing options
- ✓ Architect conducted structural analysis of building to determine most cost effective way to approach renovations
- ✓ Work with Architect to develop preliminary design options
- ✓ Work with Construction Manager to develop cost estimates for improvements
- ✓ Work with Construction Manager and Architect to develop color elevations for review
- ✓ Provide further information on costs and timeframe to banks to gain updated financing options
- ✓ **Work with Construction Manager and Architect to develop final elevations**
- ✓ **Evaluate financing options**
- ✓ **Evaluate impact of financing on TIF and Village finances**
- Evaluate potential return on investment of financed improvements (in progress)

- Evaluate impact of financing on Village’s involvement in the center (in progress)
- Present evaluation to Village Board for review and direction

Recommended Action

Move to approve final façade design for Hanover Square Shopping Center and direct Staff to complete a return on investment analysis related to such improvements.

- Attachments:**
- Exhibit 1 – Recommended Façade Design
 - Exhibit 2 – Façade Cost Estimate Summary
 - Exhibit 3 – Images of surrounding properties
 - Exhibit 4 – TIF #3 Projections

Budgeted Item:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Budgeted Amount:	\$ 0	
Actual Cost:	\$ TBD	
Account Number:	033-0000-465-13.21	



1 PARTIAL EAST ELEVATION
NTS

DRAFT Hanover Square Façade Costs 1,080 Lineal Feet
 Estimate as of 7/23/13

OPTION 1 - PARTIAL RENOVATION

Construction Costs

Base Budget	\$905,953
Reface EIFS Band	\$10,500
Replace standing seam roofing at reuse areas	\$45,936
Add recessed can lights and access panels in soffit	\$40,741
Subtotal	\$1,003,130
Main building doors & windows	\$189,609
Option 1 - Main Bld	\$1,192,739

Outlot Building

Base Budget	\$78,089
Paint existing standing seam equip screen on roof	\$3,281
Subtotal	\$81,370
Outlot windows and doors	\$38,088
Total	\$119,458

TOTAL OPTION 1 + OUTLOT w/ windows & doors **\$1,312,197**

Construction Administration Costs

Structural Engineer	\$7,480
Electrical Engineer	\$2,200
Architectural Drawings	\$27,500
Subtotal Design	\$37,180
Preconstruction Administration (ICSI)	\$10,000
ICSI Fee (9%)	\$4,246
Total Construction Administration	\$51,426

Insurance and Bonding

Builders Risk Insurance	\$1,000
Performance & Payment Bond (CM)	\$16,500
Subcontractor Perf & Payment Bond (1-2%)	\$30,000
Total Insurance & Bonding	\$47,500

TOTAL OPTION 1 + DESIGN & ADMINISTRATION **\$1,411,123**



VILLAGE OF HANOVER PARK, ILLINOIS
Projection through the end of TIF #3

Fund 033 - Tax Increment Financing #3 Fund

Description	Inception (2002)													
	to 2011 Actual	2011-2012 Actual	2012-2013 Actual	2013-2014 Projected	2014-2015 Projected	2015-2016 Projected	2016-2017 Projected	2017-2018 Projected	2018-2019 Projected	2019-2020 Projected	2020-2021 Projected	2021-2022 Projected	2022-2023 Projected	2023-2024 Projected
Revenues and Other Financing Sources														
Property Taxes	\$ 4,339,392	\$ 967,250	\$ 1,730,410	\$ 1,100,000	\$ 1,000,000	\$ 900,000	\$ 900,000	\$ 900,000	\$ 900,000	\$ 900,000	\$ 918,000	\$ 936,360	\$ 955,087	\$ 974,189
Investment Income	189,538	6,055	1,113	1,113	1,113	1,135	1,158	1,181	1,205	1,229	1,253	1,278	1,304	1,330
Developer revenue	75,000	-	-	-	-	-	-	-	-	-	-	-	-	-
Miscellaneous	20,934	-	-	-	-	-	-	-	-	-	-	-	-	-
Proceeds from Bonds	-	-	-	-	1,500,000	-	-	-	-	-	-	-	-	-
Transfer from General	226,227	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Revenues and Other Financing Sources	4,851,091	973,305	1,731,523	1,101,113	2,501,113	901,135	901,158	901,181	901,205	901,229	919,253	937,638	956,391	975,519
Expenditures and Other Financing Uses														
TIF Redevelopment Agreement:	174,637	34,761												
ARF	-	-	38,916	40,000	40,000	40,800	41,616	42,448	43,297	20,987	-	-	-	-
Suburban Tire	-	-	68,175	-	-	-	-	-	-	-	-	-	-	-
NuCare	-	-	242,037	65,000	130,000	130,000	130,000	200,000	260,000	42,963	-	-	-	-
Total Redevelop Agreements	174,637	34,761	349,128	105,000	170,000	170,800	171,616	242,448	303,297	63,950	-	-	-	-
Personal Services	40,015	34,735	102,409	-	-	-	-	-	-	-	-	-	-	-
Contractual Services	500,867	278,264	94,491	145,000	149,350	149,350	149,350	149,350	149,350	149,350	149,350	149,350	149,350	149,350
Capital Outlay	350,149	-	120,951	1,500,000	1,500,000	-	-	-	-	-	-	-	-	-
Debt Service	-	-	-	-	214,896	335,292	335,292	335,292	335,292	335,292	167,646	-	-	-
Transfers out	1,134,398	2,800,000	-	-	-	-	-	-	-	-	-	-	-	-
Total Expenditures and Other Financing Uses	2,200,066	3,147,760	666,979	1,750,000	2,034,246	655,442	656,258	727,090	787,939	548,592	316,996	149,350	149,350	149,350
Net Change in Fund Balance	2,651,025	(2,174,455)	1,064,544	(648,887)	466,867	245,693	244,900	174,091	113,265	352,637	602,257	788,288	807,041	826,169
Beginning Fund Balance	-	2,651,025	476,570	1,541,114	892,227	1,359,094	1,604,787	1,849,687	2,023,778	2,137,043	2,489,680	3,091,937	3,880,226	4,687,267
Ending Fund Balance	\$ 2,651,025	\$ 476,570	\$ 1,541,114	\$ 892,227	\$ 1,359,094	\$ 1,604,787	\$ 1,849,687	\$ 2,023,778	\$ 2,137,043	\$ 2,489,680	\$ 3,091,937	\$ 3,880,226	\$ 4,687,267	\$ 5,513,436

Note: Projections were performed with an April 30th year end.

Capital Outlay for FY '14 includes \$1,000,000 for white box work and \$500,000 for Hanover Square's Roof Repair. For FY'15 capital outlay includes the façade work.



TO: Village President and Board of Trustees

FROM: Juliana Maller, Village Manager
Shubhra Govind, Community & Economic Development Director
Katie Bowman, Village Planner

SUBJECT: Redevelopment Agreement for 1557-1559 Irving Park Road

ACTION

REQUESTED: Approval Concurrence Discussion Information

MEETING DATE: October 3, 2013 – Board Workshop

Executive Summary

Review of proposed Redevelopment Agreement for the redevelopment of the property at 1557-1559 Irving Park Road.

Discussion

On September 5, 2013, the Village Board directed Staff to draft a Redevelopment Agreement to encourage the location of a Harbor Freight store located on the property at 1557-1559 Irving Park Road. Staff has worked with the property owner and their counsel to develop a term outline and the Village Attorney has drafted a Redevelopment Agreement based upon the terms outlined with the Board and attached as Exhibit 1. The full proposed redevelopment agreement is included as Exhibit 2 and background on the project as Exhibit 3.

The proposed redevelopment agreement includes incentive and project terms as outlined in the term sheet. It also includes thorough details related to the required Village approvals and permits reimbursement only after completion of the project; Harbor Freight being obligated to a ten year lease and being open for business; and the availability of funds for reimbursement. In this way, the agreement ensures that work is performed as agreed upon and provides long-term improvements to the Village in keeping with our standards and goals. The sharing of TIF funds is targeted toward site improvements that will bring long-term value and benefit to the property.

The final Redevelopment Agreement will include a complete Redevelopment Plan, which will include a site plan and façade details that meet the Village Code, as well as bring upgrades to the appearance and value of the property to work towards the recommendations of the Irving Park Corridor Study.

Agreement Name: _____

Executed By: _____

Recommendation

Move to approve the Redevelopment Agreement for redevelopment of the property at 1557-1559 Irving Park Road with terms as outlined in Exhibit 2.

Attachments:

- Exhibit 1 – Proposed Term Sheet
- Exhibit 2 – Redevelopment Agreement
- Exhibit 3 – Staff Memo, Village Board Workshop of September 5, 2013

Budgeted Item:	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	N/A
Budgeted Amount:	\$				
Actual Cost:	\$				
Account Number:					

**PROPOSED TERM SHEET - Development Reimbursement for
TIF Eligible Redevelopment Project Costs**

Proposed 1559 Irving Park Road Redevelopment

Subject to verification that all developer's expenditures to be reimbursed by the TIF Increment are authorized by the TIF Act, and premised on the project not reasonably being anticipated to be developed or redeveloped without the hereafter financial assistance, the following represents the preliminary understanding of the Owner of the above real estate and the Village staff concerning terms to be included in a draft redevelopment agreement to be considered by the Village's corporate authorities.

1. **Timing**

The development is tentatively scheduled to begin on or before October 15, 2013 and conclude on or before December 15, 2013.

2. **Project Scope**

The project will include redevelopment of the property by the Owner in preparation of a new retail tenant who shall be obligated by a building lease agreement concerning a minimum term of 10 years, with new occupancy by said tenant of 15,000 square feet of the 25,000 square foot building. Work will address building, zoning, and other code deficiencies documented by Village, as well as agreed upon leasehold improvements for the new tenant. All improvements shall comply with current zoning, building, and sign ordinances and regulations. The project is depicted on Exhibit ____, with final design and scope subject to both the Village's discretionary approval as well as its final development and building permit approval. The Redevelopment will include Owner improvements to the following areas, as proposed by the Owner:

- Site Improvements:
 - o Remove and reconstruct Parking Lot
 - o Install new landscape areas and plantings throughout site
 - o Install new site lighting, including on building and in parking lot
 - o Re-engineer storm water drainage onsite with proper out flow, installing new storm drain system in accordance with Village approved plans
 - o Construct new code-compliant trash enclosure
 - o Reconstruct exterior walkways both on public and private property, including ADA accessibility
 - o Remove underground propane tank and clean up as required
- Exterior Building Improvements:
 - o Replace existing roof with new roof
 - o Replace existing and provide new HVAC units
 - o Repair overhead doors along rear of building
 - o Install reinforcing finish on brick exterior walls, including tuck pointing and reinforcing as necessary

- Install new façade along north and west elevations and follow Village design guidelines, materials to be approved by Village
- Replace rain gutters and integrate into site drainage system as approved by Village
- Interior Building Improvements: (vacant space only)
 - Remove and Reconstruct concrete floors
 - Upgrade electrical service to meet current code
 - Upgrade interior lighting to meet current code
 - Upgrade fire sprinklers to meet current code
 - Reconstruct restrooms to ADA Standards and to meet current code
 - Reseal windows to meet current code
 - Obtain a detailed asbestos report and remove asbestos as necessary within building and roof

3. **Project Costs**

Owner's Project Costs will include at a minimum the following:

- Site Improvements:	\$850,000
- Building Improvements:	<u>\$1,800,000</u>
Total	\$2,650,000

To be eligible for reimbursement for the TIF Improvements to be specified in the agreement, Project Costs must equal or exceed the above amounts and be certified by the Village in accordance with the provisions of the Agreement. The procedures to obtain Village Certificate of Eligibility for the Owner's Costs in order to be reimbursed by a portion of the TIF Increment will be described in the Agreement. Owner shall be responsible to complete all of Owner's Improvements, including the TIF funded portion of the improvements, and to complete the construction of all items referenced in the Village approved Plans, without regard to whether the actual cost of the same exceeds the amounts set forth herein or in any subsequent agreement between the parties.

4. **Sources of Revenues**

There are two primary sources of revenue to be derived from the improvement of the property. These terms are premised on the property being used for retail sales including, in particular, the retail sales of the Tenant for the full term of the lease for the additional 15,000 square feet of space. There are new sales tax revenues expected to be generated from the property, and also tax increment financing revenues generated from the property over and above the higher assessment of (i) the 2012 Tax Assessment Year or (ii) the assessment of the property as frozen upon the previous certification by the County Clerk. These revenues are not currently being generated or received by the Village, as the new tenant space is vacant.

5. **Public Expenses**

The public expenses for the project include sharing of a portion of the 1% municipal sales tax with the owner from the new tenant space, and also reimbursing developer from a portion of the incremental property tax generated from the property by the owner's

project. These public expenses will be utilized to assist the owner through a reimbursement system following owner's expenditures and construction of the required improvements in order to financially assist owner for a portion of owner's TIF-eligible improvement costs. Total incentives offered by the Village will not exceed 37 percent (37%) of the total owner's site improvement and building improvement costs and shall not exceed the following:

- **Incremental Property Tax:** A maximum of \$690,000 based on no more than
 - o 50% of incremental property tax deposited into a TIF #4 fund generated solely from the property for the remaining life of the TIF (up to 15 years)
 - o To be paid annually, but only from available funds after Village's receipt of said funds and proof of owner's payment of second installment of property taxes.
 - o Village's obligation to pay from the 50% TIF increment generated by the property will be subject, however, to amounts first owed to Menard's under a previous TIF Agreement between Village and Menard's, a copy of which owner has examined, and also subject to any claimed refunds or returns of TIF incremental taxes to Cook County claimed or deducted from any TIF allocation by the County of Cook.

- **Sales Tax:**
 - o 40% of Village's 1% municipal sales tax payable from sales derived from retail sales at the new leased business for up to 10 years (but not to exceed \$264,000 in the aggregate)
 - o To be paid semi-annually or annually based upon receipt concerning the new tenant's sales from quarterly sales tax report from the State of Illinois.

- **Total: TIF and Sales Tax Reimbursement up to \$954,000**

REDEVELOPMENT AGREEMENT

By and Between

THE VILLAGE OF HANOVER PARK, ILLINOIS,
an Illinois municipal corporation

and

**Richard L. Breslich Trust No. 1 and
Jean G. Breslich Trust No. 1**

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LIST OF EXHIBITS

- Exhibit A *Legal Description of the Redevelopment Area
- Exhibit A-1 *Legal Description of the Property
- Exhibit B Description and Estimated Capital Costs of Harbor Freight
- Exhibit C Redevelopment Plan
- Exhibit D Elements of the Redevelopment Project Eligible for Reimbursement from TIF Funds
- Exhibit E Permitted Liens
- Exhibit F Opinion of Developer’s Counsel
- Exhibit G Request for Reimbursement

(An asterisk (*) indicates which exhibits are to be recorded.)

-----space above for recording information-----

REDEVELOPMENT AGREEMENT
Richard L. Breslich Trust No. 1 and
Jean G. Breslich Trust No. 1

This Redevelopment Agreement (this “Agreement”) is made as of this ____ day of _____, 2013, by and between the Village of Hanover Park, an Illinois municipal corporation (the “Village”), and Richard L. Breslich Trust No. 1 and Jean G. Breslich Trust No. 1 (collectively the “Developer” or “Owner”).

RECITALS

A. Constitutional Authority: As a home rule unit of government under Section 6(a), Article VII of the 1970 Constitution of the State of Illinois (the “State”), the Village has the power to regulate for the protection of the public health, safety, morals and welfare of its inhabitants, and pursuant thereto, has the power to encourage private development in order to enhance the local tax base, create employment opportunities and to enter into contractual agreements with private parties in order to achieve these goals.

B. Statutory Authority: The Village is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq., as amended from time to time (the “Act”), to finance projects that eradicate blighted conditions through the use of tax increment allocation financing for redevelopment projects and to exercise the power of eminent domain and all other powers under the Act.

C. Village Authority: To induce redevelopment pursuant to the Act, the President and Board of Trustees of the Village (the “Corporate Authorities”) introduced and adopted the following ordinances on September 1, 2005: (1) “An Ordinance Adopting and Approving a Tax Increment Financing Redevelopment Plan For the Village of Hanover Park, Illinois (West Irving Park Road Corridor-TIF #4)”; (2) “An Ordinance Designating a Tax Increment Financing Redevelopment Project Area Within the Village of Hanover Park, Illinois (West Irving Park Road Corridor-TIF #4)”; and (3) “An Ordinance Adopting Tax Increment Financing for the Village of Hanover Park, Illinois, In Connection With the Designation of a Tax Increment Financing Redevelopment Project Area (West Irving Park Corridor-TIF #4)”, (said ordinances hereinafter collectively referred to as the “TIF Ordinances”). The redevelopment project area (the “Redevelopment Area”) is generally located at the intersection of Irving Park Road and

Barrington Road, generally including the frontage along both sides of Irving Park Road from east of Barrington Road to just west of Cumberland Drive on the north side of Irving Park Road and to just west of Longmeadow Lane on the south side of Irving Park Road.. The Redevelopment Area is legally described in Exhibit A hereto.

D. The Redevelopment Project: Prior to the adoption of the TIF Ordinances, the Developer has owned and continues to own the property in the Redevelopment Area that is legally described and depicted on Exhibit A-1 hereto (the “Property”). The Developer proposes the redevelopment of the property in preparation of a new retail tenant, Harbor Freight Tools USA, Inc., a Delaware corporation (“Harbor Freight”), which new tenant shall be obligated by a building lease agreement between Developer and Harbor Freight with a minimum term of ten (10) years for new occupancy by said tenant of a minimum of approximately 15,000 square feet of an existing approximate 25,000 square foot building as more accurately depicted in the building plans submitted to the Hanover Park Building Department for building permit review on August 22, 2013, which building and property are owned by Developer, said elements of the redevelopment are more completely described in Exhibit B. The Developer’s estimate of the capital costs of the Harbor Freight is also contained in Exhibit B.

The specific objectives of the Developer in locating Harbor Freight in the Redevelopment Area include, without limitation:

Expansion of Developer’s business in the area;

Access to a competent workforce; and

Access to tax increment financing to reduce the costs of the Redevelopment Project.

The potential contribution of the rehabilitation of the existing approximate 25,000 square foot building to include Harbor Freight to the local economy is substantial and includes:

Increased ad valorem property taxes;

An incentive for related private investment in adjacent properties not owned by Developer;

Strengthening of the Village’s commercial sector; and

Employment opportunities during construction and operation of Harbor Freight.

The redevelopment of the Property by remodeling and rehabilitating with improvements described in this Agreement and the redevelopment of the existing approximate 25,000 square foot building to include approximately 15,000 square feet for Harbor Freight redevelopment is referred to herein as the “Redevelopment Project.” The completion of the Redevelopment Project would not reasonably be anticipated without the tax increment financing contemplated in this Agreement.

E. Redevelopment Plan: The Redevelopment Project will be carried out in accordance with this Agreement and the Redevelopment Plan for the Establishment of a Redevelopment

Project Area in Hanover Park, Illinois (the “Redevelopment Plan”) attached hereto as Exhibit C, as amended from time to time. The parties acknowledge that the Redevelopment Project conforms to the Redevelopment Plan and the comprehensive plan of the Village.

F. Village Financing: In order to achieve the objectives of the Redevelopment Plan, the Village agrees to use, in the amounts set forth in Section 4 hereof, a portion of the Incremental Taxes (the “Tax Increment Proceeds”) generated by the Redevelopment Project to pay for or reimburse the Village and the Developer for the Redevelopment Project Costs pursuant to the terms and conditions of this Agreement, and also provide further economic incentive through sales tax reimbursement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1. RECITALS

The foregoing recitals are hereby incorporated into this Agreement by reference.

SECTION 2. DEFINITIONS

For purposes of this Agreement, in addition to the terms defined in the foregoing recitals, the following terms shall have the meanings set forth below:

“Environmental Laws” shall mean any and all federal, state or local statutes, laws, regulations, ordinances, codes, rules, orders, licenses, judgments, decrees or requirements relating to public health and safety and the environment now or hereafter in force, as amended and hereafter amended, including but not limited to (i) the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.); (ii) any so-called “Superfund” or “Superlien” law; (iii) the Hazardous Materials Transportation Act (49 U.S.C. Section 1802 et seq.); (iv) the Resource Conservation and Recovery Act (42 U. S. C. Section 6902 et seq.); (v) the Clean Air Act (42 U.S.C. Section 7401 et seq.); (vi) the Clean Water Act (33 U.S.C. Section 1251 et seq.); (vii) the Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.); (viii) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136 et seq.); (ix) the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.); and (x) the Municipal Code of Hanover Park, Illinois.

“Event of Default” shall have the meaning set forth in Section 11 hereof.

“First Disbursement” shall mean the first disbursement of TIF Funds for Redevelopment Project Costs.

“Hazardous Materials” shall mean any toxic substance, hazardous substance, hazardous material, hazardous chemical or hazardous, toxic or dangerous waste defined or qualifying as such in (or for the purposes of) any Environmental Law, or any pollutant or contaminant, and shall include, but not be limited to, petroleum (including crude oil), any radioactive material or by-product material, polychlorinated biphenyls and asbestos in any form or condition.

“Incremental Taxes” shall mean such ad valorem taxes which, pursuant to the TIF Ordinances and Section 5/11-74.4-8(b) of the Act, are allocated to and when collected are paid to the Finance Director of the Village for deposit by the Finance Director into the Special Tax Allocation Account established pursuant to the Act to pay Redevelopment Project Costs and obligations incurred in the payment thereof.

“Municipal Code” shall mean the Municipal Code of the Village of Hanover Park.

“Permitted Liens” shall mean those liens and encumbrances against the Property and/or the approximate 25,000 square foot building located thereon including Harbor Freight set forth on Exhibit E hereto.

“Redevelopment Project” shall mean the redevelopment of the Owners’ Property in accordance with this Agreement including the new Harbor Freight.

“Redevelopment Project Costs” shall mean the costs of those elements of the Redevelopment Project that are approved for payment from TIF Funds as redevelopment project costs under Section 5/11-74.4-3(q) of the Act and the provisions of this Agreement.

“Term of the Agreement” shall mean the period of time commencing on the date hereof and ending on the twenty-third anniversary of the adoption of the TIF Ordinances.

“TIF-Funded Redevelopment Project Costs” shall mean those Redevelopment Project Costs incurred by the Developer which are reimbursable from TIF Funds and which are identified in Exhibit D.

“TIF Funds” shall mean the Incremental Taxes described in Sections 4.01 - 4.03 hereof.

“Village Attorney” shall mean the Village Attorney of the Village of Hanover Park, Illinois.

“West Irving Park Road Corridor Redevelopment Project Area Special Tax Allocation Account” or the “TIF Fund” shall mean the special tax allocation fund created by the Village in the municipal treasury into which the Incremental Taxes will be deposited.

SECTION 3. THE REDEVELOPMENT PROJECT

A. The Redevelopment Project.

In order to accomplish in part the objectives of the Village to provide for the redevelopment of the Property in conformity with the Redevelopment Plan, the Village agrees to make certain TIF Funds available with respect to the Redevelopment Project as provided in Section 4 and the Developer agrees to rehabilitate, remodel, renovate, and redevelop the Property and improve it and the approximate 25,000 square foot building including operation of Harbor Freight as more fully described in Exhibit B.

B. Village Review of Plans and Specifications for the Redevelopment Project.

The parties agree that the drawings, plans and specifications submitted to the Village in connection with the Redevelopment Project conform to the Redevelopment Plan, as amended from time to time and this Agreement. The Developer represents that, to the best of its knowledge, the drawings, plans and specifications for the Redevelopment Project conform to all applicable federal, state and local laws, ordinances and regulations. Developer has provided Village with a copy of the fully executed minimum ten year term lease between Owner and Harbor Freight.

C. Evidence of Actual Expenditures.

Attached to this Agreement as Exhibit D is a listing of TIF-Funded Redevelopment Project Costs eligible for reimbursement from TIF Funds under the Act and this Agreement. From time to time, the Developer shall submit evidence to the Village of its expenditures with respect to Redevelopment Project identified on Exhibit D for which it intends to seek reimbursement of TIF-Funded Redevelopment Project Costs from TIF Funds. Such evidence shall be in a form requested by the Village that permits the Village to meet its reporting and audit obligations under the Act. Developer's reimbursement request shall be initiated with the Request for Reimbursement in the form attached hereto as Exhibit G. With respect to the TIF-Funded Redevelopment Project Costs, the evidence shall include, upon request of the Village, a copy of the pricing provisions from the contract or contracts for that work and information that the costs of the TIF-Funded Redevelopment Project Costs are commercially reasonable. In connection with each such submission, the Developer shall certify that:

- a) the total amount of the expenditures represents the actual amount paid by the Developer with respect to the Redevelopment Project;
- b) each of the expenditures is a TIF-Funded Redevelopment Project Cost under the Act and this Agreement;
- c) the Developer approved all services, work and materials and/or costs with respect to the expenditure, and such services, work and materials and/or costs substantially conform to the requirements of the Redevelopment Plan, this Agreement and the Act.

D. Village Approval. The Village shall promptly review and take action with respect to each expenditure submission. The Village shall approve those expenditure submissions that qualify under the Act and this Agreement for reimbursement from TIF Funds under the provisions of Section 4 hereof. Those approved expenditures are referred to herein as "TIF-Funded Redevelopment Project Costs".

E. Start Date. Developer agrees to cause the development of the Project. Development of the Project shall commence not later than the date that the last of the following events have taken place (the "Start Date"): Developer having received the last of all required governmental or quasi-governmental permits, approvals or clearances required in connection with its development of the Project (including, without limitation, building and similar permits to be issued by the Village; access or relocation permits if to be issued by the Illinois Department of Transportation

or Cook County Department of Transportation; and any other environmental permits and approvals from the Illinois Environmental Protection Agencies), provided, however, the Start Date shall commence on or before November 1, 2013 and shall be completed by December 31, 2013. If Developer does not begin the Project by the Start Date, this Agreement, at the option of the Village, becomes null and void.

F. Utilities, Fees and Assistance to Developer. The Village and Developer agree that Developer shall be obligated to pay in connection with the development of the Redevelopment Project, those water, sanitary sewer, building permit, engineering inspection, and other fees generally applicable in the Village. Developer hereby expressly acknowledges that the Village shall have no financing obligations in connection with the Redevelopment Project or the TIF Improvements except as expressly provided herein.

G. No Liens. Developer agrees that all TIF Improvements shall be free of all mechanics' and materialman's liens which could arise as a result of Developer's TIF Improvements. Developer hereby agrees and covenants to indemnify and hold harmless the Village from all costs and expenses, including reasonable attorneys' fees and costs of litigation, in the event any liens are filed in Redevelopment Project as a result of the acts or omissions of the Developer, its agents, or independent contractors.

H. Costs. The Village and Developer agree that Developer shall cause the construction of the TIF Improvements indicated on Exhibit B in accordance with the Plans to be approved by the Village. In addition to any other condition for reimbursement, to be eligible for reimbursement for the TIF Improvements or the Sales Tax Reimbursement, Developer shall first have expended at least \$2,650,000 in capital costs of the Redevelopment Project. Developer shall advance all funds and all costs necessary to complete the construction of such improvements and to otherwise complete the Redevelopment Project. Developer shall be responsible to complete all TIF Improvements and to complete the construction of all items referenced in the Plans which are approved by the Village, without regard to whether the actual cost of same exceeds the estimates therefore contained on Exhibit B.

SECTION 4. FINANCING; TIF-FUNDED REDEVELOPMENT PROJECT COSTS

A. Costs of Redevelopment Project and Sources of Funds. The Developer shall use equity or borrowed funds to pay for the costs of design and construction of the redevelopment of the Property as set forth in this Agreement including the new Harbor Freight and shall seek reimbursement for TIF-Funded Redevelopment Project Costs from TIF Funds generated by the Redevelopment Project (the "Property") as set forth in this Section.

B. Financing of TIF-Funded Redevelopment Project Costs.

1) The Village shall deposit the Incremental Taxes generated by the Redevelopment Area into the TIF Fund and will provide a portion of the monies deposited into the Special Tax Allocation Account solely from the Redevelopment Project Property of Developer to the Developer to reimburse it for the Redevelopment Project Costs with respect to the TIF-Funded Redevelopment Project Costs up to a maximum reimbursement of six hundred ninety thousand dollars (\$690,000) as follows:

a) During the term of this Agreement and upon proof of Developer's (Owner's) payment of the second installment of property taxes on the Redevelopment Project Property, the Incremental Taxes derived from the Redevelopment Project Property of Developer shall be annually deposited in the TIF Fund and shall be allocated and disbursed in accordance with this Agreement and the Act as follows:

From the Incremental Taxes generated solely from the Redevelopment Project Property of the Developer and deposited in the TIF Fund:

Fifty percent (50%) will annually be made available to the Developer to reimburse it for TIF-Funded Redevelopment Project Costs for the Redevelopment Project approved by the Village under the Act and pursuant to this Agreement.

Once the Developer has been paid the lesser of, a) six hundred ninety thousand dollars (\$690,000) or b) the total TIF-Funded Redevelopment Project Costs incurred by the Developer, from the Special Tax Allocation Account, then 100% of all remaining Incremental Taxes deposited shall be distributed by Village in accordance with the Redevelopment Plan and the Act.

C. Use and Disbursement of TIF Funds

1. Uses of TIF Funds. The Village's obligation to make payments for TIF-Funded Redevelopment Project Costs under this Agreement is a special obligation of the Village limited to TIF Funds and does not constitute a general obligation of the Village or a pledge of the taxing power of the Village. The Developer shall not have the right to compel the Village to exercise any taxing power to reimburse the Developer for TIF-Funded Redevelopment Project Costs. TIF Funds as provided for in this Agreement shall be used to reimburse the Developer for costs that constitute TIF-Funded Redevelopment Project Costs upon a determination by the Village that the Developer has submitted documentation satisfactory in form and substance to the Village evidencing such cost and its eligibility as a TIF-Funded Redevelopment Project Cost under the Act and this Agreement.

2. Conditional Grant of TIF Funds. Notwithstanding any other provision of this Agreement, the total amount of Incremental Taxes disbursed to the Developer with respect to any year shall in no event ever exceed an amount equal to forty percent (40%) of the Incremental Taxes received by the Village with respect to this Redevelopment Project Area (West Irving Park Corridor-TIF #4) for that calendar year during the term of this Agreement; provided further, that in no event shall the Developer ever receive in the aggregate Incremental Taxes in an amount in excess of six hundred ninety thousand dollars (\$690,000).

3. Preconditions to First Disbursement. The following conditions shall be complied with to the Village's satisfaction on or before the First Disbursement:

a) Opinion of the Developer's Counsel. The Developer shall furnish the Village with an opinion of counsel for the Developer, substantially in the form attached hereto as Exhibit F.

- b) Litigation. The Developer shall provide to the Village a description of all pending or threatened litigation or administrative proceedings involving the Developer which could have a material adverse effect on the Redevelopment Project.
- c) Governmental Approvals. The Developer shall have secured all necessary approvals and permits required by any state, federal, or local statute, ordinance or regulation and shall submit evidence thereof reasonably acceptable to the Village.
- d) Title. The Developer shall have furnished the Village with evidence, satisfactory to the Village, that the Developer is the title holder of the Property.
- e) Insurance. The Developer, at its own expense, shall have obtained for the Redevelopment Project the insurance required by Section 8 hereof and shall have delivered certificates evidencing the required coverages to the Village.
- f) Open for Business and Cost. Harbor Freight shall have been completed in accordance with the Redevelopment Plan, a minimum term ten year lease between Owner and Harbor Freight shall have been entered into for the Harbor Freight store on the Property and a copy delivered to the Village Attorney, the completion of all Exhibit B work at a cost of not less than \$2,650,000.00, and the Village shall have issued a Certificate of Occupancy for Harbor Freight and the grand opening of Harbor Freight shall have occurred and its operations fully commenced.

4. Disbursement Certifications. From time to time during the term of this Agreement, the Developer may submit requests for reimbursement of TIF-Funded Redevelopment Project Costs from the Special Tax Allocation Account in the form attached hereto as Exhibit G. Delivery by the Developer to the Village of any request for disbursement of TIF Funds hereunder shall, in addition to the items therein expressly set forth, constitute a certification to the Village as of the date of such request for disbursement that:

- a) the representations and warranties contained in this Redevelopment Agreement are true and correct in all material respects and the Developer is in substantial compliance with all covenants contained herein;
- b) no Event of Default or condition or event which, with the giving of notice or passage of time or both, would constitute an Event of Default exists or has occurred;
- c) the Developer has satisfied all other preconditions to disbursement of TIF Funds for that disbursement, including but not limited to requirements set forth in the TIF Ordinances, this Agreement and the Act; and
- d) the requested disbursement is for TIF-Funded Redevelopment Project Costs which are qualified under applicable law and this Agreement and have been approved by the Village as required by this Agreement.

SECTION 5. COVENANTS/REPRESENTATIONS/WARRANTIES OF THE DEVELOPER

A. General. The Developer represents, warrants and covenants, as of the date of this Agreement and as of the date of each disbursement of TIF Funds hereunder, that:

1. the Trusts constituting the Developer is lawfully existing and is qualified to do business in Illinois;

2. the Developer has the right, power and authority to enter into, execute and deliver this Agreement and to perform its obligations hereunder;

3. the execution, delivery and performance by the Developer of this Agreement have been duly authorized by all necessary action, and does not violate any of the terms of the Trusts, as amended and supplemented, of the Developer, or any applicable provision of law, or constitute a breach of, default under or require any consent under any agreement, instrument or document to which the Developer is now a party or by which the Developer is now or may become bound;

4. the Developer is solvent and able to pay its debts as they mature;

5. there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, or, to the knowledge of Developer, threatened or affecting the Developer which would materially impair its ability to perform under this Agreement;

6. the Developer has or will obtain all government permits, certificates and consents (including, without limitation, appropriate environmental approvals) necessary to conduct its business and to design, construct and operate Harbor Freight;

7. the Developer is not in default with respect to any indenture, loan agreement, mortgage, deed, note or any other agreement or instrument related to the borrowing of money to which the Developer is a party or by which the Developer is bound, which default would have a material adverse effect on the design, construction or operation of Harbor Freight;

B. Covenant to Redevelop. Developer's improvements shall comply with the current zoning, building, and sign ordinances and regulations of the Village. Upon the Developer's receipt of all required permits, governmental approvals, the Developer shall construct and operate the Redevelopment Project including all of its obligations under this Agreement and shall assure the operation of Harbor Freight in accordance with this Agreement, and all Exhibits attached to this Agreement, the TIF Ordinances, and all applicable federal, state and local laws, ordinances, rules, regulations, executive orders and codes applicable thereto. The covenant set forth in this Section 5(B) and the remedy for breach thereof provided in Section 12.B shall run with the land and be binding on any transferee. The right of the Developer to receive any disbursement of TIF Funds in any year shall be conditioned on its delivery to the Village of a certificate of compliance with respect to this covenant.

C. Redevelopment Plan. The Developer represents that the design, construction and operation of Harbor Freight is and shall be in compliance with all of the terms of the Redevelopment Plan.

D. Use of TIF Funds. TIF Funds disbursed to the Developer shall be used by the Developer solely to reimburse the Developer for its payment of the TIF-Funded Redevelopment Project Costs as provided in this Agreement.

E. Conflict of Interest. The Developer represents, warrants and covenants that, to the best of its knowledge, no member, official, or employee of the Village or of any Village commission or committee exercising authority over the Project, the Redevelopment Area or the Redevelopment Plan, or any consultant hired by the Village in the planning and preparation of the Redevelopment Plan or Project, owns or controls, has owned or controlled or will own or control any interest in the Developer, the Property or Harbor Freight.

F. Insurance. The Developer, at its own expense, shall comply with all provisions of Section 8 hereof.

G. Compliance with Laws. To the best of the Developer’s knowledge, after diligent inquiry, the Property and Harbor Freight are as of the date hereof and shall remain in compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, executive orders and codes pertaining to or affecting the Property and Harbor Freight and its operation.

H. Recording and Filing. The Village shall cause this Agreement, certain exhibits (as specified by the Village Attorney), all amendments and supplements hereto to be recorded and filed on the date hereof in the conveyance and real property records of Cook County, Illinois within fifteen (15) days after the date hereof. The Developer shall pay all fees and charges incurred in connection with any such recording. Upon recording, the Village shall transmit to the Developer an executed original of this Agreement showing the date and recording number of record.

I. Survival of Covenants. All warranties, representations, covenants and agreements of the Developer contained in this Section 5 and elsewhere in this Agreement shall be true, accurate and complete on the date of the Agreement and shall be in effect throughout the term of the Agreement.

J. To the extent required by law, the Developer shall comply with, and shall require its contractor to comply with, the Illinois Prevailing Wage Act, 820 ILCS 130/.01 *et seq.* (the “PWA”). The Developer hereby agrees to indemnify and hold the Village harmless from all liability, loss, cost, fine, penalty, interest, or other expense, including court costs and attorneys’ fees relating to any such judgments, awards, litigation, suits, demands or proceedings that may result from any failure by the Developer or its contractors or subcontractors to comply with the PWA.

SECTION 6. COVENANTS/REPRESENTATIONS/WARRANTIES OF VILLAGE

A. General Covenant. The Village represents, warrants and covenants, as of Closing, that:

1. Power. The Village has the right, power and authority as a home rule unit of local government to enter into, execute and deliver this Agreement and to perform its obligations hereunder;

2. Due Authorization. The execution, delivery and performance by the Village of this Agreement has been duly authorized by all necessary actions and will not violate any applicable provision of law or constitute a breach of, a default under, or require any consent under any agreement to which it is a party, or under any law by which it is bound; and

3. No Litigation. Except as has been disclosed in writing to Developer, there are no actions or proceedings before any court, governmental commission, board, bureau or any other administrative agency pending or, to the knowledge of the Village, threatened or affecting the Village which would impair its ability to perform under this Agreement.

B. Survival of Covenants. All warranties, representations, and covenants of the Village contained in this Section 6 or elsewhere in this Agreement shall be true, accurate, and complete on the date of this Agreement and shall be in effect throughout the term of the Agreement.

SECTION 7. ENVIRONMENTAL MATTERS

The Developer hereby represents and warrants to the Village that Harbor Freight will be constructed, completed and operated in accordance with all Environmental Laws and this Agreement and all Exhibits attached hereto and the Redevelopment Plan.

Without limiting any other provisions hereof, the Developer agrees to indemnify, defend and hold the Village harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses or claims of any kind whatsoever including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any Environmental Laws incurred, suffered by or asserted against the Village as a direct or indirect result of any of the following, regardless of whether or not caused by, or within the control of the Developer: (i) the presence of any Hazardous Material on or under, or the escape, seepage, leakage, spillage, emission, discharge or release of any Hazardous Material from (A) all or any portion of the Property or (B) any other real property in which the Developer, or any person directly or indirectly controlling, controlled by or under common control with the Developer, holds any estate or interest whatsoever, or (ii) any liens against the Property permitted or imposed by any Environmental Laws, or any actual or asserted liability or obligation of the Village or the Developer under any Environmental Laws relating to the Property.

SECTION 8. INSURANCE

A. Coverage. During the period of construction of TIF-Funded Redevelopment Project Costs, the Developer shall provide and maintain, at the Developer's own expense, or cause its contractor to provide the insurance coverages and requirements specified below (or in such other types and amounts as the Village may otherwise consent to by written instrument).

1. Coverage.

a) Worker's Compensation and Employers Liability Insurance. Worker's Compensation and Employers Liability Insurance, as prescribed by applicable law covering all employees who are to provide a service with respect to the TIF-Funded Redevelopment Project Costs and Employer's Liability coverage with limits of not less than \$500,000 each accident or illness;

b) Commercial General Liability Insurance (Primary and Umbrella). Commercial General Liability Insurance or equivalent with limits of not less than \$5,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages shall include the following: All premises and operations, products/completed operations (for a minimum of two years following completion), sudden and accidental pollution, independent contractors, separation of insured, defense, and contractual liability (with no limitation endorsement). The Village is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work;

c) Automobile Liability Insurance (Primary and Umbrella). When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the contractor shall provide Automobile Liability Insurance with limits of not less than \$2,000,000 per occurrence for bodily injury and property damage. The Village is to be named as an additional insured on a primary, noncontributory bases;

d) Builders Risk Insurance. When the contractor undertakes any construction, including improvements, betterments, and/or repairs, the contractor shall provide, or cause to be provided All Risk Builders Risk Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the Redevelopment Project. Coverages shall include but are not limited to the following: collapse, boiler and machinery, if applicable; and

e) Professional Liability. When any architects, engineers, construction managers or other professional consultants perform work with respect to Redevelopment Project, Professional Liability Insurance covering acts, errors, or omissions shall be maintained with limits of not less than \$1,000,000. Coverage shall include contractual liability. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

B. Other Requirements. The Developer will furnish the Village original certificates of insurance evidencing the required coverage to be in force before beginning work, and renewal certificates of insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the work. The receipt of any certificate does not constitute agreement by the Village that the insurance requirements in this Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all requirements of the Agreement. The failure of the Village to obtain certificates or other insurance evidence from the Developer shall not be deemed to be a waiver by the Village. The Developer shall advise all insurers of the provisions of this Agreement regarding insurance. Non-conforming insurance shall not relieve the Developer of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of this Agreement, and the Village retains the right to terminate this Agreement until proper evidence of insurance is provided. The insurance shall provide for 30 days prior written notice to be given to the Village in the event coverage is substantially changed, canceled, or non-renewed. Any and all deductibles or self insured retentions on referenced insurance coverages shall be borne by the Developer. The Developer agrees that insurers shall waive rights of subrogation against the

Village, its employees, elected officials, agents, or representatives. The Developer expressly understands and agrees that any coverages and limits furnished by the Developer shall in no way limit the Developer's liabilities and responsibilities specified within this Agreement or by law. The Developer expressly understands and agrees that the Developer's insurance is primary and any insurance or self insurance programs maintained by the Village shall not contribute with insurance provided by the Developer under this Agreement. The required insurance shall not be limited by any limitations expressed in the indemnification language herein or any limitation placed on the indemnity therein given as a matter of law.

SECTION 9. INDEMNIFICATION

A. Developer Indemnification. The Developer agrees to indemnify, defend and hold the Village, its officials, 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 Village, its officials, agents and employees and arising from or in connection with (i) the Developer's failure to comply with any of the terms, covenants and conditions contained within this Agreement, or (ii) the Developer's or any contractor's or subcontractor's of any tier failure to pay its contractor, any subcontractors of any tier or materialmen of any tier in connection with the Redevelopment Project undertaken by the Developer, or (iii) the existence of any material misrepresentation or omission in this Agreement or the Redevelopment Plan or any other document directly or indirectly related to this Agreement that is the result of information supplied or omitted to be supplied by the Developer or its agents, employees, contractors or persons acting under the control or at the request of the Developer, or (iv) the Developer's failure to cure any misrepresentation in this Agreement or any other agreement relating hereto.

SECTION 10. MAINTAINING RECORDS/RIGHT TO INSPECT

A. Books and Records. The Developer shall keep and maintain separate, complete, accurate and detailed books and records necessary to reflect and fully disclose the total actual cost of the TIF-Funded Redevelopment Project Costs. All such books, records and other documents, including but not limited to, contractors' sworn statements, general contracts, subcontracts, purchase orders, waivers of lien, paid receipts and invoices, shall be available at the Developer's offices during normal business hours for inspection, copying, audit and examination by an authorized representative of the Village at the Village's expense. The Developer shall incorporate this right to inspect, copy, audit and examine all books and records into all contracts entered into by the Developer with respect to any TIF-Funded Improvement.

B. Inspection Rights. In addition to property inspections pursuant to Village building codes and ordinances, upon three (3) business days' notice, any authorized representative of the Village shall have reasonable access to all portions of the Project and the Property during normal business hours during the construction of Harbor Freight.

SECTION 11. SALES TAX REIMBURSEMENT PROVISIONS

A. Prior to the first sales tax reimbursement, the Developer shall have satisfied the Preconditions to First Disbursement found in Section 4 C 3. of this Redevelopment Agreement,

and if so then in further consideration of the Developer redeveloping the Property, Village also agrees to reimburse the Developer for a portion of the costs of redeveloping the Property to develop a Harbor Freight retail operation. Village agrees to remit to the Developer certain monies without any interest whatever as follows:

(i) Commencing with the opening of Harbor Freight, Village shall reimburse Developer for a portion of its expenses pursuant to the schedule set forth below utilizing portions of the 1% Municipal Retailer's Occupation Tax, or the 1% Municipal Retailer's Service Tax or successor tax to the 1% Municipal Sales Tax that may be enacted by the State of Illinois as a replacement thereto (hereinafter collectively "Sales Tax Revenue") that is collected and received by Village as a result of business transactions by Harbor Freight within the Project as a result of Harbor Freight's sales activity. All sales occurring at Harbor Freight in the Village of Hanover Park which is located upon the Property will be taxed in the Village and the sales tax will be remitted to the Village. Amounts not paid to the Developer shall be retained by Village. In no case shall Developer ever be entitled to and remittance or reimbursement of Village's Home Rule Sales Tax.

(ii) The Sales Tax Revenue derived from Harbor Freight is allocated per the following formula: Annual Periods 1 to 10 - the Sales Tax Revenue is paid 60% to Village and 40% to Developer. Thereafter, the Sales Tax Revenue is paid 100% to Village.

All Sales Tax Revenues would be payable based upon the provisions set forth below.

(iii) Duration. Village's obligation to reimburse the Developer from its collected Sales Tax Revenue shall continue until the first to occur of any of the following events at which time its obligation shall end:

- (a) The Developer ceases to operate the approximate minimum 15,000 square foot Harbor Freight on the Property; or
- (b) Village has reimbursed the Developer and/or its successor from its collected Sales Tax Revenues from Harbor Freight store pursuant to the above and the split for a period of 10 years commencing with the opening of Harbor Freight's retail facility; or
- (c) The principal amount reimbursed to the Developer shall have reached \$264,000 (there being no interest due whatever); or

(d) Notwithstanding any other term in this Agreement, December 31, 2023.

(iv) Calculation of Reimbursement.

(a) The amount of the reimbursement shall be calculated on taxable sales made by Harbor Freight only.

(b) The calculation shall be made on sales made beginning on the first day of the first complete month in which the Harbor Freight's facility is open for business and shall end 12 months later ("Annual Period"). Each subsequent Annual Period shall begin on the anniversary date of the first Annual Period and shall end 12 months later.

B. Sales Tax Reports and Reimbursement Mechanism. The Developer shall require Harbor Freight, as a provision in its lease with Harbor Freight, to provide Village with exact copies of any and all sales tax returns, sales tax reports, sales reports, amendments, or any other information whether paper or electronic (the "Documentation") filed with the State of Illinois or other appropriate Governmental entity, which documents are being provided to Village for purposes of identifying Sales Tax Revenues collected pursuant to this Economic Incentive Agreement. Further, Harbor Freight shall be required to sign documents required by Village and/or the Department of Revenue of the State of Illinois, to allow Village access to sales tax documents filed by Harbor Freight with the State of Illinois Department of Revenue for the Village store.

Within one hundred twenty (120) days following the end of each Annual Period, the Developer shall also submit to Village, true and correct copies of all Documentation or a summary thereof, as requested by Village needed to make the reimbursement for the Annual Period. Not later than thirty (30) days after receipt of all Documentation or a summary thereof, as determined by Village, for the applicable Annual Period, Village shall remit by its check in full to the Developer the Developer's share of the Sales Tax Revenue for that particular Annual Period provided, Village shall be under no obligation to remit any monies whatsoever until all Sales Tax Revenues are received by Village from the Illinois Department of Revenue for the applicable Annual Period and Village is satisfied through its verification that the amounts for Harbor Freight are an accurate reflection of the returns on file with Department of Revenue for the State of Illinois.

Since it is anticipated that there will be a three to four month lag in Village receiving its portion of the Sales Tax Revenue from the State of Illinois, but subject to the limitations of (iii) of paragraph A above, the reimbursement payments may continue following the expiration of the 10 year period until the final receipt of said Sales Tax Revenue by Village from the State of Illinois pursuant to this Agreement and until the final reimbursement payment is made to the Developer by Village. In no event shall the reimbursement to the Developer cover more than 10 Annual Periods.

Between the first day and the last day of each Annual Period and prior to either the payment of the last of monies, if any, to be paid to the Developer by Village for the prior Annual Period, Village and the Developer shall cooperate with one another in auditing all monies paid or to be paid and endeavor to agree upon the amount, if any, due from one to the other.

C. **Waivers.** The Developer agrees, that upon the request of Village, it shall furnish such consents or waivers as may be required by the Illinois Department of Revenue to allow the Illinois Department of Revenue to furnish Village with Sales Tax Revenue information concerning the Harbor Freight facility.

D. **Indemnification as to Claims Arising from this Section 11.** In the event that a claim, action or suit is made or filed against Village arising from this sales tax reimbursement economic incentive of this Section 11 or any undertaking by either party pursuant to this Section, Village shall notify the Developer thereof. The Developer agrees to defend, hold harmless and indemnify Village, its President, Trustees, representatives, employees, attorneys and agents in both their official and individual capacities, from and against any and all claims, actions and suits of every kind and nature, including liabilities, damages, costs, expenses and reasonable attorney's fees arising out of or alleged to have arisen out of the provisions of this Section 11 or any undertaking by either party pursuant to this Section 11. In the event it is finally determined by any court of competent jurisdiction (including exhaustion of all regular appeals) that any of the sales tax reimbursement cannot legally be performed by Village or are not within the statutory or constitutional authority conferred upon Village as a municipality, then no further liability for the performance of such sales tax reimbursement shall attach to Village or the Developer or any of their respective officials, officers, agents, attorneys or employees. The Developer's liability under this paragraph shall not exceed the costs and expenses of defense (including reasonable attorney's fees) and the repayment of all amounts paid by the Village as sales tax reimbursement to the Developer. The Village shall have no obligation to defend any such claim, suit or action or participate in any defense made by the Developer unless the cost and expense thereof is paid by the Developer.

E. **Limited Obligation.** Village's obligation to reimburse the Developer for a portion of the expense of redevelopment of the Property and its obligation to make any payments to the Developer and/or its successor or successors with sales tax reimbursement constitutes a limited obligation of Village payable solely from amounts available from the Sales Tax Revenue that is collected and remitted to Village as a result of business transactions occurring at the aforesaid Harbor Freight pursuant to this Section 11. Said obligations do not now and shall never constitute a general indebtedness of Village within the meaning of any State of Illinois constitutional or statutory provision, and shall not constitute or give rise to a pecuniary liability of the Village or a charge against its general credit or taxing power.

SECTION 12. DEFAULT AND REMEDIES

A. Events of Default. The occurrence of any one or more of the following events, subject to the provisions of Section 12.C, shall constitute an "Event of Default" hereunder:

1. the failure of a party to perform, keep or observe any of the material covenants, conditions, promises, agreements or obligations under this Agreement, or any related agreement;

2. the making or furnishing by a party of any representation, warranty, certificate, schedule, report or other communication within or in connection with this Agreement or any related agreement which is untrue or misleading in any material respect;

3. the closure of Harbor Freight (for the purposes of this provision “closure” shall be deemed to have occurred if Harbor Freight is not open and operating for a period in excess of ten consecutive weeks, unless such closure is due to 1) remodeling which results in a closure of not more than four (4) consecutive months or 2) an ongoing repair occasioned by a casualty which Developer is diligently pursuing).

B. Remedies. Upon the occurrence of an Event of Default, the non-defaulting party may terminate this Agreement. Upon the occurrence of an Event of Default by the Developer, the Village may discontinue all further disbursements of TIF Funds as of the occurrence of said Event of Default. In the event the non-defaulting party is the Developer, it may, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy against the Village, including but not limited to injunctive relief or the specific performance of the agreements contained herein.

C. Curative Period. In the event a party shall fail to perform a monetary covenant, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless the defaulting party shall have failed to perform such monetary covenant within ten (10) days of its receipt of a written notice from the non-defaulting party specifying that it has failed to perform such monetary covenant. In the event the defaulting party shall fail to perform a non-monetary covenant, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless the defaulting party shall have failed to cure such default within thirty (30) days of its receipt of a written notice from the non-defaulting party specifying the nature of the default; provided, however, with respect to those non-monetary defaults which are not capable of being cured within such thirty (30) day period, the defaulting party shall not be deemed to have committed an Event of Default under this Agreement if it has commenced to cure the alleged default within such thirty (30) day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured.

SECTION 13. NON-ASSIGNMENT MORTGAGING AND SALE OF THE PROJECT

Except as provided for below, the Developer's rights and duties under this Agreement shall not be assignable, delegated, or transferable at any time without the prior written approval of the Village, which after six months from the date of this Agreement will not be unreasonably withheld. Any assignment of legal or equitable right, delegation, or transfer without such consent shall make this Agreement null and void at the option of Village. The lease of the property or part of it to users of the Project or part of it is not prohibited by this Agreement.

If a bona fide mortgagee, who has lent to Developer on this Redevelopment Project at least 50% of the aggregate of the total Cost Estimate on Exhibit B, shall succeed to the Developer's

interest in the Property or any portion thereof pursuant to the exercise of remedies under the mortgage, whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of the Developer's interest hereunder in accordance with the terms of this Agreement, the Village hereby agrees to attorn to and recognize such party as the successor in interest to the Developer for all purposes under this Agreement so long as such mortgagee accepts all of the obligations and liabilities of the Developer hereunder. However, if such person does not expressly accept an assignment of such interest, that person shall be entitled to no right or benefits and shall have no obligations under this Agreement.

SECTION 14. NOTICE

Unless otherwise specified, any notice, demand or request required hereunder shall be given in writing at the address set forth below, by any of the following means: (a) personal service; (b) telecopy or facsimile; (c) overnight courier, or (d) registered or certified mail, return receipt requested.

If to the Village Village of Hanover Park, Illinois
 2121 Lake Street
 Hanover Park, IL 60103
 Attn: Village Manager
 Fax: (630) 823-5786

With a copy to: Village of Hanover Park, Illinois
 2121 Lake Street
 Hanover Park, IL 60103
 Attn: Village Attorney
 Fax: (630) 823-5786

If to the Developer: Richard L. Breslich Trust No. 1 and
 Jean G. Breslich Trust No. 1

Fax:

With a copy to:

Fax:

Such addresses may be changed by notice to the other parties given in the same manner provided above. Any notice, demand, or request sent pursuant to either clause (a) or (b) hereof shall be deemed received upon such personal service or upon dispatch. Any notice, demand or

request sent pursuant to clause (c) shall be deemed received on the business day immediately following deposit with the overnight courier and any notices, demands or requests sent pursuant to subsection (d) shall be deemed received two (2) business days following deposit in the mail.

SECTION 15. MISCELLANEOUS

A. Amendment. Except as provided herein, this Agreement and the Exhibits attached hereto may not be amended without the prior written consent of the parties.

B. Entire Agreement. This Agreement (including each Exhibit attached hereto, which is hereby incorporated herein by reference) constitutes the entire Agreement between the parties hereto and it supersedes all prior agreements, negotiations and discussions between the parties relative to the subject matter hereof.

C. Limitation of Liability. No member, official or employee of the Village shall be personally liable to the Developer or any successor in interest in the event of any default or breach by the Village or for any amount which may become due to the Developer from the Village or any successor in interest or on any obligation under the terms of this Agreement.

D. Further Assurances. The Developer and the Village each agrees to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications as may become necessary or appropriate to carry out the terms, provisions and intent of this Agreement.

E. Waiver. Waiver by the Village or the Developer with respect to any breach of this Agreement shall not be considered or treated as a waiver of the rights of the respective party with respect to any other default or with respect to any particular default, except to the extent specifically waived by the Village or the Developer in writing.

F. Remedies Cumulative. The remedies of a party hereunder are cumulative and the exercise of any one or more of the remedies provided for herein shall not be construed as a waiver of any other remedies of such party unless specifically so provided herein.

G. Disclaimer. Nothing contained in this Agreement nor any act of the Village shall be deemed or construed by any of the parties, or by any third person, to create or imply any relationship of third-party beneficiary, principal or agent, limited or general partnership or joint venture, or to create or imply any association or relationship involving the Village.

H. Headings. The paragraph and section headings contained herein are for convenience only and are not intended to limit, vary, define or expand the content thereof.

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

J. Severability. If any provision in this Agreement, or any paragraph, sentence, clause, phrase, word or the application thereof, in any circumstance, is held void or invalid by a court of competent jurisdiction, such holding shall not affect the other provisions of this Agreement

which, can be given effect without the invalid or void provision and to this effect the provisions of this Agreement are severable.

K. Conflict. In the event of a conflict between any provisions of this Agreement and the provisions of the TIF Ordinances such ordinance(s) shall prevail and control.

L. Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Illinois, without regard to its conflicts of law principles.

M. Form of Documents. All documents required by this Agreement to be submitted, delivered or furnished to the Village shall be in form and content reasonably satisfactory to the Village.

N. Approval. Wherever this Agreement provides for the approval or consent of a party, or any matter is to be to the party’s satisfaction, unless specifically stated to the contrary, such approval, consent or satisfaction shall be made, given or determined by the party, in writing and in the reasonable discretion thereof.

O. Binding Effect. Subject to SECTION 13, this Agreement shall be binding upon the Developer, the Village and their respective successors and assigns and shall inure to the benefit of the Developer, the Village and their successors and assigns.

P. Force Majeure. Neither the Village nor the Developer nor any successor in interest to either of them shall be considered in breach of or in default of its obligations under this Agreement in the event of any delay caused by damage or destruction by fire or other casualty, strike, shortage of material, unusually adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or for an abnormal duration, tornadoes or cyclones, and other events or conditions beyond the reasonable control of the party affected which in fact interferes with the ability of such party to discharge its obligations hereunder.

Q. Exhibits. All of the exhibits attached hereto are incorporated herein by reference.

R. Settlers and Beneficiaries of the Trusts. The following two Settlers and Beneficiaries of the two Trusts that constitute the Developer and their residence address are:

NAME	ADDRESS
Richard L. Breslich	
Jean G. Breslich	

By signing this Agreement in any capacity and guaranteeing its performance, each of the aforesaid represent and warrant to the Village (1) that they have not been involved in a personal bankruptcy or a bankruptcy of a business that they were a partner, officer, or stockholder of five (5%) percent or more of the stock, within the past seven years and (2) that there are no outstanding judgments against them or either of them, and there is no litigation pending against any of them individually, jointly, or as an officer or principal of any company.

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

Richard L. Breslich as Trustee under the provisions of a Trust Agreement dated September 8, 1987 and known as Richard L. Breslich Trust No. 1 to an undivided one-half interest

By: _____
Richard L. Breslich, Trustee

Jean G. Breslich as Trustee under the provisions of a Trust Agreement dated September 8, 1987 and known as Jean G. Breslich Trust No. 1 to an undivided one-half interest

By: _____
Jean G. Breslich, Trustee

VILLAGE OF HANOVER PARK, ILLINOIS,
an Illinois municipal corporation

By: _____
Its: _____

STATE OF _____)
) SS.
COUNTY OF _____)

I, _____, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Richard L. Breslich, Trustee of the Richard L. Breslich Trust No. 1, and Jean G. Breslich, Trustee of the Jean G. Breslich Trust No. 1, personally known to me to be the Trustees of the aforesaid Trusts, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed, and delivered said instrument as their free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and official seal this day of _____, 2013.

Notary Public

My Commission Expires _____

STATE OF _____)
) SS.
COUNTY OF _____)

I, _____, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that _____, personally known to me to be the _____ of the Village of Hanover Park, Illinois (the "Village"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed, and delivered said instrument pursuant to the authority given to him by the Village, as his free and voluntary act and as the free and voluntary act of the Village, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this _____ day of _____, 2013.

Notary Public

My Commission Expires _____

EXHIBIT A

LEGAL DESCRIPTION OF THE REDEVELOPMENT AREA

EXHIBIT A-1

LEGAL DESCRIPTION OF THE PROPERTY

THAT PART OF THE FRACTIONAL SOUTHWEST 1/4 OF SECTION 30, TOWNSHIP 41 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:
 COMMENCING AT THE POINT OF INTERSECTION OF THE WEST LINE OF SAID SOUTHWEST 1/4 WITH THE CENTER LINE OF IRVING PARK ROAD AS CONSTRUCTED, SAID POINT BEING 907.88 FEET NORTH OF THE SOUTHWEST CORNER OF SAID SOUTHWEST 1/4; THENCE SOUTH ALONG THE WEST LINE OF SAID SOUTHWEST 1/4, 387.34 FEET; THENCE SOUTH 78 DEGREES 42 MINUTES 05 SECONDS EAST, 483.112 FEET ALONG A LINE PARALLEL WITH THE CENTER LINE (AS CONSTRUCTED AND PER PLAT OF DEDICATION RECORDED AS DOCUMENT NUMBER 11203459) OF SAID IRVING PARK ROAD AND THE NORTHWESTERLY EXTENSION THEREOF; THENCE NORTH 11 DEGREES 17 MINUTES 55 SECONDS EAST ALONG A LINE PERPENDICULAR TO THE LAST DESCRIBED COURSE, 343.217 FEET TO A POINT ON SAID CENTER LINE OF IRVING PARK ROAD; THENCE NORTH 78 DEGREES 42 MINUTES 05 SECONDS WEST ALONG SAID CENTER LINE, 150.959 FEET; THENCE CONTINUING ALONG SAID CENTER LINE NORTHWESTERLY 410.235 FEET ALONG THE ARC OF A CIRCLE OF 2292.01 FEET RADIUS CONVEX TO THE SOUTHWEST AND TANGENT TO THE LAST DESCRIBED LINE, TO THE POINT OF BEGINNING, EXCEPTING FROM THE ABOVE DESCRIBED PARCEL OF LAND THE TWO PARTS THEREOF DESCRIBED AS FOLLOWS:

EXCEPTION #1:

COMMENCING AT A LINE IN ABOVE DESIGNATED POINT OF BEGINNING; THENCE SOUTHEASTERLY 250.00 FEET ALONG THE AFORESAID ARC OF A CIRCLE; THENCE SOUTH 230.00 FEET ALONG A LINE PARALLEL WITH THE WEST LINE OF SAID SOUTHWEST 1/4; THENCE NORTH 71 DEGREES 34 MINUTES 16 SECONDS WEST, 249.873 FEET TO A POINT ON SAID WEST LINE, 230.00 FEET SOUTH OF THE AFORESAID POINT OF BEGINNING; THENCE NORTH ALONG SAID WEST LINE, 230.00 FEET TO SAID POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS

EXCEPTION #2:

THAT PART OF THE FRACTIONAL SOUTHWEST 1/4 OF SECTION 30, TOWNSHIP 41 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF INTERSECTION OF THE WEST LINE OF SAID SOUTHWEST 1/4 WITH THE CENTER LINE OF IRVING PARK ROAD AS CONSTRUCTED, SAID POINT BEING 907.88 FEET NORTH OF THE SOUTHWEST CORNER OF SAID SOUTHWEST 1/4; THENCE SOUTH 0 DEGREES 00 MINUTES 00 SECONDS WEST ALONG THE WEST LINE OF SAID SOUTHWEST 1/4, A DISTANCE OF 230.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 0 DEGREES 00 MINUTES 00 SECONDS WEST ALONG SAID WEST LINE, A DISTANCE OF 157.34 FEET; THENCE SOUTH 78 DEGREES 42 MINUTES 05 SECONDS EAST, A DISTANCE OF 241.744 FEET; THENCE NORTH 0 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 125.711 FEET TO A POINT, LYING 249.873 FEET SOUTH 71 DEGREES 34 MINUTES 16 SECONDS EAST FROM THE POINT OF BEGINNING, THENCE NORTH 71 DEGREES 34 MINUTES 16 SECONDS WEST, A DISTANCE OF 249.873 FEET TO THE POINT OF BEGINNING; (EXCEPT THAT PART THEREOF LYING WEST OF THE EAST LINE OF BARRINGTON ROAD, AS PER PLAT OF DEDICATION RECORDED JULY 11, 1982 AS DOCUMENT NO. 11114250), IN COOK COUNTY, ILLINOIS

EXHIBIT B**DESCRIPTION AND ESTIMATED CAPITAL COSTS****OF THE REDEVELOPMENT PROJECT****NOT LESS THAN \$2,650,000**

- Site Improvements:
 - o Remove and reconstruct Parking Lot
 - o Install new landscape areas and plantings throughout site
 - o Install new site lighting, including on building and in parking lot
 - o Re-engineer storm water drainage onsite with proper out flow, installing new storm drain system in accordance with Village approved plans
 - o Construct new code-compliant trash enclosure
 - o Reconstruct exterior walkways both on public and private property, including ADA accessibility
 - o Remove underground propane tank

- Exterior Building Improvements:
 - o Replace existing roof with new roof
 - o Replace existing and provide new HVAC units
 - o Repair overhead doors along rear of building
 - o Install reinforcing finish on brick exterior walls, including tuck pointing and reinforcing as necessary
 - o Install new façade along north and west elevations and follow Village design guidelines, materials to be approved by Village
 - o Replace rain gutters and integrate into site drainage system as approved by Village

- Interior Building Improvements: (vacant space only)
 - o Rehabilitate concrete floors
 - o Upgrade electrical service to meet current code
 - o Upgrade interior lighting to meet current code
 - o Upgrade fire sprinklers to meet current code
 - o Reconstruct restrooms to ADA Standards and to meet current code
 - o Reseal windows to meet current code
 - o Obtain a detailed asbestos report and Remove asbestos as necessary within building and roof

EXHIBIT C

REDEVELOPMENT PLAN

EXHIBIT D

TIF-FUNDED REDEVELOPMENT PROJECT COSTS ELIGIBLE FOR TIF FUNDS

Element	Estimated Cost
TIF-Funded Redevelopment Project Costs	\$850,000

Site Improvements

- Remove and reconstruct Parking Lot
- Install new landscape areas and plantings throughout site
- Install new site lighting, including on building and in parking lot
- Re-engineer storm water drainage onsite with proper out flow, installing new storm drain system in accordance with Village approved plans
- Construct new code-compliant trash enclosure
- Reconstruct exterior walkways both on public and private property, including ADA accessibility
- Remove underground propane tank

EXHIBIT E

PERMITTED LIENS

EXHIBIT F

OPINION OF DEVELOPER'S COUNSEL

[To be retyped on the Developer's Counsel's letterhead]

_____, 2013

Village of Hanover Park
2121 Lake Street
Hanover Park, IL 60103

Ladies and Gentlemen:

We have acted as counsel to the Richard L. Breslich as Trustee under the provisions of a Trust Agreement dated September 8, 1987 and known as Richard L. Breslich Trust No. 1 to an undivided one-half interest, and Jean G. Breslich as Trustee under the provisions of a Trust Agreement dated September 8, 1987 and known as Jean G. Breslich Trust No. 1 to an undivided one-half interest, and to Richard L. Breslich and Jean G. Breslich (the "Developer"), in connection with the construction of certain facilities thereon located in the West Irving Park Road Corridor Redevelopment Project Area (the "Project"). In that capacity, we have examined, among other things, the following agreements, instruments and documents of even date herewith, hereinafter referred to as the "Documents":

- (a) a Redevelopment Agreement (the "Agreement") of even date herewith, executed by the Developer and the Village of Hanover Park (the "Redevelopment Agreement");
- (b) the original or certified, conformed or photostatic copies of the Developer's (i) Trust Agreements, (ii) qualification to do business and certificates of good standing in Wisconsin and Illinois, and (iii) records of all Trust proceedings relating to the Project; and
- (c) such other documents, records and legal matters as we have deemed necessary or relevant for purposes of issuing the opinions hereinafter expressed.

In all such examinations, we have assumed the genuineness of all signatures (other than those of the Developer), the authenticity of documents submitted to us as originals and conformity to the originals of all documents submitted to us as certified, conformed or photostatic copies.

Based on the foregoing, it is our opinion that with respect to the Developer:

1. The Developer consists of two intervivos Trust Agreements validly existing and valid under the laws of the State of Illinois, has full power and authority to own and lease its properties and to carry on its business as presently conducted, and is in good standing and duly qualified to do business under the laws of Illinois.

2. Developer has full right, power and authority to execute and deliver the Agreement and to perform its obligations thereunder. Such execution, delivery and performance will not conflict with, or result in a breach of, the Developer's Trust Agreements or result in a breach or other violation of any of the terms, conditions or provisions of any law or regulation, order, writ, injunction or decree of any court, government or regulatory authority, or, to the best of our knowledge after diligent inquiry, any of the terms, conditions or provisions of any agreement, instrument or document to which the Developer is a party or by which the Developer or its properties is bound. To the best of our knowledge after diligent inquiry, such execution, delivery and performance will not constitute grounds for acceleration of the maturity of any agreement, indenture, undertaking or other instrument to which the Developer is a party or by which it or any of its property may be bound, or result in the creation or imposition of (or the obligation to create or impose) any lien, charge or encumbrance on, or security interest in, any of its property pursuant to the provisions of any of the foregoing.

3. The execution and delivery of the Agreement and the performance of the transactions contemplated thereby have been duly authorized and approved by all requisite action on the part of the Developer.

4. The Agreement has been duly executed and delivered by a duly authorized representative of Developer, the currently authorized and acting Trustee, and constitutes the legal, valid and binding obligation of the Developer, enforceable in accordance with its terms, except as limited by applicable bankruptcy, reorganization, insolvency or similar laws affecting the enforcement of creditors' rights generally.

5. To the best of our knowledge after diligent inquiry, no judgments are outstanding against Developer or the two guarantors of the Redevelopment Agreement, nor is there now pending or threatened, any litigation, contested claim or governmental proceeding by or against the Developer or the guarantors or affecting the Developer or its property or the guarantors, or seeking to restrain or enjoin the performance by the Developer of the Agreement or the transactions contemplated by the Agreement, or contesting the validity thereof. To the best of our knowledge after diligent inquiry, the Developer nor the guarantors are not in default with respect to any order, writ, injunction or decree of any court, government or regulatory authority or in default in any respect under any law, order, regulation or demand of any governmental agency or instrumentality, a default under which would have a material adverse effect on the Developer, the guarantors, or its or their business.

6. To the best of our knowledge after diligent inquiry, there is no default by the Developer or the guarantors or any other party under any material contract, lease, agreement, instrument or commitment to which the Developer is a party or by which it or its properties is bound.

7. To the best of our knowledge after diligent inquiry, the real estate on which the Project is located is free and clear of mortgages, liens, pledges, security interests and encumbrances except for those specifically set forth in the Agreement.

8. The execution, delivery and performance of the Agreement by the Developer have not and will not require the consent of any person or the giving of notice to, any exemption by, any registration, declaration or filing with or any taking of any other actions in respect of, any person, including without limitation any court, government or regulatory authority.

9. To the best of our knowledge after diligent inquiry, the Developer owns or possesses the property, permits and other governmental approvals and authorizations, operating authorities, certificates of public convenience, goods carriers permits, authorizations and other rights that are necessary for the operation of its business.

We are attorneys admitted to practice in the State of Illinois and we express no opinion as to any laws other than federal laws of the United States of America and the laws of the State of Illinois.

This opinion is issued at the Developer's request for the benefit of the Village of Hanover Park and its counsel and may not be disclosed to or relied upon by any other person.

Very truly yours,

EXHIBIT G

REQUEST FOR REIMBURSEMENT

The undersigned developer, _____, does hereby certify, swear and affirm under oath to the Village of Hanover Park as follows:

1. That since submission of the last request for reimbursement, if any, to the Village of Hanover Park, Illinois, (the "Village"), _____ has expended or has caused to be expended the sum of \$_____ (the "Expenditures") on the following TIF FUNDED REDEVELOPMENT PROJECT COSTS eligible for reimbursement. Project Costs for work which has been completed by the contractor on Owner's Property / Harbor Freight (the Project) or in support of it through _____, 2013, as follows:

ITEM NO.	ITEM DESCRIPTION	QUANTITY AWARDED COMPLETED	UNIT PRICE	TOTAL
	TOTAL VALUE OF WORK COMPLETED TO DATE		\$	
	TOTAL TO BE RETAINED (usually 10%)		\$	
	AMOUNT OF PREVIOUS PAYMENT		\$	
	TOTAL AMOUNT DUE		\$	

2. Total for which certification is sought:

3. That all of the Expenditures have been made in accordance with the Redevelopment Agreement, and the Law.

I certify that the above quantities and amounts are correct and are eligible for payment and:

- a) the total amount of the expenditures represents the actual amount paid by the Developer with respect to the Redevelopment Project;
- b) each of the expenditures is a TIF-Funded Redevelopment Project Cost under the Act and this Agreement;
- c) the Developer approved all services, work and materials and/or costs with respect to the expenditure, and such services, work and materials and/or costs substantially conform to the requirements of the Redevelopment Plan, this Agreement and the Act.

I further certify that all funds expended or caused to be expended (the expenditures) as above described for project costs were solely private funds of Developer and no such funds had their origin directly or indirectly from government funds (federal, state or local grants or loans).

Subscribed and sworn to before me
 this ____ day of _____, 2013. _____

 Notary Public



TO: Village President and Board of Trustees

FROM: Juliana Maller, Village Manager
Katie Bowman, Village Planner

SUBJECT: Redevelopment of 1557-1559 Irving Park Road

ACTION

REQUESTED: Approval Concurrence Discussion Information

MEETING DATE: September 5, 2013 – Board Workshop

Executive Summary

Review of proposed terms for a Redevelopment Agreement for the redevelopment of the property at 1557-1559 Irving Park Road.

Background

On June 6, 2013, the Village Board approved an Administrative Policy for Economic Development Incentives (Exhibit 3). In order to improve the Village's economic base, the Village Board may offer economic development incentives for business and property development. While incentives are not the only tool in the economic development toolbox, they are an important part of many business discussions. As resources are limited, economic incentives are discussed with potential businesses and developers in a strategic manner. A general process for reviewing economic development incentives, as well as criteria against which to measure requests for incentives, were set in this policy.

The property at 1557-1559 Irving Park Road has been identified as a property of strategic importance at the intersection of Irving Park and Barrington Roads. The property is located within the Village's TIF #4, which was formed in order to encourage the improvement and redevelopment of the area to the east of Irving Park and Barrington Roads. The 2010 Comprehensive Plan and 2012 Irving Park Corridor Study emphasize the importance of this area and provide guidelines for physical and commercial improvements. See Exhibit 2 for more information about the property.

The 25,000 square foot property currently includes a 10,000 square foot Auto Zone store and a 15,000 square foot space formerly occupied by a True Value store. The property has been more than 50% vacant for some time and is in need of exterior and interior improvements. Interior and exterior infrastructure does not meet current Building Codes and exterior parking, landscaping, façade, and lighting do not meet the requirements of the Zoning Code. Redevelopment of the property is needed to meet Village goals to improve the Irving Park Road Corridor and attract more retailers and shoppers.

Over the past several years, Staff has been in communication with the leasing agent and owners of the property at 1557-1559 Irving Park, encouraging the tenancing and redevelopment of this property. They have shared information about the TIF in which the property is located and the Village's policy on economic development incentives. Based upon this guidance, the property owner submitted a proposal for redevelopment of the property and request for TIF assistance. This proposal included a complete gap analysis that outlined costs of proposed improvements, projected revenues from project, and requested economic incentives to assist in filling the 'gap' between the costs and revenues.

In keeping with Village policy, Staff acquired the services of Kane McKenna Associates, to analyze the economic incentive request. As TIF consultant for the Village, Kane McKenna evaluated the economic gap for the proposed development, projected revenues to be generated by the project, and estimated the amount of public assistance that could be provided. This analysis verified that there is a significant economic funding gap and that 'but for' some type of outside assistance, the project would not be feasible. Such gap is due to, among other things, a high cost of required repairs and low projected income to the owner due to the depressed commercial real estate market. It was projected that increased public revenues in the form of incremental property taxes and sales taxes would be created by the project. These revenues could be utilized to provide assistance on a 'pay-as-you-go' basis in which agreed-upon TIF eligible costs are reimbursed over time as the project's public revenues are generated.

Based upon this analysis, Staff then began discussion with the applicant regarding proposed terms of a redevelopment agreement. Following several discussions, basic terms for a redevelopment agreement have been reached and are here proposed for review by the Village Board.

Discussion

Analysis of the proposed redevelopment shows that it will meet the economic development goals of the Village, bringing economic benefits, improving the aesthetic and physical quality of the property, and improving the Irving Park Road Corridor. It will also meet the guidelines outlined in the Village's Administrative Policy on Economic Development Incentives, providing a return on investment, showing a need for assistance, and creating long-term improvements.

As such, Staff recommends that economic incentives be given in order to assist in the feasibility of the project. Such incentives will be given on a 'pay-as-you-go' basis, in which the owner is reimbursed for agreed-upon TIF eligible expenses as TIF and tax revenues are generated. By this arrangement, no municipal funds will be given up-front and the owner will be reimbursed only from revenues that the project generates.

Key elements of the project will include: (See Exhibit 1 for further detail)

Scope: Site Improvements, such as new parking, landscaping, and storm drainage
 Exterior Building Improvements, such as a new façade, roofing, and HVAC
 Interior Building Improvements, in order to meet current building codes

Costs:	Site Improvements:	\$ 850,000	
	Building Improvements:	<u>\$1,800,000</u>	
	Total:	\$2,650,000	
Project Revenues: (15 years)	Incremental Property Tax:	\$1,383,044	
	Local Sales Tax (1%):	\$1,098,169	
	Home Rule Sales Tax (0.75%):	<u>\$ 823,627</u>	
	Total:	\$3,304,840	
Proposed Incentive:	50% Incremental Property Tax:	\$ 690,000	(15 years)
	40% Local Sales Tax:	<u>\$ 264,000</u>	(10 years)
	Total:	\$ 954,000	(36% construction costs)
Projected Net Village Revenues:	100% Home Rule Sales Tax:	\$ 823,627	(15 years)
	60% Local Sales Tax (1%):	\$ 447,838	(10 years)
	100% Local Sales Tax:	<u>\$ 386,331</u>	(5 final years)
	Total:	\$1,657,796	(15 years)

As proposed, the project will provide a number of community and economic benefits that are not currently available at the property. These benefits include:

- Direct Economic Benefit to Village during life of TIF (15 years): \$1,657,796
 - \$60,000 yearly in first year, \$140,000 yearly in last (2029)
- Return on Investment: 174%
- Increased property tax increment received yearly following end of TIF: \$1,522 first year
- Improved property tax base and revenue base of Village
- Increased economic viability and competitiveness of Village with surrounding communities
- Attraction of additional businesses and development to Village
- Provision of additional goods and services to Hanover Park residents
- Occupancy of a vacant retail space, reinforcing the confidence and rental/sale rates of properties within the area
- Long-term improvement of aesthetic and structural quality of building
- Correction of environmental and engineering problems onsite
- Improvement of appearance of site along the strategically important corridor
- Availability of a model project to spur additional redevelopment in the area

The proposed project and incentive are found to meet the evaluation criteria outlined in the Village’s policy on economic development incentives, specifically:

- That there is a demonstrable quantitative and qualitative return on the Village’s investment to be realized during a reasonable period of time after granting of the incentive (such as through projected TIF, sales tax, or other revenues).
- That the Village’s participation in the incentive agreement is necessary to assure the feasibility of the business to expand or develop within Hanover Park (a.k.a. – ‘but for’ clause or financing gap).
- That the business concept and operations are sustainable in the long-term and be able to operate without assistance following the conclusion of the incentive.

Recommendation

Direct Staff to draft a Redevelopment Agreement for redevelopment of the property at 1557-1559 Irving Park Road with terms as outlined in Exhibit 1.

Attachments:

Exhibit 1 – Proposed Term Sheet

Exhibit 2 – Map of Property

Exhibit 3 – Administrative Policy for Economic Development Incentives



TO: Village President and Board of Trustees

FROM: Juliana Maller, Village Manager
David Webb, Chief of Police

SUBJECT: An Ordinance Amending The Hanover Park Municipal Code, Section 54-133 Through 54-135 of Article V.- Plants and Weeds

ACTION

REQUESTED: Approval Concurrence Discussion Information

MEETING DATE: October 3, 2013 – Board Workshop

Executive Summary

The Village Board is requested to discuss amending the Village of Hanover Park Municipal Code, Section 54-133 through 54-135 of Article V.- Plants and Weeds.

Discussion

The Hanover Park Municipal Code currently stipulates that the Community Development Director is responsible for the abatement of all plants and weeds within the Village. The Police Department's Code Enforcement Division has the responsibility of enforcement of all residential plant and weed abatement cases, and continues to investigate and abate all residential plant and weed cases in residential areas to this date. The Police Department began investigating plant and weed abatement cases on commercial properties within the Village, which was formerly the responsibility of the Community Development Department. The Police Department's Code Enforcement Division is now responsible for investigating both residential and commercial plant and weed abatement cases. The Village Board is requested to amend the plant and weed ordinance sections 54-133 and 54-134 of the Municipal Code to indicate that all plant and weed abatement enforcement is the responsibility of the Code Enforcement Division of the Police Department. The section pertaining to Section 54-135 has been amended to reflect that the Finance Director is responsible for filing a notice of lien within 1-year after the expense is incurred with the recorder in the county in which the property is located.

Recommended Action

Motion to approve an amendment to the Plant and Weed abatement Ordinance, Section 54-133 through 54-135, of the Hanover Park Municipal Code.

Attachments: Amended Ordinance

Budgeted Item: ___ Yes ___ No N/A
Budgeted Amount:
Actual Cost:
Account Number:

Agreement Name: _____

Executed By: _____

ORDINANCE NO. O-13-**AN ORDINANCE AMENDING SECTIONS 54-133 THROUGH 54-135 OF ARTICLE V. - PLANTS AND WEEDS, OF CHAPTER 54 OF THE MUNICIPAL CODE OF THE VILLAGE OF HANOVER PARK, ILLINOIS**

WHEREAS, the Village of Hanover Park is a home rule unit by virtue of the provisions of the 1970 Constitution of the State of Illinois and may exercise and perform any function pertaining to its government and affairs including adoption of this Ordinance; now, therefore,

BE IT ORDAINED by the President and Board of Trustees of the Village of Hanover Park, Cook and DuPage Counties, Illinois, as follows:

SECTION 1: That Sections 54-133 through 54-135 of Chapter 54 of the Municipal Code of Hanover Park, as amended, be amended to read as follows:

* * * * *

Sec. 54-133. Notice to abate.

The code enforcement supervisor or designee shall cause notice to be personally served on or sent by regular mail to the person to whom was sent the tax bill for the general taxes on the property for the last preceding year advising that the property is in violation of Section 54-132 and demanding abatement of that nuisance within seven days after the serving or mailing of that notice.

Sec. 54-134. Abatement.

If after notice the nuisance is not abated, the code enforcement supervisor or designee may proceed to abate such nuisance, keeping an account of the expense of the abatement. The owner of the property shall be liable for all expenses, including interest at a rate of ten percent per year. All vacant lots or open land shall be graded and maintained free of brush, rocks or debris, so that the property can be mowed and the expense shall be included as part of the cost of cutting.

Sec. 54-135. Lien for abatement expenses.

(a) All expenses of the removal cost activity for weed cutting including interest shall be a lien on the property. A notice shall be personally served on, or sent by certified mail to the person to whom was sent the tax bill for the general taxes on the property for the last preceding year of the expenses that are due and if not paid will become a lien on the property.

(b) If the expenses are not paid, the Finance Director or designee may file a notice of lien within one (1) year after the expense is incurred with the recorder in the county in which the property is located. If, for any one parcel, the village engaged in any removal activity on more than one occasion, all of the costs of each of those activities may be combined into a single notice of lien.

* * * * *

SECTION 2: That each section, paragraph, sentence, clause and provision of this Ordinance is separable and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Ordinance nor any part thereof, other than the part affected by such decision.

SECTION 3: That except as to the amendments heretofore mentioned, all chapters, sections, subsections, and paragraphs of the Municipal Code of Hanover Park shall remain in full force and effect.

SECTION 4: That this Ordinance shall, by authority of the Village Board of the Village of Hanover Park, be published in pamphlet form. From and after ten days after said publication, this Ordinance shall be in full force and effect.

ADOPTED this _____ day of _____, 2013, pursuant to a roll call vote as follows:

AYES:

NAYS:

ABSENT:

ABSTENTION:

Approved: _____

Rodney S. Craig
Village President

ATTESTED, filed in my office, and published in pamphlet form this _____ day of _____, 2013.

Eira Corral, Village Clerk



TO: Village President and Board of Trustees

FROM: Juliana Maller, Village Manager
David Webb, Chief of Police

SUBJECT: An Ordinance Modifying Section 18-92, Amendment to 2003 Edition of the International Property Maintenance Code, of Chapter 18 of the Municipal Code, being a Balcony Ordinance, Section 302.12

ACTION

REQUESTED: Approval Concurrence Discussion Information

MEETING DATE: October 3, 2013 – Board Workshop

Executive Summary

The Village Board is requested to discuss amending the Village of Hanover Park Ordinance # 18-92, the 2003 Edition of the International Property Maintenance Code Section 302, thereby adding an additional subsection to the Municipal Code, being 302.12, regarding exterior balcony storage.

Discussion

The Hanover Park Police Department was tasked with researching the feasibility of amending the Village of Hanover Park Ordinance # 18-92, the 2003 Edition of the International Property Maintenance Code Section 302, by adding an additional section related to the use of an exterior balcony for the placement or storage of items. "Balcony" shall mean any one or more of the following: a balcony; common access walkway to multiple units' doorways; porch; elevated deck; or a paved ground level patio area adjacent to sliding glass doors. Balconies at numerous residences within the Village are cluttered with items and appear to be used as storage areas by the owners/lessees, or for use of the balcony for something other than what it was designed for. It was determined that the ordinance would restrict all exterior balconies to the following items: furniture made specifically for outdoor use, decorative plants (whether real or artificial), and no more than one grill. The communities of Highwood, Hoffman Estates, and Orland Park have similar ordinances that have assisted in the enforcement of items that can be placed on an exterior balcony in those communities.

Enforcement of this ordinance will be the responsibility of the Code Enforcement Unit. Upon Board approval of the ordinance the Code Enforcement Unit will initially send a letter to the landlords, of all the multi-unit rental residential owners and homeowners associations, advising them of the new ordinance. The Code Enforcement Unit will issue a door hanger to the occupant of the unit in violation as well as an abatement notice to the landlord advising them of the violation and the time frame to bring the violation into compliance. If upon re-inspection, the violation is not in compliance, a P-ticket will be

Agreement Name: _____

Executed By: _____

issued. If upon a 2nd re-inspection, the violation is still not in compliance, then the landlord will be issued a local ordinance violation and will be required to appear in housing court.

This item was previously discussed at the Board Workshop on August 1, 2013. Direction was given by the Board for this to be “owner responsibility” and to include staff’s recommendation on listing the items to be allowed on balconies in the ordinance.

Recommended Action

Motion to approve amendment to the Village of Hanover Park Ordinance # 18-92, 2003 Edition of the International Property Maintenance Code Section 302, thereby adding Section 302.12 related to exterior balcony storage.

Attachments: Amended Ordinance

Budgeted Item: ___ Yes ___ No N/A
Budgeted Amount:
Actual Cost:
Account Number:

ORDINANCE NO. O-13-

AN ORDINANCE MODIFYING SECTION 18-92, AMENDMENTS TO THE 2003 EDITION OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE, OF CHAPTER 18 OF THE MUNICIPAL CODE OF THE VILLAGE OF HANOVER PARK, ILLINOIS

WHEREAS, the President and Board of Trustees of the Village of Hanover Park find that it is necessary to amend its Property Maintenance Code regulations by prohibiting certain personal property located on balconies and increasing the penalties for maintenance code violations; and

WHEREAS, the Village of Hanover Park is a home rule unit by virtue of the provisions of the 1970 Constitution of the State of Illinois and may exercise and perform any function pertaining to its government and affairs including adoption of this Ordinance; now, therefore,

BE IT ORDAINED by the President and Board of Trustees of the Village of Hanover Park, Cook and DuPage Counties, Illinois, as follows:

SECTION 1: That Section 18-92 of Chapter 18 of the Municipal Code of Hanover Park, as amended, be amended by adding a new (j-1) in its alphabetically appropriate place to said Section, and increasing the penalties in (c) and the penalty in (p) found in said Section, all to read as follows:

Sec. 18-92. Amendments.

* * * * *

- (c) *Section 106.4* is amended by adding the following:
Any person, firm, or corporation, who shall violate any provision of this Code shall, upon conviction thereof be subject to a fine of not less than \$75.00 nor more than \$750. Each day a violation occurs shall be a separate violation.

* * * * *

- (j-1) *Section 302.12* is added to read as follows:
Balconies. For the purpose of this *Section 302.12*, “balcony” shall mean any one or more of the following: a balcony; common access walkway to multiple units’ doorways; porch; elevated deck; or a paved ground level patio area adjacent to sliding glass doors.

It shall be unlawful for the owner, lessee, and/or occupant of any premises to permit or use any exterior balcony for the placement or storage of any items except furniture made specifically for outdoor use, decorative plants (whether real or artificial), and no more than one grill, provided any of the foregoing are not otherwise prohibited elsewhere in the ordinances, codes, or regulations of the Village. Further, clothing, laundry, or textiles (except a textile designed for outdoor use as an original part of outdoor furniture) are prohibited on any exterior balcony. Additionally, no items at any time are permitted to hang over the floor or railing of the balcony or any appurtenant structure or attachment to the balcony. There shall be a rebuttable presumption that the owner of the real estate shall be liable under this provision.

** * * *

(p) *Alternative penalty:*

- (1) Any person pursuant to the issuance of a compliance ticket which is accused of a violation of any section of this Code may settle and compromise that ticket by paying to the village a fee of \$30.00 within ten days from the date such alleged violation was committed or by paying to the village the sum of \$50.00 subsequent to said ten-day period prior to such person being issued a notice to appear or complaint.
- (2) The issuance of a compliance ticket shall be as a courtesy in lieu of instituting a prosecution for the alleged offense. If the person accused of the violation does not settle the claim, a notice to appear or complaint will be issued for that violation and that person shall be subject to the general penalties set forth in this Section 18-92 (c).

* * * * *

SECTION 2: That each section, paragraph, sentence, clause and provision of this Ordinance is separable and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Ordinance nor any part thereof, other than the part affected by such decision.

SECTION 3: That except as to the amendments heretofore mentioned, all chapters, sections, subsections, and paragraphs of the Municipal Code of Hanover Park shall remain in full force and effect.

SECTION 4: That this Ordinance shall, by authority of the Village Board of the Village of Hanover Park, be published in pamphlet form. From and after ten days after said publication, this Ordinance shall be in full force and effect.

ADOPTED this _____ day of _____, 2013, pursuant to a roll call vote as follows:

AYES:

NAYS:

ABSENT:

ABSTENTION:

Approved: _____
Rodney S. Craig
Village President

ATTESTED, filed in my office, and published in pamphlet form this _____ day of _____, 2013.

Eira Corral, Village Clerk



TO: Village President and Board of Trustees

FROM: Juliana A. Maller, Village Manager
Howard A. Killian, Director of Engineering and Public Works

SUBJECT: Disposal of Trailer

ACTION

REQUESTED: Approval Concurrence Discussion Information

MEETING DATE: October 3, 2013 – Board Workshop

Executive Summary

At the Board Workshop of September 5, 2013, an Ordinance authorizing the sale by public auction of personal property owned by the Village of Hanover Park was included on the agenda for approval. A 1991 trailer was pulled off the list prior to approval. The Village Board indicates that they wished to have further discussion about the trailer.

Discussion

A motion was made and passed for the 1991 Trailer listed below to be pulled off the list of property to be auctioned, and hold off sending it to auction until further discussion is had by the Board.

<u>Unit #</u>	<u>Vin #</u>	<u>Year</u>	<u>Make</u>	<u>Model</u>	<u>Minimum Bid</u>
659	1WC200E1XM1053148	1991	Wells Cargo	Trailer	\$ 400

This item was then placed on the September 19th Board Workshop agenda. It was requested that discussion of this item be tabled until we receive more information on the process for disposing of items that will serve our community.

The Village Attorney provided a legal opinion on disposal of Village Property which is attached. Also attached is a draft Disposal of Personal or Recovered Property Policy.

Recommended Action

Provide direction to staff on what the Board wishes to be done with the trailer in accordance with the attached policy.

Attachment: Draft Policy

Letter from Attorney Paul dated September 25, 2013
PropertyRoom.com Agenda Item dated August 6, 2009

Agreement Name: _____

Executed By: Juliana Maller

Budgeted Item:	_____ Yes	_____ No	N/A
Budgeted Amount:	\$		
Actual Cost:	\$		
Account Number:	Workshop Meeting 10/3/13 Page 64		

LAW OFFICES OF
BERNARD Z. PAUL
231 SOUTH FOURTH STREET
DEKALB, ILLINOIS 60115-3732

BERNARD Z. PAUL
bernardzpaul@gmail.com

Telephone
(815)756-1312
(fax)(815)758-2863

September 25, 2013

VIA ELECTRONIC MAIL

Village President Craig and Board of Trustees
Village Manager Maller
Village of Hanover Park
2121 Lake Street
Hanover Park, IL 60133

Re: Selling / Disposing of Municipal Property

Dear President Craig, Village Board Members, and Ms. Maller:

The Village Board is considering disposing of a trailer. I have been asked for my opinion concerning the procedure for its disposition as well as other personal property of the Village.

Illinois Statutory Authority

Personal property owned by the Village may be sold when it is no longer necessary or useful to the Village, or in the best interest of the Village that the property be retained. 65 ILCS 5/11-76-4. The sale of personal property by the Village according to the statute requires the approval of only a simple majority of the corporate authorities then holding office (rather than the three fourths of the corporate authorities which the statute had previously required).

The sale of personal property is not subject to the requirement that bids be taken, and personal property may be disposed of in any one of three ways. First, the Village may adopt an ordinance authorizing the sale of personal property in such a manner as is designated in the ordinance with or without advertising for and taking bids for the purchase of the property. Second, the Village Board may authorize any Village officer to convert personal property into some other form that is useful to the Village by utilizing the material in the personal property. Third, the Village Board may authorize any Village officer to trade in the personal property as partial payment on the purchase of any similar article. If municipal personal property is traded in on new equipment or property, then competitive bids must be taken and notice must be given to

all bidders that the personal property will be turned over as part of the purchase price. The manner of taking such competitive bids must be prescribed by ordinance adopted by the Village. 65 ILCS 5/11-76-4.

Home Rule Authority

The Village of Hanover Park is a home rule municipality by virtue of its population. A home rule Village may exercise any power and perform any function “pertaining to its government and affairs.” Illinois Constitution, Article VII, Section 6(a). Unless the General Assembly has denied the Village home rule powers, it may enact an ordinance providing for the sale of its property even if not in conformance with the above statutes. *City of Carbondale ex rel. Ham v. Eckert*, 76 Ill.App.3d 881, 395 N.E.2d 607, 32 Ill.Dec. 377 (5th Dist. 1979). Carbondale, which is a home-rule municipality, had its ordinance upheld. The ordinance authorized the City Council to sell urban renewal parcels for redevelopment in accordance with the City’s Urban Renewal Plan. Personal property, like real property, owned by the Village pertains to its “affairs.”

Village Ordinances and Procedures

The Village, as a home rule municipality, has exercised some home rule authority concerning the disposition of personal property.

The Village’s Municipal Code in Section 2-184 of Chapter 2, which section was last amended in 2005, provides the following:

Sec. 2-184. Same-Sale of personal property.

(a) “Personal property” as used in this section means personal property of the village having a value of less than \$10,000.00 as determined by the village manager and shall not include personal property which shall be turned in as part of the purchase price on a new purchase of any similar article.

(b) Whenever any personal property in the opinion of the village manager is no longer necessary or useful to or for the best interests of the village, he may authorize the sale of that property and shall report the proceeds from that sale to the president and village board within 30 days.

Further, in the Village’s “Rules of Order and Procedure of the President and Board of Trustees of the Village of Hanover Park, Illinois,” adopted by the Village Board, effective March 6, 2008, it is provided as follows:

17. Voting Procedure.

F. Required Number of Votes.

- (1) A two-thirds (five votes) of the Corporate Authorities is needed to:
 - (f) lease equipment and machinery up to five years.

This provision does not distinguish between whether the Village is the lessor or lessee of the equipment and machinery.

It is my opinion that the Village Manager is authorized to sell personal property having a value of less than \$10,000 as determined by the Village Manager without any further authorization from the Village Board. Further, notwithstanding the leasing provision provided for above, the Village Board is authorized by a majority vote, in the exercise of its home rule powers, to dispose of personal property as it reasonably determines.

If you have any further questions, please contact me.

Very truly yours,

Bernard Z. Paul

Bernard Z. Paul
Village Attorney

BZP/msp

**ADMINISTRATIVE POLICY
HANOVER PARK, ILLINOIS**



DIRECTIVE: 000

SUBJECT: **Disposal of Personal or Recovered Property**

POLICY: It is the policy of the Village of Hanover Park to dispose of Personal or Recovered property in manner set forth by statute and/or ordinance that is both accountable and beneficial to the community.

PURPOSE: The purpose of the Disposing of Personal or Recovered Property Policy is to set forth a procedure for determining the course of action to be taken when disposing of the property that is owned by the Village or property that is in the custody of the police department.

DEFINITIONS:

Personal Property: Any property owned by the Village of Hanover Park having a value of less than \$10,000 as determined by the village manager.

Recovered Property: Any and all abandoned, lost, stolen or other property in the custody of the police department that has been deemed viable for disposal as is defined and pursuant to 765 ILCS 1030, Law Enforcement Disposition of Property Act.

Disposal of Property- The auction, sale, donation, conversion or trading of personal or recovered property.

- I. Disposal of Personal Property- Personal Property may be disposed of 4 different ways:
 - A. Village Manager Authorization- Whenever any Personal Property, valued under \$10,000, in the opinion of the Village Manager is no longer necessary or useful to or for the best interests of the village, he/she may authorize the sale of that property and shall report the proceeds from that sale to the president and village board within 30 days. The Personal Property will be transferred to the Village's Property Room.Com account and placed on the on-line auction for sale or any other auction process approved by the Village Manager.

- B. Village Board Disposal- The Village Board is authorized by a simple majority vote, in the exercise of its Home Rule powers, to dispose of personal property as it reasonably determines.
- C. Converting Property- The Village Board may authorize any Village Officer to convert personal property into some other form that is useful to the Village by utilizing the material in the Personal Property.
- D. Trading Property- The Village Board may authorize any Village Officer to trade in the personal property as partial payment on the purchase of any similar article. If Personal Property is traded in on new equipment or property, then competitive bids must be taken and notice must be given to all bidders that the personal property be turned over as part of the purchase price. The manner of taking such competitive bids must be prescribed by ordinance adopted by the Village 65 ILCS 5/11-76-4.
- II. Disposal of Recovered Property- Recovered Property may be disposed of in 2 ways which is *in accordance with 765 ILCS 1030- Law Enforcement Disposition of Property Act*:
- A. Auction- The Recovered Property will be transferred to the Village's Property Room.Com account and placed on the on-line auction for sale.
- B. Chief of Police Authorization- If the Chief of Police determines that the interests of the public would best be served, he/she would donate the eligible recovered property that is worth less than \$100:
1. If the donation is approved by the Village Board, to a charitable organization that is currently registered in the State of Illinois or
 2. Transfer custody of the property to the government which his or her law enforcement agency is a branch.
- III. Donation Requests regarding Personal Property
- A. Donation Requests under \$500- All donation requests to an entity outside the Village for a piece of Personal Property under \$500 shall be handled by Section I.B.
- B. Donation Requests over \$500- Donation requests over \$500 will not be honored and will be referred to the auction process, Section I. A.

III. Donation Requests regarding Recovered Property

- A. If the Chief of Police determines that the interests of the public would best be served, he/she would donate property that is worth less than \$100:
1. If the donation is approved by the Village Board, to a charitable organization that is currently registered in the State of Illinois or
 2. Transfer custody of the property to the government which his or her law enforcement agency is a branch.
- B. If the recovered property has a value of more than \$100, it will be handled by Section II.A.
- C. All donation requests over \$100 are deemed ineligible due to compliance with state statute.


Village of Hanover Park
MEMORANDUM
TO: Village President and Board of Trustees
FROM: David Webb, Interim Chief of Police 
SUBJECT: PropertyRoom.com – Inventory
ACTION
REQUESTED: Approval Concurrence Discussion Information

MEETING DATE: August 6, 2009
Executive Summary

The Police Department is seeking approval of the Village Board to utilize PropertyRoom.com (PRC) to dispose of the Village's and Police Department's property as opposed to our annual auction. This service will increase revenue from the property sales and reduce the manpower hours spent by Public Works and the Police Department in organizing and conducting the auction.

Discussion

PRC is a web-based auction site which specializes in the auctioning of lost, seized and surplus items and vehicles from law enforcement. PRC was founded in 1999 and currently contracts with over 1,600 law enforcement agencies in the United States, with 50 of those agencies in the Chicagoland area. The Bartlett Police Department is one of several local police departments that use PRC.

PRC would place us on a monthly pick-up schedule where PRC would contact us monthly via e-mail to confirm that we have property for pick-up. PRC provides us with barcode stickers and our property room custodian would place these barcode stickers on the items prior to the pick-up. Once PRC arrives at our station, PRC will scan the items which will initiate the audit process. PRC will then take the property and photograph all of the items and then post the items on the PRC website along with a description of each item. Once on the internet site if a winning bid for the property is acquired, PRC will then ship the item to the winning bidder and arrange for the collection of the money. PRC collects 50% of every winning bid of \$1,000 and under. If the winning bid is over \$1,000, then PRC takes only 25% of the winning bid. PRC will then forward us a check monthly. PRC provides us with a password which allows us to track the status of all our property online as well as all of our winning bids. We will also be sent a monthly report detailing the status of all of our property.

There are four main advantages to convert to this system.

- **Increased revenue** A larger bidding audience will increase the revenue for each item. Overtime and manpower expenses that are required to conduct the auction do not make the auction cost effective.
- **Reduction in manpower hours spent on the auction.** A review of manpower hours spent by the Police Department and the Public Works Department shows that approximately 75 manpower hours are required to conduct the auction. These hours include the preparing and hauling of auction items, the cleaning of the Public Works garage, the staffing of the auction, security for the auction and various administrative tasks.
- **Compatibility to the Police Department evidence system.** The bar coding system used by PRC is compatible with our evidence control system which will save time in preparing Police Department evidence/property for pick-up by PRC.
- **Increase in Storage Space.** Currently the Police Department faces an ongoing problem for storage space of evidence. By going to PRC, this will help further eliminate the excess property in the evidence room by having PRC pick up the property on a monthly basis, thereby not allowing the property to gather for months at a time.

Recommended Action

The Police Department respectfully requests Village Board approval of the Police Department's request to utilize PropertyRoom.com to dispose of the Village's and Police Department's property.

DW/kap

Attachment

PROPERTY ROOM.COM

Law Enforcement Client List

Wendell

ILLINOIS

Addison
Algonquin
Village of Alsip
Arlington Heights
Aurora
Batavia
Berwyn
Bolingbrook PD
Burbank, PD
Burr Ridge
Buffalo Grove PD
Carol Stream PD
Carpentersville, Village of
Countryside
Crestwood
Crystal Lake
Village of Deerfield
Decatur
Des Plaines
East Peoria
Forest Park
Franklin Park
Geneva
Glencoe
Glendale Heights
Glen Ellyn
Glenview
Hoffman Estates
Island Lake
Kane Co.
Kenilworth
Lake Forest
Lincolnwood
Lisle
New Lenox
River Forest PD
Rolling Meadows PD
Schaumburg
Skokie PD
Village of Cary
Village of Lyons
Village of McCook
Warrenville
Westchester
West Chicago
Western Springs
City of Wheaton PD
Wheeling

Wheeling Park Dist
Will County
Wilmette
Winnetka

INDIANA

Allen Co
Anderson PD
Bloomington PD
Brownsburg
Carmel
Cumberland PD
Fort Wayne
Hammond
Hendricks County
Indianapolis PD
Kokomo
Lafayette
Lawrence
Linton
Merrillville P.D.
Mishawaka
Monroe Co
Muncie PD
Mundelein
Munster
Plainfield
Terre Haute PD
West Lafayette
Westfield

IOWA

Ames
Ankeny PD
Cedar Rapids
Council Bluffs
Linn County

KANSAS

Arkansas City
Dodge City PD
Geary County Sheriff's Dept.
Hutchinson PD
Junction City PD
Kansas City PD
Lawrence

Leawood PD
Leavenworth
Lenexa PD
Liberal PD
McPherson PD
Merriam PD
Overland PD
Prairie Village
Reno County
Salina PD
Shawnee Co Sheriff's Dept.
Wichita PD
Wyandotte County

KENTUCKY

Alexandria PD
Jessamin County
Lexington-Fayette Co
Nicholasville

LOUISIANA

Jefferson Parish Sheriff
St. Charles Parrish Sheriff

MAINE

Auburn
Biddeford
Brunswick
Brunswick FD
Cape Elizabeth PD
Cumberland Co.
Freeport
Portland
South Portland PD
Westbrook PD

MARYLAND

Annapolis
Anne Arundel County
Baltimore
Baltimore Co
Calvert Co
Chevy Chase
Frederick County Sheriff
Frederick
Greenbelt
Howard County



TO: Village President and Board of Trustees

FROM: Juliana Maller, Village Manager
Howard A. Killian, Director of Engineering and Public Works

SUBJECT: Village Hall Improvements

ACTION

REQUESTED: Approval Concurrence Discussion Information

MEETING DATE: October 3, 2013 – Board Workshop

Executive Summary

Staff is seeking concurrence with the proposed Village Hall Improvement Plan.

Discussion

This is a continuance of the dais discussion from September 5, 2013.

Staff is proposing the following projects as part of the budgeted Village Hall Capital Project Funds (\$100,000).

- | | | |
|----|--|----------|
| 1. | Mecho Shades
<i>This item is already approved by the Village Board.</i> | \$22,000 |
| 2. | Mechanical Room Lead Cleanup Carryover
<i>This was a late bill from FY13.</i> | \$ 9,680 |
| 3. | Dias Electrical
<i>This is to provide recessed electrical outlets for the dais.</i> | \$10,000 |
| 4. | Old Police Range
<i>These funds would be used to modify the existing sprinkler system, add additional lighting, seal two openings, and build secure storage. This would allow staff to move all items out of 2152 Lake Street.</i> | \$15,000 |
| 5. | Finance
<i>This work would include new carpeting, paint, office relocation, and furniture reconfiguration.</i> | \$25,000 |
| 6. | Community Development
<i>This would be the first phase of the plan that would include constructing a new meeting room out of two offices and a file storage area for the Village Clerk. Additional work to be requested in 2014 would including new carpeting, office construction, painting and furniture reconfiguration.</i> | \$18,000 |

TOTAL \$99,680

Agreement Name: _____

Executed By: _____

The Village Board has the option of diverting the funding for items 4, 5 and 6 to tree replacements. An amount of \$50,000 would allow for approximately 200 new trees to be planted, and these would all have to be spring 2014 plantings. Our current plan is to plant trees in the order that they were removed, planting a variety of trees on any street, and following a plan to have no more than 10 percent of any given species in the Village. Our current spring planting list only include 4 species, so adding 200 trees may require us to change the locations of where we would plant these additional trees. The tree planting contract in the amount of \$40,000 for this fiscal year has already been approved by the Village Board, and the trees to be planted have already been tagged by the Village. If we were to add an additional \$50,000 in tree plantings, we would need to go back out for bids for this amount and have the Village Board approve a new contract at a future meeting.

Recommended Action

Move approval of the proposed Village Hall Improvement Plan.

Budgeted Item:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Budgeted Amount:	\$100,000 (for all projects)
Actual Cost:	To be Determined
Account Number:	031-0000-466-13.21



TO: Village President and Board of Trustees

FROM: Juliana Maller, Village Manager

SUBJECT: Resolution supporting the retrofit of existing DOT-111 rail tank cars that transport packing groups I and II HAZMAT before the pipelines and hazardous materials safety administration in Docket No. PHMSA-2012-0082 (HM-251)

ACTION

REQUESTED: Approval Concurrence Discussion Information

RECOMMENDED FOR CONSENT AGENDA: Yes No

MEETING DATE: October 3, 2013 – Board Workshop

Executive Summary

Village Board to consider passing a Resolution supporting the retrofit of existing DOT-111 rail tank cars that transport packing groups I and II HAZMAT before the pipelines and hazardous materials safety administration in Docket No. PHMSA-2012-0082 (HM-251).

Discussion

The Village has received the attached information from the Metropolitan Mayors Caucus on behalf of Mayor Karen Darch of Barrington and Mayor Tom Weisner of Aurora requesting that the Village Board consider passing a Resolution in support of the retrofit of existing DOT-111 rail tank cars that transport packing groups I and II HAZMAT before the pipelines and hazardous materials safety administration in Docket No. PHMSA-2012-0082 (HM-251).

The Village of Hanover Park has two freight lines that run through town, one North of Army Trail and one parallel to Lake Street, which both carry multiple freight trains per day.

The 2012 petition to PHMSA (Pipelines and Hazardous Materials Safety Administration) requested that federal regulators mandate a retrofit program for the existing fleet of DOT-111 tank cars, and that real time electronic train consist information be provided to local emergency responders in the event of a rail accident.

Public comments are being accepted on the proposed rules until November 5, 2013. Public comment is best provided in the form of a Resolution sent to PHMSA (sample attached).

Agreement Name: _____

Executed By: _____

Recommended Action

Motion to pass a Resolution supporting the retrofit of existing DOT-111 rail tank cars that transport packing groups I and II HAZMAT before the pipelines and hazardous materials safety administration in Docket No. PHMSA-2012-0082 (HM-251).

Attachments: Sample Resolution
 Union Pacific Letter dated August 5, 2013
 Village of Barrington Letter dated September 24, 2013
 TRAC Memo dated September 20, 2013

**(CITY, TOWN, VILLAGE, COUNTY OF _____) RESOLUTION
SUPPORTING THE RETROFIT OF EXISTING DOT-111 RAIL TANK CARS
THAT TRANSPORT PACKING GROUPS I AND II HAZMAT
BEFORE THE PIPELINES AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
IN DOCKET NO. PHMSA-2012-0082 (HM-251)**

Whereas, rail freight operations impact thousands of villages, towns, cities and counties across all regions of the United States of America; and

Whereas, safe rail operations are of critical interest to local units of government based on (1) the need to prevent catastrophic accidents like the one that occurred in Lac-Megantic, Canada in July 2013; and (2) the responsibility local governments have to provide emergency response units to manage the impact of rail accidents and derailments in communities across the country; and (3) significant costs associated with clean-up, environmental remediation, medical expenses, other personal injury damages or wrongful death claims for community residents that have the potential to surpass the rail industry's ability to pay for them; and

Whereas, ethanol and crude oil are a large and exponentially growing segment of hazardous materials being shipped across the nation via freight rail, which will continue to be a preferred transport mode of choice for this hazmat; and

Whereas, since 1991, it has been known to industry and federal regulators that there are safety-related defects in the DOT-111 tank car that serves as the primary tank car used in the shipping of these hazardous flammable materials via freight rail; and

Whereas, the federal Pipelines and Hazardous Materials Safety Administration (PHMSA) regulates the safe transport of hazardous materials by railroads in the United States; and

Whereas, the business decisions of railroad companies and hazardous material shippers impact the safety, environment, and emergency response system in the communities in which the freight railroads traverse, but state and local governments have no ability to regulate railroad operations; and

Whereas, industry has failed to act in the last two decades to correct the known defects in DOT-111 tank cars, and waited until 2011 to seek government approval to upgrade safety standards for newly manufactured DOT-111 tank cars; and

Whereas, a tank car expert from the National Transportation Safety Board testified in 2012 that a retrofit of existing tank cars is necessary because co-mingling existing unsafe DOT-111 tank cars with newly manufactured ones "does nothing to improve the safety in an accident"; and

Whereas, the petition for rulemaking submitted to PHMSA on April 3, 2012 by Barrington, Illinois and the Illinois TRAC Coalition reflects the point of view of local governments, which is supported by recommendations of the National Transportation Safety Board, that changes are needed in federal regulations and/or law to better protect public safety relative to DOT-111 tank car safety and train consist dissemination; and

Whereas, the April 3, 2012 petition provides a compelling rationale for making long overdue changes in safe rail operations vis-a-vis retrofitting existing DOT-111 tank cars; and

Whereas, the April 3, 2012 petition demonstrates that the cost of a DOT-111 tank car fleet retrofit for existing cars would be of nominal expense over the remaining average thirty-year lifespan for the existing fleet, and

Whereas, PHMSA issued on September 6, 2013 (78 Federal Register 54849-54861) an Advance Notice of Rulemaking seeking by November 5, 2013 the input from local and state governments on the issue of retrofitting the DOT-111 tank car.

Therefore, Be It Resolved by the Corporate Authorities of _____, (State) as follows:

Section 1: We support the April 3, 2012 petition of Barrington, Illinois and the Illinois TRAC Coalition seeking new regulations to retrofit existing DOT-111 tank cars used to transport Groups I and II Packing Materials.

Section 2: This Resolution shall take effect from and after its passage and approval as provided by law.

Section 3: This adopted Resolution shall be sent to the Pipelines and Hazardous Materials Safety Administration in Docket No. PHMSA-2012-0082 (HM-251) urging expeditious action on the joint Barrington and Illinois TRAC Coalition April 3, 2012 Petition No. P-1587.

PASSED THIS ____ DAY OF _____, 2010 BY ROLL CALL VOTE AS FOLLOWS:

AYES: _____

NAYS: _____

ABSENT: _____

ABSTAIN: _____

APPROVED THIS ____ DAY OF _____, 2012

BY: _____

(Print Name) _____

(Title) _____

ATTESTED AND FILED THIS ____ DAY OF _____, 2012

(Print Name) _____

(Title) _____

From: Dave Bennett

Sent: Monday, September 23, 2013 11:54 AM

To: 'Mayor Broda, Lisle'; 'Mayor Brummel, Warrenville'; 'Mayor Craig, Hanover Park'; 'Mayor Cunningham-Picek, Woodridge'; 'Mayor Cunningham-Picek, Woodridge 2'; 'Mayor Gresk, Wheaton'; 'Mayor Gunter, Westmont'; 'Mayor Morley, Elmhurst'; 'Mayor Pineda, West Chicago'; 'Mayor Pradel, Naperville'; 'Mayor Pruyn, Itasca'; 'Mayor Pulice, Wood Dale'; 'Mayor Ragucci, Oakbrook Terrace'; 'Mayor Saverino, Carol Stream'; 'Mayor Saverino, Carol Stream 2'; 'Mayor Smolinski, Roselle'; 'Mayor Straub, Burr Ridge'; 'Mayor Trilla, Willowbrook'; 'Mayor Trilla, Willowbrook'; 'Mayor Tully, Downers Grove'; 'Mayor Veenstra, Addison'; 'Mayor Veenstra, Addison 2'; 'Mayor Weaver, Darien'; 'Mayor Weaver, Darien 2'; 'Mayor Weisner, Aurora'; 'President Bullwinkel, Villa Park'; 'President Cauley, Hinsdale'; 'President Coladietro, Bloomingdale'; 'President Demos, Glen Ellyn'; 'President Giagnorio, Lombard'; 'President Giagnorio, Lombard'; 'President Jackson, Glendale Heights'; 'President Jackson, Glendale Heights 2'; 'President Karaba, Clarendon Hills'; 'President Karaba, Clarendon Hills 2'; 'President Lalmalani, Oak Brook'; 'President Soto, Bensenville'; 'President Spande, Winfield'

Cc: Mark Baloga (MBaloga@dmmc-cog.org); MAlbin@dmmc-cog.org; 'Tam Kutzmark'; 'Bill Wiet, Chief of Staff, Aurora'; 'Bryon Vana, Darien'; 'Curt Barrett, Winfield'; 'Dave Hulseberg, Lombard'; 'Dave Niemeyer, Oak Brook'; 'David Fieldman, Downers Grove'; 'Donald Rose, Wheaton'; 'Doris Sullivan, Villa Park'; 'Doug Krieger, Naperville'; 'Evan Teich, Itasca'; 'Gerald Sprecher, Lisle'; 'James Grabowski, Elmhurst'; 'Jeff O'Dell, Roselle'; 'Jeffrey Mermuys, Acting Manager, Wood Dale'; 'Joe Block, Addison'; 'Joe Breinig, Carol Stream'; 'John Carpino, Oakbrook Terrace'; 'John Coakley, Warrenville'; 'Juliana Maller, Hanover Park'; 'Kathleen Rush, Woodridge'; 'Kathy Gargano, Hinsdale'; 'Mark Franz, Glen Ellyn'; 'Marty Bourke, Bloomingdale'; 'Michael Cassidy, Bensenville'; 'Michael Guttman, West Chicago'; 'Randy Recklaus, Clarendon Hills'; 'Raquel Becerra, Glendale Heights'; 'Richard Keehner, Jr., Villa Park'; 'Ronald Searl, Westmont'; 'Steve Stricker, Burr Ridge'; 'Tim Halik, Willowbrook'

Subject: FW: Proposed Rules re Tanker Car Safety

Mayor:

Mayors Karen Darch of Barrington and Tom Weisner of Aurora have asked me to pass the attached information on to all Mayors in the Chicago region. **If you have any rail lines that run through your community, you may especially be interested in this information.**

The federal Pipelines and Hazardous Materials Safety Administration (PHMSA) has recently proposed rules to make tanker cars which carry hazardous materials like ethanol and crude oil safer in derailments and accidents. The rules are a result of a crash a few years ago near Rockford in which several tankers split open and started a massive fire which took over 24 hours to suppress.

Public comments are being accepted on the proposed rules until November 5, 2013. The PHMSA is interested in hearing from towns that are located along rail lines which transport tankers. **The best way for your community to weigh in on this issue is to adopt the attached sample resolution and send it to the PHMSA by the November 5 deadline.** Information on how/where to submit your resolution is provided in the attached PDF document entitled, "9-11-13 PHMSA Petition Action Request Summary".

Dave

Dave Bennett, Executive Director
Metropolitan Mayors Caucus
233 S. Wacker Drive, Suite 800
Chicago, IL 60606
dbennett@mayorscaucus.org
P: 312-201-4505
F: 312-258-1851



BARRINGTON

September 24, 2013

Mr. Jack Koraleski
 President & CEO
 Union Pacific Corporation
 1400 Douglas Street, 19th Floor
 Omaha, NE 68179

Via email: jackkoraleski@up.com

Dear Mr. Koraleski,

Thank you for your letter of August 5 providing the Class I railroad perspective on the shipment by rail of flammable hazmat like crude oil and ethanol. While I had not intended to reply to it, current circumstances indicate that a further explanation of our April 2012 PHMSA petition are in order. However, before I outline our perspective on the matter, I would like to state that we, in the Village of Barrington and the greater Chicago region, appreciate the great support Union Pacific has provided to our communities during our long history of working together. I have very much enjoyed working with your many representatives in the area including Wes Lujan, and his predecessor, Tom Zappler.

The 2012 petition to PHMSA requested that federal regulators mandate a retrofit program for the existing fleet of DOT-111 tank cars, and that real time electronic train consist information be provided to local emergency responders in the event of a rail accident. On August 28, I offered testimony (attached) before the Federal Rail Administration and PHMSA in Washington, D.C. at a public meeting on rail safety. As explained in my commentary, in light of the horrific tragedy in Lac Mégantic, Quebec this summer that killed 47 people and caused hundreds of millions in ensuing damages, it is well past time for the entire rail industry – tank car manufacturers and lessors, shippers and the railroads – to address the “Ford Pinto like” DOT- 111 tank cars. It is imperative that the fleet be retrofitted, as these tank cars constitute two thirds of the fleet of rail tank cars carrying ethanol, crude oil and other flammable hazmat on unit trains across our country in ever increasing numbers.

None of the first responder training efforts you mention in your letter address the real issue of the necessity to **prevent** accidents from occurring in the first place. Clearly, the existing DOT-111 tank cars are a weak link and will remain so for the three-plus decades they will remain in service for the shipment of these flammable hazardous commodities.

Our 2012 PHMSA petition for rulemaking and my comments submitted to FRA & PHMSA last month were based on the findings of the National Transportation Safety Board and its investigation of the rail tragedy in Cherry Valley, Illinois in 2009.

While we understand that most of the DOT-111 tank cars that transport packing groups I and II materials are not owned by the rail industry, they are operated by the rail industry

VILLAGE HALL
 200 S. HOUGH ST.
 BARRINGTON, IL 60010
 (847) 304-3400

PRESIDENT & BOARD
 MANAGER'S OFFICE
 TEL (847) 304-3444
 FAX (847) 304-3490

COMMUNITY AND
 FINANCIAL SERVICES
 TEL (847) 304-3400
 FAX (847) 381-7506

DEVELOPMENT SERVICES
 TEL (847) 304-3460
 FAX (847) 381-1056

PUBLIC WORKS
 300 N. RAYMOND AVE.
 BARRINGTON, IL 60010
 TEL (847) 381-7903
 FAX (847) 382-3030

PUBLIC SAFETY
 400 N. NORTHWEST HWY.
 BARRINGTON, IL 60010

POLICE
 TEL (847) 304-3300
 FAX (847) 381-2165

FIRE
 TEL (847) 304-3600
 FAX (847) 381-1889

for the transport of explosive and flammable hazmat. It is the rail industry, under the auspices of the AAR's North American Tank Car Committee, which sets the design standards for these tank cars. It is the rail industry that has ignored since 1991 the repeated warnings of the NTSB that these tank cars pose a high risk of rupture in a derailment and ignored the Board's recommendation to improve the standards. It is the rail industry that told regulators in 2011 that the cost of a safety retrofit for these tank cars would amount to about \$15,000 per car. It is the rail industry that created the regulatory "crisis" that now exists in the aftermath of Lac-Mégantic by failing to correct these safety flaws inherent in the DOT-111 decades ago.

While you correctly point out that the overwhelming majority of hazmat rail shipments safely complete their journey, it is the low frequency, catastrophically high impact incident like Lac-Mégantic that could be prevented with a retrofit investment. We have noted in our research on liability surrounding the common carrier obligation of railroads to transport hazmat like ethanol and crude oil, that the rail industry has voiced concern about covering the liability costs of "worst case scenarios" in a catastrophic release of hazmat. Industry has rightfully acknowledged that while the risk is minute, the cost implications are such that a nightmare scenario release could bankrupt even a Class I railroad. One can apply that same logic to a cost-benefit analysis of retrofitting the existing DOT-111's because it would minimize the scope of consequences in a train accident involving these tank cars.

It is for this reason, that we would ask UP to support a retrofit program in comments to PHMSA. By doing so, your company would be a leader in creating momentum for a profound step in the right direction on the rail safety front. As you stated in your letter, "UP is committed to working with you and the Village of Barrington to provide a safe and sound rail operation." Please join us, then, in encouraging the retrofit of the thousands of defective DOT-111 tank cars and assuring real time electronic train consist data to our first responders. In addition to providing job opportunities in the Chicago region given its base for numerous tank car manufacturers, these measures will also greatly enhance the safety of rail employees, cargo, rail infrastructure, residents, and the environment in communities across North America.

We look forward to a continued, strong partnership with Union Pacific.

Sincerely,



Karen Darch
Village President

cc: T. Weisner, Mayor of Aurora, IL
D. Bennett, Executive Director, MMC

UNION PACIFIC CORPORATION
1400 Douglas Street, 19th Floor
Omaha, Nebraska 68179

Jack Koraleski President and CEO

P 402 544 6400
F 402 501 2120
jackkoraleski@up.com

August 5, 2013

Village President Karen Darch
Village of Barrington
206 South Hough
Barrington, IL 60010

Dear Village President Darch,

First and foremost, Union Pacific Railroad (UP) is proud to operate in the Village of Barrington and we appreciate the strong partnership we have developed. UP shares your commitment to rail safety and efforts to promote the safe and secure transportation of passengers and freight on the lines in your community. In light of your recent editorial in the Wall Street Journal, I would like to take the opportunity to provide you some information and perspective from a Class I Railroad, specifically UP's role and practices in the transportation of ethanol, crude oil and other hazardous materials on our trains.

In regards to rail tank cars, the railroad's primary role is to transport our customers' products using their tank cars. The predominant industry business practice is that the individual customer owns the tank car, or a leasing company owns the car and leases it to the customer. It is important to note that the vast majority of rail car leasing companies are headquartered and operate in the Chicagoland region. For example, GATX, GE Transportation, First Union Railcar and Union Tank Company are all headquartered within the City of Chicago or Cook County. These companies own billions of dollars in railroad tank car assets. Although the article focused on the railroads, we wanted to point out this important clarification as you continue your discussion on tank car safety improvements.

All of that said, UP and the entire rail industry work closely with tank car owners and manufacturers. The U.S. Department of Transportation (DOT), Transport Canada (TC) and the Association of American Railroads (AAR)-North American Tank Car Committee issue tank car regulations and standards. DOT and TC issue federal regulations, while the AAR-North American Tank Car Committee sets industry standards. The Tank Car Committee's standards exceed the federal requirements and DOT-111 tank cars for crude oil and ethanol ordered after October 2011 meet these Committee standards. Nearly 25 percent of the tank cars used to move crude today were built to the higher specifications spelled out by the Tank Car Committee – and that number will continue to grow. Also, regarding the retrofit estimate of \$15,000 used in the Wall Street Journal editorial, industry experts have indicated that the cost is probably closer to four times that amount.

Through UP's emergency preparedness efforts and technological advances, we have taken extensive measures as a railroad and industry to increase the safe and efficient transporting of passenger and freight cars. As you may already know, a Class I freight railroad, such as UP, is

obligated to transport the products that our customers contract us to carry. As a common carrier, we transport all materials (hazardous or otherwise) in accordance with federal law, industry standards, and other operating rules to safely and efficiently move freight. Pursuant to federal law, transporters of oil (both non-hazardous and hazardous) are required to have a written emergency response plan. Union Pacific developed its Hazardous Material Emergency Response Plan (HMERP) to meet this requirement. UP also has an established Hazmat Team to respond to and manage incidents involving the release, or potential release, of "oils" during an incident.

To support these safety efforts, UP offers local communities the opportunity to participate in our extensive training and preparedness programs involving specialized safety training for rail personnel, as well as local first responders. In a typical year our training reaches about 10,000 people across our 23-state network. In fact, we recently conducted tank car training at our Proviso Yard on April 23 and participated in a multi-agency drill in Rochelle on May 8, 2013.

In 2012, railroads set new overall safety records, continuing a string of safety achievements reaching back decades. Although UP does not currently transport crude oil through Barrington, there are positive statistics provided by the AAR that demonstrate a tremendous safety record in moving hazmat, including crude oil. For example, an astounding 99.9977 percent of all rail hazmat shipments reach their destination without a release caused by train accident. Lastly, rail hazmat train accident rates have declined by 91 percent since 1980. These solid numbers demonstrate our industry's efforts in applying safety practices, policies and technology to make it one of the safest and most efficient forms of transportation.

Again, UP is committed to working with you and the Village of Barrington to provide a safe and sound rail operation. We want to continue our partnership on rail safety measures and enforcement. Thank you for your efforts to support the enhancement of safe practices. Please feel free to contact me if you have any questions.

Sincerely,





September 20, 2013

TO: Mayors in the Metropolitan Chicago Area

FROM:	Karen Darch President, Village of Barrington TRAC Co-Chair Executive Board Chair, MMC	Tom Weisner Mayor, Aurora TRAC Co-Chair Executive Board Vice-Chair, MMC
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SUBJECT: Federal Rail Safety Rulemaking **Action Alert**

As co-chairs of the suburban Chicagoland TRAC Coalition that was formed in 2008, we wanted to make you aware of the opportunity for local governments to weigh in on a federal regulatory matter involving a critical rail safety issue.

Following the National Transportation Safety Board (NTSB) investigation into a CN ethanol train derailment near Rockford in 2009, we were alerted to the dangers posed by the DOT-111 tank car that is used by the rail industry to transport flammable hazmat like ethanol and crude oil throughout North America. In a nutshell, the NTSB has warned regulators since 1991, that the DOT-111 tank car has a high incidence of rupturing when involved in accidents and derailments.

That NTSB investigation launched TRAC into action. Since spring of 2012, we've been urging federal regulatory action to correct the problem. The federal government is now acting and is seeking public input by November 5, 2013 – especially input from local governments.

Action or inaction by the federal government on this important safety issue could have serious future implications for communities on or near rail lines that carry freight.

Please review the attached summary of the issue, as well as a model resolution we are asking local governments to adopt and forward to federal regulators before the November 5, 2013 comment deadline.

Thank you.

RAIL TANK CAR ISSUE SUMMARY & ACTION REQUEST

ISSUE SUMMARY:

In response to the findings stemming from the National Transportation Safety Board's (NTSB) investigation of a June 2009 Canadian National Railway (CN) freight train derailment outside of Rockford, Illinois, the Village of Barrington and the Illinois-based TRAC Coalition jointly filed a petition on April 3, 2012 with the Pipelines and Hazardous Materials Safety Administration (PHMSA) asking that it promulgate rules that will make the fleet of new and existing tank cars that carry ethanol and crude oil by rail in North America more crashworthy in derailments and accidents. **PHMSA released its notice of proposed rulemaking on September 6, 2013 and is seeking input from local governments by November 5, 2013.**

The 2009 accident investigated by the NTSB involved a train containing 74 cars of ethanol that derailed after the rail bed underneath the train had washed away. One person was killed and nine others injured when several of the derailed tank cars split open and started a massive fire that took over 24 hours to burn itself out. Since 1991, the tank cars involved in the accident – DOT-111 tank cars – have been known by federal regulators and the freight rail industry to have high failure rates in accidents because they puncture easily.

The more recent July 6, 2013 catastrophic derailment of a train carrying 72 tank cars of crude oil in Lac-Mégantic, Canada that caused 47 deaths also involved the defective DOT-111 tank cars. **With the exponential growth of this dangerous hazmat traveling by rail over the last five years, it is clear that there is a growing potential for catastrophic derailments in communities all across North America.** In fact, the problems with this defective tank car is garnering national media attention, including this September 5, 2013 "NBC Nightly News with Brian Williams" piece that provides an excellent overview of the problem: <http://investigations.nbcnews.com/news/2013/09/05/20343288-danger-on-the-tracks-unsafe-rail-cars-carry-oil-through-us-towns?lite>

In response to the Rockford derailment, industry convened a working group made up of the Association of American Railroads (AAR), freight railroads, and shippers to set manufacturing standards for new cars and asked PHMSA to adopt those standards in 2011. However, the industry request explicitly asked that the existing fleet of tank cars not be retrofitted to make them safer due to the cost of a retrofit program. The AAR calculated that a retrofit of a tank car would cost \$15,000, but with an average life span of over 30 years for the existing fleet, that amounts to less than \$500 a year.

Backed by NTSB expertise, the April 3, 2012 petition by Barrington & the Illinois TRAC Coalition made the case that improved construction standards for only newly manufactured tank cars is not sufficient for protecting public safety. **As the NTSB experts recognized, while the improved AAR standards would make new cars safer than the existing cars, communities would be no safer if old and new tank cars are comingled when these tank cars derail.** With an eight-year average age for the existing tank car fleet, failure to require a retrofit program would allow tank cars that are filled with ethanol and crude oil – and known to be dangerous – to roll freely through American communities for the next three decades.

This issue goes far beyond the daily challenges of dealing with freight rail operations in our communities. According to Federal Railroad Administration safety statistics, between 2000 and 2011 there has been – on average – a reportable freight derailment in this country over five times every day. Additionally, the derailment in Lac-Mégantic has already been ball-parked at over \$200 million to fund the environmental

remediation and clean-up costs alone. Since that sum far surpasses the liability insurance cap of the involved railroad, it has entered bankruptcy proceedings. Given inadequate insurance protection across the rail industry, it is unclear as to who will be footing the bill when it comes to paying the catastrophic costs associated with a major tank car derailment. For these reasons, it is way past due for federal regulators to prioritize the concerns of local governments to remedy the known safety flaws with the DOT-111 tank car.

ACTION REQUEST OF LOCAL GOVERNMENTS:

It is vital that local governments weigh in on this important issue prior to the November 5, 2013 comment deadline. To that end, a sample resolution is attached that local units of government can adopt and forward to PHMSA to indicate their support for the rail safety changes detailed in this summary and in this rulemaking document:

https://www.federalregister.gov/articles/2013/09/06/2013-21621/hazardous-materials-rail-petitions-and-recommendations-to-improve-the-safety-of-railroad-tank-car?utm_campaign=subscription+mailing+list&utm_medium=email&utm_source=federalregister.gov

Please act expeditiously to pass this resolution. Once adopted, a copy of your government's resolution should be submitted in one of three ways:

- Through the Federal Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Via Fax: 1-202-493-2251.
- By mail: Docket Management System; U.S. Department of Transportation, West Building, Ground Floor, Room W12-140, Routing Symbol M-30, 1200 New Jersey Avenue SE., Washington, DC 20590.

Instructions: All submissions must include the agency name and docket number for this notice (as shown in the model resolution) at the beginning of the comment. To avoid duplication, please use only one of the three methods of delivery.

Any questions you may have on this matter can be directed to FightRailCongestion@gmail.com. Thank you!