

COMMITTEE OF THE WHOLE MEETING  
No. 2014-05-2  
TUESDAY, MAY 20, 2014

6:30 P.M.

CALL TO ORDER

ROLL CALL

ADMINISTRATION

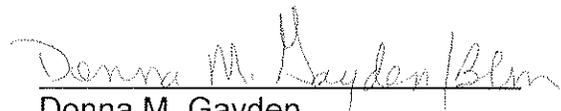
1. Recommendation from the Glenwoodie Golf Committee to purchase four Craft Beer Taps for a cost of \$1,600.00
2. Purchase of Gazebo & Seating for Wedding Area at Glenwoodie at a cost not to exceed \$100,000
3. Contract for sealcoating of Glenwoodie Parking Lot at a cost not to exceed \$15,311.00
4. Commercial Sales Contract for 760 Holbrook
5. Contract for the purchase of the Villas of Glenwood
6. Contract with T & T Maintenance & Cleaning (one year)
7. Insurance Broker of Record
8. Authorization to allow the Village President to execute Broker of Record letters for insurance renewals
9. Wendy's Sales Tax Sharing Incentive Agreement
10. Wendy's Redevelopment Agreement
11. Reliable Glenwood Annexation Agreement
12. Sanfratello's Redevelopment Agreement
13. Revised Lease with The Learning Corner
14. Disposition of Cell Tower Lease
15. Banking Pricing from MB Financial
16. Purchasing Manual as recommended by the Finance Committee
17. Replacement of existing light bases on 6 street lights by Meade Electric at a cost not to exceed \$4,354.00

OPEN TO THE PUBLIC

Executive Closed Session under Section 2(c)(1) Personnel and Section 2(c)(5) Real Estate Acquisition and Section 2(c) 11 Litigation

ADJOURNMENT

Sincerely,

  
Donna M. Gayden  
Village Administrator

Posted and distributed 05/16/14

# VILLAGE OF GLENWOOD

ONE ASSELBORN WAY • GLENWOOD, ILLINOIS 60425

708.753.2400  
708.753.2406 Fax



MAYOR  
Kerry Durkin

CLERK  
Ernestine T. Dobbins

TREASURER  
Edwin Reichard

TRUSTEES  
Terrence A. Campbell  
Ronald Gardiner  
Carmen Hopkins  
Richard Nielsen  
Anthony Plott  
Paul Styles, Jr.

April 26, 2014

The Honorable Kerry Durkin  
Board of Trustees  
Village of Glenwood  
One Asselborn Way  
Glenwood, Illinois 60425

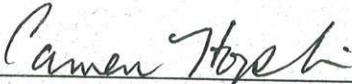
Re: Purchase of Four Craft Beer Taps for Bar Area

Dear Mayor Durkin and Trustees:

The Glenwoodie Golf Committee held a meeting on Saturday, April 26, 2014, and by a vote of 9 ayes, 0 nays, 0 absent, their recommendation is as follows:

The Glenwoodie Golf Committee recommended to the Board of Trustees to approve the Purchase of Four Craft Beer Taps for the Main Bar, at a onetime charge of \$1,600.00 (\$400/per tap). With approval, an order of discounted and promotional products will be delivered at the time of installation. Revenue anticipated from the installation of the kegs is approximately \$700.00.

Sincerely,

  
Carmen Hopkins, Chairman  
Glenwoodie Golf Committee



**Estimated Price: \$10,800.00**

**Thank you for sending us your very own gazebo design!**

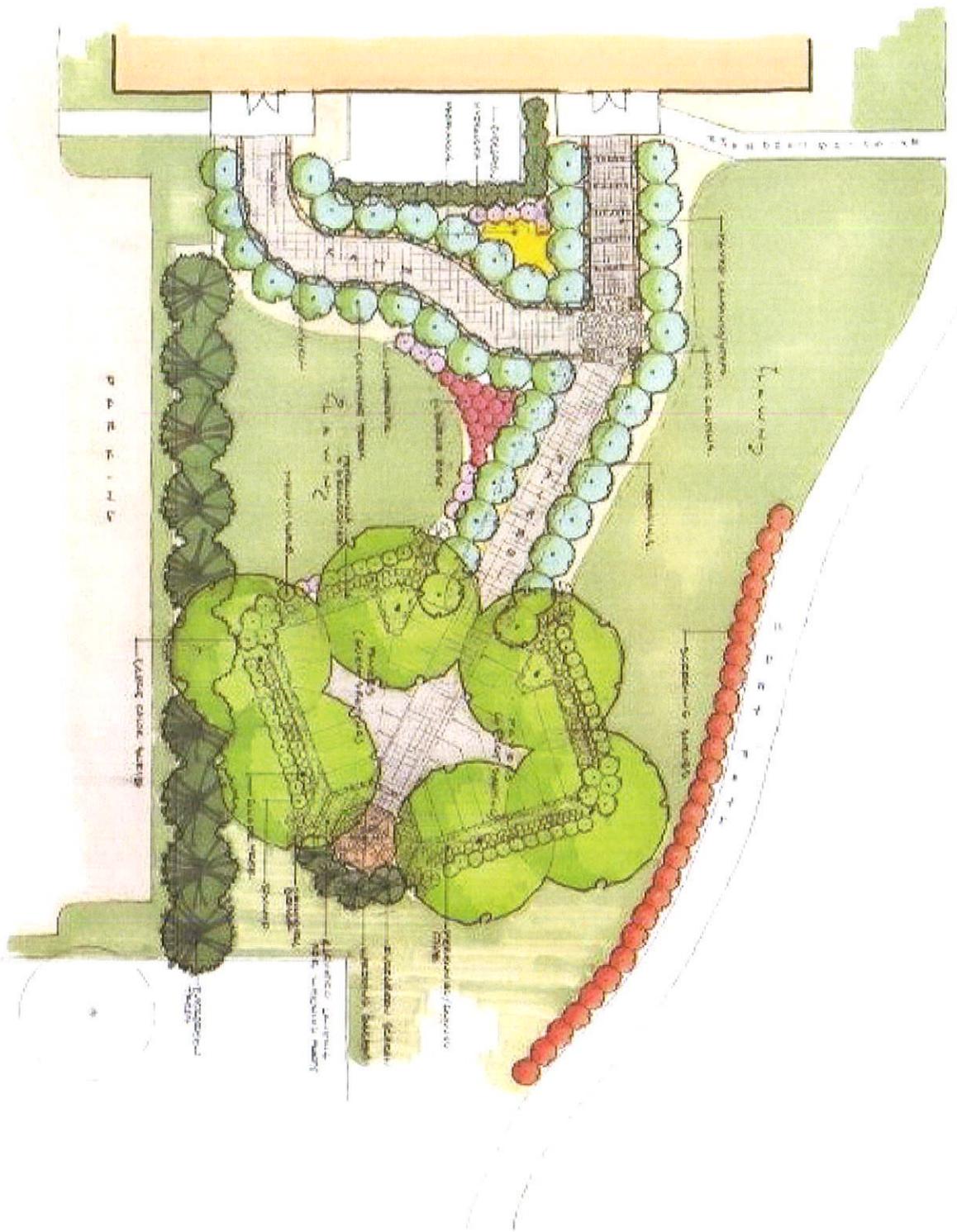
Our experienced gazebo designers are ready to assist you. Feel free to call right now at **1-800-700-1777** so one of our gazebo experts can provide information about site preparation, shipping, installation, and any other details you would like to discuss.

Your very own special (limited time) discount will be e-mailed to you within 24 hours. We think you will be pleased!

If you have not yet ordered the 48-page gazebo catalog, DVD, and comprehensive price guide, [please click here.](#)

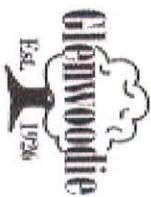
**Share Your Custom Design**





D A T U M

Landscape Concept Plan  
 Outdoor Wedding Facility  
 Glenwood Golf Course  
 Glenwood, Illinois  
 16 September 2013



1926 Glenwood, Glenwood, IL 60139  
 815-291-1100  
 www.glenwoodgolf.com  
 (based on approval by Village of Glenwood)

**SHARPTON DESIGN**  
 LANDSCAPE ARCHITECTS & CONSTRUCTORS  
 1615 North Lincoln Street, Suite 100  
 Chicago, IL 60614  
 Phone: 773-327-1100  
 Fax: 773-327-1101  
 www.sharpton.com

Scale: 1" = 10'



## Contract

**LAGONE PAVING & SEALCOATING, INC.**  
**350 W. 194<sup>th</sup> STREET - GLENWOOD, IL. 60425**  
**SOUTH SUBURBS 708-754-6450 - SOUTH WEST SUBURBS 815-464-8400**  
**Fax - 708-754-6565**

Proposal submitted to	Phone	Date
Village of Glenwood	708/516-7990	5-06-14
Street	Job Name	
One Asselbornway	Glenwoodie Golf	
City, State and Zip Code	Job Location	
Glenwood, IL 60425	State St., Glenwood	
Architect	Date of Plans	Job Phone
Eric Swanson	ericglenwoodie@sbcglobal.net	708/758-1233

We hereby submit specifications and estimates for:

Based on: 118,074 sqf.

-Clean lot free of all debris.	
-Apply <u>2 coats</u> of coal tar emulsion.	<b>\$13,711.00</b>
-Restripe lot as is	<b>\$1,600.00</b>

**We propose** hereby to furnish material and labor - complete in accordance with above specifications, for the sum of:

**Fifteen Thousand Three Hundred Eleven and 00/100 (\$15,311.00)**

Payment to be made as follows: Upon completion of job.

All material is guaranteed to be as specified. All work to be completed in a workman like matter according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered Workman=s Compensation Insurance.

### GENERAL SPECIFICATIONS

These are general specifications for our most common services. Some or all of these services may be included in your specific proposal. There also may be differences on your proposal, which would supersede these specifications.

#### SEALCOATING

Prior to sealing, the entire area will be swept and cleaned of all dirt and debris with hand brooms and blowers or a sweeper truck as the particular project warrants. Oil spots that require priming will be cleaned and primed as necessary with a latex primer. Please note that areas of asphalt with severe oil saturation will not accept the coating even if primed and replacement of the asphalt may be necessary. All concrete edging will be done with fine bristle brooms to prevent splashing the sealer on the concrete. Finally, the coal tar emulsion sealer will be applied in 2 coats at a rate of 2 gallons per 100 square feet or as indicated on the proposal.

The sealer will meet all requirements of federal specification ASTM D 5727 (old RP-355e) and will be fortified with 4 pounds of Black Beauty aggregate per gallon of sealer for added skid resistance and durability. Tarmax latex rubber additive will be added to the mixture at a rate of 4 gallons per 100 gallons of sealer to provide added flexibility and durability to the finished coating.

Please note that for most applications (excluding residential driveways) sealer is best applied in 2 coats. Since sealer, as with most waterborne products, does not cure properly if the coating is too thick, it is recommended that the sealer be applied in 2 separate coats thereby achieving the proper cure as well as a final film thickness equal to or greater than a 1-coat application.

Please note that sealer is not a suitable crackfilling material. The sealer will fill very minute cracks and voids; but when applied to a crack or void greater than its acceptable thickness, it will either not cure or will shrink and crack in a relatively short period of time. The only proper crackfilling material is a rubberized material specifically designed for sealing cracks.

#### PAVEMENT MARKINGS (STRIPING)

Prior to striping, the specific areas to be painted will be cleaned as necessary of minor debris with hand brooms. The specific markings will be measured and chalk lines will be snapped as necessary. Finally, the oil base or latex paint will be applied at a rate of approximately 100 square feet per gallon per coat producing a wet film thickness of approximately 15 mils per coat. All paint used will meet or exceed Illinois Department of Transportation specifications.

**GENERAL NOTES AND EXCLUSIONS**

Any litigation that should arise from this contract customer shall pay all interest court cost and Attorney fees.

**Exclusions** - Unless otherwise stated on the proposal the following are excluded from the price quoted

- Payment for and procurement of required permits.
- Notification to residents/tenants and removal of vehicles and/or other obstructions in the area of work.
- Multiple mobilizations.
- Removal of hazardous materials, plumbing adjustments and landscape restoration.
- Engineering work, layout work, testing of materials and testing of completed work.
- Excavation and/or undercutting above and beyond that which are indicated on the proposal.
- Location of underground utilities not located by JULIE, DIGGER or UNDERGROUND utility location services. Lagone Paving & Sealcoating, Inc. is not responsible for any damage to any non-located utilities when performing work authorized by the owner. Includes but not limited to site electric, detector loops and phone lines.

**General notes:**

- Unless otherwise indicated prices quoted are based upon performing work during normal working hours Monday through Friday excluding holidays.
- Unless otherwise indicated all material and labor is warranted for one full year from the date of substantial completion.
- Lagone Paving & Sealcoating, Inc. is fully licensed and insured and will provide a certificate of insurance on request. The prices quoted are based on the insurance limits held by Lagone Paving & Sealcoating, Inc. on the date of the proposal. Any request to increase the limits will require an additional charge.
- Return trips to complete work caused in any way by the Owner/ Contractor, their employees, their tenants or anything under their control will incur a return trip charge.
- All job information, work instructions and/or requested changes must be conveyed to your Lagone Paving & Sealcoating, Inc. salesperson. We cannot be held responsible for problems arising from information that is not conveyed to the salesperson.
- The prices on this proposal do not cover any costs due to unforeseeable existing conditions. Additional costs arising from unforeseeable conditions will be charged to the contractor/owner or the signer of the proposal.

**ASPHALT PATCHING - SKIN**

The areas to be patched will be cleaned and primed. The areas will then be resurfaced with bituminous plant mix asphalt at a finished compacted thickness as listed on the proposal. Please note that the edges of each patch will be feathered in to the existing asphalt.

**ASPHALT PATCHING - REMOVE AND REPLACE**

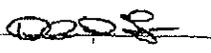
The areas to be patched will be sawcut as necessary and the broken asphalt will be removed to the depth indicated on the proposal. The stone base will be inspected to insure it's integrity, regraded and compacted. The vertical edges of the patch will be primed, and the areas will be patched with bituminous plant mix asphalt.

Unless otherwise indicated the pricing will not include repairing the stone base and/or additional depth patching. If a problem with the stone base exists, the owner/contractor will be notified and given a quotation to repair the problem. If additional depth patching is required due to unforeseen conditions (e.g. thickness of the existing asphalt is greater than thought), an additional charge of \$0.50 per square foot for each additional inch of depth that is required will be charged. A lesser or greater charge amount may be listed on your proposal and would supersede the amount shown here

**CRACKFILLING**

Cracks 1/4 inch in width and greater will be routed to a width and depth of 1/2 inch and cleaned of all dust and debris with a compressor providing a minimum of 100 PSI and 185 CFM. Routing and cleaning of the cracks is a vital part of the process, as the crackfill material needs a properly prepared and cleaned reservoir so that it will bond with the asphalt sides of the crack and remain in the crack. The cracks will then be filled with rubberized hot tar crack sealant. The cracks will be slightly overfilled and relieved of excess material by striking off the excess forming a band on either side of the crack. This method is recommended by the manufacturer and ensures that the proper amount of material is poured into the crack while preventing an excess that might lead to the material being pulled from the crack by snow plow blades, stationary power steering turns, etc. Please note that as the material cools it will contract slightly leaving a meniscus or slightly beveled effect in the crack. This is not a problem with the material and is desired, as there is a risk of the material being pulled from the crack if it is flush or slightly raised. Please see your proposal for the actual quantity of cracks to be filled. Filling of additional cracks would incur an additional charge.

The crackfill material will meet all requirements of federal specifications AASHTO M 173 and ASTM D 3405 and will be heated in an oil-jacketed double boiler with thermostatic controls and mechanical agitation. Please note that areas of asphalt that are alligatored will not be filled as that asphalt condition warrants replacement patching and filling those cracks is not cost effective. Please also note that crackfilling is a functional maintenance procedure and is not an aesthetic remedy for unsightly cracks. Sealcoating over the crackfilling material will hide the material for a short period of time, but the cured sealcoat material is a rigid coating and will eventually flake off the flexible crackfill material over time. Although the sealcoat and crackfill materials are both black, they are different shades of black; therefor in time you will be able to plainly see the crackfill material even after sealcoating the asphalt

Authorized Signature: 

Note: This proposal may be withdrawn by us if not accepted within 10 days.

**Acceptance of Proposal** - The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature \_\_\_\_\_

Date of Acceptance: \_\_\_\_\_

Signature \_\_\_\_\_

**SALES TAX SHARING INCENTIVE AGREEMENT**

This Sales Tax Sharing Incentive Agreement (the "Sales Tax Agreement") is dated this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by and between the **VILLAGE OF GLENWOOD**, Cook County, Illinois ("Village") and \_\_\_\_\_, an Illinois \_\_\_\_\_ ("Developer").

**RECITALS:**

A. \_\_\_\_\_ is the Owner of a parcel of property located within the Village located at the Northwest corner of Halsted Street and Arquilla Drive (the "Subject Property") which is is legally described on Exhibit "A" attached hereto and made a part hereof and is improved with a Wendy's restaurant.

B. Developer is the [explain how developer has a right to use the property], operates the Wendy's restaurant on the Subject Property and is legally liable and responsible to pay sales taxes pertaining to the operation of the Wendy's restaurant on the Subject Property

C. Developer proposes to remodel and upgrade the existing Wendy's restaurant located on the Subject Property in accordance with a Redevelopment Agreement entered into with the Village and pursuant to the plans as set forth in Exhibit B, which hereinafter shall referred to as the Redevelopment Project.

D. Developer anticipates that the completion of the Redevelopment Project will result in increased sales and resulting increases in sales tax revenue for the Village.

E. Developer represents and warrants that the Redevelopment Project for the Subject Property requires economic assistance from the Village and that, but for the economic assistance to

be given by the Village in this Sales Tax Agreement and the Redevelopment Agreement, the Redevelopment Project would not be economically viable to Developer.

F. The Village is a home rule unit of local government pursuant to the provisions of Article VII, Section 6 of the Illinois Constitution and is entering into this Sales Tax Sharing Incentive Agreement in the exercise of its home rule authority.

G. Pursuant to this Sales Tax Agreement, the Village, as set forth hereinbelow, agrees to share or rebate a portion of the Retailers' Occupation Taxes received by the Village that is generated by the increase in sales anticipated to occur as a result of the completion of the Redevelopment Project for the Subject Property pursuant to all the terms and conditions set forth in this Sales Tax Agreement.

**NOW, THEREFORE, IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO, as follows:**

**SECTION 1: Incorporation of Recitals.** The recitals set forth hereinabove are true, material to this Sales Tax Agreement and incorporated into this Section as if they were fully set forth herein.

**SECTION 2: Incorporation of the Redevelopment Agreement.** This Sales Tax Agreement is an exhibit to a Redevelopment Agreement entered into between the Village of Glenwood and \_\_\_\_\_

as of the same date as this Sales Tax Agreement. The Redevelopment Agreement shall herein be incorporated into this Sales Tax Agreement. The definitions of "Redevelopment Project Costs" and "Eligible Redevelopment Project Costs" as set forth in the Redevelopment Agreement shall be incorporated in to this Sales Tax Agreement. The incentive and benefits provided by this Sales Tax

Agreement shall not be reduced by any payments made by the Village pursuant to the Redevelopment Agreement.

**SECTION 3: Developer Commitment.** As a condition precedent to the Village's obligation set forth hereinbelow, Developer agrees as follows:

- A. On or before \_\_\_\_\_, subject to force majeure, to present to the Village the proposed plans and specifications for the completion of the Redevelopment Project on the Subject Property.
- B. On or before \_\_\_\_\_, subject to force majeure, to have obtained final approval from the Village and any other necessary agency, board or commission for the development of the Redevelopment Project on the Subject Property. It is understood that the Village retains the right to approve plans for the Redevelopment Project in accordance with its customary building permit review and issuance process. Upon a showing of due diligence by the Developer, Village will extend the deadlines in this Section 2(A) or 2(B) for such reasonable periods of time as may be necessary in order to allow Developer to complete the aforesaid plans and specifications and obtain such approvals.
- C. On or before \_\_\_\_\_, subject to force majeure, the Developer shall have completed the Redevelopment Project and shall have obtained an occupancy permit for same.

**SECTION 3: Construction of the Project.** Promptly upon the approval of the Developer's plans and specifications as provided in Section 2 hereinabove and subject to force majeure,

Developer shall proceed to remodel the Wendy's restaurant on the Subject Property and will continuous proceed to complete the Redevelopment Project with due diligence.

**3.1 The Redevelopment Project.** The Parties agree that the Subject Property shall be developed substantially in accordance with the objectives of the Redevelopment Project as set forth in Exhibit B as modified or revised from time to time as mutually agreed to by the Parties and as required by law. The Developers shall be required to obtain and maintain all necessary site plan and other Village reviews and approvals that are a prerequisite to construction, including but not limited to approvals from any other agency having jurisdiction of the Subject Property. Until such requirements have been satisfied, the Developers shall have no right to proceed with the Redevelopment Project. Developer agrees to cause the Redevelopment Project to proceed in a timely manner and substantially in accordance with the objectives of the Redevelopment Project as it may be modified or revised from time to time pursuant to the agreement of the Parties. The Developers shall undertake or cause to be undertaken the Redevelopment Project in accordance with the Plans to be filed with, and approved by, the Village, and any other appropriate governmental or regulatory agency.

**3.2 No Liens.** No mechanics' or other liens shall be established against the Redevelopment Project, the Subject Property, or any Village funds in connection with the Redevelopment Project for labor or materials furnished in connection with any acquisition, demolition, site preparation, construction, additions, modifications, improvements, repairs, renewals or replacements so made; provided, however, that the Developer shall not be in default hereunder if mechanics' or other liens are filed or established and the Developer contests in good faith said mechanics' liens. In such event the mechanics' or other liens may remain undischarged and

unsatisfied during the period of such contest and any appeal therefrom, Developer shall not be in violation of this Section if Developer posts a bond or a letter of credit in an amount sufficient to cover any liens, and the Developer send written notice to the Village advising of the type and amount of the security posted for such liens. In no event, however, shall the Developer allow the foreclosure of any mechanics' or other liens. The Developer shall pay in full any and all liens for which it is found liable.

**3.3 Agreement to Pay Taxes.** The Developer agrees that it shall pay or cause to be paid all real estate tax bills for the Subject Property promptly on or before the due date of such tax bills.

**3.4 Completion of Redevelopment Project.** The Developer agree to pay any and all costs and expenses necessary for the timely and lien free completion of the Redevelopment Project, even if said costs and expenses exceed the project budget or any amendments thereto, and to indemnify and hold the Village and its officers, elected and appointed, employees, agents and attorneys harmless from and against any and all loss, damage, cost, expense, injury or liability the Village may suffer or incur in connection with the failure of the Developer to complete the Redevelopment Project, and to pay all attorneys' fees, costs and expenses the Village incurs in enforcing the obligations of the Developer under this Sales Tax Agreement, except to the extent that such claim arises from the Village's failure to comply with the terms of this Sales Tax Agreement.

**SECTION 4: "Municipal Sales Tax Revenues" (Defined).** For purposes of this Agreement, the term "municipal sales tax revenues" shall refer to the 1% portion of the tax imposed on municipal retailers by the Retailers' Occupation Tax Act, 35 ILCS 120/1 *et. seq.* that is actually

received by the Village from the State of Illinois (the "State") as a result of the payment of the Retailers' Occupation Tax from the operation of a Wendy's restaurant on the Subject Property. (e.g. As the current tax under the Retailers' Occupation Tax Act is at the rate of 6.25% of the applicable sales price, the Village's aforesaid 1% portion would be equal to 16% of the 6.25% tax which equals 1% of applicable sale price that is taxed). If at any time the Village's portion exceeds the aforesaid 1% portion of the taxed sale price imposed on retailers by the Retailers' Occupation Tax Act, 35 ILCS 120/1 *et. seq.*, then "municipal sales tax revenues" shall not include any amounts that exceed the aforesaid 1% portion of the taxed sale price imposed on retailers within the Subject Property by the Retailers' Occupation Tax Act, 35 ILCS 120/1 *et. seq.* If at any time the Village receives less than the aforesaid 1% portion of the taxed sale price imposed on retailers within the Subject Property by the Retailers' Occupation Tax Act, 35 ILCS 120/1 *et. seq.*, then "municipal sales tax revenues" shall be defined as such lesser amount received by the Village from the State from the Subject Property. Notwithstanding any other provision of this Agreement and pursuant to the provisions of 65 ILCS 5/8-11-21, "municipal sales tax revenue" shall not include any portion of retailers' occupation taxes generated by retail sales on the Subject Property if: (1) the tax on those retail sales, absent this Agreement, would have been paid to another unit of local government; and (2) the retailer maintains, within another unit of local government, a retail location from which the tangible personal property is delivered to purchasers, or a warehouse from which the tangible personal property is delivered to purchasers. The Developer shall defend, indemnify and hold the Village harmless from any claim brought against it under 65 ILCS 5/8-11-21 and any damages imposed upon the Village pursuant to 65 ILCS 5/8-11-21.

**SECTION 5: Agreement to Share a Portion of Sales Tax.** Municipal Sales Tax Revenues

shall be shared as follows:

**5.1 Sales Tax Year calculation period.** The calculation for the Municipal Sales Tax Revenues to be shared shall be made for a twelve month period beginning on the first day of the month following the date the Developer receives an occupancy permit for the Completion of the Redevelopment Project and then for each such subsequent twelve month period during the duration of this Sales Tax Agreement until the Developer has either received the maximum total payment allowed by Section 5.4 or this Sales Tax Agreement has expired. Each twelve month period shall hereinafter be referred to as a "Sales Tax Year."

**5.2 Developer to receive 70% of Municipal Sales Tax Revenue on taxable receipts that exceed \$1,700,000.00 in a Sales Tax Year.**

No sharing of Municipal Sales Tax Revenues for any Sales Tax Year shall occur until such time that the Village has received Municipal Sales Tax Revenues on \$1,700,000.00 (One Million, Seven Hundred Thousand Dollars) of taxable receipts generated by the Wendy's restaurant located on the Subject Property pursuant to the Retailers' Occupation Tax Act for the Sales Tax Year. (For example, if the Village's share of the Retailers' Occupation Tax remains at 1% of the applicable sales price that is taxed, then the first \$17,000.00 ( $\$1,700,000.00 \times .01 = \$17,000.00$ ) of Municipal Sales Tax Revenues received by the Village for the Subject Property shall be retained by the Village and not shared with the Developer.) After the Village receives Municipal Sales Tax Revenues on the first \$1,700,000.00 of taxable receipts generated by the Subject Property pursuant to the Retailers' Occupation Tax Act in a Sales Tax Year, then Municipal Sales Tax Revenues shall be shared as follows: (1) Developer shall receive 70% of the Municipal Sales Tax Revenues on taxable receipts

generated from the operation of the Wendy's restaurant on the Subject Property that exceeds \$1,700,000.00 for the Sales Tax Year; and (2) the Village shall receive 30% of the Municipal Sales Tax Revenues on taxable receipts generated from the operation of the Wendy's restaurant on the Subject Property that exceeds \$1,700,000.00 for the Sales Tax Year. The calculation of the Municipal Sales Tax Revenues for each Sales Tax Year shall be made within 30 days after the Village receives information from the State pertaining to the Municipal Sales Tax Revenue payments received by the Village for the Subject Property for each of the 12 months within the Sales Tax Year. Developer understands that the payment of Municipal Sales Tax Revenues to the Village for a given month is controlled by the Illinois Department of Revenue and tends to occur approximately 3 months after the sale is made. Payment of Municipal Sales Tax Revenue to the Developer shall be made by the Village to the Developer within 30 days after any amount due to the Developer is calculated.

**5.3 Reporting requirements.** Developer understand that the Illinois Department of Revenue will not provide the Village with the information that is necessary to determine the amount of Municipal Sales Tax Revenue paid to the Village for the Subject Property unless that Developer authorizes the State to provide the Village with the information that is necessary to determine the amount of Municipal Sales Tax Revenue due to the Developer under this Sales Tax Agreement. To that end, Developer and the Village shall complete the "Illinois Department of Revenue Authorization to Release Sales Tax Information to Local Governments" form, a copy of which is attached as Exhibit C, and such other forms or documents that may from time to time become necessary for the Village to receive the information from the State that is necessary for the

**5.5 Termination.** Even if the Developer has not received the maximum total payment as set forth in Section 5.4 of this Sales Tax Agreement, this Sales Tax Agreement shall expire on the date that is 20 years after the first day of the month following the date the Developer receives an occupancy permit for the Completion of the Redevelopment Project and no further payments shall be due to the Developer. . **IT BEING UNDERSTOOD THAT THE VILLAGE'S OBLIGATIONS UNDER THIS SALES TAX AGREEMENT SHALL NOT BE A GENERAL OBLIGATION OF THE VILLAGE BUT A LIMITED OBLIGATION PAYABLE SOLELY OUT OF THE MUNICIPAL SALES TAX REVENUE ACTUALLY RECEIVED BY THE VILLAGE PURSUANT TO ALL THE CONDITIONS AND LIMITATIONS OF THIS AGREEMENT.**

**SECTION 6: Defaults.** The occurrence of any one of the following shall constitute a default under this Agreement:

- A. Failure to comply with any term, provision or condition of this Sales Tax Agreement within the times herein specified and upon the expiration of the cure period provided hereinbelow.
- B. In the event a representation or warranty of the Developer contained herein is not true and correct in any material respect for a period of thirty (30) days after written notice to the Developer by the Village.
- C. The filing or execution or occurrence of a petition filed by either Party seeking any nature of debtor relief, the making of an assignment for the benefit of creditors by either Party, either Party's execution of any instrument for the purpose of effecting composition of the Party's creditors or if either Party files for bankruptcy.
- D. The cessation of either Party conducting business in the normal course or any admission writing of its inability to meet its debts as they become due.

implementation of this Sales Tax Agreement. The Village shall take all action as may be necessary to obtain the information from the State in order to compute the municipal sales tax revenues from the Subject Property as provided for herein, and to obtain said payments from the State.

In addition, as this Sales Tax Agreement is subject to State reporting requirements, Developer agrees to provide any and all information requested by the Village in order to allow it to meet the reporting requirements imposed upon the Village by 65 ILCS 5/8-11-21 or any other statutory or regulatory reporting requirement that may from time to time be imposed upon either the Village or Developer.

**5.4 Maximum amount of Municipal Sales Tax Revenue to be received by the Developer.**

The maximum total amount of the sum of all the Municipal Sales Tax Revenue paid to the Developer pursuant to this Sales Tax Agreement shall not exceed the **lesser of** either: (1) 25% of the Developers' actual Certified Eligible Redevelopment Project Costs for the remodeling and renovation of the existing Wendy's restaurant on the Subject Property as determined pursuant to the Redevelopment Agreement entered into by the parties at or about the same time as this Sales Tax Agreement; or (2) \$150,000.00 (One Hundred Fifty Thousand Dollars). At no time shall the Developer receive any interest on any amounts owed to it under this Sales Tax Agreement. All the payments due to the Developer pursuant to this Sales Tax Agreement are contingent upon the Developers' continued ownership and utilization of the Subject Property for the operation of the Subject Property as a Wendy's restaurant.

In the event of any default under or violation of this Sales Tax Agreement, the party not in default or violation shall serve written notice upon the party or parties in default or violation, which notice shall be in writing and shall specify the particular violation or default. The parties hereto reserve the right to cure any violation of this Sales Tax Agreement or default by any of them hereunder within thirty (30) days from written notice of such default; provided, however, that if such default or violation is not reasonably susceptible to cure within such thirty (30) day period, the defaulting party or parties shall have a longer period of time as is reasonably necessary, so long as the defaulting party is acting with due diligence to attempt to cure such default or violation. If such default is so cured to the reasonable satisfaction of the parties hereto after said thirty (30) day period, or within a reasonable cure period as hereinabove defined, all the terms and conditions of this Sales Tax Agreement shall remain in full force and effect as if no such violation occurred. Any obligation of the Village to make payments hereunder during any default period shall be stayed. Furthermore, any period of default shall not extend the time limits set forth for payments hereunder.

If and when any Default shall occur, and not be cured as set forth above, the non-defaulting party may, at its option, in addition to all other rights and remedies given hereunder, or otherwise available by law or equity, including suit for accounting or damages, terminate this Sales Tax Agreement by giving written notice of termination to the other party. Except as otherwise set forth herein, no action taken by a Party pursuant to the provisions of this Section or pursuant to the provisions of any other Section of this Sales Tax Agreement shall be deemed to constitute an election of remedies and all remedies set forth in this Sales Tax Agreement shall be cumulative and non exclusive of any other remedy either set forth herein or available to any Party at law or in equity.

**SECTION 7: Notices.** All notices and requests required pursuant to this Sales Tax Agreement shall be sent by certified mail as follows:

To the Developer:

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

To the Village:

Village President  
Village of Glenwood  
One Asselborn Way  
Glenwood, IL 60425

or at such other addresses as the parties may indicate in writing to the other either by personal delivery or by certified or registered mail, return receipt requested, with proof of delivery thereof.

**SECTION 8: Law Governing.** This Sales Tax Agreement shall be construed and enforced in accordance with the laws of the State of Illinois.

**SECTION 9: Binding Effect.** This Sales Tax Agreement shall inure to the benefit of and shall be binding upon the Village and the Developer and their respective successors and assigns.

**SECTION 10: Limitation of Liability.** No recourse under or upon any obligation, covenant or agreement of this Sales Tax Agreement or for any claim based thereon or otherwise in respect thereof shall be had against the Village, its officers, agents and employees, in any amount in excess of any specific sum agreed by the Village to be paid to the Developer hereunder, subject to the terms and conditions herein, and no liability, right or claim at law or in equity shall attach to or shall be incurred by the Village, its officers, agents and employees in excess of such amounts and all and any such rights or claims of the Developer against the Village, its officers, agents and employees

are hereby expressly waived and released as a condition of and as consideration for the execution of this Sales Tax Agreement by the Village.

**SECTION 11: Reimbursement of Village for Legal and Other Fees and Expenses.** In the event that any third party or parties institute any legal proceedings against the Developer and/or the Village, which relate to the terms of this Agreement, then, in that event, the Developer, on notice from Village, shall assume, fully and vigorously, the entire defense of such lawsuit and all expenses of whatever nature relating thereto; provided, however, Developer shall not make any settlement or compromise of the lawsuit, or fail to pursue any available avenue of appeal of any adverse judgment, without the approval of the Village, which approval shall not be unreasonably withheld.

**SECTION 12: No Waiver or Relinquishment of Right to Enforce Agreement.** Failure of any party of this Sales Tax Agreement to insist upon the strict and prompt performance of the terms, covenants, agreements and conditions herein contained, or any of them, upon any other party imposed, shall not constitute or be construed as a waiver of relinquishment of any party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

**SECTION 13: Village Approval or Direction.** Where Village approval or direction is required by this Sales Tax Agreement, such approval or direction means the approval or direction of the Corporate Authorities of the Village, unless otherwise expressly provided or required by law, and any such approval may be required to be given only after and if all requirements for granting such approval have been met, unless such requirements are inconsistent with this Sales Tax Agreement.

**SECTION 14: Section Headings and Subheadings.** All section headings or other headings in this Sales Tax Agreement are for general aid of the reader and shall not limit the plain

meaning or application of any of the provisions thereunder whether covered or relevant to such heading or not.

**SECTION 15: Authorization to Execute.** The officer of the Developer who has executed this Sales Tax Agreement warrants that he has been lawfully authorized by the Developer to execute this Sales Tax Agreement on behalf of the Developer. The Village hereby warrants that its President and Village Clerk have been lawfully authorized by the Village Board of the Village to execute this Sales Tax Agreement. The Developer and Village shall deliver, upon request to each other, copies of all articles of organization, operating agreements, articles of incorporation, by-laws, minutes and other evidence of the authority to so execute this Sales Tax Agreement on behalf of the respective parties.

**SECTION 16: Entire Agreement/Amendment.** This Sales Tax Agreement sets forth all the promises, inducements, agreements, conditions and understandings between the Developer and the Village relative to the subject matter thereof, and there are no promises, agreements, conditions or understandings, either oral or written, expressed or implied, between them, other than those that are herein set forth. This Sales Tax Agreement supersedes all prior written agreements, negotiations and understandings, written and oral, and shall be deemed a full integration of the entire agreement of the Parties. No subsequent alteration, amendment, change or addition to this Sales Tax Agreement shall be binding upon the parties hereto unless authorized in accordance with law and reduced in writing and signed by them.

**SECTION 17: Severability.** If any provision of this Sales Tax Agreement is held invalid by a court of competent jurisdiction or in the event such a court shall determine that the Village does not have the power to perform any such provision, such provision shall be deemed to be excised

herefrom and the invalidity thereof shall not affect any of the other provisions contained herein, and such judgment or decree shall relieve the Village from performance under such invalid provision of this Sales Tax Agreement; provided, however, if the judgment or decree relieves the Village of its monetary obligations under this Agreement, then the Developer will be relieved of its monetary and reporting requirements hereunder. If the Village is relieved only partially of its monetary obligations hereunder, Developer shall remain bound by all applicable reporting requirements and an equal portion of its monetary obligations.

**SECTION 18:**        **Expiration and Termination.** This Sales Tax Agreement shall terminate upon the Developers receipt of the maximum total payment due the Developer pursuant to Section 5.4 or otherwise upon the expiration of time limits set forth in Section 5.5.

**SECTION 19:**        **Recording of Agreement.** This Agreement or a Memorandum hereof may be recorded with the Recorder of Deeds of Cook County, Illinois, as the expense of the Developer.

**SECTION 20:**        **Execution of Agreement.** This Agreement shall be signed last by the Village and the President of the Village shall affix the date on which he signed this Agreement on Page 1 hereof, which date shall be the effective date of this Agreement. This Agreement may be executed in two or more counterparts, each of which taken together, shall constitute one and the same instrument.

**SECTION 21:**        **Force Majeure (defined).** For the purposes of this Agreement, a *force majeure* is defined as any event arising from causes beyond the control of the Developer, or of any entity controlled by Developer, including but not limited to their contractors and subcontractors, which delays or prevents performance of any obligation under this Agreement despite Developer's

best efforts to fulfill the obligation. *Force majeure* does not include financial inability to complete the Work, or an increase in the cost of performance.

**SECTION 22:**        **Village's Right to Inspect Books and Records.** The Developer agrees that, up to four years after completion and approval of the Redevelopment Project, the Village, with reasonable advance notice and during normal business hours, shall have the right and authority to review, audit, and copy, from time to time, the Developer's books and records relating to the Redevelopment Project (including the following, if any: all loan statements, contractor's sworn statements, general contracts, subcontracts, bills, material purchase orders, waivers of lien, paid receipts and invoices, bank statements, cancelled checks) in order to confirm the amount of the Eligible Redevelopment Project Costs.

**SECTION 23:**        **Interpretations.** This Agreement has been jointly negotiated by the Parties and shall not be construed against a Party because that Party may have primarily assumed responsibility for the drafting of this Sales Tax Agreement.

**SECTION 24:**        **Exhibits.** All exhibits attached hereto are declared to be a part of this Sales Tax Agreement and are incorporated herein by this reference.

**SECTION 25:**        **Independent Contractors.** The Parties shall be and act as independent contractors, and under no circumstances shall this Sales Tax Agreement be construed as one of agency, partnership, joint venture or employment between the Parties. The Parties shall each be solely responsible for the conduct of their respective officers, employees and agents in connection with the performance of their obligations hereunder.



subscribed to the foregoing agreement appeared before me this day in person, and acknowledged that s/he signed, sealed and delivered the said instrument in her/his capacity as the \_\_\_\_\_ of \_\_\_\_\_ as the free and voluntary act of \_\_\_\_\_ for the uses and purposes therein set forth.

Given under my hand and official seal and sworn to before me this \_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2013.

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

DRAFT

**EXHIBIT "A"**

(Legal description of the Subject Property)

DRAFT

**EXHIBIT "B"**

**(Plans )**

DRAFT

**EXHIBIT "C"**

(Illinois Department of Revenue Authorization to Release Sales Tax Information to Local Governments)

DRAFT



# Illinois Department of Revenue

## Authorization to Release Sales Tax Information to Local Governments

### General Information

Complete this form *only* if you

- make retail sales of tangible personal property from a permanent location in Illinois or conduct a tent sale where you complete ST-556 forms for individual transactions; and
- want to authorize us (Illinois Department of Revenue) to disclose to your local government its share of sales tax received from your business.

Incomplete requests will be returned to the local government.

### Step 1: Provide the retail business details

1 \_\_\_\_\_  
 Illinois Account ID number (Sales Tax number)

2 \_\_\_\_\_  
 Taxpayer/business name

← Enter your Illinois Account ID here, **not** your Federal Employer Identification Number (FEIN).

\_\_\_\_\_ **IL** \_\_\_\_\_  
 Address (actual address of retail location) City County State Zip

3 I authorize this release for the reporting periods \_\_\_\_\_ through \_\_\_\_\_  
 (month, year) (month, year)

**Note:** All requests must have a beginning and ending date.

4 This information is to be released to the (circle one) village, city, town or county of \_\_\_\_\_

**Note:** All Financial Reporting requests will be mailed to the Treasurer of the local government. No additional copies will be sent by the Department.

### 5 Sign below

I, as the owner or authorized officer, authorize the Illinois Department of Revenue (IDOR) to disclose to the designated village, city, town, or county the amount of the local government's share of sales tax received from the taxpayer for the reporting period specified above.

\_\_\_\_\_  
 Signature of owner or authorized officer of the business Title  
 ( ) -  
 \_\_\_\_\_  
 Print Name Telephone number

### Step 2: Give this form to your local government designated to receive the tax information

### Step 3: To be completed by the local government official receiving information

Type of request (circle one): \_\_\_\_\_ group/district \_\_\_\_\_ stand-alone

If group/district, enter name here: \_\_\_\_\_

I, as the local government official, verify that this form is accurate and complete.

\_\_\_\_\_ ( ) -  
 Signature of local government official Title Telephone number

\_\_\_\_\_ **IL** \_\_\_\_\_  
 Address City State Zip

**Completed forms should be returned to:** Illinois Department of Revenue, Local Tax Allocation Division 3-500, PO Box 19014, Springfield, IL 62794-9014 or by fax to 217 524-0526

**Questions?** Call 217 785-6518

This form is authorized by the Retailers' Occupation Tax Act 35 ILCS 120/11. Disclosure of this information is VOLUNTARY. This form has been approved by the Forms Management Center. IL-492-4561

---

**REDEVELOPMENT AGREEMENT**

**Between**

**VILLAGE OF GLENWOOD, COOK COUNTY, ILLINOIS**

**And**

---

**Note: The property (29-33-301-107-0000) is owned by Michael A. Giurbino and Suzanne E. Giurbino Revocable Trust**

**Dated as of \_\_\_\_, 2013**

---

## REDEVELOPMENT AGREEMENT

This redevelopment agreement (the "Agreement") is made and entered into as of the \_\_\_\_\_st day of \_\_\_\_\_, 2013 by and between the **VILLAGE OF GLENWOOD**, an Illinois home rule municipality (the "Village"), \_\_\_\_\_ ("Developer"), an \_\_\_\_\_ Corporation located at \_\_\_\_\_ . (The Village and Developers are sometimes hereinafter referred to individually as a "Party" and collectively as the "Parties").

### RECITALS

A. The Village has, pursuant to the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq., as amended (the "Act") the authority to approve redevelopment plans and projects for areas within its jurisdiction designated by the Village as blighted or conservation areas pursuant to the Act.

B. The Village has, in accordance with the Act, by Ordinances nos. 2011-\_\_\_\_, 2011-\_\_\_\_, and 2011-\_\_\_\_, adopted a Redevelopment Plan and Project and designated the Redevelopment Project Area known as the Halsted Redevelopment Project Area and has adopted tax increment financing for the Halsted Redevelopment Project Area.

C. The "Subject Property" as used in this Agreement is the property identified by PIN#: 29-33-301-107-0000 and commonly known as 18257 S. Halsted Street, Glenwood, Illinois. The Subject Property is owned by \_\_\_\_\_ and is used by \_\_\_\_\_ as lessee for the operation of Wendy's restaurant. The Subject Property is located in the Halsted Redevelopment Project Area.

D. The corporate authorities of the Village, after due and careful consideration, have concluded that the renovation/remodeling of the existing structure located within the Subject Property will further the growth of the Village, facilitate the redevelopment of the Halsted Redevelopment Project Area; improve the environment of the Village; increase the assessed valuation of real estate situated within the Village; increase the economic activity within the Village; provide jobs within the Village; and otherwise be in the best interests of the Village by furthering health, safety, morals and welfare of its residents and taxpayers.

E. The Developer(s) desire to rehabilitate and remodel the existing building on the Subject Property.

F. The rehabilitation and remodeling of the Subject Property would not occur but for the incentives provided for in this agreement which the Village deems to be reasonable and necessary for the development contemplated by this Agreement.

G. No shareholder, officer, director or employee of any of the Developers is an elected official, officer or employee of the Village. All the individuals that have an ownership or beneficial interest in the Subject Property are: \_\_\_\_\_

---

---

---

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

**ARTICLE I**  
**RECITALS PART OF AGREEMENT**

1.1 **Incorporation of Recitals.** The recitations set forth in the foregoing recitals are true, material to this Agreement and are hereby incorporated into and made a part of this Agreement as though they were fully set forth in this Article I.

**ARTICLE II**  
**MUTUAL ASSISTANCE**

2.0 **Cooperation.** The Parties agree to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications (and, in the Village's case, the adoption of such ordinances and resolutions), as may be necessary or appropriate, from time to time, to carry out the terms, provisions and intent of this Agreement and to aid and assist each other in carrying out said terms, provisions and intent. Further, the Village agrees that it will not enact any ordinances or resolutions removing the Subject Property from the Halsted Redevelopment Project Area without the prior written consent of the Developer.

2.1 \_\_\_\_\_ represents and warrants that it is an Illinois Corporation that is in good standing.

2.2 \_\_\_\_\_ represents and warrants that it is an Illinois Corporation that is in good standing.

**ARTICLE III**  
**REQUIRED APPROVALS**

3.1 **Plan Approval.** The Developers shall submit to the Village a complete permit application, with all required documentation including engineering, development and other required plans (the "Plans") for the Redevelopment Project to be constructed by the Developers. The Village shall review said application in accordance with all applicable ordinances, codes and regulations, and shall approve the application and Plans or provide a written description of the reasons that the application and/or the Plans have not been approved.

3.2 **Redevelopment Project.** In order to further the development of the Halsted Redevelopment Project Area, the Developer desires to rehabilitate and renovate the existing building on the Subject Property as described in Exhibit A and continue to utilize the Subject Property for its operation of a Wendy's restaurant. The Developers' renovation of the Subject Property as described in Exhibit A and the continued use of the Subject Property for the design

and manufacture of material handling equipment shall herein be referred to as the Redevelopment Project.

3.3 **Construction Approval.** Prior to commencing any work on the Redevelopment Project, the Developers shall obtain or cause its contractors to obtain all requisite governmental permits and approvals for such work and at such times as are required in accordance with Village ordinances and codes. The Developers shall expeditiously construct or cause to be constructed the Redevelopment Project in a good and workmanlike manner in accordance with all applicable federal, state and local laws, ordinances and regulations, including, but not limited to Illinois Prevailing Wage requirements. The Developers shall not cause or permit any deviation from Village-approved engineering and construction plans and specifications without the Village's prior consent.

3.4 **Indemnification.** The Developers covenant and agree to pay, at its expense, any and all claims, damages, demands, expenses, liabilities and losses resulting from the construction and development activities of the Developers, its agents, contractors and subcontractors with respect to the Redevelopment Project and to defend, indemnify and save the Village and its officers, agents, employees, engineers and attorneys (the "Indemnitees") harmless from and against such claims, damages, demands, expenses, liabilities and losses, including, but not limited to, any claims against the Village for the Developers' failure to comply with the Illinois Prevailing Wage Act.

**ARTICLE IV**  
**REDEVELOPMENT AND USE OF THE PROPERTY AND**  
**CONSTRUCTION OF THE REDEVELOPMENT PROJECT**

4.1 **The Redevelopment Project.** The Parties agree that the Subject Property shall be developed substantially in accordance with the objectives of the Redevelopment Project as set forth in Exhibit A as modified or revised from time to time as mutually agreed to by the Parties and as required by law. The Developers shall be required to obtain and maintain all necessary site plan and other Village reviews and approvals that are a prerequisite to construction, including but not limited to approvals from any other agency having jurisdiction of the Subject Property. Until such requirements have been satisfied, the Developers shall have no right to proceed with site preparation or construction.

4.2 **Construction of Redevelopment Project.** The Developers shall commence construction of the Redevelopment Project promptly after approval by the Village of Developers' Plans. The Developers agree to cause construction of the Redevelopment Project to proceed in a timely manner and substantially in accordance with the objectives of the Redevelopment Project as it may be modified or revised from time to time pursuant to the agreement of the Parties. The Developers shall undertake or cause to be undertaken the Redevelopment Project in accordance with the Plans to be filed with, and approved by, the Village, and any other appropriate governmental or regulatory agency. The completion of construction and the receipt of any final occupancy permit that may be necessary for the Redevelopment Project must be completed on or before \_\_\_\_\_.

4.3 **No Liens.** No mechanics' or other liens shall be established against the Redevelopment Project, the Subject Property, or any Village funds in connection with the Redevelopment Project for labor or materials furnished in connection with any acquisition, demolition, site preparation, construction, additions, modifications, improvements, repairs, renewals or replacements so made; provided, however, that the Developers shall not be in default hereunder if mechanics' or other liens are filed or established and the Developers contest in good faith said mechanics' liens. In such event the mechanics' or other liens may remain undischarged and unsatisfied during the period of such contest and any appeal therefrom, Developers shall not be in violation of this Section if Developers posts a bond or a letter of credit in an amount sufficient to cover any liens, and the Developers send written notice to the Village advising of the type and amount of the security posted for such liens. In no event, however, shall the Developers allow the foreclosure of any mechanics' or other liens. The Developers shall pay in full any and all liens for which it is found liable.

4.4 **Agreement to Pay Taxes.** The Developer(s) agree that it shall pay or cause to be paid all real estate tax bills for the Subject Property promptly on or before the due date of such tax bills.

4.5 **Completion of Redevelopment Project.** The Developers agree to pay any and all costs and expenses necessary for the timely and lien free completion of the Redevelopment Project, even if said costs and expenses exceed the project budget or any amendments thereto, and to indemnify and hold the Village and its officers, elected and appointed, employees, agents and attorneys harmless from and against any and all loss, damage, cost, expense, injury or liability the Village may suffer or incur in connection with the failure of the Developers to complete the Redevelopment Project, and to pay all attorneys' fees, costs and expenses the Village incurs in enforcing the obligations of the Developers under this Redevelopment Agreement, except to the extent that such claim arises from the Village's failure to comply with the terms of this Agreement.

4.6 **Village's Right to Monitor and Inspect Redevelopment Project Site.** In addition to any other rights specified in this Agreement with regard to the construction and maintenance of the Redevelopment Project, the Village shall have the right but not the obligation to inspect the Subject Property for the purpose of monitoring the progress of the Redevelopment Project. During such inspections, which may be made with reasonable advance notice and during normal business hours, Village representatives shall be allowed access to the site as necessary for the Village to determine whether the Redevelopment Project is proceeding in a timely manner and in compliance with all applicable laws, codes, ordinances and regulations, subject to limitations required by safety considerations. The rights set forth herein and the Village's exercise of said rights shall not be construed to relieve the Developers of its separate and independent obligations under this Agreement and under applicable Village codes, regulations and ordinances or as a waiver of any further rights of the Village regarding the construction and maintenance of the Redevelopment Project, including the right to require code compliance and issue stop work orders or violation notices.

**ARTICLE V**  
**PAYMENT AND REIMBURSEMENT OF**  
**REDEVELOPMENT PROJECT COSTS**

5.1 **Definitions.**

(a) For purposes of this Agreement, "Redevelopment Project Costs" shall mean those costs described in Exhibit A which are eligible for payment and reimbursement under the Act. "Eligible Redevelopment Project Costs" means Redevelopment Project Costs that have received a Certificate of Eligibility from the Village.

(b) "Real Estate Tax Increment" means the amount of incremental property tax revenue collected from the Halsted Redevelopment Project Area other than the tax increment collected from PINs \_\_\_\_\_ and/or the contiguous Halsted/Holbrook Redevelopment Project Area pursuant to the Act that are generated as a result of the extension of *ad valorem* real estate taxes upon the property within said Redevelopment Project Areas which are not otherwise pledged to the payment of any particular obligation. **IT BEING UNDERSTOOD THAT THE VILLAGE'S OBLIGATIONS HEREUNDER SHALL NOT BE A GENERAL OBLIGATION OF THE VILLAGE BUT A LIMITED OBLIGATION PAYABLE SOLELY OUT OF THE REAL ESTATE TAX INCREMENT AS DEFINED ABOVE.** In the event the Real Estate Tax Increment is insufficient to pay any portion of the amount due, the unpaid amounts shall only be paid only when additional Real Estate Tax Increment revenue has been received by the Village.

5.2 **Incentive, Method of Payment.**

(a) The Parties acknowledge that the development of the Redevelopment Project for the Subject Property as contemplated by this Agreement will be assisted in part by the reimbursement to the Developers of an amount equal to the **lesser of** either: (1) 25% of the Developers' actual Certified Eligible Redevelopment Project Costs for the remodeling and renovation of the existing building on the Subject Property as described in Exhibit A; or (2) \$150,000.00 (One Hundred Fifty Thousand Dollars).

(b) The Developers recognizes that its reimbursement will depend upon the extent to which Real Estate Tax Increment is received by the Village and other obligations for which said funds may be used. Accordingly, the Developers recognizes that the Village shall not be in default of this Agreement or in any manner held liable if the Real Estate Tax Increment actually received by the Village is not sufficient to fully reimburse the Developers for all of the Developers' Eligible Redevelopment Project Costs, as certified by the Village.

(c) At no time shall the Developers receive any interest on any amounts owed to it under this Agreement.

(d) All the payments due to the Developers pursuant to this Agreement are contingent upon the Developers' continued ownership and utilization of the Subject Property and the operation of the Subject Property as a Wendy's restaurant.

(e) The Developers agree that all reimbursement payments due under this Agreement shall be made to \_\_\_\_\_.

(f) In addition to the incentive provided for above the Village and the Developer shall execute the Sales Tax Sharing Incentive Agreement attached as Exhibit B. The Incentives provided in the Sales Tax Sharing Incentive Agreement shall be in addition to those provided for in this Agreement.

### 5.3 Certification of Redevelopment Project Costs.

The Developers shall apply for the issuance of a Certificate of Eligibility for Redevelopment Project Costs for the remodeling and renovation of the existing building on the Subject Property by submitting to the Village a written request for certification that describes in detail the cost item for which certification is sought (a "Certification Application"). Each Certification Application shall be accompanied by such bills, contracts, canceled checks evidencing payment, lien waivers, engineers and owner certificates or other evidence that the Village shall reasonably require to establish satisfactory completion of the work for which reimbursement is sought, payment of the costs for the work by the Developer, and that the cost constitutes a Redevelopment Project Cost under the provisions of this Agreement and the TIF Act.

The Village shall have the right to inspect any improvements for which a Certification Application has been submitted and to review the records of Developers and its contractors and sub-contractors which contain information reasonably necessary for the Village to evaluate whether a cost for which reimbursement is sought is a Redevelopment Project Cost and whether there has otherwise been compliance with the terms of this Agreement. Developers, to the maximum extent permitted by law and to the maximum extent that it has the authority to do so, shall cause any person having possession of information relating to a Certification Application to furnish the Village with information which the Village reasonably considers appropriate for its determination as to whether or not the Certification Application shall be approved.

If the Village determines that the costs for which reimbursement is requested in a Certification Application are Eligible Redevelopment Project Costs and that there has otherwise been compliance with the provisions of this Agreement, as such provisions pertain to the Certification Application, the Village shall issue a written Certificate of Eligibility for the costs. In the event the Village determines that some, but not all, of the costs described in a Certification Application are Eligible Redevelopment Project Costs, the Village shall, proceed to issue a Certificate of Eligibility for that portion of the costs described in the Certification Application which the Village determines constitute Redevelopment Project Costs and send a notice of disapproval as to those costs described in the Certification Application which the Village was unable to determine constitute Eligible Redevelopment Project Costs. If the Village refuses to issue a Certificate of Eligibility as to all or a portion of the costs described in a Certification Application, Developers shall have the right to include such costs in a subsequent Certification Application unless the Village issues a determination that the costs cannot constitute an Eligible Redevelopment Project Cost pursuant to the provisions of this Agreement or pursuant to any applicable law, ordinance, rule or regulation.

The Village shall have thirty-five (35) days after submission of the last required item containing information relating to a Certification Application or the submission of the Certification Application, whichever occurs last, to approve or disapprove a Certification Application and, if the Certification Application is approved, issue a Certificate of Eligibility. If the Certification Application is not approved, the Village shall identify specifically those items that it is not approving and shall issue a Certificate of Eligibility for all other items in the Certification Application.

The issuance of a Certificate of Eligibility by the Village shall not constitute approval of or acceptance of the work for which the cost was incurred that is covered by the Certificate of Eligibility for the purpose of indicating that such work complies with the Village Requirements, including, but not limited to, codes, ordinances and regulations pertaining to the issuance of occupancy permits.

5.4 **Village Accounting.** The Village shall maintain complete books and records showing the Real Estate Tax Increment generated as a result of the extension of *ad valorem* real estate taxes upon the property within the Industrial Park Redevelopment Project Area and the disbursement of such funds; which books and records shall be deemed complete if kept in accordance with generally accepted accounting principles as applied to Illinois municipalities and in accordance with the provisions of the Act. Such books and records shall be available for examination by the duly authorized officers or agents of the Developers during normal business hours upon request made not less than five (5) business days prior to the date of such examination. The Village shall maintain such books and records throughout the term of this Agreement and for four (4) years thereafter, all subject to the requirements of the Act.

5.5 **Village's Right to Inspect Books and Records.** The Developers agrees that, up to four years after completion and approval of the Redevelopment Project, the Village, with reasonable advance notice and during normal business hours, shall have the right and authority to review, audit, and copy, from time to time, the Developers' books and records relating to the Redevelopment Project funded by the Village hereunder (including the following, if any: all loan statements, contractor's sworn statements, general contracts, subcontracts, bills, material purchase orders, waivers of lien, paid receipts and invoices, bank statements, cancelled checks) in order to confirm that reimbursement is being made, or was made, for Redevelopment Project Costs or other purposes permitted under the Act.

## ARTICLE VI GENERAL PROVISIONS

### 6.1 **Time of Essence.**

Time is of the essence of this Agreement. The Parties will make every reasonable effort to expedite the subject matters hereof and acknowledge that the successful performance of this Agreement requires their continued cooperation.

### 6.2 **Default.**

(a) Except as provided for in Sections 5.2(b), a Party shall be deemed in default and be in breach of this Agreement if it fails to materially perform, observe or comply

with any of its covenants, agreements or obligations hereunder or breaches or violates any of its representations contained in this Agreement.

(b) Before any failure of any Party to this Agreement to perform its obligations under this Agreement shall be deemed to be a breach of this Agreement, the Party claiming such failure shall notify, in writing the Party alleged to have failed to perform of the alleged failure and shall demand performance. No breach of this Agreement may be found to have occurred if performance has commenced to the reasonable satisfaction of the complaining Party within thirty (30) days of the receipt of such notice.

(c) A default shall also exist upon: (1) the filing or execution or occurrence of a petition filed by either Party seeking any nature of debtor relief, the making of an assignment for the benefit of creditors by either Party, either Party's execution of any instrument for the purpose of effecting composition of the Party's creditors or if either Party files for bankruptcy; or (2) the cessation of either Party conducting business in the normal course or any admission writing of its inability to meet its debts as they become due.

(d) If and when any Default shall occur, and not be cured as set forth in this Agreement, the non-defaulting party may, at its option, in addition to all other rights and remedies given hereunder, or otherwise available by law or equity, including suit for accounting or damages, terminate this Agreement by giving written notice of termination to the other party. Except as otherwise set forth herein, no action taken by a Party pursuant to the provisions of this Section or pursuant to the provisions of any other Section of this Agreement shall be deemed to constitute an election of remedies and all remedies set forth in this Agreement shall be cumulative and non exclusive of any other remedy either set forth herein or available to any Party at law or in equity.

### **6.3 Amendment.**

This Agreement, and any exhibits attached hereto, may be amended only by the mutual agreement of the Parties evidenced by a written amendment, by the adoption of an ordinance, resolution or motion of the Village approving such written amendment, as provided by law, and by the execution of such written amendment by the Parties or their successors in interest.

### **6.4 Entire Agreement.**

This Agreement sets forth all agreements, understandings and covenants between and among the Parties relative to the matters herein contained. This Agreement supersedes all prior written agreements, negotiations and understandings, written and oral, and shall be deemed a full integration of the entire agreement of the Parties. The prior redevelopment agreement approved by the Village for the Developer shall be null, void, of no further effect and replaced by this Agreement in all respects.

### **6.5 Severability.**

If any provision, covenant, agreement or portion of this Agreement, or its application to any person, entity or property, is held invalid, such invalidity shall not affect the application or

validity of any other provisions, covenants, agreements or portions of this Agreement and, to that end, all provisions, covenants, agreements or portions of this Agreement are declared to be severable.

**6.6 Illinois Law.**

This Agreement shall be construed its accordance with the laws of the State of Illinois.

**6.7 Notice.**

Any notice to be given or served hereunder or under any document or instrument executed pursuant hereto shall be in writing and shall be (i) delivered personally, with a receipt requested therefore; or (ii) sent by telecopy facsimile; or (iii) sent by a nationally recognized overnight courier service; or (iv) delivered by United States registered or certified mail, return receipt requested, postage prepaid. All notices shall be addressed to the Parties at their respective addresses set forth below, and shall be effective (a) upon receipt or refusal if delivered personally or by telecopy facsimile; (b) one (1) business day after depositing with such an overnight courier service or (c) four (4) business days after deposit in the United States mails, if mailed. A Party may change its address for receipt of notices by service of a notice of such change in accordance with this Section. All notices by telecopy facsimile shall be subsequently confirmed by U.S. certified or registered man, return receipt requested.

If to the Village:

Village of Glenwood  
One Asselborn Way  
Glenwood, IL 60425

with a copy to:

John F. Donahue  
Rosenthal, Murphey, Coblenz & Donahue  
30 South LaSalle, Suite 1624  
Chicago, IL 60602

If to the Developers:

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

Attn:

with a copy to:

Attn:

**6.8 Assignment.**

Prior to the completion of the Redevelopment Project, the Developers agrees that they shall not sell, assign or otherwise transfer their rights and obligations under this Agreement other than to an entity having common ownership with the Developers.

**6.9 Successors and Assigns.**

The agreements, undertakings, rights, benefits and privileges set forth in this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, assigns and legal representatives (including successor Corporate Authorities) as limited by Section 6.8.

**6.10 Term of Agreement.**

The term of this Agreement shall commence on the date first above written and shall terminate upon the earlier of the following: (1) the completion of the Redevelopment Project and the reimbursement of all amounts due the Developers for which a Certificate of Eligibility has been issued by the Village; (2) the termination of the Halsted Redevelopment Project Area; or (3) the proper termination of this Agreement under, or as a result of, any term of this Agreement.

**6.11 Interpretations.**

This Agreement has been jointly negotiated by the Parties and shall not be construed against a Party because that Party may have primarily assumed responsibility for the drafting of this Agreement.

**6.12 Exhibits.**

All exhibits attached hereto are declared to be a part of this Agreement and are incorporated herein by this reference.

**6.13 Independent Contractors.**

The Parties shall be and act as independent contractors, and under no circumstances shall this Agreement be construed as one of agency, partnership, joint venture or employment between the Parties. The Parties shall each be solely responsible for the conduct of their respective officers, employees and agents in connection with the performance of their obligations hereunder.

**6.14 Rights of Third Parties.**

This Agreement does not create any rights on the part of any person or other entity who is not a Party, or an approved assignee of a Party, to this Agreement.

**6.15 Headings.**

The section headings in this Agreement are for convenience and reference only and shall not be construed or held in any way to explain, modify or add to the interpretation or meaning of the provisions of this Agreement.

**6.16 Counterparts.**

This Agreement may be executed in one or more counterparts, all of which together shall be construed to constitute one in the same.

**6.17 Non-waiver.**

The failure of a Party to insist on the other Party's strict compliance with the terms and conditions in this Agreement shall not constitute a waiver of the right to insist that the other Party in the future strictly comply with any and all of the terms and conditions contained in this Agreement, and to enforce such compliance by an appropriate remedy.

**6.18 Severability.**

If any provision or part of this Agreement shall be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision or part not held invalid or unenforceable. Any provisions or parts of this Agreement not held invalid or unenforceable shall continue in full force and effect unless such invalidity or unenforceability renders this Agreement meaningless or grossly inequitable.

**IN WITNESS WHEREOF**, the Parties have duly executed this Agreement pursuant to all requisite authorizations as of the dates set forth below.

**VILLAGE OF GLENWOOD**

By: \_\_\_\_\_  
Kerry Durkin, Village President

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

\_\_\_\_\_

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

\_\_\_\_\_ [insert printed name]

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



STATE OF ILLINOIS    )  
  ) ss.  
COUNTY OF COOK    )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that \_\_\_\_\_, personally known to me to be the same person whose name is subscribed to the foregoing agreement, appeared before me this day in person, and acknowledged that s/he signed, sealed and delivered the said instrument in her/his capacity as the \_\_\_\_\_ of \_\_\_\_\_ (“\_\_\_\_\_”) as the free and voluntary act of \_\_\_\_\_ for the uses and purposes therein set forth.

Given under my hand and official seal  
and sworn to before me this \_\_\_\_\_<sup>th</sup> day  
of \_\_\_\_\_, 2013.

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

DRAFT

**EXHIBIT A**

**DESCRIPTION OF DEVELOPER'S REDEVELOPMENT PROJECT AND  
DEVELOPER'S ESTIMATED TOTAL PROJECT COSTS**

The Developers' Redevelopment Project is described below:

The rehabilitation and renovation of the Wendy's restaurant building and grounds on the Subject Property which work shall include site work, remodeling and renovation of the existing Wendy's restaurant on the Subject Property, landscaping and related professional architectural, engineering, and surveying costs.

Developers' estimated Eligible Redevelopment Project Costs are set forth below:

Professional Fees/Plan Development:	\$ 43,750.00
Site Work:	\$ 36,760.00
Building remodeling:	\$533,407.00
Signage:	\$ 56,671.00
Landscaping:	\$ 15,000.00
Kitchen ceiling, floors and walls:	<u>\$ 38,610.00</u>
<b>Total estimated Eligible Redevelopment Project Costs:</b>	<b>\$724,198.00</b>

The Developers' estimates of eligible Redevelopment Project Costs are not binding upon the Village. The Village shall make its determination of whether a particular expense is an eligible Redevelopment Project Cost under the terms of this Agreement and the Tax Increment Allocation Redevelopment Act ("Act") upon receipt of the Developers' application to certify a cost as an eligible Redevelopment Project Cost and any additional information that may be required.

No Certificate of Eligibility shall be issued for any expense which is not a Redevelopment Project Cost for purposes of the Act and which does not otherwise constitute a cost which the Village is authorized to pay pursuant to the Act or this Agreement. Developers shall only be entitled to be reimbursed pursuant to this Agreement for costs which constitute a Redevelopment Project Cost as defined in Section 11-74.4-3(q) of the Act.

Developers acknowledge and agree that the actual cost of its improvements and expenses may exceed the amounts specified in this Exhibit and that Developers will not be entitled to reimbursement pursuant to the Agreement for costs which are incurred to the extent such costs exceed the amounts as specified in this Agreement.

**Exhibit B**

(Sales Tax Sharing Incentive Agreement)

DRAFT