

Ordinance No. 15-11

**AN ORDINANCE APPROVING A REDEVELOPMENT AGREEMENT FOR THE REDEVELOPMENT OF 10 NORTH RIVER STREET AND 310 JACKSON STREET, EAST DUNDEE, KANE AND COOK COUNTIES, ILLINOIS BY AND AMONG THE VILLAGE OF EAST DUNDEE, KANE AND COOK COUNTIES, ILLINOIS, AND BIG KAHUNA CORPORATION d/b/a BANDITO BARNEY'S, AN ILLINOIS CORPORATION**

WHEREAS, the Village of East Dundee, Cook and Kane Counties, Illinois (the "Village") is a duly organized and validly existing home-rule municipality created in accordance with the Constitution of the State of Illinois of 1970 and the laws of the State; and,

WHEREAS, pursuant to the Business District Development and Redevelopment Act of the State of Illinois, 65 ILCS 5/11-74.3-1 *et seq.*, as from time to time amended (the "BDD Act"), on September 28, 2009, the President and Board of Trustees of the Village (the "Corporate Authorities"), after public hearings, passed Ordinance No. 09-30 designating the Route 25 and Route 72 Business District (the "BD District"), and imposed a retailers' occupation tax and service occupation tax in the amount of one-half of one percent (0.5%) on all commercial operations within the boundaries of the BD District to pay project costs incurred in connection with the Village's approved plan for the planning, execution and implementation of the BD District; and,

WHEREAS, pursuant to the Tax Increment Allocation Redevelopment Act of the State of Illinois, 65 ILCS 5/11-74.4-1 *et seq.*, as from time to time amended (the "TIF Act"), the Corporate Authorities on June 18, 2008, approved a redevelopment plan and project for the Downtown Tax Increment Redevelopment Project Area (the "Redevelopment Project Area"), which sets forth a plan for the development, redevelopment and revitalization of the Redevelopment Project Area; and,

**WHEREAS**, the Village has been informed by Big Kahuna Corporation d/b/a Bandito Barney's, an Illinois corporation (the "*Developer*"), that the Developer intends to renovate its facility located at 10 North River Street and 310 Jackson Street, East Dundee, Illinois, which property is within the Redevelopment Project Area and the BD District (the "*Subject Property*"), to (i) upgrade its outdoor beer garden to mitigate sound and make it ADA compliant; (ii) expand the third floor of its facility to include an elevator, include a private party room, upgrade and relocate bathrooms, and construct a new commercial kitchen; (iii) add a new entranceway and expand its parking area by adding 22 parking spaces; and (iv) make the building ADA compliant (the "*Project*"); and,

**WHEREAS**, the Developer has informed the Village that it is able to proceed with the redevelopment of the Subject Property and undertake the Project only with financial assistance available through the BDD Act and the TIF Act; and,

**WHEREAS**, the Corporate Authorities have determined that the blighting factors now present on the Subject Property are detrimental to the public and impair development and growth in the BD District and the Redevelopment Project Area and will continue to impair growth and development but for the use of the retailers' occupation tax and service occupation tax as imposed within the BD District pursuant to the BDD Act and the use of tax increment allocation financing to assist the Developer to pay certain "redevelopment project costs" to be incurred by the Developer to undertake the Project; and,

**WHEREAS**, the Corporate Authorities have determined that the provision by the Village to the Developer of the assistance described in the Redevelopment Agreement for the Redevelopment of 10 North River Street and 310 Jackson Street, East Dundee, Kane and Cook Counties, Illinois by and among the Village of East Dundee, Kane and Cook Counties, Illinois,

and Big Kahuna Corporation d/b/a Bandito Barney's, an Illinois corporation (the "Agreement"), attached hereto and made a part hereof, and the redevelopment by the Developer of the Subject Property pursuant to this Agreement are in the best interests of the Village and its residents and taxpayers, thereby helping to provide for economic development and job opportunities for the inhabitants of the Village, enhance the tax base of the Village and other taxing districts and add to the welfare and prosperity of the Village and its inhabitants.

**NOW, THEREFORE, BE IT ORDAINED** by the Village President and Board of Trustees of the Village of East Dundee, Cook and Kane Counties, Illinois, as follows:

*Section 1.* That the Redevelopment Agreement for the Redevelopment of 10 North River Street and 310 Jackson Street, East Dundee, Kane and Cook Counties, Illinois by and among the Village of East Dundee, Kane and Cook Counties, Illinois, and Big Kahuna Corporation d/b/a Bandito Barney's, an Illinois corporation, attached hereto and made a part hereof, is hereby approved and the Village President and Village Clerk are hereby authorized to execute and deliver said Agreement.

*Section 2.* That this Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

*Passed* by the Village President and the Board of Trustees of the Village of East Dundee, Cook and Kane Counties, Illinois, this 16<sup>th</sup> day of March, A.D. 2015, pursuant to a roll call vote, as follows:

AYES: Trustees Lynam, Selep, Wood and Mahoney

NAYS: Trustee Skillicorn

ABSTAIN: Trustee Gorman

ABSENT: Ø

APPROVED by me, as Village President of the Village of East Dundee, Cook and Kane

Counties, Illinois, this 16<sup>th</sup> day of March, A.D. 2015.

  
\_\_\_\_\_  
Village President

Attest:

  
\_\_\_\_\_  
Village Clerk

**REDEVELOPMENT AGREEMENT FOR THE REDEVELOPMENT OF  
10 NORTH RIVER STREET AND 310 JACKSON STREET, EAST DUNDEE, KANE AND  
COOK COUNTIES, ILLINOIS**

**THIS REDEVELOPMENT AGREEMENT** (the "*Agreement*") is entered into this 16<sup>th</sup> day of March, 2015, by and among the Village of East Dundee, Kane and Cook Counties, Illinois, an Illinois municipal corporation (the "*Village*"), and Big Kahuna Corporation d/b/a Bandito Barney's, an Illinois corporation (the "*Developer*").

**PREAMBLES**

**WHEREAS**, pursuant to the Business District Development and Redevelopment Act of the State of Illinois, 65 ILCS 5/11-74.3-1 *et seq.*, as from time to time amended (the "*BDD Act*"), the President and Board of Trustees of the Village (the "*Corporate Authorities*") are empowered to undertake the development or redevelopment of business districts within the municipal boundaries of the Village which are in need of revitalization; and,

**WHEREAS**, pursuant to the BDD Act, on September 28, 2009, the Corporate Authorities, after public hearings, passed Ordinance No. 09-30 designating the Route 25 and Route 72 Business District (the "*BD District*"), and imposed a retailers' occupation tax and service occupation tax in the amount of one-half of one percent (0.5%) on all commercial operations within the boundaries of the BD District to pay project costs incurred in connection with the Village's approved plan for the planning, execution and implementation of the BD District (the "*BD Plan*"); and,

**WHEREAS**, pursuant to the Tax Increment Allocation Redevelopment Act of the State of Illinois, 65 ILCS 5/11-74.4-1 *et seq.*, as from time to time amended (the "*TIF Act*"), the Corporate Authorities are empowered to undertake the development or redevelopment of a designated area within the municipal boundaries of the Village in which existing conditions

permit such area to be classified as a “blighted area” as defined in Section 11.74.4-3(a) of the TIF Act; and,

**WHEREAS**, pursuant to its powers and in accordance with the requirements of the TIF Act, the Corporate Authorities, pursuant to Ordinance No. 08-34, adopted by the Corporate Authorities on June 18, 2008, approved a redevelopment plan and project for the Downtown Tax Incremental Redevelopment Project Area (the “*Redevelopment Project Area*”), which sets forth a plan for the development, redevelopment and revitalization of the Redevelopment Project Area (the “*Redevelopment Plan*”); and,

**WHEREAS**, the Village has been informed by the Developer that the Developer intends to renovate its facility located at 10 North River Street and 310 Jackson Street, East Dundee, Illinois, legally described on *Exhibit A*, attached hereto and made a part hereof, which property is within the Redevelopment Project Area and the BD District (the “*Subject Property*”), to (i) upgrade its outdoor beer garden to mitigate sound and make it ADA compliant; (ii) expand the third floor of its facility to include an elevator, include a private party room, upgrade and relocate bathrooms, and construct a new commercial kitchen; (iii) add a new entranceway and expand its parking area by adding 22 parking spaces; and (iv) make the building ADA compliant (the “*Project*”); and,

**WHEREAS**, the Developer has informed the Village that it is able to proceed with the redevelopment of the Subject Property and undertake the Project only with financial assistance available through the BDD Act and the TIF Act ; and,

**WHEREAS**, *Exhibit B* to this Agreement includes an estimate of all costs to be incurred by the Developer in connection with the Project; and,

**WHEREAS**, the Corporate Authorities have determined that the blighting factors now present on the Subject Property are detrimental to the public and impair development and growth in the BD District and the Redevelopment Project Area and will continue to impair growth and development but for the use of the retailers' occupation tax and service occupation tax as imposed within the BD District pursuant to the BDD Act and the use of tax increment allocation financing to assist the Developer to pay certain "redevelopment project costs" to be incurred by the Developer to undertake the Project; and,

**WHEREAS**, the existence of the blighting factors on the Subject Property and the extraordinary costs necessary for development and redevelopment of the Subject Property have prevented private developers from developing, redeveloping and revitalizing the Subject Property which has, in turn, limited the development and construction of commercial and industrial enterprises within the BD District and the Redevelopment Project Area; and,

**WHEREAS**, the Developer's proposal calls for the Developer to construct the Project in accordance with all applicable Village ordinances (collectively the "*Legal Requirements*") and the Village has determined that the Developer has the necessary qualifications, expertise and background necessary to undertake the redevelopment of the Subject Property; and,

**WHEREAS**, the development of the Subject Property is consistent with the approved BD Plan and Redevelopment Plan and this Project shall further the goals and objectives of the BD Plan and Redevelopment Plan; and,

**WHEREAS**, the Village is authorized under the BDD Act and TIF Act to incur costs and to make and enter into all contracts necessary or incidental to the implementation of the plans for the BD District and the Redevelopment Project Area; and,

**WHEREAS**, the Corporate Authorities have determined that the provision by the Village to the Developer of the assistance hereinafter described and the redevelopment by the Developer of the Subject Property pursuant to this Agreement are in the best interests of the Village and its residents and taxpayers, thereby helping to provide for economic development and job opportunities for the inhabitants of the Village, enhance the tax base of the Village and other taxing districts and add to the welfare and prosperity of the Village and its inhabitants;

**NOW, THEREFORE**, the parties, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

***Section 1. Incorporation of Recitals.***

The Parties agree that all of the recitals contained in the Preambles to the Agreement are true and correct and are hereby incorporated into this Agreement as though they were fully set forth in this Section 1.

***Section 2. Developer's Obligations.***

(a) The Developer covenants and agrees that upon completion of the Project, the Developer shall have invested in the Subject Property and the Project a minimum sum in excess of \$1,100,000.00.

(b) The Developer covenants and agrees to complete construction of the Project on or before June 30, 2015, in accordance with all legal requirements and to continue to operate its beach club and sports bar (the "*Business*").

***Section 3. Developer Payments.***

(a) In consideration for the development by the Developer of the Subject Property in accordance with the terms of this Agreement, so long as no breach by Developer described in Section 15 of this Agreement shall have occurred and be continuing, the Village shall reimburse

the Developer for certain costs to be incurred by the Developer for the Project as itemized on *Exhibit C* (the “*Redevelopment Project Costs*”) subject to the limitations and authorization of the BDD Act, the TIF Act and this Agreement. The aggregate payments to the Developer shall in no event exceed \$113,168.01. For purposes of this Agreement, “Redevelopment Project Costs” shall mean and include all costs defined as “business district project costs” in Section 11-74.3-5 of the BDD Act as from time to time amended and “redevelopment project costs” as defined in Section 11-74.4-3(q) of the TIF Act, as from time to time amended.

(b) The Village shall establish a special tax allocation fund for this Project pursuant to the requirements of the BDD Act and the TIF Act (the “*Bandito Barney’s Special Tax Allocation Fund*”) into which the Village shall annually deposit sums sufficient to annually reimburse the Developer for Redevelopment Project Costs in an amount not to exceed \$37,722.67 pursuant to the requirements and procedures as provided in Section 4 below.

***Section 4. Procedures for and Application of Reimbursement to the Developer.***

(a) The Developer shall advance all funds and all costs necessary to construct and complete the Project.

(b) To be eligible for reimbursement of any eligible Redevelopment Project Costs, the Project shall have been constructed and completed (or be under construction) in accordance with the Legal Requirements and this Agreement and have its Business in full operation.

(c) Contingent upon the completion of the Project and the issuance of a certificate of occupancy, the first payment in the amount of \$37,722.67 shall be made on August 1, 2015. Pursuant to the requirements and procedures set forth in Subsection (d) below, the Developer shall receive an annual reimbursement in an amount not to exceed \$37,722.67 on August 1<sup>st</sup> of each subsequent year until a total of \$113,168.01 has been paid to the Developer.

(d) To establish a right of reimbursement for specific Redevelopment Project Costs under this Agreement, the Developer shall submit to the Village or its designated officer or employee a written statement in the form attached to this Agreement as *Exhibit D* (a “*Request for Reimbursement*”) setting forth the specific Redevelopment Project Costs for which the annual reimbursement is sought. Each Request for Reimbursement shall be accompanied by such bills, contracts, invoices, lien waivers or other evidence as the Village President or his designee shall reasonably require to evidence the right of the Developer to the annual reimbursement in an amount not to exceed \$37,722.67 under this Agreement. The Village Administrator shall have twenty (20) days after receipt of any Request for Reimbursement from the Developer to recommend approval for immediate payment or disapproval of such Request and, if disapproved, to provide the Developer in writing and in detail with an explanation as to why he or she is not prepared to recommend such reimbursement. The only reasons for disapproval of any expenditure for which reimbursement is sought shall be that such expenditure is not an eligible Redevelopment Project Cost (as defined by this Agreement), that it is not identified on *Exhibit C* attached hereto as a "Redevelopment Project Cost," or that the cost was not incurred and the construction was not completed by the Developer in accordance with the Legal Requirements and the provisions of this Agreement, including without limitation all permits issued by the Village, and that such failure to comply with Legal Requirements or this Agreement is an uncured breach of this Agreement. The parties acknowledge that the determination of Redevelopment Project Costs and qualification for reimbursement under this Agreement are subject to the BDD Act and TIF Act, all amendments to the BDD Act and TIF Act both before and after the date of this Agreement, and judicial interpretations of such Acts rendered during the term of this Agreement. The Village has no obligation to the Developer to attempt to modify

such judicial interpretations but will cooperate with the Developer in obtaining approval of Redevelopment Project Costs.

***Section 5. Term.***

Unless earlier terminated pursuant to Section 15, the term of this Agreement shall commence on the date of execution by both parties and terminate on the earlier of payment in full of \$113,168.01 or December 31, 2020.

***Section 6. Verification of Tax Increment.***

The Developer shall use its best efforts to cooperate with the Village in obtaining certified copies of all real estate tax bills payable in 2015, and for each subsequent year during the term of this Agreement. The Developer shall deliver to the Village authorization as may be required for the Illinois Department of Revenue to release any sales tax reports attributable to the Developer's business operations.

***Section 7. No Liability of Village to Others for Developer's Expenses.***

The Village shall have no obligation to pay any cost relating to the development of the Subject Property (other than the reimbursements provided for in this Agreement) or to make any payment to any person other than the Developer, nor shall the Village be obligated to pay any contractor, subcontractor, mechanic, or materialman providing services or materials to the Developer for the development of the Subject Property.

***Section 8. Assignment.***

This Agreement may not be assigned by the Developer without the prior written consent of the Village, which consent shall not be unreasonably withheld.

***Section 9. Developer Indemnification.***

The Developer shall indemnify and hold harmless the Village, its agents, officers and employees against all injuries, deaths, losses, damages, claims, suits, liabilities, judgments, costs

and expenses (including any liabilities, judgments, costs and expenses and reasonable attorney's fees) which may arise directly or indirectly from the failure of the Developer or any contractor, subcontractor or agent or employee thereof (so long as such contractor, subcontractor or agent or employee thereof is hired by the Developer) to timely pay any contractor, subcontractor, laborer or materialman; from any default or breach of the terms of this Agreement by the Developer; or from any negligence or reckless or willful misconduct of the Developer or agent or employee thereof (so long as such agent or employee is hired by the Developer). The Developer shall, at its own cost and expense, appear, defend and pay all charges of attorneys, costs and other expenses arising therefrom or incurred in connection therewith. If any judgment shall be rendered against the Village, its agents, officers, officials or employees in any such action, the Developer shall have no obligation whatsoever, with respect to any acts of negligence or reckless or willful misconduct or other wrongful conduct on the part of the Village or any of its officers, agents, employees or contractors.

***Section 10. Waiver.***

Any party to this Agreement may elect to waive any remedy it may enjoy hereunder, provided that no such waiver shall be deemed to exist unless the party waiving such right or remedy does so in writing. No such waiver shall obligate such party to waive any other right or remedy hereunder, or shall be deemed to constitute a waiver of other rights and remedies provided said party pursuant to this Agreement.

***Section 11. Severability.***

If any section, subsection, term or provision of this Agreement or the application thereof to any party or circumstance shall, to any extent, be invalid or unenforceable, the remainder of said section, subsection, term or provision of this Agreement or the application of same to parties

or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

***Section 12. Notices.***

All notices, demands, requests, consents, approvals or other instruments required or permitted by this Agreement shall be in writing and shall be executed by the party or an officer, agent or attorney of the party, and shall be deemed to have been effective as of the date of actual delivery, if delivered personally, or as of the third (3<sup>rd</sup>) day from and including the date of posting, if mailed by registered or certified mail, return receipt requested, with postage prepaid, addressed as follows:

***To the Developer:***

Big Kahuna Corporation  
d/b/a Bandito Barney's  
10 North River Street  
East Dundee, Illinois 60118

*With a copy to:*

***To the Village:***

Village of East Dundee  
Village Administrator  
120 Barrington Avenue  
East Dundee, Illinois 60118

*With a copy to:*

Kathleen Field Orr  
Kathleen Field Orr & Associates  
53 West Jackson Blvd., Suite 964  
Chicago, Illinois 60604

***Section 13. No Joint Venture, Agency or Partnership Created.***

Neither anything in this Agreement nor any acts of the parties to this Agreement shall be construed by the parties or any third person to create the relationship of a partnership, agency, or joint venture between or among such parties.

***Section 14. No Discrimination – Construction.***

The Developer for itself and its successors and assigns agrees that in the construction of the improvements on the Subject Property provided for in this Agreement the Developer shall not unlawfully discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Developer shall hire applicants and treat employees in a manner that does not unlawfully discriminate based upon race, creed, color, religion, sex or national origin, with respect to all aspects of employment, including but not be limited to, the following: employment upgrading, demotion or transfer; recruitment or recruitment advertising and solicitations or advertisements for employees; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Developer agrees to post in conspicuous places, available to employees and applicants for employment, notices, which may be provided by the Village, setting forth the provisions of this nondiscrimination clause. The Developer shall comply with all applicable laws regarding rate of pay or other forms of compensation.

***Section 15. Remedies – Liability.***

(a) If, in the Village's judgment, the Developer is in material default of this Agreement, the Village shall provide the Developer with a written statement indicating any failure on the Developer's part to fulfill its obligations under this Agreement. Except as required to protect against further damages, the Village may not exercise any remedies against the

Developer in connection with such failure unless Developer has not cured such default within thirty (30) days after giving such notice. If such default cannot be cured within such thirty (30) day period, such thirty (30) day period shall be extended for such time as is reasonably necessary for the curing of the same, so long as the Developer diligently proceeds with such cure; if such default is cured within such 30-day or extended period, the default shall not be deemed to constitute a breach of this Agreement. A default not cured as provided above shall constitute a breach of this Agreement. Any failure or delay by the Village in asserting any of its rights or remedies as to any default or alleged default or breach shall not operate as a waiver of any such default or breach of any rights or remedies it may have as a result of such default or breach.

(b) If the Developer materially fails to fulfill its obligations under this Agreement after notice is given by the Village and any cure periods described in paragraph (a) above have expired, the Village may elect to terminate its obligations under this Agreement or exercise any right or remedy it may have at law or in equity, including the right to specifically enforce the terms and conditions of this Agreement. If any voluntary or involuntary petition or similar pleading under any section or sections of any bankruptcy or insolvency act shall be filed by or against the Developer, or any voluntary or involuntary proceeding in any court or tribunal shall be instituted to declare the Developer insolvent or unable to pay the Developer's debts, or the Developer makes an assignment for the benefit of its creditors, or a trustee or receiver is appointed for the Developer or for the major part of any of the Developer's property, the Village may elect, to the extent such election is permitted by law and is not unenforceable under applicable federal bankruptcy laws, but is not required, with or without notice of such election and with or without entry or other action by the Village, to forthwith terminate this Agreement.

(c) If, in the Developer's judgment, the Village is in material default of this Agreement, the Developer shall provide the Village with a written statement indicating in adequate detail any failure on the Village's part to fulfill its obligations under this Agreement. The Developer may not exercise any remedies against the Village in connection with such failure unless the Village has not cured such default within thirty (30) days after giving such notice. If such default cannot be cured within such thirty (30) day period, such thirty (30) day period shall be extended for such time as is reasonably necessary for the curing of the same, so long as the Village diligently proceeds with such cure; if such default is cured within such 30-day or extended period, the default shall not be deemed to constitute a breach of this Agreement. Any failure or delay by the Developer in asserting any of its rights or remedies as to any default or any alleged default or breach shall not operate as a waiver of any such default or breach of any rights or remedies it may have as a result of such default or breach.

(d) In addition to any other rights or remedies, a party may institute legal action against the other party to cure, correct or remedy any default, or to obtain any other remedy consistent with the purpose of this Agreement, either at law or in equity, including, but not limited to the equitable remedy of an action for specific performance; provided, however, no recourse under or upon any obligation contained herein or for any claim based thereon shall be had against the Village, its officers, agents, attorneys, representatives or employees in any amount or in excess of any specific sum agreed to be paid by the Village hereunder, and no liability, right or claim at law or in equity shall be attached to or incurred by the Village, its officers, agents, attorneys, representatives or employees in any amount in excess of any specific sums agreed by the Village to be paid hereunder and any such claim is hereby expressly waived and released as a condition of and as consideration for the execution of this Agreement by the

Village. Notwithstanding the foregoing, in the event either party shall institute legal action against the other party because of a breach of any agreement or obligation contained in this Agreement, the prevailing party shall be entitled to recover all costs and expenses, including reasonable attorneys' fees, incurred in connection with such action.

(e) The rights and remedies of the parties are cumulative and the exercise by a party of one or more of such rights or remedies shall not preclude the exercise by it, at the same time or different times, of any other rights or remedies for the same default or for any other default by the other party. This Agreement shall be interpreted and enforced in accordance with the laws of the State of Illinois. Any legal proceedings shall be commenced in the Circuit Court of Kane County.

***Section 16. Developer's Covenants.*** The Developer hereby covenants and agrees to repay to the Village any and all sums paid by the Village to the Developer pursuant to this Agreement in the event the Developer ceases to operate its Business at the Subject Property during the term of this Agreement.

***Section 17. Amendment.***

This Agreement, and any exhibits attached to this Agreement, may be amended only in a writing signed by all parties with the adoption of any ordinance or resolution of the Village approving said amendment, as provided by law, and by execution of said amendment by the parties or their successors in interest. Except as otherwise expressly provided herein, this Agreement supersedes all prior agreements, negotiations and discussions relative to the subject matter hereof.

***Section 18. Time; Force Majeure.***

Time is of the essence of this Agreement; provided, however, a party shall not be deemed in material breach of this Agreement with respect to any obligations of this Agreement on such party's part to be performed if such party fails to timely perform the same and such failure is due in whole or in part to any strike, lock-out, labor trouble (whether legal or illegal), civil disorder, inability to procure materials, wet soil conditions, failure or interruptions of power, restrictive governmental laws and regulations, wrongful failure of governmental agencies to issue necessary approvals or permits, condemnations, riots, insurrections, war, fuel shortages, accidents casualties, floods, earthquakes, fires, acts of God, epidemics, quarantine restrictions, freight embargoes, acts caused directly or indirectly by the other party (or the other party's agents, employees or invitees) or similar causes beyond the reasonable control of such party ("*Force Majeure*"). If one of the foregoing events shall occur or either party shall claim that such an event shall have occurred, the party to whom such claim is made shall investigate same and consult with the party making such claim regarding the same and the party to whom such claim is made shall grant any extension for the performance of the unsatisfied obligation equal to the period of the delay, which period shall commence to run from the time of the commencement of the Force Majeure; provided that the failure of performance was reasonably caused by such Force Majeure.

***Section 19. Counterparts.***

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers on the above date at East Dundee, Illinois.

Village of East Dundee, an Illinois municipal corporation

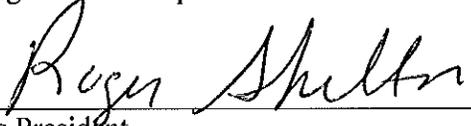
By:

  
\_\_\_\_\_  
President

Attest:

  
\_\_\_\_\_  
Village Clerk

Big Kahuna Corporation d/b/a Bandito Barney's

  
\_\_\_\_\_  
Its President

*Exhibit A*

*Legal Description of Subject Property*

10 N River St, East Dundee, IL 60118

PIN # 03-23-352-001

*Exhibit B*

*Total Project Costs*

Phase One		\$350,000.00
Phase Two		<u>\$750,000.00</u>
	Total	\$1,100,000.00



Exhibit D

REQUEST FOR REIMBURSEMENT

[Date]

Village of East Dundee
120 Barrington Avenue
East Dundee, Illinois 60118

Re: Redevelopment Agreement dated \_\_\_\_\_, by and among the Village of East Dundee, Illinois, and Big Kahuna Corporation d/b/a Bandito Barney's (the "Developer")

Dear Sir:

You are requested to reimburse the Developer described above in the amount of \$37,722.67 for the purpose(s) set forth in this Request for Reimbursement.

- 1. The amount of \$37,722.67 requested to be disbursed pursuant to this Request for Reimbursement will be used to reimburse the Developer for those Redevelopment Project Costs detailed in Schedule 1 attached to this Request for Reimbursement.
2. The undersigned certifies that:
(i) the amounts included in 1 above were made or incurred in accordance with the construction contracts, and building permits heretofore in effect;
(ii) the amounts paid or to be paid, as set forth in this Request for Reimbursement, represent a part of the funds due and payable for Redevelopment Project Costs;
(iii) the expenditures for which reimbursement is being sought are proper Redevelopment Project Costs identified in Exhibit C to the Redevelopment Agreement and have not been included in any previous Request for Reimbursement;
(iv) the moneys requested will reimburse the Developer for its funds actually advanced for Redevelopment Project Costs;
(v) the amount of Redevelopment Project Costs to be reimbursed in accordance with this Request for Reimbursement, together with all amounts reimbursed to the Developer pursuant to the Agreement, is not in excess of \$113,168.01;
(vi) the Developer is not in breach under the Redevelopment Agreement and nothing has occurred to the knowledge of the Developer that would prevent the performance of its obligations under the Agreement.
3. Attached to this Request for Reimbursement is Schedule 1, together with copies of documents (which may include invoices or bills of sale and Mechanic's Lien Waivers) covering all items for which reimbursement is being requested, on which it has been noted all Redevelopment Project Costs heretofore reimbursed to the Developer.

Big Kahuna Corporation d/b/a Bandito Barney's

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

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

APPROVED:

Village of East Dundee, an Illinois municipal corporation

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

\_\_\_\_\_  
Village President