

**Resolution No. 2015-11**

**RESOLUTION APPROVING THE  
PROPOSED TERM SHEET DATED AUGUST 31, 2015,  
FOR THE REDEVELOPMENT OF SPRING HILL MALL SHOPPING CENTER**

**BE IT RESOLVED**, by the Board of Trustees of the Village of West Dundee, Kane County, Illinois, as follows:

**WHEREAS**, the Village of West Dundee, Kane County, Illinois, is a home rule municipality as contemplated under Article VII, Section 6 of the Constitution of the State of Illinois, and the passage of this Resolution constitutes an exercise of the Village's Home Rule powers and functions as granted in the Constitution of the State of Illinois; and,

**WHEREAS**, Spring Hill Mall, L.L.C., a Delaware limited liability company (the "*Developer*") owns 56.7 acres of property commonly known as the Spring Hill Shopping Center (the "*Mall*"), a commercial shopping center located northwest of the intersection of Main Street (IL Rte 72) and Eighth Street (IL Rte 31); and,

**WHEREAS**, the Mall is principally located in the Village, however approximately 15% of the acreage is located in the Village of Carpentersville ("*VOC*") which is located immediately to the north of the Village; and,

**WHEREAS**, the Developer has proposed to the Village and VOC that the Mall be redeveloped to accommodate new and renovated commercial and retail space requiring an additional investment by the Developer of approximately \$37.8 million, all as set forth in the Proposed Term Sheet, dated August 31, 2015, a copy of which is attached hereto and made a part hereof (the "*Term Sheet*"); and,

**WHEREAS**, the Developer has approached the Village and VOC to participate in a public/private partnership in order to proceed with the expansive renovation and redevelopment of the Mall (the "*Project*") all as set forth in the Term Sheet; and,

**WHEREAS**, the Village and VOC have spent many hours and meetings with the Developer and the Developer's representatives reviewing the renovation and redevelopment plans, detailed budgets associated with the Project and calculation of the financial gap preventing the Developer from proceeding with the Project unless the Village and VOC participate in a public/private partnership; and,

**WHEREAS**, as a result of extensive negotiations and study of all matters pertaining to the Project, the Village has determined that it is in its best interest and in the best interest of its residents, that the Village proceed to participate with the Developer but only to the extent and in accordance with the terms and conditions as set forth in the Term Sheet.

**NOW THEREFORE BE IT RESOLVED** by the President and Board of Trustees of the Village of West Dundee, Kane County, Illinois, as follows:

*Section 1.* That Resolution No. 2015-10 dated August 3, 2015, approving the Proposed Term Sheet between Spring Hill Mall, L.L.C., the Village of Carpentersville, Kane County, Illinois and Village of West Dundee, Kane County, Illinois, dated August 3, 2015, is hereby repealed in its entirety and replaced by this Resolution No. 2015-11 in lieu thereof.

*Section 2.* That the Proposed Term Sheet between Spring Hill Mall, L.L.C., the Village of Carpentersville, Kane County, Illinois and Village of West Dundee, Kane County, Illinois, dated August 31, 2015, as attached hereto and made a part hereof, is hereby approved.

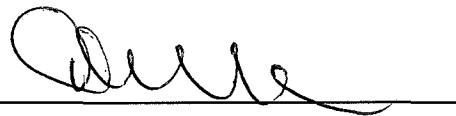
*Section 3.* That if a variation of the Proposed Term Sheet between Spring Hill Mall, L.L.C. and the Village of Carpentersville, Kane County, Illinois, that may be adopted in the future contains provisions that differ, the more favorable terms shall be equally applied to the Village of West Dundee.

*Section 4.* The Village President, Village Clerk, Village Manager and Village Attorney are hereby authorized to proceed to undertake any and all action and execute any and all documentation as may be required to implement all of the terms of said Term Sheet.

PASSED by the Board of Trustees of the Village of West Dundee, Kane County, Illinois, and approved by the President of said Village this 31<sup>st</sup> day of August, 2015.

AYES: Trustees Pflanz, Wilbrandt, Kembitzky, Price, Hanley and Yuscka  
NAYS: None

APPROVED:



Christopher Nelson, Village President

ATTEST:

  
Barbara Traver, Village Clerk

**TERM SHEET**  
**Spring Hill Mall, L.L.C.**  
and the  
**Village of Carpentersville, Kane County, Illinois and**  
**Village of West Dundee, Kane County, Illinois**  
August 31, 2015

**1. Developer**

Spring Hill Mall, L.L.C., a Delaware limited liability company (“**SHM, LLC**” or “**Developer**”), intends to redevelop and renovate various building and site improvements on approximately 56.7 acres of property (the “**Property**”, further defined in Section 5) located within the area generally known as Spring Hill Mall Shopping Center (“**SHM Shopping Center**”, further defined in Section 5). The Property is located northwest of the intersection of Main Street (IL Rte. 72) and Western Avenue (IL Rte. 31) and within the Village of Carpentersville, Kane County, Illinois (“**VOC**”), and the Village of West Dundee, Kane County, Illinois (“**VOWD**”). Together, VOC and VOWD are referred to as the “**Village**” or “**Villages**”.

**2. Developer State of Organization**

Spring Hill Mall, L.L.C., is a Delaware limited liability company.

**3. Developer Address**

Spring Hill Mall, L.L.C.  
1114 Avenue of the Americas, Suite 2800  
New York, NY 10036-7703  
Attn: Eric Dinenberg, Senior Vice President, Development  
[eric.dinenberg@rouseproperties.com](mailto:eric.dinenberg@rouseproperties.com)  
T 646.593.7685

**4. General Structure of Redevelopment Collaboration**

The redevelopment project described in the following sections of this Term Sheet is unique for a variety of reasons, most notably due to the fact that the Villages’ shared boundary runs directly through the SHM Shopping Center. And, while each party to this agreement may have its own goals and objectives for its larger organization, the shared goal for the Property is a successful redevelopment project, which requires redevelopment collaboration from all parties to address unique challenges.

This Term Sheet is intended to outline the understandings of all parties, provide an overview of the Project, incentives, etc. all of which are more specifically to be documented in the proposed Sharing Agreements, as hereinafter defined, and Redevelopment Agreements (“**RDA**”).

**5. Property**

The Property to be redeveloped by the Developer contains approximately 56.7 acres, and consists of the following seven (7) 2014 Parcel Index Numbers: 03-21-229-019, 03-21-276-022, 03-21-426-003 and -007, 03-22-151-024, and 03-22-301-008 and -011 (the “**Property**”). The Property is located within a 99.8-acre area generally known as the Spring Hill Shopping Center (the “**SHM Shopping Center**”).

The SHM Shopping Center contains approximately 1.2 million square feet of commercial retail space and is generally bounded by Ring Road, which is the circular access drive that surrounds the SHM Shopping Center. The Property excludes the buildings and parking lots presently associated with the following major anchors: Carson Pirie Scott, Kohl's, Macy's and Sears.

## 6. SHM Project

The SHM Project, described below, is located entirely within the Property, consists of seven principal components within four major sub-areas, and contains a total of approximately 173,745 s.f. of new and renovated gross leasable area ("GLA") to accommodate new and renovated commercial and retail space (the "Project"). **EXHIBIT A, Sub-Areas and Project Components**, illustrates the four major sub-areas (A, B, C-D, and E-F-G) that contain the seven principal components (A, B, C, D, E, F and G) of the Project described below (the "Sub-Areas" and "Project Components"). **EXHIBIT B, Conceptual Plan**, illustrates the conceptual site plan for the Project to be undertaken.

Sub-Areas A and B, New Construction: "Sub-Area A" and "Component A" consists of the removal of the 51,215 s.f. GLA American Eagle Furniture Store, and the construction of a theater containing approximately 35,000 s.f. of GLA and capable of accommodating approximately 1,250 guests. "Sub-Area B" and "Component B" consists of the removal of the former JC Penney anchor (136,864 GLA), and the construction of one or more free-standing buildings containing approximately 23,000 s.f. of GLA. Connecting Sub-Areas A and B will be a landscaped plaza for gathering and outdoor restaurant seating configurations.

Sub-Area C-D, Substantial Renovation of Southwest Entranceway: "Sub-Area C-D" and Components C and D involve demolition of approximately 45,405 s.f. of GLA, and the substantial renovation of approximately 10,000 s.f. of GLA. "Component C" includes a combination of new and substantially renovated space totaling approximately 18,000 s.f. of GLA with direct exterior access onto a landscaped plaza with outdoor restaurant seating and other configurations designed to encourage social gatherings. "Component D" consists of substantially renovated interior mall space resulting in approximately 10,000 s.f. of GLA, and is intended to complement Component C.

Sub-Area E-F-G, Re-Tenancing of Interior Mall Space: "Sub-Area E-F-G" contains components E, F and G. "Component E" consists of re-tenancing approximately 87,745 s.f. of vacant and underutilized GLA within the interior mall, including recovering approximately 7,908 s.f. of common area for retail purposes. "Component F" and "Component G" consist of retained mall tenants and common areas, respectively.

## 7. Project Budget and Sources & Uses of Funds

The Project Budget totals approximately \$37.8 million and the Developer will construct, or cause to be constructed the Project Components. The Developer identified a financial gap in the amount approximately \$8.6 million that prevents the Developer from feasibly constructing the Project, and requests financial assistance in the amount of a total of \$8.6 million (excluding interest) for purposes of constructing the Project ("Village Assistance", as further described below). **EXHIBIT C, Project Budget and TIF-Eligible Cost Estimates**, contains a detailed budget of costs associated with the Project, including an estimate of Village Assistance by each Village.

## 8. TIF District and IPT Revenue

Each Village shall consider the designation of the Property as a Tax Increment Financing (“TIF”) Redevelopment Project Area (a “TIF District” or “Redevelopment Project Area”) in accordance with the *Illinois Tax Increment Allocation Redevelopment Act*, 65 ILCS 5/11-74.4-1 *et. seq.* (the “TIF Act”). Each Village may create and administer its own separate TIF District. Each TIF District shall be contiguous to one another, contain an appropriate general land use plan to permit the construction and operation of the Project, contain a sufficiently sized Project Budget to allow the funding of the Project, authorize the issuance of obligations as further described in this Term Sheet, and be in force for 23 years from the date of approval, with final Incremental Property Tax revenue (“IPT Revenue”) collected in the 24th year ending December 31 following the year of adoption. The amount, or percent of IPT revenue pledged toward the Project and payment of obligations is referred to as “Available IPT Revenue” and is described in Section 11, *Village Assistance and Pledged Revenue*. Consultants engaged by each Village shall determine whether and to what extent the Property is eligible for TIF District designation, prepare a TIF Plan, and cause all public hearings and Village Board meetings to be held as required by the TIF Act. The Developer will provide information as necessary to assist the Villages in determining eligibility for TIF District designation.

Developer acknowledges and agrees that the approval of this Term Sheet does not constitute any requirement or obligation of either Village to adopt or administer a TIF Plan for the Property, or to pay any IPT Revenue to Developer. If, after the adoption of the redevelopment plans and the designations of the Redevelopment Project Areas, the TIFs are challenged, the Villages and Developer pledge their cooperation to defend the eligibility of the TIF districts and the provisions of the redevelopment agreement.

## 9. Sales Tax Revenue Sharing

Pursuant to Home Rule powers permitted by the State of Illinois, each Village shall authorize a Sales Tax Sharing Agreement for purposes of sharing sales tax revenues generated by the Property and received by each Village (“Sharing Agreement”). Each Sharing Agreement shall require deposits of Incremental Sales Tax Revenue, as hereinafter defined, to be applied to the payment of Notes (which shall be limited to a 20-year maturity), and be in force for 23 years through December 31, 2038.

Illinois general merchandise sales tax revenue received and collected by the State and distributed to municipalities is derived from two principal Illinois sales taxes: the Retailers’ Occupation Tax and the Service Occupation Tax (together, the “Sales Tax”).

Both Villages extend a Home Rule Sales Tax; the VOC at a rate of 2.0%, and the VOWD at a rate of 1.5%. The aggregate Sales Tax rate in the VOC and VOWD is 9.0% and 8.5%, respectively. Each Sharing Agreement utilizes an aggregate Sales Tax rate of 2.5%, consisting of the Local Sales Tax and the Home Rule Sales Tax up to a rate of 1.5% (the “Sharing Rate”). The Sharing Rate for each Village will be extended, as described above, against all sales subject to the Sharing Rate. Subtracted from the Sales Tax derived from this calculation will be the base Sales Tax revenue (the “Base Sales Tax”) derived from 2014 sales revenues subject to the Sharing Rate, determined for VOWD at \$771,000 and VOC at \$62,000. The Sales Tax revenue exceeding the Base Sales Tax revenue is referred to as the “Incremental Sales Tax Revenue” or “IST Revenue”. The amount, or percent of IST Revenue pledged toward the Project and payment of Note obligations is referred to as “Available IST Revenue” and is described in Section 11, *Village Assistance and Pledged Revenue*.

The Developer shall, as necessary, secure from retail businesses operating on the Property authorization to release sales tax information to the Villages for purposes of calculating IST Revenue for the period January 2015 through the time the Notes are paid in full.

## **10. Village Assistance and Pledged Revenue**

The Villages agree to provide financial assistance in an amount not to exceed an aggregate par value of (i) the lesser of twenty-three percent (23%) of the total Project costs; or, (ii) \$8.6 million (the "**Village Assistance**"), consisting of eligible reimbursable Project costs (as determined under both the TIF Act and the home rule powers of each Village) to be reimbursed with Available IPT Revenue and Available IST Revenue (as hereinafter defined) pledged toward the payment of principal of notes issued by each Village ("**Notes**") and of interest on the Notes. The maximum amount of Village Assistance provided by VOC will be \$1,000,000.00, in par value, plus simple interest at 5.00%, as set forth in the RDA between the Developer and VOC. The maximum amount of Village Assistance provided by VOWD will be \$7,600,000.00, in par value, plus simple interest at 5.00%, as set forth in the RDA between the Developer and VOWD.

### Pledged Revenue

The Notes shall NOT be general obligations of the Village, and shall be strictly limited obligations secured and paid solely by and have a lien, as further described below, on the following limited pledge of IST Revenue and Available IPT Revenue (together the "**Pledged Revenue**"), and in the following order of application:

- A. Reimbursement of Villages' Costs: Prior to payment of Pledged Revenue to Developer, VOWD and VOC will first use Available IPT Revenue and Available IST Revenue to reimburse themselves for costs incurred to establish their respective TIF Districts and in connection with their respective Sharing Agreements, each in an amount not to exceed \$100,000 total.
- B. Pledged Incremental Property Tax: Ninety-five percent (95%) of the annual IPT Revenue that is allocated to and, when collected, paid to the Treasurer of the Village for deposit into the Special Tax Allocation Fund established for the TIF District and which is attributable to the taxes levied on the Property.
- C. Pledged Incremental Sales Tax: Seventy percent (70%) of the IST Revenue attributed to the businesses operating on the Property ("**Available IST Revenue**"). The Notes shall have a first lien on the Available IST Revenue.

The Villages shall use annual Pledged Revenue, from the sources identified above, to pay principal of the Notes and interest on the Notes issued in connection with the Village Assistance. The Villages may, in each of their sole discretion, issue bonds in the future to pay off the Notes issued to the Developer in connection with the Project, provided that the bonds to achieve debt service savings are limited obligations of the Village and payable solely from Pledged Revenue when the revenue stream is sufficient to permit the Developer to market and sell bonds, the proceeds of which are sufficient to redeem the Notes and pay all costs of issuance.

In no event shall the amount of Village Assistance paid by VOC to Developer exceed \$1.2 million dollars (plus interest as set forth in this Section 11), and in no event shall the amount of

Village Assistance paid by VOWD to Developer exceed the lessor of 23% of the actual costs of the Project or \$7.6 million dollars (plus interest as set forth in this Section 11).

Neither the Developer nor VOWD, nor their successors or assigns, may provide any incentive for the relocation of Kohl's or Carson Pirie Scott from VOC to VOWD in contravention of Section 3(q)(13) of the TIF Act or Section 8-11-21 of the Illinois Municipal Code. Neither the Developer nor VOC, nor their successors or assigns, may provide any incentive for the relocation of Sears or Macy's from VOWD to VOC in contravention of Section 3(q)(13) of the TIF Act or Section 8-11-21 of the Illinois Municipal Code. Any relocation of Kohl's, Carson Pirie Scott, Sears or Macy's from their current location across the municipal border using any municipal incentives shall require mutual agreement of the Developer and Villages.

## **11. Redevelopment Agreement**

In addition to authorizing the issuance of Notes to evidence the obligation of the Villages to render Village Assistance, the RDAs shall also include the following terms:

- a. Date to submit the development Plan/PUD or Site Plan, and any other document required pursuant to applicable Village codes, for approval by the Village;
- b. Estimated Budget as resulting from the approved plan;
- c. Date to commence construction of each Project component;
- d. Date of completion for construction of each Project component;
- e. Developer must indemnify the Village for all claims relating to the Project;
- f. Obligate the Villages to issue Notes to the Developer upon completion of the construction of each Project component, with no less than eighty percent (80%) occupancy of such component, but only for the amount as approved by the Village upon a "Request for Reimbursement" as described in Section 15. The total principal amount of all Notes to be issued by the Villages shall not exceed the lesser of twenty-three percent (23%) of the actual cost of the entire Project or \$8.6 million in the aggregate. Payment of principal of and interest on the Notes shall be semi-annually on January 15 and July 15<sup>th</sup> in the order of issuance, said payment to be applied first to outstanding interest and then principal.
- g. Specify that the Notes shall bear interest at the rate of five percent (5.00%); shall be subject to the terms and conditions of the RDA; shall mature upon the earlier of: (i) twenty (20) years from date of issue; or, (ii) date of receipt of IPT Revenue for the 23rd year following the establishment of the TIF District; or, (iii) as otherwise subject to and as set forth in (j) below; and, may be assigned in accordance with the terms set forth therein.
- h. The Notes shall be payable from ninety-five percent (95%) of the annual IPT Revenue after the payment as set forth in Section 11A above to each Village for notice, publication, consulting and legal fees incurred by them to establish the TIFs and negotiate the RDAs, and seventy percent (70%) of the IST Revenue. The maximum amount of the Notes shall be as set forth in Section 11 of this Term Sheet. Any assignment of the Notes or the Redevelopment Agreements to an entity unrelated to the Developer (*i.e.*, the

Developer having a less than 50% ownership interest in such unrelated entity), shall be subject to the approval of the Village, which approval shall not be unreasonably withheld.

- i. Subject to Force Majeure provisions of the Redevelopment Agreements, if at the end of the five (5) year period after the initial issuance of a Note, Developer has not completed eighty percent of the Project (either by spending at least \$30,000,000 in Project costs or by substantially completing 80% of the combined Project Components), the Villages shall be relieved of the obligation to pay Pledged Revenue to pay any Notes.
- j. In the event any principal or interest remains unpaid after the date of maturity discussed in (g), above, or any Notes issued by the Village, each Village is obligated to continue to pay seventy percent (70%) of the IST Revenue through December 31, 2038.
- k. Allows the assignment of the RDA in accordance with the terms therein.
- l. Requires the Developer to make all covenants to the RDA as required by the TIF Act regarding applicable law, discrimination *etc.*

## **12. Sales Tax Agreement**

The Villages agree to enter into Sharing Agreements with the Developer for a term not to exceed twenty-three (23) years. Such Sharing Agreements would require bi-annual payments of the Available IST Revenue for payment of principal of and interest on the Notes pursuant to the RDAs.

## **13. Developer Funds**

The Developer shall provide evidence to the Villages of the availability of sufficient funds to complete each Project component as it is contemplated and approved by the Village.

## **14. Requests for Reimbursement and Certificates of Expenditure**

To establish its right of reimbursement of Pledged Revenue, as well as the issuance of the Notes, the Developer shall submit to the Villages such documentation as may be reasonably requested by the Villages, such as an Owner's Sworn Statement, to verify total spending for each completed Project component, as well as more detailed documentation of all costs to be reimbursed with Village funds (*including but not limited to sworn statements, lien waivers, cancelled checks, paid invoices, etc.*) that the Developer has incurred in connection with the Project. The Villages shall agree to keep all documents and costs confidential to the extent provided by law. The request for reimbursement shall utilize the form contained in the RDA.

## **15. Applicable Law**

A. There are no formal public bid requirements associated with the Project for contracts entered into by the Developer. However, the Developer shall comply with all requirements of Illinois law, including the TIF Act, the Prevailing Wage Act, the Employment of Illinois Workers on Public Works Act, and the Steel Products Procurement Act.

B. The Developer shall have the right, at its election and subject to the approval of the Village, which approval shall not be unreasonably withheld, to (i) self-perform and/ or (ii) to cause any of its affiliates to perform work or provide labor or materials that constitute TIF-Eligible Costs, and



which ultimately become incorporated into the Notes, provided the charges for the work are fair and reasonable.

**16. Modification of Restrictive Covenant**

With respect to the Covenants, Conditions and Restrictions Agreement (Parcel B2C Spring Hill Mall), dated June 10, 1985, the Developer shall amend its use operation restriction on Parcel B2C, currently confined to a sit down restaurant serving primarily pizza and the related sale of sandwiches, to permit any lawful use (but not those uses prohibited pursuant to Section 5.c of such Restrictions Agreement). The amendment must be recorded in a form approved by the VOC Village Manager on the date of execution of the Sharing Agreement.

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