

Resolution No: 11-1409

Date: April 6, 2011

## A RESOLUTION AUTHORIZING A REDEVELOPMENT AGREEMENT

WHEREAS, the Village of Romeoville has determined that is in the best interests of the Village to authorize the execution of a Redevelopment Agreement in substantially the form attached hereto and incorporated herein as Exhibit A.

**NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF ROMEOVILLE, WILL COUNTY, ILLINOIS:**

**SECTION ONE.** The foregoing Recitals are hereby incorporated into this resolution as if fully set forth in this Section 1.

**SECTION TWO.** The President and Clerk are hereby authorized to execute and attest to the execution of a redevelopment agreement with PMM3K Enterprises LLC in substantially the form attached hereto as Exhibit A.

**SECTION THREE.** That the various provisions of this Resolution are to be considered severable and if any part or portion of this Resolution shall be held invalid by any Court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Resolution.

**SECTION FOUR.** All prior Resolutions and Resolutions, or parts thereof in conflict or inconsistent with this Resolution are hereby expressly repealed only to the extent of such conflict or inconsistency.

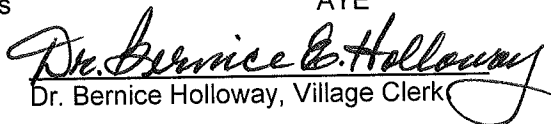
**SECTION FIVE.** This Resolution shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED this 6th day of April, 2011 with 6 members voting aye, 0 members voting nay, the President N/A voting, with 0 members abstaining or passing and said vote being:

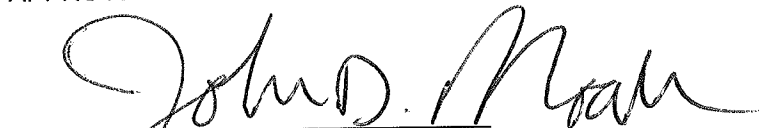
Linda S. Palmiter  
Joe Chavez  
Sue A. Micklevitz


AYE Ken Griffin  
AYE Brian Clancy  
AYE Dave Richards

AYE  
AYE  
AYE

  
Dr. Bernice Holloway, Village Clerk

APPROVED THIS 6TH DAY OF APRIL, 2011.

  
John Noak  
Village President

Attest:   
Dr. Bernice Holloway  
Village Clerk



## REDEVELOPMENT AGREEMENT

This Redevelopment Agreement ("Agreement") is entered this 6 day of April, 2011 by and between PMM3K Enterprises LLC (the "Developer") and the Village of Romeoville, Will County, Illinois, an Illinois home rule municipal corporation ("Village") (the Developer and the Village are collectively referred to as the "Parties").

### RECITALS:

A. WHEREAS, the Village has undertaken a program for the redevelopment of certain property within the Village, pursuant to the "Tax Increment Allocation Redevelopment Act," 65 ILCS 5/1 1-74.4-1 et seq., as amended (the "Act"); and

B. WHEREAS, acting pursuant to the Act and after giving all notices required by law and after conducting all public hearings and meetings required by law, the Village created a Redevelopment Project Area commonly known as a "TIF District" (the "Redevelopment Project Area") by ordinances (i) approving a Redevelopment Plan and Project (the "Redevelopment Plan"), (ii) designating a Redevelopment Project Area and (iii) adopting Tax Increment Financing; and

C. WHEREAS, the TIF District is commonly known as the "Downtown TIF"; and

D. WHEREAS, the Village and the Developer are authorized to enter into this Agreement pursuant to the Act, the Village's authority as a home rule municipal unit of government and other applicable statutory and constitutional authority; and

E. WHEREAS, the Developer is the lessee of the property described on Exhibit "A" attached hereto (the "Redevelopment Property") pursuant to a written lease thereof with the owner; and

F. WHEREAS, the Redevelopment Property is located within the Village and within the Downtown TIF; and

G. WHEREAS, the Developer represents and warrants that he will redevelop the Redevelopment Property; and

H. WHEREAS, the Developer contemplates redeveloping the Redevelopment Property by undertaking those improvements set forth on Exhibit B attached hereto (the "Project"); and

I. WHEREAS, the Redevelopment Plan contemplates paying for and reimbursing the

Developer for a portion of the costs for the redevelopment and construction of the Project which are redevelopment project costs pursuant to the Act and up to the limit hereafter set forth; and

J. WHEREAS, the Developer represents and warrants that he would not be able to complete the redevelopment of the Redevelopment Property or complete the Project without the Village's provision of tax increment financing in conformance with this Agreement and the Act; and

K. WHEREAS, the Corporate Authorities of the Village have determined that construction of the Project is in the Village's, and the Developer's best interest and promotes the general health, safety and welfare of citizens of the Village; and

L. WHEREAS, the Village has agreed, in reliance on the Developer's commitment to construct the Project and commitment to the continued operation of the business to be situated on the Redevelopment Property, to provide certain financial assistance as specifically set forth in this Agreement; and

M. WHEREAS, the business to be situated upon and operated on the Redevelopment Property is a family friendly sports bar and restaurant facility (the "Business"); and

N. WHEREAS, the Developer has agreed, in reliance on the Village's commitments set forth in this Agreement, to complete the Project in accordance with this Agreement; and

O. WHEREAS, in reliance upon the mutual promises contained herein, the Village and Developer are entering into this Agreement, which will constitute the full and complete understanding of the Village and Developer with respect to the subject matter hereof and supersedes all previous agreements between the parties relating to the subject matter hereof; and

P. WHEREAS, the Developer represents and warrants that he will obtain all necessary rights, privileges, contracts and authorities necessary to construct, operate and maintain the Business and complete the Project; and

Q. WHEREAS, the Developer represents and warrants that he has sufficient equity financing necessary to construct the Project and operate the Business; and

R. WHEREAS, the Developer represents and warrants to the Village that the Project would not be completed and the Redevelopment Property would not be redeveloped as contemplated within the Project but for the utilization of incremental taxes as hereinafter provided to pay for certain eligible redevelopment project costs.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, the Parties agree as follows:

**1. INCORPORATION OF RECITALS AND EXHIBITS.** The statements, representations, covenants and recitations set forth in the foregoing recitals are material to this Agreement and are incorporated into and made a part of this Agreement as though they were fully set forth in this Section 1. The Exhibits referred to in the Preambles in this Agreement and attached to or incorporated into it by textual reference are incorporated by reference into and made a part of this Agreement as though they were fully set forth in this Section 1. The Parties acknowledge the accuracy and validity of those exhibits.

**2. ADDITIONAL DEVELOPER COVENANTS, REPRESENTATIONS AND WARRANTIES.** In consideration of the Village's substantial commitment to the redevelopment of the Redevelopment Property and its commitments contained in this Agreement, the Developer agrees, represents, warrants and covenants with and to the Village as follows:

**1.0 Plans.** The Project shall be completed in substantial conformance with this Agreement together with the attached exhibits.

**2.0 Construction of Project.** The Developer shall construct the Project as approved by the Village in accordance with this Agreement and its ordinances. All costs, expenditures or expenses for which reimbursement is sought as an eligible redevelopment project cost shall be constructed in a cost-efficient manner. Nothing herein shall be deemed to limit the amount which the Developer may expend on the Project. The Project shall be completed and the Business in operation on or before August 1, 2011 (the "Completion Date").

**3.0 Compliance with Laws and Permits.**

**A.** Development, construction and operation of the Project and the Business shall comply with all applicable laws, regulations, rules and ordinances and other legal requirements of the Village, County of Will, the State of Illinois and the United States of America.

**B.** The Developer shall secure all required permits and approvals. The Village shall cooperate with the Developer in approving necessary permits after submission of a complete application, which complies in all respects with all applicable laws, ordinances, regulations and this Agreement.

**4.0 Developer Information.** The Developer shall complete a sworn TIF Allocation Information Return ("TIF Return") on a form provided by the Village to assist the Village in administering this Agreement and the Redevelopment Project Area. The Developer shall submit the TIF Return within thirty (30) days of a request by the Village. The TIF Return shall contain information as required and necessary for the Village to carry out the objectives of this Agreement, the Redevelopment Plan, and the Act. The Developer shall furnish information when that information is required by the Village for the administration of the Redevelopment Project Area, its

administration of the Redevelopment Plan, its obligations relating to Marquette TIF or its obligations under this Agreement, its obligations under any statute, law, ordinance, resolution, rule, regulation or other legal requirement, to assure the Developer's material compliance with any statute, law, ordinance, resolution, rule, regulation or other legal requirement, and/or to assure the Developer's obligations under this Agreement. The Developer shall provide such information to the Village within a reasonable time after the Village's request for such information. All information required to be disclosed shall be subject to "continuing disclosure" and such continuing disclosure shall be made to the Village.

**5.0 Indemnification.** Developer agrees to indemnify, defend (with counsel approved by the Village and, if the Village's and the Developer's interest are in conflict, the Village will have the right to select its own counsel at the Developer's expense) and hold harmless, the Village, its elected and appointed officers, its boards, commissions and committees, the members of such boards, commissions and committees, its employees, its representatives, its agents, its financial and planning advisers, its attorneys and its volunteers, and the successors, assigns, executors, administrators, heirs, beneficiaries, and legatees of the foregoing (the "Indemnitees"), individually and collectively, from any claims, lawsuits, damages, judgments, settlements or other liability which arise directly or indirectly from the entry of this Agreement, any actions contemplated or taken pursuant to this Agreement, or any activity occurring at the Redevelopment Property or any other property where the Improvements are constructed in whole or in part. In the event that any Indemnitee is required to pay any amounts for any attorneys' fees, costs, expense, judgment or otherwise for which indemnification is required by the Developer, then said payments made shall constitute a lien against the Redevelopment Property subordinate to any previously recorded first mortgage that encumbers the Improvements in favor of the persons and entities indemnified pursuant to this Agreement. Nothing contained in this Agreement shall be deemed to constitute a waiver by the Village or any Indemnitee of any immunity or privilege afforded by law including, but not limited to, the Illinois Governmental Tort Immunity Act. Nothing herein shall be construed so as to require such indemnification or hold harmless resulting from the negligence of the Indemnitees.

## **6.0 Insurance.**

**A. Insuring the Construction of the TIF Funded Improvements.** The Developer shall cause the Village to be named as a primary, noncontributory additional insured party on one or more insurance policies issued or an endorsement to such policy(ies), to provide builder's risk, general liability and Workers' Compensation coverage for the construction of any TIF Funded Improvements (as hereinafter defined) with an insurer reasonably acceptable to the Village. Each of these insurance policies shall be issued with limits, which are economically appropriate for the size and scope of the TIF Funded Improvements and commercially reasonable and acceptable to the Village. Each of these insurance policies shall provide for not less than thirty (30) days written notice to the Village in the event of cancellation. The Developer shall provide the Village with certified copies of such policies and Certificates of Insurance for

such policies naming the Village as primary, non-contributory additional insured prior to commencement of construction of the TIF Funded Improvements. Prior to commencement of construction of TIF Funded Improvements the Developer shall deliver to the Village all required certificates of insurance which shall be subject to approval by the Village with regard to the carrier, amounts and coverages. In the event the Developer fails to procure the insurance required by this Section 2.6.A, after thirty (30) days written notice the Village may procure such insurance at the Developer's expense. The Village may deduct any amounts expended pursuant to this Section 2.6.A from the Incentive Amount.

**B. Insurance Covering the Project.** Throughout the term of this Agreement, the Developer and its successors, assignees or designees shall maintain an insurance policy or policies insuring the Redevelopment Property (and structures and improvements located thereon), against loss by fire or other hazard, in an amount equal to the value of the Redevelopment Property, with an insurer reasonably acceptable to the Village. The Developer shall increase the amount of such coverage in amounts equal to any increases in the cost to reconstruct which occur from time to time. The Developer shall provide the Village with Certificates of Insurance evidencing such policies. Prior to the commencement of construction of the Project, the Developer shall deliver to the Village all required certificates of insurance which shall be subject to the approval of the Village with regard to the carrier, amount and coverage. In the event the Developer fails to procure the insurance required by this Section 2.6.B, after thirty (30) days written notice the Village may procure such insurance at the Developer's expense. The Village may deduct any amounts expended pursuant to this Section 2.6.B from the Incentive Amount.

**7.0 Developer Financing.** It is recognized that in addition to the financial assistance provided by the Village through Tax Increment that additional funds will be required to complete the Project, including the TIF Funded Improvements, the Developer shall obtain all such additional financing or use such reserve funds as he has available to complete the Improvements.

**8.0 Developer Covenants, Representations, and Warranties.** The Developer covenants, represents and warrants as of the date hereof and until all Requests for Disbursement have been made and approved that:

- (a) The Developer is an entity created pursuant to the laws of the State of Illinois;
- (b) The Developer has the right, power and authority to enter into, execute, deliver and perform this Agreement;
- (c) The execution, delivery and performance by the Developer of this Agreement has been duly authorized by all necessary action, and does not and will not violate any applicable provision of law, or constitute a breach of, default under or require

any consent under any agreement, instrument or document to which the Developer is now a party or by which the Developer is now or may become bound.

(d) The Developer is able to pay their respective debts as they mature;

(e) There are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened or affecting the Developer which would impair its ability to perform under this Agreement; and

(f) The Developer has and shall from time to time obtain and maintain all government permits, certificates and consents (including, without limitation, appropriate environmental approvals) necessary to conduct its business and to commence construction, complete and operate the Improvements; and the Developer is not in default with respect to any indenture, loan agreement, mortgage, deed, note or any other agreement or instrument related to the borrowing of money to which the Developer is party or by which the Developer is bound which would adversely affect its ability to perform under this Agreement.

**9.0 Prevailing Wage.** The Developer understands that by utilizing TIF incentives that the Project may become subject to the Illinois Prevailing Wage Act and the Developer covenants and agrees to the extent required to comply, and to contractually obligate and cause its, construction manager, any general contractor, each subcontractor or other applicable entity or person to comply with the Illinois Prevailing Wage Act. All contracts subject to the Prevailing Wage Act shall list the specified rates to be paid to all laborers, workers and mechanics for each craft or type of worker or mechanic employed pursuant to such contract. If the prevailing wage rates are revised, the revised rates shall apply to all such contracts. The Developer shall provide the Village with copies of all such contracts entered into by the Developer or others to evidence compliance with this Section. The Developer together with its contractors, subcontractors, agents, employees and others shall provide such documents, information and certifications, including appropriate payroll certifications, as are necessary to comply with the Illinois Prevailing Wage Act.

**10.0 Performance.** The Developer shall not knowingly enter into any transaction that would materially and adversely affect their ability to perform their obligations hereunder or to pay any material liabilities or perform any material obligations of the Developer to any other person or entity. The Developer shall, within thirty (30) days, notify the Village of any and all events or actions of which they become aware which materially affect the ability of Developer to carry on its business operations or perform obligations under this Agreement or any other documents and agreements.

**11.0 Compliance With Law.** To the best of the Developer's knowledge, the Project, the Redevelopment Property and the TIF Funded Improvements are and shall be in material compliance with all applicable federal, state and local laws, statutes, ordinances, regulations, executive orders and codes pertaining to or affecting the Project,

the Improvements and the Redevelopment Property.

**12.0 Compliance with Agreements.** The Developer will materially comply with all contracts, licenses, permits and agreements relating to the TIF Funded Improvements. The Developer shall, within thirty (30) days, immediately notify the Village in writing of the occurrence of any material default under any such contract, license, permit or agreement that either of them becomes aware of.

**13.0 Survival of Covenants.** All warranties, representations, covenants and agreements of the Developer contained in this Section and elsewhere in this Agreement shall be true, accurate and complete at the time of the Developer's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and shall be in effect until Completion of the TIF Funded Improvements and termination of this Agreement.

**14.0 Fair Employment as Equal Opportunity Practices.** The Developer, on behalf of itself and its successors and assigns, hereby agrees, and shall contractually obligate it or their various contractors and subcontractors, to agree that until Completion of the Project with respect to the Developer, and during the period of any other party's provision of services in connection with the construction of the TIF Funded Improvements to comply with all applicable laws relating to fair employment and equal opportunity.

**15.0 Books and Records.** The Developer shall keep and maintain separate, detailed accountings of expenditures demonstrating the total actual costs of the TIF Funded Improvements. All such books, records and other documents, including but not limited to the Developer's loan statements, General Contractors' and contractors' sworn statements, general contracts, subcontracts, purchase orders, waivers of lien, paid receipts and invoices, shall be available at the Developer's offices for inspection, copying, audit and examination by an authorized representative of the Village. The Developer shall incorporate this right to inspect, copy, audit and examine all books and records into all contracts entered into by the Developer with respect to the TIF Funded Improvements.

**16.0 Inspection Rights.** Any authorized representative of the Village shall have access to all portions of the TIF Funded Improvements and the Redevelopment Property during normal business hours until Completion of the particular Improvements upon reasonable notice to the Developer for the purpose of determining compliance with this Agreement and applicable laws, regulations and ordinances, including but not limited to building, fire and safety codes.

**17.0 Progress Reports.** Until substantial completion of construction of the TIF Funded Improvements, the Developer shall provide the Village with written progress reports commencing thirty (30) days after execution of this Agreement and continuing on a monthly basis thereafter detailing the status of the construction. The Developer shall notify the Village upon substantial completion of construction of the TIF Funded Improvements.

**18.0 Village Signage.** Upon the Village's written request, the Developer shall, at its sole cost, erect a sign of size and style approved by the Village in a conspicuous location on the Redevelopment Property during construction of the Project, indicating that tax increment financing has been provided by the Village. The Village reserves the right to include the name, photograph, artistic rendering of the Project and other pertinent information regarding the Developer, the Redevelopment Property and the Redevelopment Project in the Village's promotional literature and communications.

**19.0 Conflict of Interest Disclosure.** Pursuant to Section 5/11-74-4-4(n) of the Act, the Developer represents, warrants and covenants that, to the best of its knowledge, no member, official, or employee of the Village or of any Village commission or committee exercising authority over the Redevelopment Project, the Redevelopment Area or the Redevelopment Plan, or any consultant hired by the Village, in connection with the planning and preparation of the Redevelopment Plan or Project, owns or controls, has owned, controlled or will own or control any interest in the Developer, the Redevelopment Property or the Project.

**20.0 Pending/Threatened Litigation.** Upon execution of this Agreement, the Developer shall provide to the Village a description of all pending or threatened litigation or administrative proceedings within its knowledge which could have a material adverse impact on the Improvements, or financial condition of the Developer.

**21.0 Village Undertaking of Obligations.** Subject to the provisions of Section 11 of this Agreement, in the event the Developer fails to perform any obligation required of it pursuant to this Agreement or any statute, law, ordinance, resolution, rule, regulation or other legal requirement affecting or pertaining to the Redevelopment Property and/or the Project after written notice thereof has been provided to the Developer from the Village, and after a reasonable opportunity to cure has elapsed, the Village shall have the option of performing that obligation after written notice to the Developer, provided the Village shall not have the right of self-help with respect to construction of the Project. Any funds expended by the Village pursuant to this section shall be paid from and be an offset to the Incentive Amount.

**22.0 Incentive Repayment Conditions.** In the event that the owner of the Redevelopment Property transfers, conveys, leases or otherwise relinquishes the ownership of the Redevelopment Property or in the event that the Developer transfers, conveys, leases or otherwise relinquishes the ownership of or ceases the operation of the Business (with any cessation of the operation of the Business to be determined in accordance with Section 5 hereof) before the fifth (5<sup>th</sup>) anniversary of this Agreement (the "Business Sale") then in that event within thirty (30) days of the Business Sale, the Developer shall repay to the Downtown TIF Fund or to the Village for the benefit of the Affected Taxing Bodies a prorated portion of the Incentive Amount. If the Business Sale occurs on or before April 6, 2012, the entire Incentive Amount shall be repaid; thereafter, the portion of the Incentive Amount to be repaid shall be reduced by twenty percent (20%) on each anniversary of this Agreement. Notwithstanding the foregoing, a Business

Sale shall not be deemed to have occurred if a transfer, conveyance, lease or other relinquishment of the ownership of the Redevelopment Property is made by the owner of the Redevelopment Property to the Developer in connection with the Developer's continued ownership and operation of the Business as contemplated hereby. To secure the reimbursement from the Developer of obligations owed under this Section 2.22, the Developer shall provide to the Village (a) personal guarantees of the obligations of Developer created by this Section 2.22 in form and substance acceptable to the Village and (b) a surety bond in form and substance acceptable to the Village issued by a surety acceptable to the Village securing Developer's performance of its obligations under this Section 2.22.

**3. VILLAGE COVENANTS.** The provisions of this Section 3 shall be conditioned upon and subject to compliance, in all material respects, with all applicable statutes, laws, ordinances, resolutions, rules, regulations and other legal requirements.

**1.0 DEFINITIONS.** For purposes of this Agreement, the following words and phrases shall have the following meaning:

**A. "Incremental Taxes"** shall mean in each calendar year during the term of this Agreement, the portion of the *ad valorem* real estate taxes arising from levies upon taxable real property in the Redevelopment Project Area by taxing districts that is attributable to the increase in the equalized assessed value of the taxable real property in the Redevelopment Project Area over the initial equalized assessed value of the taxable real property in the Redevelopment Area as determined in accordance Section 5/11-74.4-9 of the Act which, pursuant to the Ordinance adopting tax increment financing for the Marquette TIF and Section 5/11-74 4-8 of the Act, has been allocated to and when collected shall be paid to the Treasurer of the Village for deposit by the Treasurer into the Marquette TIF Fund established to pay Redevelopment Project costs and obligations incurred as provided in this Agreement in the payment thereof.

**B. "Completion of the Improvements"** shall mean that date upon which the Project has been completed as certified by the issuance of a Certificate of Occupancy.

**C. "Redevelopment Project Costs"** shall mean that portion of the Project costs that are eligible to be paid from tax increment allocation finance district funds according to the Act and other applicable law, and that have been approved by the Village for reimbursement from TIF Funds in accordance with Section 5/11-74.4-3 of the Act and this Agreement.

**D. "TIF-Funded Improvements"** shall mean those activities and undertakings with respect to the Project, the costs of which are eligible for reimbursement from TIF Funds in accordance with the Act and the provisions of this Agreement.

**E. "TIF Fund"** shall mean those Incremental Taxes from time to time held by the Village in the Downtown TIF Special Allocation Account.

**2.0 Incentives to the Developer.** Subject to the terms, conditions and restrictions of this Agreement and the Act, the Village shall upon opening of the Business, the Village shall provide up to a total amount of Two Hundred Forty Thousand and No/100 Dollars (\$240,000.00) (or such lesser amount as determined by the Village is to pay or repay Redevelopment Project Costs) to reimburse the Developer for TIF-Funded Improvements (the "Incentive Amount").

**A..** As a prerequisite to the making of any payment of the Incentive Amount to the Developer as hereafter described, the Developer must certify to the Village the following:

- (1) The Developer has the right, power and authority to submit the request for payment and to perform its obligations under the Agreement.
- (2) No Event of Default or condition or event which, with the giving of notice or passage of time or both, would constitute an Event of Default by Developer under the Agreement exists and remains unremedied.
- (3) The requested disbursement is for Redevelopment Project Costs which are qualified for payment under this Agreement, the Act and applicable law.
- (4) None of the items for which payment is requested has been the basis for a previous payment.
- (5) The payment is due and owing (or has already been paid) from the Developer to its construction manager, contractor, subcontractor or material supplier or others.
- (6) The Developer has obtained all government permits, certificates and consents (including, without limitation, appropriate environmental approvals) necessary to conduct its business and as applicable to reconstruct, complete and operate the Improvements.
- (7) The Developer is in substantial compliance with its material covenants under this Agreement and has satisfied any other preconditions to disbursement.
- (8) That no uncontested lien other than a mortgage or mortgages exists against the Redevelopment Property.
- (9) That the Developer has certified the work for which payment is sought has been completed.
- (10) That the Developer has certified that the TIF Funded Improvements for which reimbursement or payment is sought have been completed.

**B.** As a prerequisite to any and all payments by the Village, the Village must approve such payments, which approval shall be issued if the amounts requested are authorized by this Agreement and applicable law, and the Developer satisfies the preconditions for such payment. The Developer must provide to the Village to assist in the Village's consideration:

(1) A true and correct copy of the contract or contracts upon which the payment request is made.

(2) Good and sufficient (partial or full) waivers of liens with respect to the payment requested.

(3) Proof in a form reasonably acceptable to the Village, such as a contractor's sworn statement and architect's certification, that the Developer is obligated to make or has made the payments for which reimbursement is sought.

(4) Such information as is reasonably necessary for the Village to determine that reimbursement is being sought for a Redevelopment Project Cost.

(5) A request for disbursement ("Request for Disbursement") on a form acceptable to Village.

(6) All certificates required by Section 3.2.0.A above.

(7) A certification from the Developer that the Request for Disbursement includes expenses that are eligible for reimbursement under the Act.

(8) The Village shall complete its review within thirty (30) days of receipt of the documentation in conformance with this Agreement and either issue its approval or a letter detailing any reasons it is not issuing its approval, with such reasons for denial to be based on Developer's noncompliance with this Agreement. The Developer shall be entitled to submit any additional documentation necessary to secure such approval. Upon such resubmittal, the Village shall issue its written approval or denial within thirty (30) days of receipt of the resubmittal.

**4. SOURCE OF FUNDS.** The TIF Fund constitutes the sole source of funds available to pay the Incentive Amount to make any payments for any of the Redevelopment Project Costs pursuant to this Agreement. The Village shall be under no obligation to and shall not impose any tax or make payments from any other source or fund including but not limited to its General Revenue Fund in order to satisfy any of its obligations under this Agreement. The Developer further acknowledges that the Village does not in any way represent or warranty that sufficient monies will be available to pay any or all Eligible Redevelopment Project Costs during the term of this Agreement.

**5. OPERATING COVENANT.** Except in the case of Force Majeure, maintenance or repairs that unreasonably prevent the continued operation of the Project or unreasonably

cause the Business to be closed, if at any time during the term of this Agreement, the Business is not in operation or the Business is not operating in conformance with all applicable laws and ordinances no further payments shall be made under this Agreement and the Developer shall repay the Incentive Amount to the TIF Fund within thirty (30) days. The Incentive Amount shall be prorated on the same basis as set forth in Section 2.22.0 above. For purposes of this Agreement, "in operation", "operation" or "operational" shall mean that the Business is not open for business as a restaurant at least six (6) days a week for more than two (2) consecutive weeks. In the event that it is necessary to close the Business because of events of force majeure, maintenance or repairs within seven (7) days of such closure, the Developer shall provide the Village with a written notice detailing that reason for the closure and the expected date of reopening which shall be not more than one hundred eighty (180) days of the closure. If the Business does not reopen on or before the date and time set forth in such notice then in that event the Business shall be deemed not in operation.

**6. TERM OF AGREEMENT.** The term of this Agreement (the "Term") shall be from the date first written above, through April 6, 2017.

**7. LIMITED LIABILITY OF VILLAGE TO OTHERS FOR DEVELOPER'S EXPENSES.** Unless the Village has consented to an assignment, sale or transfer of Developer's rights in accordance with Section 15.B below, the Village shall have no obligation to make any payments to any person or entity on behalf of the Developer.

**8. COOPERATION OF THE PARTIES.** The Village and the Developer agree to cooperate reasonably with each other when requested to do so concerning the development of the Improvements.

**9. TIME PERFORMANCE.** For this Agreement, **TIME IS OF THE ESSENCE.**

**10. NO JOINT VENTURE, AGENCY, THIRD PARTY BENEFICIARY 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 the Parties or any third party beneficiary.

**11. DEFAULT/REMEDIES.** If any of the Parties shall default under this Agreement or fail to perform or keep any material term or condition required to be performed or kept by such Party (an "Event of Default), such Party shall, upon written notice from the other Party, proceed to cure or remedy such default or breach within thirty (30) days after receipt of such notice, provided, however, that in the event such default is incapable of being cured within said thirty (30) day period and the defaulting Party commences to cure the default within said thirty (30) day period and proceeds with due diligence to cure the same, such Party shall not be deemed to be in default under this Agreement. In the case of an Event of Default by the Developer, should such action to cure not be taken or not be diligently pursued, or the default or breach shall not be cured or remedied within the above period, the Village may suspend payment of the Incentive

Amount until the Developer commences and diligently pursues a cure. Any delay by any Party in instituting or prosecuting any actions or proceedings or asserting its rights under this Agreement shall not operate as a waiver of such rights in any way (it being the intent of this provision that such Party should not be constrained so as to avoid the risk of being deprived of or limited in the exercise of the remedies provided by law, equity or this Agreement because of the default involved). A waiver made by any Party with respect to any specific default by any other Party under this Agreement must be expressly and specifically made in writing and shall not be construed as a waiver of rights with respect to any other default by the defaulting party under this Agreement or with respect to the particular default except to the extent expressly and specifically waived in writing.

**12. FORCE MAJEURE.** The parties will diligently perform their obligations hereunder subject to Force Majeure. The term "Force Majeure" as used herein shall mean any delays incurred by a party due to strikes, lockouts, acts of God, enemy action, civil commotion, governmental restrictions or delays in obtaining permits (but solely to the extent that such delays are not caused by and are beyond the control of the party claiming such Force Majeure), lawsuits against any party that delays or stops construction or preemption, fire or other casualty, shortage of materials, unusually adverse weather conditions, or other cause beyond the reasonable control of the party, for so long as the party is using its reasonable good faith efforts to end any such delay if the party asserting the Force Majeure is reasonably capable of doing so.

**13. NOTICES.** All notices, demands, requests, and other communications under this Agreement shall be in writing and shall be either personally delivered or mailed, by U.S. Postal Service registered or certified mail, return receipt requested, postage pre-paid, or reputable overnight courier service to the Parties at the following addresses:

**DEVELOPER:**

PMM3K Enterprises LLC  
721 N. Independence Boulevard  
Romeoville, IL 60446  
Attn: Nick P. Karounos

**VILLAGE:**

Village of Romeoville  
1050 W. Romeo Road  
Romeoville, IL 60446  
Attn: Village Administrator

And

Village of Romeoville  
1050 W. Romeo Road  
Romeoville, Illinois 60446

Attn: Finance Director

or at such other address or to such other party as the Parties may designate in writing delivered or mailed as described above. Notices shall be deemed given upon receipt, in the case of notice by personal delivery or overnight courier, and five (5) business days after being deposited with the U.S. Postal Service, in the case of notice by registered or certified mail.

**14. ENTIRE AGREEMENT/AMENDMENTS.** This Agreement sets forth all the promises, inducements, agreements, conditions and understandings of the Parties relative to the subject matter hereof, superseding all prior negotiations, agreements and understandings, and there are no promises, agreements, conditions or understandings, either oral or written, express or implied, between the Parties, except as set forth herein. The Village is not obligated to make any further payments to the Developer or to provide any other economic incentive for the development of the Redevelopment Property other than those incentives described in this Agreement. No amendment, revision, change or addition to this Agreement shall be binding upon the Parties unless authorized in accordance with law and reduced to a writing which is executed by both Parties.

#### **15. SUCCESSORS AND ASSIGNS**

**A.** Except as provided in this Agreement, 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, without limitation, successor governing bodies of the Developer and the Village.

**B.** The Developer's obligations and rights pursuant to this Agreement shall be assignable only with the Village's written consent. Provided, however, that factors to be considered prior to approval of any requested assignment shall include, but not limited to, the proposed assignees financial strength and experience in operating a similar business. Prior to any approval by the Village of a sale, assignment or transfer of Developer's rights pursuant to this Agreement, the Developer shall send written notification to the Village's Finance Director providing such reasonable information as the Finance Director may require in order to issue future payments to the proper third party. This notification shall include the documents that will be used by the Developer to assign its interest and such documents must comply with this Agreement.

**16. GOVERNING LAW AND VENUE.** The validity, meaning and effect of this Agreement shall be determined in accordance with the laws of the State of Illinois. The Venue for any action under or resulting from this Agreement shall be in the Circuit Court of Will County, Illinois.

**17. CAPTIONS AND PARAGRAPHS HEADINGS.** The captions and paragraph headings used in this Agreement are for convenience only and are not a part of this Agreement and shall not be used in construing it.

**18. CONFLICTS.** In the event of a conflict between the provisions of this Agreement and the provisions of any Village ordinance, the provisions of this Agreement shall prevail to the extent permitted by law.

**19. DEFINITION OF TERMS/CONSTRUCTION OF AGREEMENT.** Any terms which are not defined in this Agreement shall have the same meaning as they do in the Act, unless herein indicated to the contrary. This Agreement has been negotiated by the parties hereto and their respective attorneys. The language in this Agreement shall not be construed for or against either party based upon any rule of construction favoring the non-drafting party. Words in the masculine, feminine or neuter shall apply to either gender or neuter, as appropriate.

**20. INTENTIONALLY OMITTED.**

**21. EXECUTION OF THIS AGREEMENT.** This Agreement shall be signed last by the Village and its Mayor shall affix the date on which he signs and approves this Agreement on the first page hereof, which date shall be the first date on which he is legally authorized to execute this Agreement on the Village's behalf and which date shall be the effective date of this Agreement.

**22. AUTHORIZATION.** The Developer hereby specifically designates itself as identified herein as the entity authorized to provide any all notices, make any and all requests and receive and receive any and all payments on behalf of all the Developer as contemplated herein. The Village has a right to and shall rely upon this designation. Neither the Village, the TIF District nor its officers, agents or employees shall be liable for any payment made or action taken or omitted in reliance upon this designation.

**23. NO PERSONAL LIABILITY.** The Developer recognizes that the persons signing this Agreement on behalf of the Village, the Mayor, the Village Board, the Village agents, officers, financial consultants, employees and attorneys, shall have no personal liability and that each is acting solely in their official or professional capacities.

**24. SEVERABILITY.** If any provision of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, such provision shall be deemed to be excised from this Agreement, the invalidity of such provision shall not affect any of the other provisions of this Agreement and those other provisions shall continue in full force and effect to the extent possible. Neither of the Parties shall challenge the validity or enforceability of this Agreement nor any provision of this Agreement, nor assert the invalidity or unenforceability of this Agreement or any provision of it.

**VILLAGE OF ROMEOVILLE**, an Illinois  
Municipal corporation

By: John D. Noah  
Its: Mayor

ATTEST:  
By: Dr. Bernice B. Hollaway  
Its: Clerk

DEVELOPER  
By: [Signature] / member  
PRIMER Enterprises, LLC

#### LIST OF EXHIBITS

Exhibit "A" Redevelopment Property  
Exhibit "B" Project Plans

**EXHIBIT A**  
**REDEVELOPMENT PROPERTY**

**The Redevelopment Property is legally described as follows:**

A PARCEL OF LAND IN BLK 3 OF THE RESUB OF HAMPTON PK INDUSTRIAL DIST, A SUB OF PRT OF THE E1/2 OF SW1/4 SEC 27 AND THE N1/2 OF SEC 34, T37N-R10E DAF: BEG AT THE SE COR OF THE INT OF ILL 53 & RIDGEWOOD AVE; THC N 89 DEG 00' 50" E ALG THE S'LY ROW LN OF RIDGEWOOD AVE A DIST OF 371.54 FT; THC S 0 DEG 19'15" W A DIST OF 365.53 FT TO THE CNTRLN OF LAKEHEAD PIPE LINE CO INC, EASE; THC S 89 DEG 00' 50" W ALG SD CNTRLN A DIST OF 582.62 FT TO THE E'LY ROW LN OF ILL RTE 53 THC ALG SD ROW LN ON A NONTANGENT CUR, CONCAVE TO THE SE, WHOSE RADIUS IS 307.78 FT, & WHOSE CHDS BEARS N 28 DEG 32' 09" E A DIST OF 307.43 FT TO A PT OF COMPOUND CURVATURE ON SD ROW LN; THC CONT ALG SD ROW LN ON A TANGENT CUR CONCAVE TO THE SE WHOSE RADIUS IS 6,965.87 FT, WHOSE ARC IS 119.18 FT, AND WHOSE CHDS BEARS N 33 DEG 46' 17" E, A DIST OF 119.18 FT TO THE POB, (EX THRFM THE PRT CONDEMNED BY DECREE ENTERED IN CASE # W69G2317H FOR HYW PURPOSES).

**EXHIBIT B**  
**PROJECT PLANS**

**Exhibit B: Project Plans**

The redevelopment project will include (but may not be limited to) the following items. Receipts will be required for TIF reimbursement. All reimbursement costs must be reviewed and approved by the Village and its consultants.

- A new monument sign will be installed along Independence Boulevard.
- Prior to the development of any of the remainder of the building, the building will be sprinklered. This will entail bringing in a new waterline.
- A new architectural PVC fence will be installed to screen the gravel and asphalt area behind the building. In the third phase of development, this area will be engineered and paved.
- A new dumpster enclosure will be installed.
- The parking lot will be restriped and will include code-compliant parking stall sizes and driveway widths.
- A new outdoor seating area, which will be larger than the previous one, will be installed.
- A cultured stone knee wall (that will match the façade) will be installed around the outdoor seating area. The knee wall will be capped with an architectural glass wall system.
- The perimeter of the outdoor seating area will be landscaped.
- Additional landscaping will be added along Route 53.
- The predominant parking lot islands will be landscaped.

**EXHIBIT A**  
**REDEVELOPMENT PROPERTY**

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A PARCEL OF LAND IN BLK 3 OF THE RESUB OF HAMPTON PK INDUSTRIAL DIST, A SUB OF PRT OF THE E1/2 OF SW1/4 SEC 27 AND THE N1/2 OF SEC 34, T37N-R10E DAF: BEG AT THE SE COR OF THE INT OF ILL 53 & RIDGEWOOD AVE; THC N 89 DEG 00' 50" E ALG THE S'LY ROW LN OF RIDGEWOOD AVE A DIST OF 371.54 FT; THC S 0 DEG 19'15" W A DIST OF 365.53 FT TO THE CNTRLN OF LAKEHEAD PIPE LINE CO INC, EASE; THC S 89 DEG 00' 50" W ALG SD CNTRLN A DIST OF 582.62 FT TO THE E'LY ROW LN OF ILL RTE 53 THC ALG SD ROW LN ON A NONTANGENT CUR, CONCAVE TO THE SE, WHOSE RADIUS IS 307.78 FT, & WHOSE CHDS BEARS N 28 DEG 32' 09" E A DIST OF 307.43 FT TO A PT OF COMPOUND CURVATURE ON SD ROW LN; THC CONT ALG SD ROW LN ON A TANGENT CUR CONCAVE TO THE SE WHOSE RADIUS IS 6,965.87 FT, WHOSE ARC IS 119.18 FT, AND WHOSE CHDS BEARS N 33 DEG 46' 17" E, A DIST OF 119.18 FT TO THE POB, (EX THRFM THE PRT CONDEMNED BY DECREE ENTERED IN CASE # W69G2317H FOR HYW PURPOSES).



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  - A new architectural PVC fence will be installed to screen the gravel and asphalt area behind the building. In the third phase of development, this area will be engineered and paved.
  - A new dumpster enclosure will be installed.
  - The parking lot will be restriped and will include code-compliant parking stall sizes and driveway widths.
  - A new outdoor seating area, which will be larger than the previous one, will be installed.
  - A cultured stone knee wall (that will match the façade) will be installed around the outdoor seating area. The knee wall will be capped with an architectural glass wall system.
  - The perimeter of the outdoor seating area will be landscaped.
  - Additional landscaping will be added along Route 53.
  - The predominant parking lot islands will be landscaped.
-



**VILLAGE OF ROMEOVILLE  
REQUEST FOR VILLAGE BOARD ACTION**

Date Prepared: March 31, 2011

Resolution (X) Ordinance ( ) Informational ( ) Motion ( ) Other ( )

Description/Title: A Resolution authorizing the execution of a Redevelopment Agreement

Staff Recommendation: Consider the resolution

PZC Recommendation: N/A

Required Action: Consider the resolution

Summary: The attached agreement provides for the redeveloper of the former Half Time site to undertake certain improvements to the property in connection with its redevelopment and operation as Stone City Saloon. These improvements would include but are not necessarily limited to parking lot landscape/landscape islands, water utility improvements, sprinkler system improvements, solid fencing for presently unimproved rear yard area, patio/outdoor seating area improvements, additional façade improvements, electrical improvements, and parking area improvements. Upon completion, and subject to compliance with the agreement, the developer would become eligible for up to \$240,000 in redevelopment incentives.

Option Consider the attached resolution

Prepared by: \_\_\_\_\_

Dept. Director: \_\_\_\_\_

Village Manager: \_\_\_\_\_





## REDEVELOPMENT PROJECT 715-721 INDEPENDENCE BOULEVARD

The building and site at 715-721 North Independence Boulevard is currently being leased by Nick Karounos and Milton Karounos. They have negotiated a real estate contract (with a five-year term) to purchase the property. They have undertaken a complete renovation of the site and building.

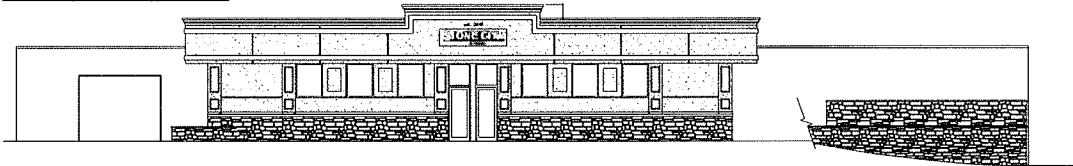
- Phase 1, which is currently underway, involved the renovation of the former Halftime bar and the opening of Stone City Saloon.
- Phase II is expected to involve the redevelopment of the former garage area into an autospa and detail center.
- Phase III will potentially involve the renovation of the warehouse portion of the building into an entertainment venue and the creation of a parking lot behind the building.

The following bullets detail their proposal.

Façade renovation for the bar / restaurant:

- The façade of the former Halftime bar has been completely renovated.
- The orange mansard roof and car dealership windows were removed.
- The roofline was extended to screen some rooftop equipment and to add visual detail.
- New windows and door were installed.
- The façade was covered with a two-toned EIFS treatment.
- A 2-foot high cultured stone wall was added to the base of the building.
- The entryway was relocated.

Architectural Elevation



Renovated Façade



### Façade before Renovation



### Site improvements:

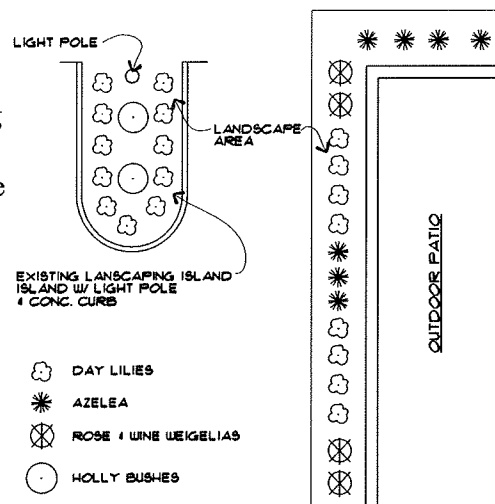
- The front parking lot was refurbished. Much of the lot was repaved. The portions that were in better shape were seal coated.
- A new architectural PVC fence will be installed to screen the gravel and asphalt area behind the building. In the third phase of development, this area will be engineered and paved.
- A new dumpster enclosure will be installed.
- The majority of the property maintenance violations were abated. The remaining ones (such as the gravel parking area and the unenclosed dumpster) will be addressed as part of the redevelopment.
- The parking lot will be restriped. The new parking lot striping will be much safer than what was previously in place and will include code-compliant parking stall sizes and driveway widths.
- A site plan follows on the next page.

### Landscaping:

- The perimeter of the outdoor seating area will be landscaped.
- Additional landscaping will be added along Route 53.
- The predominant parking lot islands will be landscaped.

### Outdoor seating area:

- The old outdoor seating area has been removed.
- The area will be extended to accommodate more seating.
- A cultured stone knee wall (that will match the façade) will be installed around the outdoor seating area. The knee wall will be capped with an architectural glass wall system.



### LANDSCAPE IMPROVEMENTS



Signage:

- The building signage and freestanding signage were removed.
- A new Stone City Saloon sign was installed on the renovated façade.
- A new monument sign will be installed along Independence Boulevard.

Interior renovation:

- The interior of the bar was remodeled.
- The bar, flooring, fixtures and equipment were replaced.
- The mechanical systems were upgraded.
- The restrooms were upgraded.
- The drop ceiling was removed.
- Prior to the development of any of the remainder of the building, the building will be sprinklered. This will entail bringing in a new waterline.

Renovated Interior



RES11-1409

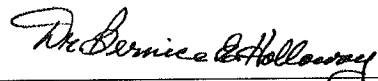
Date: 4/6/11

A Resolution Authorizing a Redevelopment Agreement

Published in Book and Pamphlet Form

This 15th day of April, 2011

By the Corporate Authority of the  
Village Of Romeoville

A handwritten signature in cursive script, reading "Bernice A. Hollaway".

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Village Clerk

