

**REDEVELOPMENT AGREEMENT**  
**41 S. Stolp Avenue and 1 W. Downer Place**

THIS REDEVELOPMENT AGREEMENT (this “Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2020 (the “Effective Date”), by and between the CITY OF AURORA, ILLINOIS, an Illinois municipal corporation (the “City”), and \_\_\_\_\_, an Illinois limited liability company (the “Developer”), and BERNIE LASKOWSKI (the “Guarantor”, and with the Developer and the City, the “Parties”).

**PREAMBLES**

WHEREAS, the City is a home rule unit of government in accordance with Article VII, Section 6 of the Constitution of the State of Illinois, 1970; and

WHEREAS, the Mayor and the Alderman of the City (collectively, the “Corporate Authorities”) have determined that blighting factors in the City’s downtown area (the “Downtown Area”) are detrimental to the public and impair development and growth in the Downtown Area, with the result that it is necessary to incur extraordinary costs in order to redevelop the Downtown Area; and

WHEREAS, the City is pursuing various economic development strategies to encourage development within the Downtown Area; and

WHEREAS, as part of the City’s strategies to encourage development within the Downtown Area, the City desires to increase the number of quality restaurant establishments in the Downtown Area; and

WHEREAS, Bernie Laskowski, a City resident and the managing member of the Developer, is a successful chef and restaurant owner and founder of the highly regarded Craft Urban restaurant in Geneva, Illinois and is seeking to open and operate a sister restaurant in the City’s Downtown area; and

WHEREAS, Developer is the fee simple title holder of certain real property located at 41 S. Stolp Avenue, Aurora, Illinois 60506, which real property is legally described on Exhibit A and depicted on Exhibit B (the “Developer Property”); and

WHEREAS, the City is the fee simple title holder of that certain vacant property adjacent to the Developer Property located at 1 W. Downer Place, Aurora, Illinois 60506, which real property is legally described on Exhibit C and depicted on Exhibit D (the “City Property”); and

WHEREAS, the Developer has requested that the City donate the City Property to the Developer, and the City desires to donate the City Property to the Developer on the terms and subject to the conditions set forth in this Agreement; and

WHEREAS, Developer proposes to redevelop the Developer Property and City Property (together the “Properties”), renovating the existing structures of the Developer Property and redeveloping the City Property to include a Craft Urban restaurant (the “Restaurant”) and three (3)

apartment units, totaling approximately 5,600 square feet (generally, the “Project”); and

WHEREAS, the Developer submitted a preliminary project plan, including a preliminary site plan and a proforma contractor estimate (the “Preliminary Project Plan”), a copy of which is attached hereto as Exhibit E, and a timeline for the Project (the “Project Timeline”), a copy of which is attached hereto as Exhibit F, to the City to provide the City with details of the Project; and

WHEREAS, the Preliminary Project Plan is consistent with the mutual goals of the Developer and the City; and

WHEREAS, the City understands that the Preliminary Project Plan does not contain final construction plans and drawings necessary to obtain buildings permits or a final proforma budget, both of which are required prior to the funding of the City Loan (as defined below), and the same shall be provided to the City on or before April 1, 2020, subject to the terms set forth in this Agreement; and

WHEREAS, prior to submitting the final construction plans and drawings and final proforma project budget for approval by the City, the Developer shall meet with the City’s Development Services Team to review the construction plans and drawings and proforma project budget and seek feedback to ensure material items and costs are not omitted from the same; and

WHEREAS, upon substantial completion, the Project shall represent (i) a capital investment on the part of the Developer of approximately \$450,000.00 (\$150,000.00 for the Developer Property acquisition and approximately \$300,000.00 for tenant improvements and working capital), all of which is Developer equity, and (ii) a total preliminary project budget of \$1,050,000(inclusive of all incentives provided hereunder), as set forth in the Preliminary Project Plan; and

WHEREAS, the Developer has provided the City with, and the City has reviewed, financial statements which indicate that the Developer, as reasonably determined by the City, has the financial resources, including net liquid assets, necessary to fulfill the Developer’s obligations set forth in this Agreement; and

WHEREAS, the City has authorized the issuance of a loan to Developer in the amount of \$600,000.00 (the “City Loan”) and the donation of the City Property to the Developer, subject to the terms set forth in this Agreement, in order to induce the Developer to complete the Project; and

WHEREAS, the Parties acknowledge that the goal of this Project is to establish another quality dining establishment in the Downtown Area and the Parties will work cooperatively to bring the Project to completion, as time is of the essence; and

WHEREAS, the City is aware that the Developer has applied for a “Finish-Line Grant” from Invest Aurora and will work directly with Brian Gay of Invest Aurora regarding such grant; and

WHEREAS, while the granting of a Finish-Line Grant by Invest Aurora may impact certain aspects of the completed Project, the outcome of the Developer's application for said grant shall not impact the Project Timeline, including the timely completion of the Project and the opening of the Restaurant; and

WHEREAS, the Corporate Authorities have determined that the rights and obligations of the City and Developer as described herein and the completion of the Project by the Developer pursuant to this Agreement are in the best interests of the City and the health, safety, morals and welfare of its residents and taxpayers, thereby providing for economic development, enhancing the tax base of the City and other taxing districts and adding to the welfare and prosperity of the City 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 recitals contained in the Preambles to this 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.      Development of the Project and Disbursements from the City to Developer.

(a) Attached hereto are the Preliminary Project Plan and the Project Timeline. The Developer agrees to and shall commence, undertake, and complete the Project in accordance with the Preliminary Project Plan and Project Timeline. The Developer shall provide the City with construction plans and drawings and a pro forma project budget, in a form that is required by the City for approval by no later than April 1, 2020. Such pro forma project budget shall include a detailed line-by-line breakdown of construction costs. The City estimates that it should take no longer than sixty (60) days to review the submitted items and to provide comments to the Developer. The final construction drawing and plans and final proforma budget, including anticipated construction draws, shall be provided to the City within two (2) weeks of the Developer's receipt of comments from the City on the construction plans and drawings and the pro forma project budget. Construction of the Project shall commence no later than two (2) weeks after Developer's receipt of applicable building permits. Subject to the prior consent and approval of the City's chief development officer, the City's director of economic development and the City's finance director, the Developer may modify the Preliminary Project Plan or Project Timeline to the extent such amendments do not constitute material changes to the scope, design, or overall nature or intent of the Project. Such consent and approval shall not be unreasonably withheld. The Developer is free to hire the contractor of their choice. The Developer shall ensure that (i) their contractor is qualified to complete the required by the Project, (ii) their contractor is familiar with the terms of this Agreement and shall agree, before being formally engaged, to adhere to all provisions herein, and (iii) their contractor works cooperatively with the City to ensure the Project is completed in accordance with the Preliminary Project Plan and Project Timeline.

(b) The Developer has an opportunity to revitalize the area by redeveloping the Properties to include a Craft Urban restaurant and three (3) apartment units, totaling approximately 5,600 square feet.

(c) The Properties may contain certain vaults in the right-of-way (the “Vaults”). The City, in accordance with the Developer’s construction plans, shall cause the Vaults to be filled in. In filling in the Vaults, all required utilities shall be re-located, interior walls under the Properties exterior walls shall be constructed, and the right-of-way shall be filled in and restored. Prior to the City commencing work to fill in the Vaults, the Developer shall submit the construction plans regarding the same to the City for review by the City’s Department of Development Services. The City shall approve said construction plans or propose revisions within a reasonable amount of time and in accordance with the City Code. In the event the City fails to fill in the Vaults in accordance with the Project Timeline, and such delay has not been caused by the Developer, the Developer may cause the Vaults to be filled in, in accordance with Developer’s construction plans, and the City shall reimburse the Developer for the Developer’s costs incurred to fill in the Vault’s within thirty (30) days of the Developer submitting invoices to the City detailing the work completed with regards to the filling in of the Vaults. Prior to the Developer causing the Vaults to be filled in, the Developer shall submit contractor estimates of the costs to fill in the Vaults to the City’s chief development services officer for review and approval, with such approval not to be unreasonably withheld.

(d) Prior to commencing construction, the Developer shall apply to the City for necessary building permits for the improvements to be made imminently by the Developer by submitting all plans and specifications required pursuant to the City Code of Ordinances (the “City Code”). The Developer shall be responsible for and promptly pay when due all building permit fees. The City shall review the building permit applications as provided in the City Code. The plans and specifications and all other required submissions shall also comply with all applicable federal, state, county, municipal or administrative laws, ordinances, rules, regulations, codes and orders relating in any way to the development of the Project (collectively, the “Legal Requirements”).

(e) The Developer shall make all necessary applications (including paying all required fees, costs and expenses) for any and all land use adjustments and/or entitlements required for the successful completion of the Project (the “Land Use Application(s)”). Upon receipt of a Land Use Application(s) the City shall process the same in accordance with all applicable laws, including and without limitation, the City Code. Nothing set forth herein provides the Developer with a guarantee of the successful approval of any Land Use Application applied for regarding the Project.

(f) The Developer shall be authorized, upon the Effective Date, to apply for all applicable building permits and to submit all applicable Land Use Applications pertaining to the City Property.

(g) Subject to the terms and conditions of this Agreement, the City shall provide the following incentives to the Developer provided the Developer is not in default (uncured) of this Agreement:

(i) the City Loan which shall be a construction-to-permanent loan from the City to the Developer in the principal amount of \$600,000.00 with per annum interest on the unpaid principal balance at a fixed rate of interest of five percent (5%) payable over the course of ten (10) years.

(A) The City shall disburse the principal amount of the Loan to the Developer as follows:

(1) Up to \$50,000.00 of the Loan shall be disbursed to the Developer to assist the Developer in paying the costs associated with developing the final construction plans and drawings (which are required to be submitted for formal Project approval) and the costs of building permits. The City shall disburse such funds upon the Developer providing sufficient proof to the City, as determined by the City's chief development services officer, the City's director of economic development and the City's finance director, of the direct costs incurred by the Developer towards the completion of the final construction plans and the costs of the required building permits, including, but not limited to, a proposal and quote from the Developer's architect and building permit fee calculations. The Developer shall provide the items required under this paragraph to the City's chief development services officer, the City's economic development director and the City's finance director within two (2) weeks of the Corporate Authorities' approval of this Agreement.

(2) The remaining amount of the Loan shall be drawn upon by the Developer to pay for the actual costs of construction, hard and soft, of the Project and the City shall release such funds upon (i) the approval of the final construction plans and drawings and the final proforma project budget by the City's chief development services officer, (ii) the Developer's receipt of applicable building permits and (iii) the Developer's provision of verified invoices for services provided in accordance with the building permits and final construction plans and as approved by the City's chief development services officer, the City's director of economic development and the City's finance director. The City shall maintain a ten percent (10%) retainage on all draw requests. For the Developer to receive the ten percent (10%) retainage on a particular draw request, the Developer shall provide lien waivers from all contractors and subcontractors for all work completed relevant to such draw request. The funds from each draw request, excluding the ten percent (10%) retainage, shall be released to the Developer within a reasonable time following the approval of the incurred costs by the City's chief development services officer, the City's director of economic development and the City's finance director. The ten percent (10%) retainage for a particular draw request shall be released to the Developer as soon as possible following the submission of the applicable lien waivers to the City's chief development services officer, the City's director of economic development and the City's finance director.

(3) In the event the complete amount of the Loan is not drawn upon by the Developer, the amount not drawn upon will be credited against the Note (as defined below).

(B) The Loan shall be documented by the execution of a promissory note (the "Promissory Note") in substantially the form attached hereto and incorporated herein as Exhibit G and secured by that certain senior mortgage to be recorded against the Developer Property (the "Mortgage") in substantially the form attached hereto and incorporated herein as Exhibit H. The Guarantor shall execute a personal guaranty (the "Personal Guaranty") in substantially the form attached hereto and incorporated herein as Exhibit I as documentation of Guarantor's personal guaranty of the Promissory Note. Upon Developer's repayment of the Loan, the City shall cause the Mortgage to be released from the Property.

(C) The Project Timeline contains a date by which the Restaurant will be open to the general public (the "Planned Opening Date"). In the event the Developer opens the Restaurant to the general public within thirty (30) days of the later of the Planned Opening Date and the Developer's receipt of an occupancy certificate, the Developer shall not be required to make any payments under the Promissory Note until the first (1<sup>st</sup>) day of the month following the date of twelve (12) months after the date the Restaurant is opened to the general public. In the event the Restaurant is not opened within thirty (30) days of the later of the Planned Opening Date and the Developer's receipt of an occupancy certificate, the Developer shall be required to make its first payment under the Promissory Note on the first (1<sup>st</sup>) day of the month following the date of four and one-half (4 ½) months after the later of the Planned Opening Date and the Developer's receipt of an occupancy certificate.

(ii) the donation of the City Property, as set forth in Section 3 below.

(h) The scope of the incentives provided by the City to the Developer shall be limited to the express terms of this Agreement and the City shall have no obligations to complete or cause to be completed any improvements to, or remediation of, the City Property. All incentives provided by the City to the Developer shall be used to pay for the direct costs incurred towards completing the Project.

### Section 3. Transfer of Title of City Property to Developer.

(a) Within thirty (30) days of the Developer's start of construction of the Project, the City shall deliver to the Developer a special warranty deed transferring fee simple title for the City Property to the Developer (the "Deed"). At the same time title for the City Property is transferred to the Developer, the Parties shall amend the Mortgage to include the City Property and cause such amended Mortgage to be recorded against the Properties.

(b) Developer shall be responsible for the cost of any survey(s), environmental studies, owner's and lender's title insurance policies, transfer taxes and other standard and customary closing fees.

(c) The City makes no representations as to the condition of the City Property. The Parties agree and acknowledge that the City Property is being conveyed from the City to the Developer in an "as-is, where is, with all faults" manner, subject only to those specifically enumerated representations and warranties set forth herein. The Developer is solely relying on its investigations and shall not rely upon information, documents or materials provided to it by the City in making its decision to acquire the City Property.

Section 4. Term; Time of the Essence.

Time is of the essence in the performance of all the terms of this Agreement.

Section 5. Timing of Project.

The Project shall be completed in reasonable accordance, as determined by the City, with the Project Timeline. Failure by the Developer to abide by the Project Timeline, subject to Force Majeure, as hereinafter defined, shall be an event of default of this Agreement. Developer shall diligently undertake the work to complete the Project in accordance with the Preliminary Project Plan, the City Code, all Legal Requirements and in an otherwise legal and lien free manner until completion. The "completion of the Project" or any derivative terms carrying equal means shall be evidenced by the City issuing the Developer certificates of occupancy for the Project.

Section 6. No Liability of City to Others for Developer's Expenses.

The City shall have no obligations to pay costs of the Project or to make any payments to any person other than the Developer, nor shall the City be obligated to pay any contractor, subcontractor, mechanic, or materialman providing services or materials to the Developer for the development of the Project.

Section 7. Representations and Warranties.

(a) Developer's Representations and Warranties.

The Developer agrees, represents and warrants to the City as follows:

(i) Existence and Authority of the Developer.

The Developer and Guarantor are entities or individuals authorized to do business under the laws of the State of Illinois, and are authorized to and have the power to enter into, and by proper action have been duly authorized to execute, deliver and perform, this Agreement. The Developer and the Guarantor are solvent, able to pay their debts as they mature and financially able to perform all the terms of this Agreement. To Developer's and Guarantor's knowledge, there are no actions at law or similar proceedings which are pending or threatened against Developer or the Guarantor which would result in any

material and adverse change to Developer's or Guarantor's financial condition, or which would materially and adversely affect the level of Developer's or Guarantor's assets as of the date of this Agreement or that would materially and adversely affect the ability of Developer or Guarantor to proceed with the construction and development of the Project.

(ii) No Conflict by Developer.

Neither the execution and delivery of this Agreement by Developer, the consummation of the transactions contemplated hereby by Developer, nor the fulfillment of or compliance with the terms and conditions of this Agreement by Developer conflicts with or will result in a breach of any of the terms, conditions or provisions of any offerings or disclosure statement made or to be made on behalf of Developer (with Developer's prior written approval), any organizational documents, any restriction, agreement or instrument to which Developer or any of its managers, members or venturers is now a party or by which Developer or any of its managers, members or venturers is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any prohibited lien, charge or encumbrance whatsoever upon any of the assets or rights of Developer, any related party or any of its managers, members or venturers under the terms of any instrument or agreement to which Developer, any related party or any of its managers, members or venturers is now a party or by which Developer, any related party or any of its managers, members or venturers is bound.

(iii) Adequate Resources of Developer.

The Developer and/or the Guarantor have, and shall maintain throughout the course of the Project, sufficient financial and economic resources, including net liquid assets, to implement and complete the Developer's obligations contained in this Agreement. The Developer shall provide the City with annual financial statements and inform the City if any material changes occur regarding the Developer's financial and economic resources.

(iv) Experience of Developer.

The Developer, and its respective principals, are skilled in the development of real property for the purpose of operating a restaurant and have received input from other experts and consultants regarding the construction of this Project or to the extent the Developer lacks such expertise the Developer has retained professionals that are skilled in the development of real property for the purpose of operating a restaurant and have received input from other experts and consultants regarding the construction of this Project.

(v) Payment of Real Estate Taxes.

Developer and successor owners agree to pay, or cause the Developer or its successor owner-obligees to pay, all general and special real estate taxes levied during their respective period of ownership against their respective interest in the Developer Property, the City Property and/or the Project on or prior to the date same is due and said taxes shall not become delinquent. Developer and successor owners shall deliver, or cause Developer and successor owner-obligees to deliver, evidence of payment of such taxes to the City upon request. The obligations of the Developer under this subsection of the Agreement



shall survive and remain in full force and effect after the issuance of the Certificate of Project Completion by the City to the Developer, and Developer's failure to adhere to the same shall be deemed an Event of Default under this Agreement.

(viii) Litigation.

To the best of Developer's knowledge, there is no litigation, proceeding or investigation pending or threatened against Developer seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of this Agreement or which would in any manner challenge or adversely affect the existence or powers of Developer to enter into and carry out the transactions described in or contemplated by the execution, delivery, validity or performance by Developer of the terms and provisions of this Agreement.

(ix) Compliance with Legal Requirements.

To the best of Developer's knowledge, Developer is in compliance in all material respects with the Legal Requirements as defined in Section 2(c).

(x) Developer Property.

The Developer is the fee simple owner of the Developer Property and title to the property is free of all liens and encumbrances with the exception of the permitted encumbrances listed on Exhibit J.

(b) Representations and Warranties of the City.

The City represents, warrants and agrees to the Developer as follows:

(i) Existence.

The City is an Illinois home rule municipal corporation duly organized and validly existing under the laws of the State of Illinois and has all requisite corporate power and authority to enter into this Agreement.

(ii) Authority.

The execution, delivery and the performance of this Agreement and the consummation by the City of the transactions provided for herein and the compliance with the provisions of this Agreement (1) have been duly authorized by all necessary corporate action on the part of the City; (2) require no other consents, approvals or authorizations on the part of the City in connection with the City's execution and delivery of this Agreement; and (3) shall not, by lapse of time, giving of notice or otherwise result in any breach of any term, condition or provision of any indenture, agreement or other instrument to which the City is subject.

Section 8. Guaranty.

(a) Guaranty.

Guarantor hereby absolutely, irrevocably and unconditionally guaranties to the benefit of the City: (a) the full and prompt payment of each and all payments required by the Developer under this Agreement, when the same shall become due and payable in accordance with their terms; and (b) the full and timely performance and discharge of all the obligations of the Developer under this Agreement, (collectively, the “Guaranty”).

(b) City’s Right Against Guarantor.

This Guaranty shall constitute a guaranty of payment and performance when due, and not of collection. Guarantor specifically agrees that, in the event of a failure by the Developer to timely pay or perform any of its obligations, the City shall have the right from time to time to proceed first and directly against the Guarantor under this Guaranty, and without proceeding against the Developer or exhausting any other remedies against the Developer. Without limiting the foregoing, the Guarantor agrees that it shall not be necessary, and the Guarantor shall not have the right, and specifically waives any right it may have, to require, as a condition of enforcing this Guaranty, that the City: (a) file suit or proceed to obtain a personal judgment against the Developer or any other person that may be liable for the obligations or any part of the obligations; (b) make any other effort to obtain payment or performance of the obligations from Developer other than providing Developer with any notice of such nonpayment or nonperformance as may be required under the terms of the Agreement; (c) foreclose against or seek to realize upon any security for the outstanding obligations; or (d) exercise any other right or remedy that the City is or may be entitled in connection with the outstanding obligations or any security therefor or any other guarantee thereof. Notwithstanding the right of City to proceed immediately and directly against the Guarantor, the City shall not be entitled to more than a single full performance of the obligations regarding any breach or non-performance thereof. Subject to the foregoing, at the City’s election, which may be made in its sole judgement, the City may, following demand upon the Guarantor hereunder, perform or cause to be performed the outstanding obligations on the Developer’s behalf. The City shall not be obligated to undertake any of the foregoing actions, and shall not incur any liability to the Guarantor, the Developer or any other person because of taking or not taking any of the foregoing actions. No such actions or inactions by the City shall release or limit the liability of the Guarantor hereunder, and shall not serve as a waiver of any of the rights of the City pursuant to this Section of this Agreement. The liability of the Guarantor shall be effective, and the obligations shall immediately be paid and performed, only upon any failure by Developer in the timely payment or performance of any obligation and the giving of such notice or demand, if any, to Developer as may be required under this Agreement, and the failure to cure the same. The Guarantor shall maintain sufficient funds and remain free of any conflicting obligations to prohibit the Guarantor from discharging its obligations under this Agreement. Guarantor specifically reaffirms the representations and warranties of the Developer as set forth in Section 7 of this Agreement.

(c) Guaranty Absolute and Unconditional.

The obligations of Guarantor hereunder are absolute, irrevocable and unconditional and shall remain in full force and effect until the Developer’s obligations have been fully discharged

in accordance with their respective terms and not subject to any counterclaim, set-off, deduction or defense (other than full and strict compliance with, or release, discharge or satisfaction of, the obligations or any other defense that Developer may have) based on any claim that Guarantor may have against the Developer, the City, or any other person. Without limiting the foregoing, the obligations of Guarantor hereunder shall not be released, discharged or in any way modified, except as follows. If Developer has a bona fide offer for purchase of the Property and presents evidence that a substitute guarantor has sufficient financial resources and is willing to undertake Guarantor's obligations hereunder, Guarantor's rights and obligations hereunder may be assigned to and undertaken by such substitute guarantor upon approval by the City, which approval shall not be unreasonably withheld. Notwithstanding any provision to the contrary, nothing in this Section limits or waives the City's rights under this Agreement.

(d) Guarantor's Financial Resources.

The Guarantor has provided the City with adequate proof, as reasonably determined by the City, that the Guarantor has sufficient assets, including available liquid assets, to Complete the Project and shall maintain such assets until the Loan is paid in full.

Section 9. Indemnification, Hold Harmless and Release Provisions.

(a) Release.

The Developer releases the City, its governing body members, officers, agents, including independent contractors, consultants and legal counsel, servants and employees thereof (hereinafter, for purposes of this Section, collectively the "Indemnified Parties") from liability, and covenants and agrees that the Indemnified Parties shall not be liable for, and agree to defend, indemnify and hold harmless the Indemnified Parties against, any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the Project or the Developer Property and/or the City Property or arising under this Agreement or actions in furtherance thereof, to the extent not attributable to the gross negligence or willful misconduct of the Indemnified Parties.

(b) Indemnification.

Developer agrees to defend, protect, and indemnify the Indemnified Parties, agrees to hold the aforesaid harmless from any claims, demands, suits, costs, expenses (including reasonable attorney's fees), actions or other proceedings whatsoever by any person or entity whatsoever arising or purportedly arising from the actions or inactions of Developer (or other Persons acting on its behalf or under their direction or control) under this Agreement, or the transactions contemplated hereby or the acquisition, construction, installation, ownership, and operation of the Project; provided, that this indemnification shall not apply to the warranties made or obligations undertaken by the City in this Agreement.

(c) Environmental Disclaimer.

The City makes no warranties or representations regarding, nor does it indemnify the Developer with respect to, the existence or nonexistence on or in the vicinity of the Developer Property, the City Property, or anywhere within the Redevelopment Project Area of any toxic or hazardous substances or wastes, pollutants or contaminants (including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products, or any hazardous substance as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. §§ 9601-9657, as amended) (collectively, the "Hazardous Substances"). The foregoing disclaimer relates to any Hazardous Substance allegedly generated, treated, stored, released or disposed of, or otherwise placed, deposited in or located on or in the vicinity of the Developer Property, the City Property, or within the Redevelopment Project Area, as well as any activity claimed to have been undertaken on or in the vicinity of the Developer Property and/or the City Property, that would cause or contribute to causing (1) the Developer Property and/or the City Property to become a treatment, storage or disposal facility within the meaning of, or otherwise bring the Developer Property and/or the City Property within the ambit of, the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. §6901 et seq., or any similar State law or local ordinance, (2) a release or threatened release of toxic or hazardous wastes or substances, pollutants or contaminants, from the Developer Property and/or the City Property, within the meaning of, or otherwise bring the Developer Property and/or the City Property within the ambit of, CERCLA, or any similar State law or local ordinance, or (3) the discharge of pollutants or effluents into any water source or system, the dredging or filling of any waters or the discharge into the air of any emissions, that would require a permit under the Federal Water Pollution Control Act, 33 U.S.C. §1251 et seq., or any similar State law or local ordinance. Further, the City makes no warranties or representations regarding, nor does the City indemnify the Developer with respect to, the existence or nonexistence on or in the vicinity of the Project, or anywhere within the Developer Property and/or the City Property or the Redevelopment Project Area, of any substances or conditions in or on the Developer Property and/or the City Property, that may support a claim or cause of action under RCRA, CERCLA, or any other federal, State or local environmental statutes, regulations, ordinances or other environmental regulatory requirements. The City makes no representations or warranties regarding the existence of any above ground or underground tanks in or about the Developer Property and/or the City Property, or whether any above or underground tanks have been located under, in or about the Developer Property and/or the City Property have subsequently been removed or filled.

(d) Waiver.

The Developer waives any claims against the Indemnified Parties for indemnification, contribution, reimbursement or other payments arising under federal, State and common law or relating to the environmental condition of the land which is part of the Developer Property and/or the City Property.

(e) No Personal Liability.

No liability, right or claim at law or in equity shall attach to or shall be incurred by the City's Mayor, aldermen, officers, officials, attorneys, agents and/or employees, and any such rights

or claims of the Developer against the City's Mayor, aldermen, officers, officials, attorneys, agents and/or employees are hereby expressly waived and released as a condition of and as consideration for the execution of the Agreement by the City.

Section 10. Insurance.

Developer shall procure and maintain at Developer's sole cost and expense, or cause to be provided and maintained, until the Loan is paid in full, the types and limits of insurance specified below, covering all operations under the Agreement, whether performed by Developer or by Developer's agent:

(a) During Construction.

From the commencement of any construction of the Project until the Loan is paid in full, unless stated otherwise, Developer shall procure and maintain:

(i) Worker's Compensation Insurance, in accordance with the laws of the State of Illinois, with statutory limits covering all employees providing services under this Agreement and Employer's Liability Insurance with limits not less than \$1,000,000.00 for each accident or illness. The City is to be named as an additional insured on a primary, non-contributory basis with regard to the Employer's Liability Insurance.

(ii) Commercial General Liability Insurance with not less than \$2,000,000.00 combined single limits per occurrence and aggregate for bodily injury, property damage, and personal injury, including, but not limited to, coverage for premises/operations, products/completed operations, broad form property damage, independent contractors, contractual liability, and explosion/collapse/underground hazards for occurrences on the Property. The City is to be named as an additional insured on a primary, noncontributory basis.

(iii) Commercial Automobile Liability Insurance covering all owned, non-owned, and hired vehicles, including the loading and unloading thereof, with limits not less than \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage for occurrences relating to the Property or the Project. The City is to be named as an additional insured on a primary, non-contributory basis.

(iv) When any architects, engineers, construction managers, or other professional consultants perform work in connection with this Agreement, Professional Liability Insurance covering acts, errors, or omissions must be maintained with limits of not less than \$1,000,000.00, including contractual liability. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work on the Project.

(v) When Developer undertakes any construction on the Property, Developer must provide or cause to be provided All Risk/Builders Risk Insurance at replacement costs for materials, supplies, equipment, machinery and fixtures that are or will be part of the

Project. The City is to be named as an additional insured and loss payee if applicable.

(vi) When any plans, designs, drawings, specifications and documents are produced or used under this Agreement, Valuable Papers Insurance must be maintained in an amount sufficient to pay for the recreation, reconstruction, or restoration of any and all records related to the Project.

(vii) If applicable, dram shop liability insurance in accordance with Chapter 6 of the City Code and the Liquor Control Act, 235 ILCS 5/1-1 et seq. as amended from time to time.

(viii) Developer shall require all independent contractors and subcontractors to procure and maintain insurance as required and submit documentation of the maintenance of such insurance from time to time as required herein.

(b) General Insurance Requirements.

Unless otherwise provided above, all insurance policies required pursuant to this Agreement shall:

(i) Provide that the insurance policy may not be suspended, voided, canceled, non-renewed, or reduced in coverage or in limits without sixty (60) days' prior written notice by certified mail, return receipt requested, to the City;

(ii) Be issued by a company or companies authorized to do business in the State of Illinois with a Best's rating of no less than A:VII;

(iii) Waive all rights of subrogation of insurers against the City, its employees, elected officials, and agents; and

(iv) Specifically name the City as a named insured.

(c) Certificates.

Within ten (10) days of the Effective Date (as defined below) and by December 31 of each calendar year thereafter until the Loan is paid in full, Developer shall furnish the City with a certificate(s) of insurance effecting coverage as required under this Section. In addition, Developer shall annually furnish the City copies of receipts for payments of premiums regarding such policies. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with the Agreement. The failure of the City to obtain certificates or other insurance evidence is not a waiver by the City of any requirements for Developer to obtain and maintain the specified coverages. Non-conforming insurance constitutes an event of default.

#### Section 11. No Discrimination.

The Developer for itself and its successors and assigns agrees that, in the construction and

completion of the development of the Project, the Developer shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Developer shall take affirmative action to require that applicants are employed and that employees are treated in compliance with law during employment, and without regard to their race, creed, color, religion, sex or national origin. Such action shall include, 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 City, setting forth the provisions of this nondiscrimination clause. Notwithstanding the foregoing, the Developer may employ union labor hereunder pursuant to the rules, regulations and practices of applicable unions and shall comply with all Legal Requirements regarding the subject of this Section of this Agreement.

#### Section 12. Prevailing Wage.

The Developer acknowledges the adoption of Public Act 96-0058, effective January 1, 2010 which provides that under the Prevailing Wage Act, 820 ILCS 130/.01 et seq. (the "PWA"), the term "public works" includes all projects funded in whole or in part through bonds, grants, loans or other funds made available by or through the State or any of its political subdivisions. To the extent improvements relative to the Project are constructed after the Effective Date, the PWA requires contractors and subcontractors hired by the Developer to pay laborers, workers and mechanics performing services on public works projects such as the Project no less than the "prevailing rate of wages" (hourly cash wages plus fringe benefits) in the county where the work is performed. Information regarding current prevailing wage rates, is provided on the Illinois Department of Labor's website. All contractors and subcontractors rendering services under this Agreement must comply with all requirements of the PWA, *including but not limited to*, all wage, notice and record keeping duties.

#### Section 13. Waiver.

Either party to this Agreement may elect to waive any remedy it may enjoy hereunder, provided that such waiver shall be in writing. No such waiver shall obligate such party to waive any right or remedy hereunder or shall be deemed to constitute a waiver of other rights and remedies provided said party under this Agreement.

#### Section 14. Assignment.

This Agreement may not be assigned by the Developer without the prior written consent of the City, which shall be requested by the Developer (and any successor transferee) no less than thirty (30) days prior to the proposed date of assignment. Any such consideration or consent to an assignment shall be at the sole discretion of the City. No such assignment shall be deemed to release the Developer of its obligation to the City unless the City specifically consents to such release in writing, which it is under no obligation to do. In the event the terms of this Agreement are assigned or otherwise transferred, no such transfer shall be effective unless (a) such transfer is undertaken in accordance with the terms of this Agreement and (b) the transferor provides the City with the name, mailing and email addresses, and fax and telephone numbers of the (proposed)

transferee prior to the transfer in a manner consistent with Section 16 below. Notwithstanding the foregoing, no transfer shall be made hereunder to any proposed transferee that is prohibited from engaging in business with the City or any other body of government.

Section 15. 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 16. 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 (3rd) day from and including the date of posting, if mailed by registered or certified mail, return receipt requested, with postage prepaid, addressed as follows:

If to the Developer:

With a copy to: Ingemunson Ltd.  
Attn: Boyd Ingemunson, Esq.  
759 John Street, Suite A,  
Yorkville, Illinois

If to the City:

Richard J. Veenstra, Esq.  
Corporation Counsel  
City of Aurora, Illinois  
44 East Downer Place  
Aurora, Illinois 60507

With a copy to:

David Dibo  
Executive Director, Economic Development  
City of Aurora  
44 East Downer Place  
Aurora, Illinois 60507

and:

Martin S. Lyons  
Chief Financial Officer  
City of Aurora  
44 East Downer Place  
Aurora, Illinois 60507

and:

Del Galdo Law Group, LLC



Attn: James Vasselli, Esq.  
1441 South Harlem Ave.  
Berwyn, Illinois 60402

Section 17. Successors and Assigns.

The terms, conditions and covenants set forth in this Agreement shall extend to, be binding upon, and inure to the benefit of the respective successors and assigns of the City and the Developer and shall run with the land. Any person or entity now or hereafter owning legal title to all or any portion of the Developer Property or the City Property, including the Developer, shall be bound to this Agreement only during the period such person or entity is the legal titleholder of the Developer Property or the City Property or a portion thereof, however, that all such legal title holders shall remain liable after their ownership interest in the Developer Property or City Property ceases as to those liabilities and obligations which accrued during their period of ownership but remain unsatisfied or unperformed. To the extent reasonable and applicable, the term “Developer” shall mean successors and assigns of the Developer. A memorandum of this Agreement shall be recorded against the Developer Property and the City Property.

Section 18. 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 19. Default; Remedies – Liability.

(a) If the Developer is in default of this Agreement or any other Agreement by and between the City and the Developer, the City shall provide the Developer with a written statement setting forth the default of the Developer. Default is defined as Developer’s lack of fulfillment of any obligation under this Agreement or any other Agreement by and between the City and the Developer including but limited to the following:

(i) The Developer fails to discharge (by act or omission) any obligation under this Agreement, including, and without limitation, complying with the Preliminary Project Plan or the Project Timeline as set forth in this Agreement.

(ii) If any representation or warranty made by Developer in this Agreement, or in any certificate, notice, demand or request made by a Party hereto, in writing and delivered to the City pursuant to or in connection with any of said documents, shall prove to be untrue or incorrect in any material respect as of the date made.

(iii) The entry of a decree or order for relief by a court having jurisdiction in the premises in respect of Developer in an involuntary case under the federal bankruptcy laws, as now or hereafter constituted, or any other applicable federal or State bankruptcy, insolvency or other similar law, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of Developer, as the case may be, for any substantial part of its property, or ordering the winding-up or liquidation of its affairs and

the continuance of any such decree or order unstayed and in effect for a period of sixty (60) consecutive days.

(iv) The commencement by Developer of a voluntary case under the federal bankruptcy laws, as now or hereafter constituted, or any other applicable federal or State bankruptcy, insolvency or other similar law, or the consent by Developer, as the case may be, to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or similar official) of Developer, as the case may be, or of any substantial part of the Property, or the making by any such entity of any assignment for the benefit of creditors or the failure of Developer, as the case may be, generally to pay such entity's debts as such debts become due or the taking of action by Developer, as the case may be, in furtherance of any of the foregoing, or a petition is filed in bankruptcy by others.

(v) Failure to have funds to meet Developer's obligations.

(vi) The use of Loan funds for any purpose other than to pay for those costs directly associated with the completion of the Project.

(vii) A sale, assignment, or transfer of the Property, except in accordance with this Agreement; or the abandonment of the Project on the Property. Abandonment shall be deemed to have occurred when work stops on the Property for more than thirty (30) days for any reason other than uncontrollable circumstances.

(viii) Change in the Developer, except in accordance with this Agreement.

(ix) Developer fails to comply with applicable governmental codes and regulations in relation to the construction and maintenance of the Project contemplated by this Agreement. The maintenance requirement of this provision shall not be covered by and shall survive any certificate of occupancy of any kind issued during the term of this Agreement.

(x) A default under the Promissory Note, Mortgage or Personal Guaranty.

(xi) Failure to open the Restaurant within one hundred eighty (180) days of the Planned Opening Date.

Except as required to protect against further damages, the City may not exercise any remedies against the Developer in connection with a charged default until thirty (30) days after providing written notice of the same. If such default cannot be cured within such thirty (30) day period, said thirty (30) day period shall be extended for such time as is reasonably necessary for the curing of the same, as long as the Developer is diligently proceeding to cure such default, as determined by the City in its reasonable discretion. A default not cured as provided above shall constitute a breach of this Agreement. Any failure or delay by the City 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 shall fail to cure any default after the expiration of the cure period described in subparagraph (a), the City may elect to terminate this Agreement or exercise any other 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 debts of the Developer, 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 the Developer's property, the City may elect, to the extent such election is permitted by law, but is not required, with or without notice of such election and with or without entry or other action by the City, to terminate this Agreement.

(c) In addition to any other rights or remedies, the City may institute legal action 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.

(d) The rights and remedies of the City are cumulative and the exercise by the City 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 Developer.

(e) If the City is in default of this Agreement, the Developer shall provide the City with a written statement setting forth the default. The following shall be events of default by the City with respect to this Agreement:

(i) If any material representation made by the City in this Agreement, or in any certificate, notice, demand or request made by a Party hereto, in writing and delivered to Developer pursuant to or in connection with any of said documents, shall prove to be untrue or incorrect in any material respect as of the date made.

(ii) Failure by the City in the performance or breach of any material covenant contained in this Agreement.

The Developer may not exercise any remedies against the City in connection with such failure until forty-five (45) days after giving such notice. If such default cannot be cured within such forty-five (45) day period, such forty-five (45) day period shall be extended for such time as is reasonably necessary for the curing of the same, as long as the City is diligently proceeding to cure such default. A default not cured as provided above shall constitute a breach of this Agreement. Any failure or delay by the Developer in asserting 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. Upon the occurrence of an uncured default of the City, the Developer shall have the available remedies of injunctive relief, specific performance, mandamus, and quo warranto. The Developer shall not be entitled to economic, consequential, incidental, preventative or punitive damages in the event of an uncured default.

(f) In the event of a breach of the terms of this Agreement or any occurrence related to the Project that constitutes a bona fide emergency to the property, health, safety or welfare of the City or its residents, the City shall be permitted to take any and all reasonable steps to mitigate such occurrence without being in default of the terms of this Agreement, but shall take reasonable steps to notify the Developer of the occurrence prior to the commencement of such steps to mitigate the outstanding occurrence.

Section 20. Amendment.

This Agreement, and any exhibits attached to this Agreement, may be amended only in a writing signed by all the Parties and/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 21. Exhibits.

Exhibits A through J attached to this Agreement are incorporated herein by this reference and are made part of this Agreement.

Section 22. Signs.

The City may erect a sign of reasonable size and style in a conspicuous location on the Developer Property and the City Property during the development of the Project indicating that the City provided funding to assist the Project.

Section 23. 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. Delivery of an executed counterpart of a signature page of this Agreement in Portable Document Format (PDF) or by facsimile transmission shall be effective as delivery of a manually executed original counterpart of this Agreement.

Section 24. Force Majeure.

A party shall not be deemed in default of this Agreement with respect to any obligation(s) 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, lockout, labor trouble (whether legal or illegal), civil disorder, inability to procure materials, weather conditions, wet soil conditions, failure or interruptions of power, restrictive governmental laws and regulations, condemnations, riots, insurrections, war, fuel shortages, accidents, casualties, floods, earthquakes, fires, acts of God, epidemics, quarantine restrictions, recognized pandemic causing a formal state of emergency, 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") related to the Project. If one of the foregoing events shall occur or either party shall notify the other party that such an event shall have occurred, the party to whom such notice is provided is made has the right, but not the obligation to investigate the notification and consult

with the party making such claim of Force Majeure 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 caused or exacerbated by such Force Majeure.

Section 25. Choice of Law/Venue.

This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois with venue lying in the Circuit Court for Kane County, Illinois.

Section 26. Cooperation and Further Assurances.

The Parties covenant and agree that each undertake, execute, acknowledge and deliver or cause to be done, executed and delivered, such agreements, instruments and documents supplemental hereto, including, but not limited to, applicable loan documents for the Loan, and such further acts as may be reasonably required to carry out the terms, provisions and the intent of this Agreement. The City agrees to cooperate with the Developer in the Developer's attempts to obtain all necessary governmental approvals for the Project at no additional cost or expense. The City shall process and consider reasonable requests of the Developer for relief or variances from any City ordinances, applicable building permits, or other permits necessary for the construction of the Project in accordance with Legal Requirements. Notwithstanding the foregoing, the City shall have no obligation to approve, to be a party to, or to be associated in any way with any third-party financing of the Project by the Developer.

Section 27. Open Book.

The Project shall be an open book project, and the Developer will ensure regular and continuing access, at all times, upon reasonable notice provided by the City, during construction and the making of any payments under this Agreement, by the City's Chief Financial Officer or his designee, for the purpose of reviewing and auditing the records of the Developer relating to determining the Developer's ability to complete the Project or any item necessary to determine the costs of the Project. To the extent allowable by Law, the Developer's financial records, under this open book provision, shall not be considered public or City records. Notwithstanding the foregoing, the City is and will at all times remain subject to the Illinois and United States Freedom of Information Acts (collectively, "FOIA"). The City, when applicable, will contest disclosure of confidential information under FOIA, but will comply with all applicable requirements under FOIA.

Section 28. Repealer.

To the extent that any ordinance, resolution, rule, order or provision of the City Code, or any part thereof, is in conflict with the provisions of this Agreement, the provisions of this Agreement shall be controlling, to the extent lawful.

**<signature page follows>**

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized officers on the above date.

\_\_\_\_\_, an Illinois limited liability company

By \_\_\_\_\_  
Bernie Laskowski, Managing Member

GUARANTOR

By \_\_\_\_\_  
Bernie Laskowski

CITY OF AURORA, ILLINOIS  
A Municipal Corporation

By \_\_\_\_\_  
Richard C. Irvin, Mayor

ATTEST:

\_\_\_\_\_  
Alex Voigt, City Clerk

## **EXHIBIT A**

### **DEVELOPER PROPERTY LEGAL DESCRIPTION**

#### Parcel 1:

Lot 1 in Block 1 of Island Avenue Addition to Aurora, being a subdivision of part of Stolp's Island in the Southwest Quarter of Section 22, Township 38 North, Range 8 East of the Third Principal Meridian, in the City of Aurora, Kane County, Illinois.

#### Parcel 2:

That part of Stolp's Island in the Southwest Quarter of Section 22, Township 38 North, Range 8 East of the Third Principal Meridian, described as follows: Commencing at the intersection of the Westerly line of Island Avenue with the Northerly line of the Fox Street; thence Northwesterly along the Northerly line of Fox Street 22 feet to the Southeast corner of a tract of land conveyed to Peter C. Olson by Deed dated March 18, 1884 and recorded April 18, 1884 in Book 225, Page 565 as Document 28545; thence Northeasterly at right angles with the Northerly line of Fox Street 51 feet for a place of beginning; thence continuing Northeasterly along the same course 1 foot to the Southerly line of Lot 1 in Block 1 of

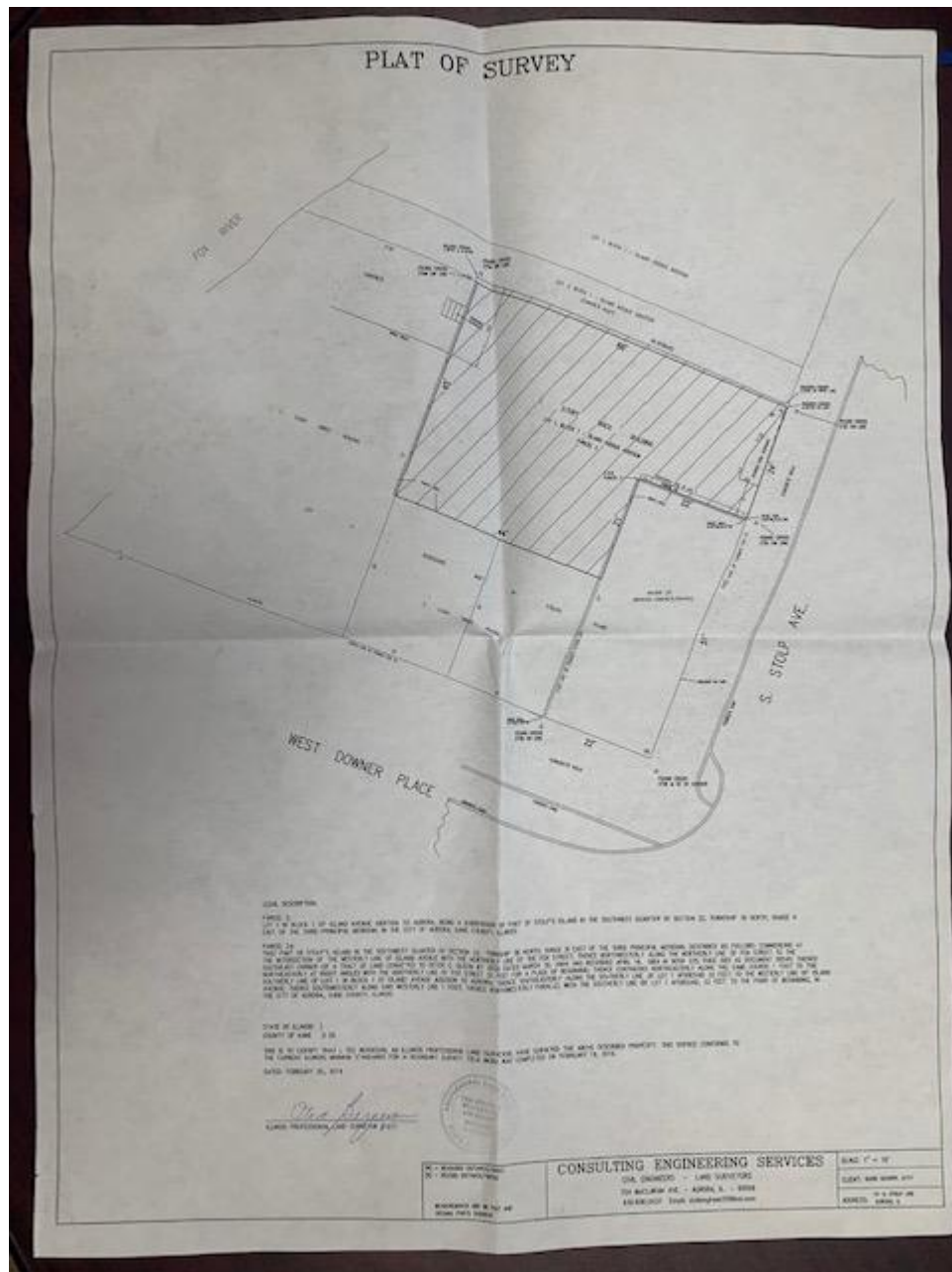
Island Avenue Addition to Aurora; thence Southeasterly along the Southerly line of Lot 1 aforesaid 22 feet to the Westerly line of Island Avenue; thence Southwesterly along said Westerly line 1 foot; thence Northwesterly parallel with the Southerly line of Lot 1, aforesaid, 22 feet to the point of beginning, in the City of Aurora, Kane County, Illinois.

Permanent Index #'s: 15-22-313-008

Property Address: 41 South Stolp Avenue, Aurora, Illinois 60506

## EXHIBIT B

### DEVELOPER PROPERTY DEPICTION





## **EXHIBIT C**

### **CITY PROPERTY LEGAL DESCRIPTION**

Part of Lot 11 on the recorded plat of Stolps Island on the North side of the street running across said Island, being a continuation of Fox Street, running Westerly, bounded and described as follows: Commencing at the Southerly corner of lot sold to Peter Olson which point is 80 feet Northwesterly from the Southwesterly corner of the building known as the Aurora Silver Plate Manufacturing Building and on the North line of said Fox Street running across said Stolps Island; thence Northerly along the Easterly line of said Olson Lot 51 feet; thence Easterly parallel with the line of said street 22 feet; thence Southerly parallel with said West line 51 feet the North line of said street; thence Northwesterly along the North line of said street 22 feet to the place of beginning; said premises are also described as the West 22 feet of the East 68 feet of said Lot 11, EXCEPTING the North 1 foot thereof, all in the City of Aurora, Kane County, Illinois.

Permanent Index #'s: 15-22-313-012

Property Address: 1 W Downer Place

**EXHIBIT D**  
**CITY PROPERTY DEPICTION**

**Aerial Map (1:1,500):**



**EXHIBIT E**

**PRELIMINARY PROJECT PLAN**



3/9/2020

CRAFT URBAN PRELIMINARY PROJECT PLAN:

Project Description:

The second in the Craft Urban brand of restaurants, Craft Urban Aurora will be installed at 41 S Stolp Avenue and will include a fully functional and furnished kitchen, bar, dining room, private dining room, and outdoor patio. In addition to the street level improvements, the basement will see a prep kitchen, locker rooms, and an office constructed, with the three residential units on the second floor being remodeled completely.

This will transform the property from a vacant eye sore to a vibrant and bustling part of the community.

In addition to repairing portions of the unique 1917 tile façade, Craft Urban is intent on using the south and east facing portions of their patio area to display pieces of art unique to the property.

Craft Urban Aurora  
Chef Bernard Laskowski

**EXHIBIT F**

**PROJECT TIMELINE**



ID	Task Mode	Task Name	Duration	Start	Finish	Predecessors
50		INSPECTIONS	92 days	Wed 5/6/20	Fri 9/11/20	
51		INSPECTION - SITE ELECTRICAL	0 days	Wed 5/6/20	Wed 5/6/20	79
52		INSPECTION - SITE FUEL	0 days	Mon 5/11/20	Mon 5/11/20	81
53		INSPECTION - SITE PLUMBING	0 days	Mon 5/18/20	Mon 5/18/20	82
54		INSPECTION - PATIO	0 days	Thu 5/21/20	Thu 5/21/20	83
55		INSPECTION - ROUGH FRAMING	0 days	Wed 5/27/20	Wed 5/27/20	90
56		INSPECTION - ROUGH PLUMBING	0 days	Thu 5/28/20	Thu 5/28/20	91
57		INSPECTION - ROUGH HVAC	0 days	Fri 6/5/20	Fri 6/5/20	93
58		INSPECTION - ROUGH ELECTRICAL	0 days	Fri 6/12/20	Fri 6/12/20	92
59		INSPECTION - ROUGH FIRE	0 days	Fri 6/12/20	Fri 6/12/20	58FS-1 day
60		INSPECTION - INSULATION	0 days	Wed 6/24/20	Wed 6/24/20	94
61		INSPECTION - FIRE ABOVE CEILING	0 days	Tue 7/28/20	Tue 7/28/20	100
62		INSPECTION - ELECTRICAL ABOVE CEILING	0 days	Tue 7/28/20	Tue 7/28/20	100
63		INSPECTION - PLUMBING ABOVE CEILING	0 days	Tue 7/28/20	Tue 7/28/20	100
64		INSPECTION - FRAMING ABOVE CEILING	0 days	Tue 7/28/20	Tue 7/28/20	100
65		INSPECTION - HVAC ABOVE CEILING	0 days	Tue 7/28/20	Tue 7/28/20	100
66		INSPECTION - FINAL BUILDING	0 days	Thu 9/10/20	Thu 9/10/20	111
67		INSPECTION - FINAL PLUMBING	0 days	Thu 9/10/20	Thu 9/10/20	111
68		INSPECTION - FINAL HVAC	0 days	Thu 9/10/20	Thu 9/10/20	111
69		INSPECTION - FINAL ELECTRICAL	0 days	Thu 9/10/20	Thu 9/10/20	111
70		INSPECTION - FINAL FIRE	0 days	Thu 9/10/20	Thu 9/10/20	111
71		INSPECTION - OCCUPANCY	0 days	Fri 9/11/20	Fri 9/11/20	66FS+1 day,65FS+1 day,64FS+1 day

INSPECTIONS

5/6 ◆ SITE ELECTRICAL

5/11 ◆ SITE FUEL

5/18 ◆ SITE PLUMBING

5/21 ◆ PATIO

5/27 ◆ ROUGH FRAMING

5/28 ◆ ROUGH PLUMBING

6/5 ◆ ROUGH HVAC

6/12 ◆ ROUGH ELECTRICAL

6/12 ◆ ROUGH FIRE

6/24 ◆ INSULATION

7/28 ◆ FIRE ABOVE CEILING

7/28 ◆ ELECTRICAL ABOVE CEILING

7/28 ◆ PLUMBING ABOVE CEILING

7/28 ◆ FRAMING ABOVE CEILING

7/28 ◆ HVAC ABOVE CEILING

9/10 ◆ BUILDING FINAL

9/10 ◆ PLUMBING FINAL























9/10 ◆ HVAC FINAL

9/10 ◆ ELECTRICAL FINAL

9/10 ◆ FIRE FINAL


9/11 ◆ OCCUPANCY

Page 2

ID	Task Mode	Task Name	Duration	Start	Finish	Predecessors	Gantt Chart																														
							Jan '20	Feb '20	Mar '20	Apr '20	May '20	Jun '20	Jul '20	Aug '20	Sep '20	Oct '20	Nov '20																				
72		CONSTRUCTION	101 days	Tue 4/28/20	Tue 9/15/20		<div>CONSTRUCTION</div>																														
73		MOBILIZATION	4 days	Tue 4/28/20	Fri 5/1/20		<div>MOBILIZATION</div>																														
77		SITE WORK	99 days	Wed 4/29/20	Mon 9/14/20		<div>SITEWORK</div>																														
78		SITEWORK - MOBILIZATION	1 day	Wed 4/29/20	Wed 4/29/20	74	<div>SITEWORK - MOBILIZATION</div> <div>4/29 - 4/29</div>																														
79		ELECTRICAL - SERVICE EXTENSION	5 days	Thu 4/30/20	Wed 5/6/20	78	<div>EL - SERVICE</div> <div>4/30 - 5/6</div>																														
80		PLUMBING - SERVICE EXTENSION	8 days	Thu 4/30/20	Mon 5/11/20	78	<div>PL -SERVICE</div> <div>4/30 - 5/11</div>																														
81		FUEL - SEVICE EXTENSION	3 days	Thu 5/7/20	Mon 5/11/20	79	<div>GAS - SERVICE</div> <div>5/7 - 5/11</div>																														
82		PLUMBING - GREASE TRAP INSTALL	5 days	Tue 5/12/20	Mon 5/18/20	81	<div>PL - GREASE TRAP</div> <div>5/12 - 5/18</div>																														
83		CONCRETE - SITE PREP	3 days	Tue 5/19/20	Thu 5/21/20	82	<div>CONCRETE - PREP</div> <div>5/19 - 5/21</div>																														
84		CONCRETE - PATIO INSTALL	8 days	Fri 5/22/20	Tue 6/2/20	83	<div>CONCRETE - INSTALL</div> <div>5/22 - 6/2</div>																														
85		STEEL - PERGOLA INSTALL	14 days	Wed 6/3/20	Mon 6/22/20	84	<div>PERGOLA INSTALL</div> <div>6/3 - 6/22</div>																														
86		GLASS - STOREFRONT INSTALL	21 days	Tue 6/23/20	Tue 7/21/20	85	<div>STOREFRONT</div> <div>6/23 - 7/21</div>																														
87		JDR - SITE OPEN	1 day	Mon 9/14/20	Mon 9/14/20	71	<div>SITE OPEN</div> <div>9/14 - 9/14</div>																														
88		INTERIOR	101 days	Tue 4/28/20	Tue 9/15/20		<div>INTERIOR WORK</div>																														
89		JDR - INTERIOR PREP	1 day	Tue 4/28/20	Tue 4/28/20	10	<div>PREP</div> <div>4/28 - 4/28</div>																														
90		CARPENTRY - INTERIOR FRAMING	21 days	Wed 4/29/20	Wed 5/27/20	89	<div>INTERIOR FRAMING</div> <div>4/29 - 5/27</div>																														
91		PLUMBING - ROUGH	10 days	Fri 5/15/20	Thu 5/28/20	90FS-9 days	<div>ROUGH PLUMBING</div> <div>5/15 - 5/28</div>																														
92		ELECTRICAL - ROUGH	15 days	Mon 5/25/20	Fri 6/12/20	91FS-4 days	<div>ROUGH ELECTRICAL</div> <div>5/25 - 6/12</div>																														
93		HVAC - ROUGH	10 days	Mon 5/25/20	Fri 6/5/20	91FS-4 days	<div>ROUGH HVAC</div> <div>5/25 - 6/5</div>																														
94		INSULATION	5 days	Thu 6/18/20	Wed 6/24/20	58FS+3 days	<div>INSULATION</div> <div>6/18 - 6/24</div>																														
95		DRYWALL - INSTALLATION	10 days	Thu 6/25/20	Wed 7/8/20	60	<div>DRYWALL - HANG</div> <div>6/25 - 7/8</div>																														
96		DRYWALL - COMPOUND 1	3 days	Thu 7/9/20	Mon 7/13/20	95	<div>COMPOUND 1</div> <div>7/9 - 7/13</div>																														

Page 3



ID	Task Mode	Task Name	Duration	Start	Finish	Predecessors	Jan '20		Feb '20		Mar '20		Apr '20		May '20		Jun '20		Jul '20		Aug '20		Sep '20		Oct '20		N																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																					
							29	5	12	19	26	2	9	16	23	1	8	15	22	29	5	12	19	26	3	10		17	24	31	7	14	21	28	5	12	19	26	2	9	16	23	30	6	13	20	27	4	11	18	25																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																													
97		DRYWALL - COMPOUND 2	2 days	Tue 7/14/20	Wed 7/15/20	96																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																										</

COMPOUND 2  
7/14 - 7/15

COMPOUND 3  
7/16 - 7/17

PRIMER  
7/20 - 7/21

PAINT - 1ST COAT  
7/22 - 7/28

PAINT - 1ST COAT  
7/29 - 8/3

DINING FLOOR  
7/29 - 8/7

KITHEN FLOOR  
7/29 - 8/7

CUSTOM BAR  
8/10 - 8/21

PAINT - 2ND COAT  
8/24 - 8/27

CEILING TILES  
8/28 - 8/31

HVAC - TRIM  
8/28 - 9/2

ELECTRICAL - TRIM  
8/28 - 9/3

PLUMBING - TRIM  
8/28 - 9/3

CARPENTRY - TRIM  
8/28 - 9/10

FFE INSTALL  
8/28 - 9/10

INTERIOR OPEN  
9/14 - 9/15

**EXHIBIT G**

**PROMISSORY NOTE**

AMOUNT: \$600,000.00

DATE: \_\_\_\_\_, 20\_\_

DUE: \_\_\_\_\_, 20\_\_

### SECURED PROMISSORY NOTE

**FOR VALUE RECEIVED**, \_\_\_\_\_, an Illinois limited liability company (**"BORROWER"**) located at 41 S. Stolp Avenue, Aurora, Illinois 60506, jointly and severally promise to pay to the order of CITY OF AURORA, an Illinois municipal corporation (the **"CREDITOR"**), at its offices located at 44 East Downer Place, Aurora, Illinois 60507, the principal sum of SIX HUNDRED THOUSAND AND 00/100 DOLLARS (\$600,000.00) (**"PRINCIPAL"**), or such lesser sum as shall have been advanced hereunder pursuant to that certain Redevelopment Agreement approved by City of Aurora Resolution No. \_ (the **"Redevelopment Agreement"**), along with interest at the Interest Rate as provided herein. upon the terms and conditions set forth below together with the per annum interest on the principal balance hereof from time to time unpaid at a fixed rate of interest of five percent (5%) (the **"INTEREST RATE"**). Borrower shall be entitled to receive advances of principal hereunder upon Borrower's compliance with and satisfaction of those conditions precedent to such advances as are set forth in the Redevelopment Agreement.

Interest shall be fully amortized over a ten (10) year period, payable from the date of this Note, calculated on the basis of the actual number of days elapsed over a year of 360 days, but shall not exceed the maximum rate of interest allowable under applicable law for loans of this type. Principal due hereunder shall bear interest after an Event of Default (as defined herein), or after maturity, whether pursuant to acceleration or expiration of the term of this Secured Promissory Note (this **"NOTE"**), at five percent (5%) per annum.

Principal and interest payments in the amount of [ \_\_\_\_\_ ] [ \_\_\_\_ ]/100 DOLLARS (\$[ \_\_\_\_\_ ]) each shall be due and payable monthly on the first day of each month, commencing on the first day of the month following either (i) the date of twelve (12) months after the date the Restaurant (as defined in the Redevelopment Agreement) is opened to the general public if Borrower opens the Restaurant to the general public within thirty (30) days of the later of the Planned Opening Date (as defined in the Redevelopment Agreement) and the Borrower's receipt of an occupancy certificate or (ii) the date of four and one-half (4 ½) months after the later of the Planned Opening Date and the Developer's receipt of an occupancy certificate if the Restaurant is not opened within thirty (30) days of the later of the Planned Opening Date and the Borrower's receipt of an occupancy certificate, and on the first day of each month thereafter. All sums remaining unpaid hereunder shall be due and payable with a final payment of the outstanding principal balance plus all unpaid accrued interest due one hundred nineteen (119) months following the initial payment (the **"MATURITY DATE"**). Borrower shall pay to the Creditor a late charge of five percent (5%) of any installment not received by the Creditor within ten (10) days after the installment is due.

This Note may be prepaid without premium or penalty. At any time any deposit or other indebtedness credited by or due from the holder hereof to Borrower may be set off against or applied in whole or partial payment of amounts owing hereunder or in whole or partial payment of any other liability of the Borrower to the Creditor whether now existing or hereafter arising, direct or indirect, absolute or contingent, or whether due or to become due. Amounts owing hereunder are secured by that certain senior real estate mortgage granted of even date herewith by Borrower, in favor of Creditor on the real property located at the addresses 41 S. Stolp Avenue and 1 W. Downer Place, Aurora, Illinois 60506 (the **"MORTGAGE"**) and that certain personal guaranty of even date herewith given by Bernie Laskowski in

favor of Creditor (the “**GUARANTY**”), and any other directly or indirectly related loan documents between the Borrower and the Creditor (collectively the “**SECURITY INSTRUMENTS**”), the terms and conditions of which are incorporated by reference herein.

An “**EVENT OF DEFAULT**” hereunder shall mean the occurrence of any of the following events:

(a) the failure of Borrower to pay any installments of principal or interest pursuant to this Note or any other obligation of Borrower to Creditor;

(b) the filing of any voluntary or involuntary petition in bankruptcy by or regarding the Borrower, or the initiation of any proceeding under bankruptcy or insolvency laws against the Borrower;

(c) an assignment made by the Borrower for the benefit of creditors;

(d) the appointment of a receiver, custodian, trustee, or similar party to take possession of the Borrower’s assets or property;

(e) the death of Bernie Laskowski;

(g) an Event of Default as defined in the Mortgage, Guaranty, Redevelopment Agreement, or in any other document executed in connection with the Note or otherwise securing the payment thereof.

Upon the occurrence of an Event of Default hereunder or under any agreement given to secure this Note or any other note or obligation of the Borrower to the Creditor, then unless Creditor shall otherwise elect, the full amount due hereunder, including any interest, fees or fines, shall be immediately due and payable. However, the Borrower shall have a thirty (30) day cure period after written notice of any monetary default.

No delay on the part of the Creditor hereof in the exercise of any right or remedy shall operate as a waiver thereof, no single or partial exercise by said holder of any right or remedy shall preclude any other future exercise thereof or the exercise of any other right or remedy and no waiver or indulgence by Creditor of any default shall be effective unless in writing and signed by the Creditor, nor shall waiver by the Creditor of any right on one occasion be construed as or be a bar to or waiver of any such right on any future occasion.

Borrower, each endorser hereof and any other party liable for the indebtedness evidenced hereby severally waive demand, presentment, notice of dishonor and consent to: any extension or postponement of the time for its payment; release of any security interest securing this Note; or the addition of any party hereto or the release or discharge of or suspension of any rights or remedies against any person who may be liable for the payment of the indebtedness evidenced hereby.

Borrower warrants and agrees that (1) the obligation evidenced by this Note is an exempted transaction under the Truth-in-Lending Act, 15 U.S.C. § 1601 *et seq.*; and (2) said obligation constitutes a business loan which comes within the purview of subparagraph (1)(c) of Section 4, of “an Act in relation to the rate of interest and other charges in connection with sales on credit and the lending of money,” approved May 24, 1879, as amended (815 ILCS 205/4(1)(c) and 205/4(1)(l)).

The loan evidenced hereby has been made and this Note has been delivered in Aurora, Illinois, and shall be governed by the laws of the State of Illinois. Wherever possible, each provision of this Note shall be interpreted in such manner as to be effective and valid under applicable law but if any provision of this Note shall be prohibited by or invalid under such law such provision shall be ineffective to the extent of

such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Note.

All notices required under this Note will be in writing and delivered to the addresses listed below, or such other addresses as Borrower or Creditor may specify from time to time in writing:

If to the Borrower:

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

With a copy to:

Ingemunson Ltd.  
Attn: Boyd Ingemunson, Esq.  
759 John Street, Suite A,  
Yorkville, Illinois

If to the Creditor:

Richard J. Veenstra, Esq.  
Corporation Counsel  
City of Aurora, Illinois  
44 East Downer Place  
Aurora, Illinois 60507

With a copy to:

David Dibo  
Executive Director, Economic Development  
City of Aurora  
44 East Downer Place  
Aurora, Illinois 60507

and:

Martin S. Lyons  
Chief Financial Officer  
City of Aurora  
44 East Downer Place  
Aurora, Illinois 60507

and:

Del Galdo Law Group, LLC  
Attn: James Vasselli, Esq.  
1441 South Harlem Ave.  
Berwyn, Illinois 60402

Borrower agrees to pay all expenses, of collecting amounts evidenced under this Note including reasonable attorneys' fees, costs and expenses. This Note shall be binding upon the successors and assigns of the Borrower. Any reference contained herein to attorneys' fees and expenses shall be deemed to include all fees and expenses of in-house or staff attorneys and the fees and expenses of any other experts or consultants.

**CONFESSION OF JUDGMENT. TO FURTHER SECURE PAYMENT OF THE BORROWER FINANCIAL OBLIGATIONS UNDER THIS NOTE, SHOULD SUCH OBLIGATIONS BE TRIGGERED, THE BORROWER COVENANTS AND AGREES THAT IN**

**THE EVENT THAT THE BORROWER BECOMES LIABLE TO PAY TO CREDITOR ANY AMOUNTS OWED PURSUANT THIS NOTE, OR ANY OTHER AGREEMENT BETWEEN CREDITOR AND BORROWER IN CONNECTION HERewith, THE BORROWER, AND EACH OF THEM, IRREVOCABLY AUTHORIZE ANY ATTORNEY OF ANY COURT OF RECORD TO APPEAR FOR THE BORROWER, AND EACH OF THEM, AT ANY TIME FROM TIME TO TIME AFTER PAYMENT IS DUE, AND CONFESS A JUDGMENT, WITHOUT PROCESS, IN FAVOR OF CREDITOR AND AGAINST THE BORROWER FOR SUCH AMOUNT AS MAY BE UNPAID BY THE BORROWER UNDER THIS NOTE, TOGETHER WITH THE COSTS OF SUCH PROCEEDINGS AND REASONABLE ATTORNEY FEES AND EXPENSES, AND THE BORROWER, AND EACH OF THEM, WAIVE AND RELEASES ALL ERRORS WHICH MAY INTERVENE IN ANY SUCH PROCEEDING AND CONSENT TO IMMEDIATE EXECUTION UPON SAID JUDGMENT, HEREBY RATIFYING AND CONFIRMING ALL THAT SAID ATTORNEY MAY DO BY VIRTUE HEREOF, AND WITHOUT CREDITOR FIRST PURSUING ANY REMEDY AGAINST THE BORROWER, OR ANY OF THEM, FOR NON-PAYMENT OF SUCH AMOUNT. THE BORROWER, AND EACH OF THEM, HEREBY WAIVE ANY ERRORS AND FULLY RELEASE ANY ATTORNEY-IN-FACT OBTAINED BY CREDITOR TO CONFESS JUDGMENT ON THE BORROWER'S BEHALF.**

Borrower acknowledges that this Note is being accepted by the Creditor in partial consideration of the Creditor's right to enforce in the State of Illinois and the County of Kane the terms and provisions of this Note and all documents, instruments and agreements delivered to the Creditor in connection therewith. Borrower irrevocably consents to jurisdiction in, and construction of this Note under the laws of the State of Illinois and venue in the County of Kane for such purposes; Borrower waives any and all rights to contest jurisdiction and venue of the State of Illinois and County of Kane over Borrower for the purposes of enforcing this Note and all documents, instruments and agreements delivered in connection therewith; Borrower waives any and all rights to commence any action, whether by complaint, counter-complaint or cross-complaint or counterclaim with respect to the liabilities against the Creditor in any jurisdiction other than in the State of Illinois and in the County of Kane; and Borrower waives personal service of process upon Borrower, and agrees that all such service of process may be made by certified mail directed to Borrower or its registered agent and service so made will be deemed to be completed upon actual receipt.

**BORROWER WAIVES THEIR RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS NOTE. BORROWER ALSO WAIVES ANY BOND OR SURETY OR SECURITY UPON SUCH BOND THAT MIGHT, BUT FOR THIS WAIVER, BE REQUIRED OF THE CREDITOR OR A SUBSEQUENT HOLDER OF THIS NOTE. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THIS NOTE, INCLUDING, WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. BORROWER ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT FOR THE CREDITOR TO ENTER INTO A DEBTOR-CREDITOR RELATIONSHIP WITH IT, THAT THE CREDITOR HAS ALREADY RELIED ON THE WAIVER IN EXTENDING CREDIT TO THE UNDERSIGNED AND THAT THE CREDITOR WILL CONTINUE TO RELY ON THE WAIVER IN ITS RELATED FUTURE DEALINGS WITH BORROWER. BORROWER WARRANT AND REPRESENT THAT THEY HAVE REVIEWED THIS WAIVER WITH THEIR LEGAL COUNSEL, AND THAT THEY KNOWINGLY AND VOLUNTARILY WAIVE THEIR JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THE WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS NOTE OR TO**

**ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THE UNDERSIGNED'S OBLIGATIONS HEREUNDER. IN THE EVENT OF LITIGATION, THIS NOTE MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.**

**BORROWER ALSO KNOWINGLY AND VOLUNTARILY IRREVOCABLY WAIVES ANY RIGHT THEY MAY HAVE TO SEEK PUNITIVE, CONSEQUENTIAL, SPECIAL AND INDIRECT DAMAGES FROM THE CREDITOR AND ANY OF ITS AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS AND ANY OF THEIR SUCCESSORS WITH RESPECT TO ANY AND ALL ISSUES PRESENTED IN ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM BROUGHT BY THE CREDITOR AGAINST BORROWER OR BY BORROWER AGAINST THE CREDITOR ARISING IN ANY WAY IN CONNECTION WITH THIS NOTE OR UNDER ANY AGREEMENT, INSTRUMENT OR DOCUMENT EXECUTED IN CONNECTION THEREWITH OR ARISING FROM ANY LENDING RELATIONSHIP EXISTING IN CONNECTION THEREWITH OR ANY STATEMENTS OR ACTIONS OF BORROWER OR THE CREDITOR. BORROWER WARRANTS THAT THE FOREGOING WAIVERS HAVE BEEN READ AND FULLY UNDERSTOOD BY BORROWER AND IS A MATERIAL INDUCEMENT FOR THE CREDITOR TO ENTER INTO THE LOAN EVIDENCED BY THIS NOTE.**

**OTHER THAN CLAIMS BASED UPON THE FAILURE OF CREDITOR TO ACT IN A COMMERCIALLY REASONABLE MANNER, BORROWER WAIVES EVERY PRESENT AND FUTURE DEFENSE (OTHER THAN THE DEFENSE OF PAYMENT IN FULL), CAUSE OF ACTION, COUNTERCLAIM OR SETOFF WHICH BORROWER MAY NOW HAVE OR HEREAFTER MAY HAVE TO ANY ACTION BY THE CREDITOR IN ENFORCING THIS NOTE, OR ANY AGREEMENT, INSTRUMENT OR DOCUMENT EXECUTED IN CONNECTION THEREWITH. BORROWER WARRANTS THAT THE FOREGOING WAIVER HAS BEEN READ AND FULLY UNDERSTOOD BY BORROWER AND IS A MATERIAL INDUCEMENT FOR THE CREDITOR TO ENTER INTO THE LOAN EVIDENCED BY THIS NOTE.**

*[Remainder of page intentionally left blank; Signature page follows]*

*[Signature Page to Promissory Note]*

**IN WITNESS WHEREOF,** \_\_\_\_\_ has executed this Promissory Note as of the day and year first written above.

\_\_\_\_\_  
an Illinois limited liability company

By: \_\_\_\_\_  
Bernie Laskowski, *Its* Managing Member

**ACKNOWLEDGEMENT**

STATE OF ILLINOIS        )  
  ) SS.  
COUNTY OF \_\_\_\_\_ )

I, the undersigned, a Notary Public in and for said County and State aforesaid, do hereby certify that Bernie Laskowski, as the Managing Member and Authorized Representative of \_\_\_\_\_, an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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

My Commission Expires: \_\_\_\_\_

*[Signatures follow on the next page]*



**EXHIBIT H**  
**MORTGAGE**

THIS INSTRUMENT WAS  
PREPARED BY:

James M. Vasselli  
Del Galdo Law Group, LLC  
1441 S. Harlem Ave.  
Berwyn, Illinois 60402

AFTER RECORDING RETURN TO:

Richard J. Veenstra, Esq.  
Corporation Counsel  
City of Aurora, Illinois  
44 East Downer Place  
Aurora, Illinois 60507

---

**SENIOR REAL ESTATE MORTGAGE**

THIS SENIOR REAL ESTATE MORTGAGE (the “**Mortgage**”) made as of this \_\_\_\_ day of \_\_\_\_\_ 20\_\_ between \_\_\_\_\_, an Illinois limited liability company (the “**Mortgagor**”), and **CITY OF AURORA**, an Illinois municipal corporation (the “**Mortgagee**”).

**W I T N E S S E T H:**

That to secure the payment of the Secured Promissory Note of even date herewith in the principal amount of Six Hundred Thousand and 00/100 Dollars (\$600,000.00) jointly and severally executed by Mortgagor, or such lesser sum as shall have been advanced pursuant to that certain Redevelopment Agreement approved by City of Aurora Resolution No. \_\_ (the “Redevelopment Agreement”), together with interest thereon and any renewals and extensions thereof (collectively referred to as the “**Note**”), and the performance and observance by the Mortgagor of any indebtedness secured hereby (as applicable and to the extent applicable), of all of the covenants, agreements, and conditions contained in the Note, this Mortgage, and all other instruments pertaining to the repayment of any indebtedness secured hereby (including any guaranty thereof) and any other security agreement relating to sums secured hereby, the Mortgagor hereby mortgages and conveys to the Mortgagee:

All those certain lots, pieces, or parcels of land with the buildings and improvements thereon situated, lying and being in the County of Kane, in the State of Illinois, as set forth in **Exhibit “A”**, attached hereto and made a part hereof (the “**Premises**”).

**TOGETHER** with all improvements, tenements, hereditaments, gas, oil, minerals, easements, fixtures and appurtenances thereunto belonging or pertaining; all apparatus, equipment

and appliances now or hereafter therein or thereon used to supply heat, gas, air conditioning, water, light, power, ventilation and refrigeration; all machinery and other equipment of every nature and kind used or useful in connection with the maintenance and operation of the Premises and intended for the use of tenants or occupants (all of the foregoing whether now on the Premises or hereafter erected, installed or placed thereon or therein, or whether physically attached thereto or not, are and shall be deemed a part of said real estate as between the parties hereto and all persons claiming by, through or under them, and a portion of the security for said indebtedness); and also all the estate, right, title and interest of the Mortgagor in and to the Premises. As to any of the property aforesaid which (notwithstanding the aforesaid declaration and agreement) does not so form a part and parcel of the real estate, this Mortgage is hereby deemed to be, as well, a Security Agreement under the Uniform Commercial Code for the purpose of creating hereby a security interest in such property, which Mortgagor hereby grants to Mortgagee as Secured Party (as said term is defined in the Uniform Commercial Code), securing said indebtedness and obligations. Mortgagor represents and warrants that it is lawfully seized of the Premises, that the same are unencumbered (or, within sixty (60) days following the application of a portion of the principal amount evidenced by the Note toward the full payment of certain prior debts, will be unencumbered), and that it has good right, full power and lawful authority to convey and mortgage the same, and covenants that it will warrant and forever defend said Premises and the quiet and peaceful possession of the same against any and all claims of all persons whomsoever;

**TO HAVE AND HOLD** the Premises unto Mortgagee, its successors and assigns, forever, for the purposes and uses herein set forth, free from all rights and benefits under the Homestead Exemption Laws of the State of Illinois, which said rights and benefits Mortgagor does hereby expressly release and waive.

The lien established by this Mortgage shall have priority over each and every subsequent claim or lien of any kind or nature whatsoever upon the Premises.

Mortgagor covenants and agrees:

1. To cause to be paid, when due, all sums secured hereby.
2. Not to abandon the Premises; to keep the Premises in good condition and repair and not to commit or suffer waste; to pay for and complete within a reasonable time any building at any time in the process of erection upon the Premises; to promptly repair, restore, or rebuild any building or improvement now or hereafter on the Premises which may become damaged or destroyed; to refrain from impairing or diminishing the value of the security and to make no material alterations of the Premises.
3. To comply with all requirements of law or municipal ordinances governing the Premises and the use thereof; and to permit Mortgagee to inspect the Premises at all reasonable times.
4. To keep the Premises free from mechanics or other liens or claims for liens of any kind; to pay when due any indebtedness which may be secured by a lien or charge on the Premises, including, without limitation, any condominium association assessments, dues or charges, and,

upon request, to exhibit to Mortgagee satisfactory evidence of the payment and discharge of such liens or claims.

5. To pay, ten (10) days before any penalty attaches, all general taxes and to pay, when due, all special taxes, special assessments, water charges, drainage charges, sewer service charges and other charges against the Premises, of any kind whatsoever, which may be levied, assessed, charged or imposed on the Premises or any part thereof.

6. To promptly pay all taxes and assessments assessed or levied under or by virtue of any state, federal or municipal law or regulation now existing or hereafter adopted against Mortgagee upon this Mortgage, or the debt hereby secured, or upon Mortgagee's interest under this Mortgage, provided however, that the total amount so paid for any such taxes pursuant to this paragraph together with the interest payable on said indebtedness shall not exceed the highest lawful rate of interest in the State of Illinois for commercial business loans of this type and provided further that in the event of the adoption of any law or regulation affecting such highest lawful rate of interest, the entire indebtedness secured by this Mortgage shall thereupon become immediately due and payable at the option of Mortgagee.

7. To exhibit to Mortgagee, at least annually and at any time upon request, official receipts showing full payment of all taxes, assessments and charges which Mortgagor is required or shall elect to pay hereunder.

8. To keep the Premises continuously insured until the indebtedness secured hereby is fully paid (or in case of foreclosure until expiration of the period of redemption, if any) against loss or damage under such types of hazard, liability and environmental hazard insurance, in such forms and amounts and written by such companies as may be approved or reasonably required from time to time by Mortgagee; all policies whether or not required by the terms of this Mortgage, shall contain loss payable clauses in favor of the Mortgagee (or, in case of foreclosure sale, in favor of the owner of the certificate of sale); in the event of loss, penalty or judgment, Mortgagor shall immediately notify Mortgagee in writing and Mortgagor hereby authorizes and directs each and every insurance company concerned to make payments for such loss, penalty or judgment jointly to Mortgagor and Mortgagee, and the insurance proceeds or any part thereof may be applied by Mortgagee, at its option, either to the reduction of the indebtedness hereby secured, or to the restoration or repair of the property damaged, or to the payment of any fine, penalty, judgment or clean-up costs assessed against Mortgagor or Mortgagee and any application thereof to the indebtedness shall not relieve Mortgagor from making any payments herein required until the indebtedness is paid in full.

9. To deliver to Mortgagee all policies of insurance, with evidence of premiums prepaid (renewal policies to be delivered not less than ten (10) days prior to the respective dates of expiration), and title guarantee policies and other evidence of title to the Premises, all of which shall be held by Mortgagee without liability, and in the event of foreclosure of this Mortgage or transfer of title to the Premises in extinguishment of said indebtedness, shall become the absolute property of Mortgagee. Mortgagee may, from time to time, at its option, waive, and after any such waiver, reinstate, any or all provisions hereof requiring deposit of insurance policies, by notice to Mortgagor in writing.

10. Upon demand by Mortgagee, to make monthly deposits with Mortgagee, in addition to any other payments required to be made hereunder of a sum equal to one-twelfth (1/12th) of the yearly taxes and assessments which may be levied against the Premises and one-twelfth (1/12th) of the annual premium on the insurance policies covering the Premises. The amount of such taxes and assessments and premiums, when unknown, shall be estimated by Mortgagee. Such deposits shall be used by Mortgagee to pay such taxes and assessments and premiums when due. Any insufficiency of such deposits to pay such taxes and assessments and premiums when due shall be paid by Mortgagor to Mortgagee on demand. Upon any default under this Mortgage, Mortgagee may apply any such deposits to any obligation secured hereby or due hereunder. The enforceability of the covenants relating to taxes and assessments and premiums herein otherwise provided, shall not be affected except insofar as the obligations thereunder have been actually met by compliance with this paragraph. Mortgagee may from time to time at its option waive, and after any such waiver reinstate, any or all provisions hereof requiring deposits for taxes and assessments and premiums, by notice to Mortgagor in writing. While any such waiver is in effect, Mortgagor shall pay taxes and assessments and premiums as herein elsewhere provided.

11. To pay to Mortgagee any awards of damage resulting from condemnation proceedings or the taking or injury of the Premises for public use, less reasonable costs and associated attorneys' fees and expenses of Mortgagor and the proceeds or any part thereof shall be applied by Mortgagee, at its option, after the payment of all of its expenses, including costs and attorneys' fees, to the reduction of the indebtedness hereby secured.

12. In the event of default in performance of any of the covenants or agreements herein contained, Mortgagee may, but need not, make any payment or perform any act hereinbefore required of Mortgagor, in any form and manner deemed expedient and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or any other lien, encumbrance, suit title or claim thereof, or redeem from any tax sale or forfeiture affecting the Premises or contest any tax or assessment. All monies paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including attorneys' fees, and any other monies advanced by Mortgagee to protect the Premises and the lien hereof shall be additional indebtedness secured hereby and shall become immediately due and payable without notice and with interest thereon at the rate in effect after maturity as set forth in the note described above. Mortgagee, making any payment hereby authorized relating to taxes or assessments, shall be the sole judge of the legality and validity thereof and of the amount necessary to be paid in satisfaction thereof.

13. If (a) default be made in payment, when due, of any sums secured hereby, or in any of the other covenants or agreements herein contained to be performed by Mortgagor, or (b) if there be a default in the terms and/or conditions of any agreement between the Mortgagor and the Mortgagee and the Mortgagee relating to the sums hereby secured or to any indebtedness of the Mortgagor to Mortgagee, or (c) if there be a default in the terms or conditions of any other agreement between the Mortgagor, including that certain Redevelopment Agreement approved by City of Aurora Resolution No. \_\_\_\_\_, or any guarantor of the sum hereby secured and the Mortgagee, or (d) if any proceedings be instituted or process issued (i) to enforce any other lien, charge, or encumbrance against the Premises, or (ii) against the Mortgagor or any guarantor

under any bankruptcy or insolvency laws, or (iii) to place the Premises or any part thereof in the custody or control of any court through a receiver or other officer, and such proceedings are not dismissed or stayed on appeal or such process withdrawn within ten (10) days after written notice to Mortgagor, or (e) in the event the Mortgagor shall create or permit to exist any mortgage, lien or other encumbrance on the Premises other than the encumbrance represented by this Mortgage, or (f) in the event the Mortgagor shall convey title to any person or persons other than the Mortgagor, enter into any lease or other agreement containing an option to purchase or receive title to the Premises, or shall suffer or permit Mortgagor's equity of redemption to become vested in any person or persons other than the Mortgagor, or (g) if the Mortgagor or any guarantor makes an assignment for the benefit of creditors, or is at any time insolvent, or (h) if, at any time, litigation is commenced or reinstated contesting Mortgagor's ownership of the Premises or the validity of the lien of Mortgagee in the Premises, or (i) if by or with the consent or at the instance of the Mortgagor or any guarantor, proceedings to extend the time of payment of any sums secured hereby or to change the terms of this Mortgage be instituted; then,

- I. All sums secured hereby shall, at the option of Mortgagee, become immediately due and payable without notice, with interest thereon.
- II. Mortgagee may immediately foreclose this Mortgage. The Court in which any proceeding is pending for that purpose may, at once or at any time thereafter, either before or after sale, and without regard to the solvency or insolvency of any person liable for payment of the indebtedness secured hereby, and without regard to the then value of the Premises, appoint a receiver (the provisions for the appointment of a receiver and assignment of rents being an express condition upon which the loan hereby secured is made) for the benefit of Mortgagee, with power to collect the rents, issues and profits of the Premises, due and to become due during such foreclosure suit and the full statutory period of redemption notwithstanding any redemption. The receiver, out of such rents, issues and profits when collected, may pay costs incurred in the management and operation of the Premises, prior and subordinate liens, if any, and taxes, assessments, water and other utilities and insurance, then due or thereafter accruing, and may make and pay for any necessary repairs to the Premises, and may pay all or any part of the indebtedness secured hereby or any deficiency decree, and Mortgagor hereby grants to Mortgagee the right, acting through itself, its agents or attorneys, either with or without process of law, forcibly or otherwise, to enter upon and take possession of the Premises and property, expel and remove any persons, goods or chattels, occupying or upon the same, and to collect or receive all the rents, issues and profits thereof, and to manage and control the same, and to lease the same or any part thereof from time to time, and after deducting all reasonable attorneys' fees, and all expenses incurred in the protection, care, maintenance, management and operation of the Premises, apply the remaining net income upon the indebtedness secured hereby, or upon any deficiency decree entered by virtue of any sale held pursuant to a decree of foreclosure.

14. In any foreclosure of this Mortgage there shall be allowed and included in the decree for sale, to be paid out of the rents or proceeds of such sale:

- (a) All sums secured hereby and remaining unpaid,
- (b) All sums advanced or paid by Mortgagee pursuant to this Mortgage with interest,
- (c) All court costs, attorneys' fees, appraisers' fees, expenditures for documentary and expert evidence, stenographers' charges, publication costs and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all abstracts of title, title searches and examinations, title guarantee policies, Torrens certificates and similar data with respect to title, as Mortgagee may deem necessary in connection with (i) any proceeding, including probate and bankruptcy proceedings, to which Mortgagee shall be a party, either as plaintiff, claimant, or defendant, by reason of this Mortgage or any indebtedness hereby secured; or (ii) preparations for the commencement of any suit for the foreclosure hereof after accrual of such right to foreclose whether or not actually commenced; or (iii) preparations for the defense of any threatened suit or proceeding which might affect the Premises or the security hereof, whether or not actually commenced. All expenditures and expenses of this type mentioned in this subparagraph (c) shall become so much additional indebtedness secured hereby and immediately due and payable, with interest thereon. The proceeds of any foreclosure sale shall be distributed and applied to the items described in subparagraphs (a), (b), and (c) in order of priority inversely to the manner in which said subparagraphs are above listed and any surplus of the proceeds of such sale shall be paid to Mortgagor.

15. Mortgagor hereby waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage, on their own behalf and on behalf of each and every person.

16. No remedy or right of Mortgagee shall be exclusive of but shall be in addition to every other remedy or right now, or hereafter, existing at law or in equity. No delay in exercising, or omission to exercise, any remedy or right, accruing on any default shall impair any such remedy or right, or shall be construed to be a waiver of any such default, or acquiescence therein, nor shall it affect any subsequent default of the same or a different nature. Every such remedy or right may be exercised concurrently or independently, and when and as often as may be deemed expedient by Mortgagee.

17. Without affecting the liability of Mortgagor or any other person (except any person expressly released in writing) for payment of any indebtedness secured hereby or for performance of any obligation contained herein, and without affecting the rights of Mortgagee with respect to any security not expressly released in writing, Mortgagee may, at any time and from time to time, either before or after the maturity of said Note, and without notice or consent:

- (a) release any person liable for payment of all or any part of the indebtedness or for performance of any obligation,

- (b) make any agreement extending the time or otherwise altering the terms of payment of all or any part of the indebtedness, or modifying or waiving any obligation, or subordinating, modifying or otherwise dealing with the lien or charge hereof,
- (c) exercise or refrain from exercising or waive any right Mortgagee may have,
- (d) accept additional security of any kind, and
- (e) release or otherwise deal with any property, real or personal, securing the indebtedness, including all or any part of the property mortgaged hereby.

Upon full payment of all sums secured hereby at the time and in the manner provided, then this conveyance shall be null and void and a reconveyance or release of the Premises shall be made by Mortgagee to Mortgagor.

18. Mortgagor represents and warrants that, to the best of Mortgagor's knowledge, after due inquiry, the Premises complies as of the date hereof, and Mortgagor covenants and agrees that it and the Premises will from the date hereof comply, in all material respects with all applicable federal, state, regional, county or local laws, statutes, rules, regulations or ordinances, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §9601 *et seq.*, the Resource Conservation and Recovery Act of 1976, as amended by the Solid and Hazardous Waste Amendments of 1984, 42 U.S.C. §6901 *et seq.*, the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, 33 U.S.C. §1251 *et seq.*, the Toxic Substances Control Act of 1976, 15 U.S.C. §2601 *et seq.*, the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §11001 *et seq.*, the Clean Air Act of 1966, as amended, 42 U.S.C. §7401 *et seq.*, the National Environmental Policy Act of 1975, 42 U.S.C. § 4321, the Rivers and Harbors Act of 1899, 33 U.S.C. §401 *et seq.*, the Occupational Safety and Health Act of 1970, 29 U.S.C. §651 *et seq.*, the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. §300, the Illinois Environmental Protection Act, as amended, 415, ILCS 5/1 *et seq.* (1987), the Illinois Chemical Safety Act, as amended, 430 ILCS 45/1 *et seq.* (1987) and the Illinois Responsible Property Transfer Act, as amended, 765 ILCS 90/1 *et seq.* (1987), and all rules, regulations and guidance documents promulgated or published thereunder, and any state, regional, county or local statute, law, rule, regulation or ordinance relating to public health, safety or the environment, including, without limitation, relating to releases, discharges, emissions or disposals to air, water, land or groundwater, to the withdrawal or use of groundwater, to the use, handling or disposal of polychlorinated biphenyls (PCB's), asbestos or urea formaldehyde, to the treatment, storage, disposal or management of hazardous substances (including, without limitation, petroleum, its derivatives by-products or other hydrocarbons), to exposure to toxic, hazardous, or other controlled, prohibited or regulated substances, to the transportation, storage, disposal, management or release of gaseous or liquid substances, and any regulation, order, injunction, judgment, declaration, notice or demand issued thereunder.



19. Mortgagor warrants and represents that, to the best of its knowledge, after due inquiry, the Premises, including all personal property, is free from contamination, that there has not been thereon a release, discharge or emission, or threat of release, discharge or emission, of any hazardous substances, gas or liquid (including without limitation, petroleum, its derivatives or by-products, or other hydrocarbons), or any other substance, gas or liquid, which is prohibited, controlled or regulated under applicable law, or which poses a threat or nuisance to safety, health or the environment, and that the Premises does not contain, or is not affected by: (i) asbestos, (ii) urea formaldehyde foam insulation, (iii) polychlorinated biphenyls (PCB's), (iv) underground storage tanks, or (v) landfills, land disposals or dumps.

20. Mortgagor represents and warrants that it has not given, nor should it give, nor has it received, any notice, letter, citation, order, warning, complaint, inquiry, claim or demand that: (i) Mortgagor has violated, or is about to violate, any federal, state, regional, county or local environmental, healthy or safety statute, law, rule, regulation, ordinance, judgment or order; (ii) there has been a release, or there is threat of release, of hazardous substances (including, without limitation, petroleum, its by-products or derivatives or other hydrocarbons) from the Premises; or (iii) Mortgagor may be or is liable, in whole or in part, for the costs or cleaning up, remediating or responding to a release of hazardous substances on or from the Premises (including, without limitation, petroleum, its by-products or derivatives, or other hydrocarbons); or (iv) any of the Mortgagor's property or assets are subject to a lien in favor of any governmental body for any liability, costs or damages, under federal, state or local environmental law, rule or regulation arising from or costs incurred by such governmental entity in response to a release of a hazardous substances (including, without limitation, petroleum, its by-products or derivatives, or other hydrocarbons). In the event that Mortgagor receives any notice of the type described in this Section, Mortgagor shall promptly provide a copy to Mortgagee, and in no event, later than fifteen (15) days from Mortgagor's receipt or submission thereof.

21. Mortgagor represents and warrants that to the best of its knowledge, after due inquiry, it has never in the past engaged in, and agrees that in the future it shall not conduct, any business, operations or activity on the Premises, or employ or use the personal property or facilities, to manufacture, use, generate, treat, store, transport or dispose of any hazardous substance (including without limitation, petroleum, its derivatives or by-products, or other hydrocarbons), or any other substance which is prohibited, controlled or regulated under applicable law, or which poses a threat or nuisance to safety, healthy or the environment, including, without limitation, any business, operation or activity which would bring Mortgagor, its property or facilities, within the ambit of the Resource Conservation and Recovery Act of 1976, as amended by the Solid and Hazardous Waste Amendments of 1984, 42 U.S.C. §6901 *et seq.*, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §9601 *et seq.*, the Illinois Environmental Protection Act, as amended, 415 ILCS 5/1 *et seq.* (1987), the Clean Air Act of 1966, as amended, 42 U.S.C. §7401 *et seq.*, or any similar, state, county regional or local statute, law, regulation, rule or ordinance, including, without limitation, any state statute providing for financial responsibility for cleanup for the release or threatened release of substances provided for thereunder.

22. All provisions hereof shall inure to and bind the respective heirs, executors, administrators, successors, vendees and assigns of the parties hereto, and the word Mortgagor shall

include all persons claiming under or through Mortgagor (including, if this Mortgage is executed by a trust or trustee, any beneficiary thereof) and all persons liable for the payment of the indebtedness or any part thereof, whether or not such persons shall have executed the Note, any guaranty or this Mortgage. Wherever used, the singular number shall include the plural and the singular, and the use of any gender shall be applicable to all genders.

*[Remainder of page intentionally blank; Signature page(s) follows]*

**IN WITNESS WHEREOF**, the Mortgagor has executed this Mortgage as of the day and year first written above.

\_\_\_\_\_,  
an Illinois limited liability company

**By:** \_\_\_\_\_  
Bernie Laskowski, *Its* Managing Member

**ACKNOWLEDGMENT**

STATE OF ILLINOIS        )  
                                      ) SS.  
COUNTY OF \_\_\_\_\_ )

I, the undersigned, a Notary Public in and for said County and State aforesaid, do hereby certify that Bernie Laskowski, the Managing Member and Authorized Representative of \_\_\_\_\_, an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

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

My Commission Expires: \_\_\_\_\_

**EXHIBIT "A"**  
**LEGAL DESCRIPTIONS**

**COMMON ADDRESS:** 41 S. Stolp Avenue, Aurora, Illinois 60506

**PIN:**

**LEGAL DESCRIPTION:**

**COMMON ADDRESS:** 1 W. Downer Pl., Aurora, Illinois 60506

**PIN:**

**LEGAL DESCRIPTION:**

**EXHIBIT I**

**PERSONAL GUARANTY**

**PERSONAL GUARANTY**  
(BERNIE LASKOWSKI)

**FOR VALUE RECEIVED** and in consideration of a loan made to \_\_\_\_\_, an Illinois limited liability company, ("the **"DEBTOR"**) located at 41 S.Stolp Avenue, Aurora, Illinois 60505, by the **CITY OF AURORA**, an Illinois municipal corporation (hereinafter, together with its successors and assigns, called the **"CREDITOR"**), evidenced and set forth in that certain Promissory Note, dated \_\_\_\_\_, in the principal amount of Six Hundred Thousand and 00/100 Dollars (\$600,000.00) (the **"NOTE"**), the terms and conditions of which are hereby incorporated herein by reference, the undersigned, **BERNIE LASKOWSKI**, an individual (referred to herein as **"GUARANTOR"**) hereby unconditionally guarantees: (i) the full and prompt payment when due, whether by acceleration or otherwise, and at all times thereafter, of all obligations of Debtor to the Creditor under the Note (the **"LIABILITIES"**), and the Guarantor further agrees to pay expenses (including reasonable attorneys' fees and legal expenses) paid or incurred by the Creditor in endeavoring to collect the Liabilities, or any part thereof, and enforce the terms of the Note, and in enforcing this Guaranty.

The Creditor may, without prior notice or demand, at any time when any amount shall be due and payable hereunder by the Guarantor, appropriate and apply toward the payment of such amount, and in such order of application as the Creditor may from time to time elect, any property, balances, credits, deposits, accounts or moneys of such Guarantor in the possession or control of the Creditor for any purpose.

The liability of the Guarantor hereunder shall be absolute and unconditional, and shall not be impaired or affected by any of the following acts or omissions whether occurring with or without the Guarantor's notice or knowledge or whether occurring before or after receipt by the Creditor of notice of termination of this Guaranty: (a) any extension, modification or renewal of, or indulgence with respect to, or substitutions for, the Liabilities or any part thereof or any agreement relating thereto at any time; (b) any failure or omission to enforce any right, power or remedy with respect to the Liabilities or any part thereof or any agreement relating thereto, or any collateral securing the Liabilities or any part thereof; (c) any waiver of any right, power or remedy or of any default with respect to the Liabilities or any part thereof or any agreement relating thereto or with respect to any collateral securing the Liabilities or any part thereof; (d) with or without consideration, any substitution for or any release, surrender, compromise, settlement, waiver, subordination, or modification of (i) any collateral securing the Liabilities or any part of any agreement relating thereto or with respect to any collateral securing the Liabilities or any part thereof; (ii) any other guaranties with respect to the Liabilities or any part thereof; or (iii) any other obligation of any person or entity with respect to the source of the payment of indebtedness other than the Liabilities, or any part thereof, or to amounts which are not covered by this Guaranty, even though the Creditor might lawfully have elected to apply such payments to any part or all of the Liabilities; (e) any payment or any part thereof, at any time applied by the Creditor to any of the Liabilities that is or must be rescinded or returned by the Creditor for any reason whatsoever (including without limitation, the insolvency, bankruptcy or reorganization of Debtor); (f) the Creditor's election of the application of section or sections of the Bankruptcy Code, 11 U.S.C. §101 *et seq.*, as amended from time to time (the **"BANKRUPTCY CODE"**); (g) any borrowing or grant of a security interest under Section 364 of the Bankruptcy Code; or (h) the staying of any acceleration of the time of payment of any of the Liabilities of Debtor under the Bankruptcy Code or any similar law or order of court for the benefit of creditors.

The Creditor may, from time to time, without notice to the Guarantor, (a) retain or obtain a security interest in any property to secure any of the Liabilities or any obligation hereunder; (b) retain or obtain the primary or secondary liability of any party or parties, in addition to the Guarantor, with respect to any of

the Liabilities; (c) extend or renew the liabilities for any period (whether or not longer than the original period); (d) release or compromise any liability of any of the Guarantor hereunder, or any liability of any of the Liabilities; (e) release its security interest, if any, in all or any property securing any of the Liabilities or any obligation thereunder and permit any substitution or exchange for any such property; and (f) resort to the Guarantor's liability hereunder, whether or not the Creditor shall have resorted to any property securing any of the Liabilities or any obligation hereunder or shall have proceeded against any other of the Guarantor or any other party primarily or secondarily liable on any of the Liabilities.

Guarantor agrees that this Guaranty is an absolute guaranty of payment and performance and is not a guaranty of collection. In order to proceed to enforce this Guaranty and hold the Guarantor liable hereunder, there shall be no obligation on the part of the Creditor, at any time, to resort for payment to the Debtor or any other guarantor, or to any other person or entity, or to any collateral, security, property, liens or other rights or remedies whatsoever, all of which are hereby expressly waived by the Guarantor.

Any amount received by the Creditor from whatsoever source and applied by it toward the payment of the Liabilities shall be applied in such order of application as the Creditor may from time to time elect.

The Guarantor represents and warrants to Creditor that (a) no representations or agreements of any kind have been made to Guarantor which would limit or qualify in any way the terms of this Guaranty, (b) this Guaranty is executed at Debtor's and Guarantor's request and not at the request of Creditor, (c) Guarantor has full power, right and authority to enter into this Guaranty, (d) the provisions of this Guaranty do not conflict with or result in a default under any agreement or other instrument binding upon Guarantor and do not result in a violation of any law, regulation, court decree or order applicable to Guarantor, (e) Guarantor has not and will not, without the prior written consent of Creditor, sell, lease, assign, encumber, hypothecate, transfer, or otherwise dispose of all or substantially all of Guarantor's assets, or any interest therein, (f) upon Creditor's request, Guarantor will provide to Creditor financial and credit information in form acceptable to Creditor, and all such financial information which currently has been, and all future financial information which will be provided to Creditor is and will be true and correct in all material respects and fairly present Guarantor's financial condition as of the dates the financial information is provided, (g) no material adverse change has occurred in Guarantor's financial condition since the date of the most recent financial statements provided to Creditor and no event has occurred which may materially adversely affect Guarantor's financial condition, (h) Creditor has made no representation to Guarantor as to the creditworthiness of Debtor, (i) Guarantor has established adequate means of obtaining from Debtor on a continuing basis information regarding Debtor's financial condition, and Guarantor agrees to keep adequately informed from such means of any facts, events or circumstances which might in any way affect Guarantor's risks under this Guaranty, and Guarantor further agrees that, absent a request for information, Creditor shall have no obligation to disclose to Guarantor any information or documents acquired by Creditor in the course of its relationship with Debtor.

The Guarantor hereby expressly waives: (a) notice of the acceptance of this Guaranty, (b) notice of the existence or creation of all or any of the Liabilities, (c) presentment, demand, notice of dishonor, protest, and all other notices whatsoever, and (d) compliance by Creditor of any other applicable provisions of the Uniform Commercial Code.

The Guarantor also hereby expressly waives any and all rights or defenses based on suretyship or impairment of collateral including, but not limited to, any rights or defenses arising by reason of (a) any "one action" or "anti-deficiency" law or any other law which may prevent Creditor from bringing any action, including a claim for deficiency, against Guarantor, before or after Creditor's commencement or completion of any foreclosure action, either judicially or by exercise of a power of sale, (b) any election of

remedies by Creditor which destroys or otherwise adversely affects Guarantor's subrogation rights or Guarantor's rights to proceed against Debtor for reimbursement, including, without limitation to the generality of the foregoing, any loss of rights Guarantor may suffer by reason of any law limiting, qualifying or discharging the indebtedness, (c) any disability or other defenses of Debtor, of any other guarantor, or of any other person, or by reason of the cessation of Debtor's liability from any cause whatsoever, other than full satisfaction of the Liabilities, (e) any statute of limitations, if, at any time any action or suit brought by Creditor against Guarantor is commenced, there is outstanding indebtedness which is not barred by an applicable statute of limitations, or (f) any defenses given to guarantors at law or in equity other than actual satisfaction of the Liabilities. If payment is made by Debtor, whether voluntarily or otherwise, or by any third party, on the indebtedness evidenced by the Note, and thereafter Creditor is forced to remit the amount of such payment to Debtor's trustee in bankruptcy or to any similar person under any federal or state bankruptcy law or for the relief of debtors, the aforesaid indebtedness shall be considered unpaid for the purpose of the enforcement of this Guaranty.

Guarantor further waives and agrees not to assert or claim at any time any deductions to the amount guaranteed under this Guaranty for any claim of setoff, counterclaim, counter demand, recoupment or similar right, whether such claim, demand or right may be asserted by the Borrower, the Guarantor, or both.

Guarantor warrants and agrees that each of the waivers set forth above is made with Guarantor's full knowledge of its significance and consequences and that, under the circumstances, the waivers are reasonable and not contrary to public policy or law.

Guarantor agrees that Creditor's rights against Debtor with respect to satisfaction of the Liabilities are superior to any claim that Guarantor may now have or hereafter acquire against Debtor, whether or not Debtor becomes insolvent. Guarantor hereby expressly subordinates any claim Guarantor may have against Debtor, upon any account whatsoever, to any claim that Creditor may now or hereafter have against Debtor. In the event of insolvency and consequent liquidation of the assets of Debtor, through bankruptcy, by an assignment for the benefit of creditors, by voluntary liquidation or otherwise, the assets of Debtor applicable to the payment of the claims of both Creditor and Guarantor shall be paid to Creditor and shall be first applied by Creditor to satisfaction of the Liabilities. Guarantor does hereby assign to Creditor all claims which it may have or acquire against Debtor or against any assignee or trustee in bankruptcy of Debtor; provided, however, that such assignment shall be effective only for the purpose of assuring to Creditor full satisfaction of the Liabilities. If Creditor so requests, any notes or credit agreements now or hereafter evidencing any debts or obligations of Debtor to Guarantor shall be marked with a legend that the same are subject to this Guaranty and shall be delivered to Creditor. Guarantor agrees, and Creditor is hereby authorized, in the name of Guarantor, from time to time to file financing statements and continuation statements and to execute documents and to take such other actions as Creditor deems necessary to perfect, preserve and enforce its rights under this Guaranty.

To secure the payment and performance of this Guaranty, the Guarantor hereby irrevocably authorizes any attorney of any court of record to appear for him in such court in term time or vacation, at any time hereafter, and confess a judgment without process against him in favor of the holder of this Guaranty for such sum as may appear to be unpaid and owing thereon, together with interest, costs and attorneys' fees, and to waive and release all errors which may intervene in such proceeding and consent to immediate execution upon such judgment, hereby ratifying and confirming all that said attorney may do by virtue hereof.

The Creditor may, without notice of any kind, sell, assign or transfer all or any of the Liabilities, and in such event each and every immediate and successive assignee, transferee, or holder of all or any of



the Liabilities, shall have the right to enforce this Guaranty, by suit or otherwise, for the benefit of such assignee, transferee or holder, as fully as if such assignee, transferee or holder were herein by name specifically given such rights, powers and benefits, but the Creditor shall have an unimpaired right, prior and superior to that of any such assignee, transferee or holder, to enforce this Guaranty for the benefit of the Creditor, as to so much of the Liabilities as it has not sold, assigned or transferred.

No delay on the part of the Creditor in the exercise of any right or remedy shall operate as a waiver thereof, and no single or partial exercise by the Creditor of any right or remedy shall preclude other or further exercise thereof of any other right or remedy.

This Guaranty shall be binding upon the Guarantor, and upon the heirs, legal representatives, successors and assigns of the Guarantor. If more than one party shall execute this Guaranty, the term "Guarantor" shall mean all parties executing this Guaranty.

This Guaranty has been made and delivered in the County of Kane, State of Illinois, and shall be governed by the laws of the State of Illinois. The Guarantor hereby submits, at the Creditor's option, to the exclusive jurisdiction and venue of any courts in the State of Illinois, with respect to any dispute, claim or suit, whether directly or indirectly arising out of or relating to this Guaranty or the Guarantor's rights or obligations hereunder, or under the Note. The Guarantor specifically waives the right to seek to transfer venue from the court in which any action has been filed by the Creditor against the Guarantor.

Wherever possible, each provision of this Guaranty shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Guaranty shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity only, without invalidating the remainder of such provision or the remaining provisions of this Guaranty.

GUARANTOR HEREBY CONSENTS TO THE JURISDICTION OF ANY STATE CIRCUIT COURT OR FEDERAL COURT LOCATED WITHIN THE STATE OF ILLINOIS. GUARANTOR WAIVES, AT THE OPTION OF THE CREDITOR, TRIAL BY JURY AND WAIVES ANY OBJECTION BASED ON IMPROPER VENUE OR FORUM NON CONVENIENS IN ANY ACTION OR PROCEEDING TO WHICH GUARANTOR AND THE CREDITOR MAY BE PARTIES ARISING OUT OF, IN CONNECTION WITH, OR IN ANY WAY PERTAINING TO, THIS GUARANTY AND/OR THE NOTE AND/OR THE SECURITY AGREEMENT. IT IS AGREED AND UNDERSTOOD THAT THIS WAIVER CONSTITUTES A WAIVER OF TRIAL BY JURY OF ALL CLAIMS AGAINST ALL PARTIES TO SUCH ACTIONS OR PROCEEDINGS, INCLUDING CLAIMS AGAINST PARTIES WHO ARE NOT PARTIES TO THIS GUARANTY. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY GUARANTOR, AND GUARANTOR HEREBY REPRESENTS THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY INDIVIDUAL TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO, IN ANY WAY, MODIFY OR NULLIFY ITS EFFECT. GUARANTOR FURTHER REPRESENTS AND WARRANTS THAT HE HAS BEEN REPRESENTED IN THE SIGNING OF THIS GUARANTY AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, OR HAS HAD THE OPPORTUNITY TO BE REPRESENTED BY INDEPENDENT LEGAL COUNSEL SELECTED OF HIS OWN FREE WILL, AND THAT HE HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL.

BY EXECUTING THIS GUARANTY IN THE SPACE PROVIDED BELOW, GUARANTOR ACKNOWLEDGES THAT HE HAS READ AND IS FAMILIAR WITH THE PROVISIONS HEREOF AND THAT, WHEN EXECUTED, ALL BLANK SPACES WERE COMPLETED.

*[Remainder of page intentionally blank; Signature page follows]*

[Signature Page to Personal Guaranty]

**THE GUARANTOR ACKNOWLEDGES HAVING READ ALL OF THE PROVISIONS OF THIS GUARANTY AND AGREES TO ITS TERMS. IN ADDITION, THE GUARANTOR UNDERSTANDS THAT THIS GUARANTY IS EFFECTIVE UPON GUARANTOR'S EXECUTION AND DELIVERY OF THIS GUARANTY TO CREDITOR. NO FORMAL ACCEPTANCE BY CREDITOR IS NECESSARY TO MAKE THIS GUARANTY EFFECTIVE.**

**THIS GUARANTY HAS BEEN SIGNED AND DELIVERED** by the Guarantor in Aurora, Illinois as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
**Bernie Laskowski**, *individually*

**STATE OF ILLINOIS**                    )  
  ) **SS**  
**COUNTY OF** \_\_\_\_\_ )

I, \_\_\_\_\_, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Bernie Laskowski, an individual, is the same person whose name is subscribed to the foregoing instrument and appeared before me this day in person and acknowledged to me that he signed and delivered the said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

**EXHIBIT J**

**PERMITTED ENCUMBRANCES**