

Ordinance No. 17-45

AN ORDINANCE OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS, APPROVING AN AMENDMENT TO THE AMENDMENT AND RESTATEMENT OF REDEVELOPMENT AGREEMENTS BY AND BETWEEN THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS AND OTTO ENGINEERING, INC.

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

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

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

WHEREAS, on March 21, 2016, the Corporate Authorities increased the BD Taxes to three-quarters of one percent (.75%) pursuant to Ordinance No. 1609; and,

WHEREAS, pursuant to the Tax Increment Allocation Redevelopment Act of the State of Illinois, 65 ILCS 5/11-74.4-1 *et seq.*, as from time to time amended (the "*TIF Act*"), the Corporate Authorities are empowered to undertake the development or redevelopment of a designated area within the boundaries of the Village in which existing conditions permit such area to be classified as a "blighted area" as defined in Section 11.74.4-3(a) of the TIF Act; and,

WHEREAS, in accordance with the requirements of the TIF Act, the Corporate Authorities, pursuant to Ordinances Nos. 08-34, 08-35, and 08-36, adopted on June 16, 2008, approved a Redevelopment Project Plan and Eligibility Report (the "*Redevelopment Plan*") for an area designated as the Downtown Tax Increment Redevelopment Project Area (the "*Project Area*"), and adopted tax increment financing for the payment and financing of redevelopment project costs incurred within the Project Area; and,

WHEREAS, beginning in 2010, the Developer acquired several properties in the Project Area and the BD District and informed the Village that it was prepared to undertake the demolition of certain structures and the rehabilitation, renovation and expansion of other structures on these properties in furtherance of the Redevelopment Plan and the BD Plan on the

condition that the Village provide financial assistance as permitted by the TIF Act and the BDD Act; and,

WHEREAS, in response to the Developer's request, on December 16, 2013 and July 21, 2014, respectively, the Village approved a first Redevelopment Agreement and a second Redevelopment Agreement by and between the Village and the Developer, which agreements provided for reimbursement of certain eligible redevelopment project costs (as defined therein) in connection with various properties owned by the Developer within the BD District and Project Area; and

WHEREAS, the second Redevelopment Agreement was amended in 2015 to reflect the conveyance of one of the Developer's properties; and,

WHEREAS, on June 1, 2015, all prior commitments on the part of the Village pertaining to all of the projects to be undertaken by the Developer were clarified specifying the sources for the payments of certain eligible Redevelopment Project Costs as defined in the TIF Act and the BDD Act; the total amount of reimbursement to be made to the Developer; date for payment by the Village of approved Redevelopment Project Costs; and, the procedures required to reimburse the Developer; and,

WHEREAS, the Village has now requested an extension of the dates for payment of the reimbursements due to the Developer for Redevelopment Project Costs incurred by it in connection with the redevelopment of the property commonly known as 220 River, East Dundee, Illinois; and,

WHEREAS, the Developer is prepared to accept the extension of time for reimbursements solely related to 220 River Street; and,

WHEREAS, the Corporate Authorities believe it to be in the best interests of the Village and its residents to extend the dates for payment of certain reimbursements to the Developer in accordance with terms set forth in an amendment to an amendment and restatement of redevelopment agreements between the Village and Developer.

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

Section 1. That the Amendment to the Amendment and Restatement of Redevelopment Agreements by and between the Village and the Developer, attached hereto and made a part hereof, is hereby approved and the President and Village Clerk are hereby authorized to execute and deliver and undertake any and all actions as may be required to implement the terms of said Amendment on behalf of the Village.

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

ADOPTED this 11th day of Sep, 2017 pursuant to a roll call vote as follows:

AYES: Trustees Lynam, Selep, Wood, Hall, Mahony and Andresen

NAYS: Ø

ABSENT: Ø

APPROVED by me this 11th day of Sep, 2017.

[Signature]
Village President

Attest:

[Signature]
Village Clerk

**AMENDMENT TO THE AMENDMENT AND RESTATEMENT
OF REDEVELOPMENT AGREEMENTS
BY AND BETWEEN THE VILLAGE OF EAST DUNDEE,
COOK AND KANE COUNTIES, ILLINOIS AND OTTO ENGINEERING, INC.**

THIS AMENDMENT TO THE AMENDMENT AND RESTATEMENT OF REDEVELOPMENT AGREEMENTS (the “*Restatement*”) by and between the Village of East Dundee, Kane and Cook Counties, Illinois (the “*Village*”), and Otto Engineering, Inc., an Illinois corporation (the “*Developer*”), dated June 1, 2015, is entered into this 11th day of September, 2017, by and between the Village and the Developer.

PREAMBLES

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

WHEREAS, pursuant to the BDD Act, on September 28, 2009, the Corporate Authorities, after public hearings, passed Ordinance No. 09-30 designating the Route 25 and Route 72 Business District (the “*BD District*”); found the BD District to be a “blighted area” pursuant to the BDD Act; and, imposed a retailers’ occupation tax and service occupation tax in the amount of one-half of one percent (0.5%), which has since been increased to three quarters of one percent (.75%), on all commercial operations within the boundaries of this commercial district (the “*BD Taxes*”) in order to pay project costs incurred in connection with the planning, execution and implementation of the BD District (the “*BD Plan*”); and,

WHEREAS, pursuant to the Tax Increment Allocation Redevelopment Act of the State of Illinois, 65 ILCS 5/11-74.4-1 *et seq.*, as from time to time amended (the “*TIF Act*”), the Corporate Authorities are empowered to undertake the development or redevelopment of a designated area within the boundaries of the Village in which existing conditions permit such area to be classified as a “blighted area” as defined in Section 11.74.4-3(a) of the TIF Act; and,

WHEREAS, in accordance with the requirements of the TIF Act, the Corporate Authorities, pursuant to Ordinances Nos. 08-34, 08-35, and 08-36, adopted on June 16, 2008, approved a Redevelopment Project Plan and Eligibility Report (the “*Redevelopment Plan*”) for an area designated as the Downtown Tax Increment Redevelopment Project Area (the “*Project Area*”), and adopted tax increment financing for the payment and financing of redevelopment project costs incurred within the Project Area; and,

WHEREAS, beginning in 2010, the Developer acquired several properties in the Project Area and the BD District and informed the Village that it was prepared to undertake the demolition of certain structures and the rehabilitation, renovation and expansion of other structures on these properties in furtherance of the Redevelopment Plan and the BD Plan on the condition that the Village provide financial assistance as permitted by the TIF Act and the BDD Act; and,

WHEREAS, in response to the Developer’s request, the Village approved a Redevelopment Agreement on December 16, 2013, by and between the Village and the Developer providing for reimbursement of eligible redevelopment project costs (as hereinafter defined) from the BD Taxes and incremental real estate taxes (as hereinafter defined) in connection with the property commonly known as 611 East Main (the “*Summit School*”), as

distributed to the Village as a result of its designation of the Project Area and the BD District; and,

WHEREAS, on July 21, 2014, the Village approved a second Redevelopment Agreement by and between the Village and the Developer providing for reimbursement of eligible redevelopment project costs from incremental real estate taxes (as hereinafter defined) in connection with specific properties listed on *Exhibit A* to this second Redevelopment Agreement, as annually distributed to the Village as a result of its designation of the Project Area and the adoption of the TIF Act; and

WHEREAS, the second Redevelopment Agreement was amended in 2015 to reflect the conveyance of one of the Developer's properties; and,

WHEREAS, on June 1, 2015, all prior commitments on the part of the Village pertaining to all of the projects to be undertaken by the Developer; were clarified specifying the sources for the payments of certain eligible Redevelopment Project Costs as defined in the TIF Act and the BDD Act; the total amount of reimbursement to be made to the Developer; date for payment by the Village of approved Redevelopment Project Costs; and, the procedures required to reimburse the Developer; and,

WHEREAS, the Village has now requested an extension of the dates for payment of the reimbursements due to the Developer for Redevelopment Project Costs incurred by it in connection with the redevelopment of the property commonly known as 220 River, East Dundee, Illinois; and,

WHEREAS, the Developer is prepared to accept the extension of time for reimbursements solely related to 220 River Street pursuant to the terms and conditions as hereinafter set forth.

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

Section 1. Incorporation of Recitals

The Parties agree that all of the recitals contained in the Preambles to 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. Village's Obligations

Pursuant to the Restatement, the Village agreed to reimburse the Developer an amount not to exceed \$547,000 as reimbursement for the construction, rehabilitation, renovation and redevelopment of 220 River Street, with payments in the amount of \$182,500 per year due and payable on November 1 of the years 2016, 2017 and 2018. The Village now agrees to reimburse the Developer the total amount of \$652,500 for additional Redevelopment Project Costs incurred by the Developer in connection with 220 River Street to be paid in equal installments of \$217,500 on each of November 1, 2017, November 1, 2018 and November 1, 2019. In the event that a payment required under this Section is not paid when due and remains unpaid for a period of ten (10) days following written notice of such default is delivered to the Village, all remaining payments shall immediately become due and owing.

Section 3. Developer Donation

The Developer hereby agrees, upon receipt of \$217,500 on or before November 1, 2017, to donate to the Village the sum of \$35,000 to be used by the Village for the “downtown depot/culinary district activities”, as determined by the Village.

Section 4. General Provisions.

(a) That the Term of the Restatement as applicable to 220 River Street and only as applicable to 220 River Street, shall be extended to December 1, 2019.

(b) For purposes of this Amendment to the Amendment and Restatement “Redevelopment Project Costs” shall mean and include all costs defined as “business district project costs” as defined in Section 11-74.3-5 of the BDD Act as from time to time amended or redevelopment project costs” as defined in Section 11-74.4-3(q) of the TIF Act, as from time to time amended.

(c) This Amendment may not be assigned by the Developer without prior written consent of the Village .

(d) The Developer, its officers, agents, successors and assigns hereby waive any and all claims or causes of action it may have against the Village in connection with the reimbursement of Redevelopment Project Costs pertaining to 220 River Street so long as the Village is not in default of the terms of this Amendment.

(e) The Village agrees not to contest or object to any of the payments provided herein and to take all action to insure that all such the payments are made as required herein.

(e) All other terms and conditions of the Restatement, other than the amounts due as reimbursement of Redevelopment Project Costs incurred in connection with 220 River Street and the dates of payments of said amount, are hereby affirmed and are in full force and effect.

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

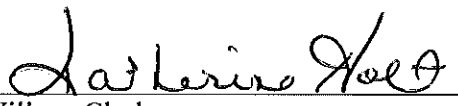
IN WITNESS WHEREOF, the parties hereto have caused this Amendment to the Amendment and Restatement of Redevelopment Agreements to be executed by their duly authorized officers on the above date at East Dundee, Illinois.

Village of East Dundee, an Illinois municipal corporation

By: 

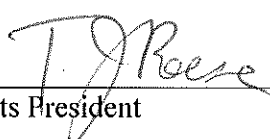
President

Attest:



Village Clerk

Otto Engineering, Inc.



Its President