

Ordinance No. 17-11

AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS AND SPEEDWAY, LLC FOR THE DEVELOPMENT OF PART OF LOT 5 IN TERRA BUSINESS PARK

WHEREAS, the Village of East Dundee, Cook and Kane Counties, Illinois (the “*Village*”) is a home-rule municipality pursuant to Article VII, Section 6(a) of the Constitution of the State of Illinois of 1970; and,

WHEREAS, pursuant to the Business District Development and Redevelopment Law of the State of Illinois, 65 ILCS 5/11-74.3-1, *et seq.*, as from time to time amended (the “*BDD Act*”), on September 29, 2008, the President and Board of Trustees of the Village (the “*Corporate Authorities*”), after public hearings, adopted Ordinance No. 08-57 which designated the Route 25 and Route 72 Business District (the “*BD District*”), approved the Route 25 and Route 72 Development Plan (the “*BD Plan*”), and imposed a retailers’ occupation tax and service occupation tax (the “*BD Taxes*”) in the amount of one-half of one percent (1/2%) on all commercial operations within the boundaries of the BD District to pay costs incurred in connection with BD Plan; and,

WHEREAS, the Corporate Authorities amended the BD District by Ordinance Nos. 11-19 and 13-05, adopted on April 11, 2011 and March 18, 2013, respectively, which Ordinances added certain properties to the BD District and changed the name of the BD District to the “Downtown Dundee Crossing Business Development District”; and,

WHEREAS, by Ordinance No. 15-16, adopted March 21, 2016, the Corporate Authorities amended the BD Plan and BD Taxes by increasing the rate of the BD Taxes imposed upon all commercial operations within the boundaries of the BD District from one-half of one

percent (1/2%) to three-fourths of one percent (3/4%); and,

WHEREAS, Speedway, LLC, an Illinois limited liability company (the “*Developer*”) has submitted a proposal to acquire certain property, within the boundaries of the BD District, and generally located on the northwest corner of Christina Drive and Route 72, East Dundee, Illinois, as legally described on Exhibit A attached hereto and made a part hereof (the “*Subject Property*”), and to construct a state-of-the-art fueling center with a 4,600 square foot convenience store with ten (10) gasoline pumps and four (4) commercial diesel fuel lanes (the “*Project*”); and,

WHEREAS, the Developer has informed the Village that the ability to undertake the Project on the Subject Property requires financial assistance from the Village for certain costs to be incurred in connection with the Project, which costs would constitute “business district project costs” as such term is defined in the BDD Act; and,

WHEREAS, the Project is consistent with the BD Plan, the Subject Property is located within the BD District, and the Village is authorized under the BDD Act to incur costs and to make and enter into all contracts necessary or incidental to the implementation of BD Plan; and,

WHEREAS, the Corporate Authorities have determined that in order to induce the Developer to undertake the Project at the Subject Property, it is in the best interests of the Village, and the health, safety, morals, and welfare of the residents of the Village, for the Village to reimburse the Developer for certain eligible business district project costs in accordance with the terms and conditions as set forth in the attached Development Agreement by and between the Village and the 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 Development Agreement by and between the Village of East Dundee, Cook and Kane Counties, Illinois and Speedway, LLC for the Development of Part of Lot 5 in Terra Business Park, attached hereto and made a part hereof, is hereby approved and the President, Village Clerk, and Village Administrator are hereby authorized to execute and deliver said Agreement and undertake any and all actions that may be required to implements its terms on behalf of the Village.

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

Passed by the Village President and the Board of Trustees of the Village of East Dundee, Cook and Kane Counties, Illinois, this 20th day of February, A.D. 2017, pursuant to a roll call vote, as follows:

AYES: Trustees Gorman, Lynam, Wood and Hall

NAYS: Trustee Selep

ABSENT: Ø

APPROVED by me, as Village President of the Village of East Dundee, Cook and Kane Counties, Illinois, this 20th day of February, A.D. 2017.



Village President

Attest:

Katherine Hoel
Village Clerk

**A DEVELOPMENT AGREEMENT BY AND BETWEEN THE
VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS
AND SPEEDWAY LLC FOR THE DEVELOPMENT OF PART OF LOT 5
IN TERRA BUSINESS PARK**

(Speedway LLC)

P R E A M B L E S:

WHEREAS, the Village of East Dundee, Cook and Kane Counties, Illinois (the “*Village*”) is a home-rule municipality pursuant to Article VII, Section 6(a) of the Constitution of the State of Illinois of 1970; and,

WHEREAS, pursuant to the Business District Development and Redevelopment Law of the State of Illinois, 65 ILCS 5/11-74.3-1, *et seq.*, as from time to time amended (the “*BDD Act*”), on September 29, 2008, the President and Board of Trustees of the Village (the “*Corporate Authorities*”, after public hearings, passed Ordinance No. 08-57 designating the Route 25 and Route 72 Business District (the “*BD District*”), which was amended by Ordinance No. 11-19 on April 11, 2011, adding certain properties to this commercial district as described therein, both of which imposed a retailers’ occupation tax and service occupation tax (the “*BD Taxes*”) in the amount of one-half of one percent (1/2%) on all commercial operations within the boundaries of the commercial district, as amended, to pay costs incurred in connection with the planning, execution and implementation of the Route 25 and Route 72 Development Plan (the “*BD Plan*”); and,

WHEREAS, the Corporate Authorities further amended the BD District by Ordinance No. 13-05 on March 18, 2013, adding additional properties to the BD District and changing the name of the BD District to the “Downtown and Dundee Crossing Business Development District”; and,

WHEREAS, on March 21, 2016, the Corporate Authorities, after a public hearing, amended the BD District and BD Plan by Ordinance No. 15-16 to increase the rate of the BD Taxes imposed upon all commercial operations within the boundaries of the BD District, as amended in 2011 and 2013, from one-half of one percent (1/2%) to three-fourths of one percent (3/4%); and,

WHEREAS, the Village has been informed by Speedway LLC, a Delaware limited liability company (the “*Developer*”), that the Developer intends to acquire certain property within the BD District generally located on the northwest corner of Christina Drive and Route 72, East Dundee, Illinois, legally described on *Exhibit A* attached hereto and made a part hereof (the “*Subject Property*”) and to construct a state-of-the-art fueling center with a 4,600 square foot convenience store, ten (10) gasoline pumps and four (4) commercial diesel fuel lanes as depicted on *Exhibit B* attached hereto (the “*Project*”); and,

WHEREAS, the Developer informed the Village that the ability to undertake the Project on the Subject Property requires financial assistance from the Village for certain costs that would be incurred in connection with the Project, which costs would constitute “business district project costs” as such term is defined in the BDD Act and which Project would be in furtherance of the implementation of the BD Plan; and,

WHEREAS, the Developer’s proposal calls for the Developer to develop the Subject Property in accordance with the final plans and specifications to be approved by the Village and in accordance with all Village ordinances and laws of the State of Illinois (collectively the “*Legal Requirements*”); and,

WHEREAS, and the Village has determined that the Developer has the qualifications and experience deemed necessary to undertake the construction of the Project; and, the development of the Subject Property, as proposed, would be consistent with the approved BD Plan for the BD District and in furtherance of the goals and objectives of the BD Plan; and,

WHEREAS, the Village is authorized under the BDD Act to incur costs and to make and enter into all contracts necessary or incidental to the implementation of the BD Plan for the BD District; and,

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

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

Section 1. Incorporation of Recitals

The Parties agree that all of the recitals contained in the Preambles to 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. Developer’s Obligations

(a) The Developer covenants and agrees to acquire the Subject Property on or before March 31, 2017.

(b) On or before December 31, 2017, the Developer shall have submitted all necessary plans and specifications to construct the Project at the Subject Property, and an estimate of all costs to be incurred by the Developer in connection with acquisition and development of the Subject Property (the “*Project Budget*”).

(c) On or before March 31, 2018, the Developer shall have applied for all State and Village permits as may be required to undertake and complete the construction of the Project and to commence construction within thirty (30) days of receipt of all required permits.

(d) The Developer covenants and agrees that upon completion of the Project at the Subject Property it shall have invested a minimum sum of approximately \$10,000,000 and have

generated a minimum of thirty-five (35) full and part-time jobs, including four (4) managerial positions.

(e) On or before December 31, 2018, the Developer shall have completed construction of the Project in accordance with the Legal Requirements and be in full operation at the Subject Property, as a state-of-the art fueling station with ten (10) gasoline pumps, four (4) diesel fuel lanes and a 4,600 square foot convenience store with a “Speedy Café” (the “*Businesses*”). Upon completion, the Developer shall submit to the Village an itemization of all costs incurred in connection with the construction of the Project at the Subject Property with copies of all paid invoices, bills or receipts evidencing such costs exclusive of inventory, equipment, commissions, if any, and furniture and furnishings but including acquisition and construction of all components of the Project (the “*Project Costs*”).

(f) The Developer hereby covenants and agrees to pay all state and local retail sales taxes, occupation sales taxes, home rule sales taxes, BD Taxes (collectively, the “*Taxes*”) and real estate taxes when due and to pay all sums due and owing to the Village including, but not limited to, all fines, fees, taxes, licenses, assessments and invoices for all services and utilities due to the Village or any other unit of government or governmental agency having jurisdiction over the Subject Property. The Developer further agrees not to violate any ordinances, laws or regulations of the Village or the State of Illinois.

Section 3. Developer Payments

(a) In consideration of the acquisition and development by the Developer of the Subject Property in accordance with the terms of this Agreement, so long as no event described in *Section 15* hereof shall have occurred and be continuing, the Village shall reimburse the Developer for business district project costs, as hereinafter defined and as set forth on *Exhibit C* attached hereto and made a part hereof by this reference, in an amount equal to the lesser of \$200,000.00 or forty-one percent (41%), but in no event less than the Adjusted Reimbursement divided by fifteen (15) years, of the Taxes generated by the operation of the Businesses for the prior twelve (12) calendar months at the Subject Property commencing on the first anniversary following the commencement of operation of the Businesses and annually thereafter until the first to occur: (i) receipt by the Developer of the lesser of twenty-five percent (25%) of the Project Costs or \$2,500,000.00 (the “*Reimbursement*”), as such Reimbursement may be adjusted pursuant to (b) below; or, (ii) the fifteenth (15th) anniversary of the date on which the Developer began operations of the Businesses at the Subject Property. For purposes of this Agreement, Reimbursement shall only be made to the extent the costs to be reimbursed are such costs defined as “Business District Project Costs” in Section 11-74.3-5 of the BDD Act as from time to time amended.

(b) The Village further agrees to increase the Reimbursement in an amount equal to the amount the Developer pays engineers, selected by the Village, for preparation of plans and specifications for traffic control and/or ingress and egress from roadways, adjacent to the Subject Property; and, the Developer agrees to reduce the Reimbursement due to it in an amount equal to any grant or financial assistance received by the Developer from any state or federal agency (the “*Adjusted Reimbursement*”).

(c) The Village has established a special tax allocation fund pursuant to the requirements of the BDD Act into which all of the BD Taxes derived from the BD District are

deposited (the “*BD Fund*”). The Village shall further establish a special sub-account designated the Speedway Sub-Account (which Sub-Account shall be automatically created by the Ordinance approving this Agreement) into which the Village shall deposit forty-one percent (41%) of all of the Taxes distributed to the Village from the Illinois Department of Revenue as generated from the operation of the Businesses at the Subject Property for reimbursement of Business District Project Costs as hereinafter provided.

(d) For purposes of determining the amount of Taxes to be deposited into the Speedway Sub-Account, the Developer shall authorize the Illinois Department of Revenue to release all of the Developer’s reports of Taxes and/or tax returns as provided in Section 6 of this Agreement.

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

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

(b) Subject to Section 8 below, to be eligible to receive the Adjusted Reimbursement for any eligible Business District Project Costs, the Developer shall have constructed and completed in the Project in accordance with the Legal Requirements and the Businesses shall be operating at the Subject Property.

(c) To establish a right of reimbursement for a specific Business District Project Costs under this Agreement, the Developer shall have submitted to the Village a written statement in the form attached to this Agreement as *Exhibit D* (a “*Request for Reimbursement*”) setting forth the specific Business District Project Costs for which the reimbursement is requested. The Request for Reimbursement must be accompanied by such bills, contracts, invoices, lien waivers or other evidence as the Village Administrator or his designee shall reasonably require to evidence the right of the Developer to reimbursement under this Agreement, if not previously delivered. The parties acknowledge that the determination of Business District Project Costs and qualification for reimbursement under this Agreement are subject to the BDD Act, all amendments to the BDD Act before and after the date of this Agreement, and administrative rules and judicial interpretations rendered before or during the term of this Agreement. The Village has no obligation to the Developer to attempt to modify said rules or decisions but will cooperate with the Developer in obtaining approval of Business District Project Costs.

Section 5. Term

Unless earlier terminated pursuant to Section 15, the term of this Agreement shall commence on the date of execution and end on the earlier of: (i) the fifteenth (15th) anniversary of the date on which the Businesses began operation at the Subject Property; or, (ii) payment to the Developer of the Adjusted Reimbursement.

Section 6. Verification of Tax Increment

The Developer shall deliver to the Village authorization as may be required for the Illinois Department of Revenue to release any reports of Taxes or tax returns attributable to the Developer’s Businesses operations at the Subject Property, all as prescribed on form PTAX 1002-21.

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

Except as set forth herein, the Village shall have no obligation to pay any cost relating to the development of the Subject Property or to make any payment to any person other than the Developer, nor shall the Village be obligated to pay any contractor, subcontractor, mechanic, or materialman providing services or materials to the Developer for the development of the Subject Property.

Section 8. Assignment

This Agreement may not be assigned by the Developer, without the written consent of the Village nor may the Subject Property, or the Businesses, or any component thereof be conveyed without the prior written consent of the Village, which consent shall not be unreasonably withheld.

Section 9. Developer Indemnification

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

Section 10. Waiver

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

Section 11. Severability

If any section, subsection, term or provision of this Agreement or the application thereof to any party or circumstance shall, to any extent, be invalid or unenforceable, the remainder of said section, subsection, term or provision of this Agreement or the application of same to parties or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

Section 12. Notices

All notices, demands, requests, consents, approvals or other instruments required or permitted by this Agreement shall be in writing and shall be executed by the party or an officer, agent or attorney of the party, and shall be deemed to have been effective as of the date of actual delivery, if delivered personally, or as of the third (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:

To the Developer:

Speedway LLC
c/o Tax Department Room K-07-014
539 South Main Street
Findlay, OH 45840

With a copy to:

Speedway LLC
c/o Real Estate Department Room K-01-004
539 South Main Street
Findlay, OH 45840

To the Village:

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

With a copy to:

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

Section 13. No Joint Venture, Agency or Partnership Created

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

Section 14. No Discrimination and Prevailing Wage Act compliance

A. The Developer for itself and its successors and assigns agrees that in the construction of the Project on the Subject Property provided for in this Agreement the Developer shall not discriminate against any employee or applicant for employment because of race, color, religion,

sex or national origin. The Developer shall require that applicants are employed and that employees are treated during employment, 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 Village, setting forth the provisions of this nondiscrimination clause. The Developer shall comply with all applicable laws regarding rate of pay or other forms of compensation.

B. *Prevailing Wage Act.*

1. The Developer, its contractors and subcontractors shall be responsible to determine if the Project is a “public work” within the meaning of the Illinois Prevailing Wage Act (the “Act”) (820 ILCS 130/0.01 *et seq.*) requiring it to pay workers performing services on this Project no less than the “prevailing rate of wages” in the county where the work is performed. For information regarding the applicability of the Act contact your attorney or the Illinois Department of Labor (the “IDOL”). For the current prevailing wage rates, contact the Village or see the listing of rates or at www.state.il.us/agency/idol/rates/rates. The IDOL makes the final determination of whether this Project is subject to the Act.

2. The Developer agrees to indemnify and hold harmless the municipality, its agents, officers and employees as provided for in this Agreement for any violation by the Developer or its contractors and subcontractors’ failure to comply with any provision of the Act if applicable.

Section 15. Remedies – Liability

(a) If, in the Village’s judgment, the Developer is in material default of this Agreement for any phase of the Project, the Village shall provide the Developer with a written statement indicating any failure on the Developer’s part to fulfill its obligations under this Agreement. Except as required to protect against further damages, the Village may not exercise any remedies against the Developer in connection with such failure until thirty (30) days after giving such notice so that the Developer will have the opportunity to cure any claimed material default within such thirty (30) day period. If such default cannot be cured within such thirty (30) day period, such thirty (30) days period shall be extended for such time as is reasonably necessary for the curing of the same, so long as the Developer diligently proceeds with such cure; if such default is cured within such extended period, the default shall not be deemed to constitute a breach of this Agreement. A default not cured as provided above shall constitute a breach of this Agreement. Any failure or delay by the Village in asserting any of its rights or remedies as to any default or alleged default or breach shall not operate as a waiver of any such default or breach of any rights or remedies it may have as a result of such default or breach.

(b) If the Developer materially fails to fulfill its obligations under this Agreement after notice is given by the Village and any cure periods described in paragraph (a) above have expired, the Village may elect to terminate its obligations under this Agreement or exercise any right or remedy it may have at law or in equity, including the right to specifically enforce the terms and conditions of this Agreement. If any voluntary or involuntary petition or similar

pleading under any section or sections of any bankruptcy or insolvency act shall be filed by or against the Developer, or any voluntary or involuntary proceeding in any court or tribunal shall be instituted to declare the Developer insolvent or unable to pay the Developer's debts, or the Developer makes an assignment for the benefit of its creditors, or a trustee or receiver is appointed for the Developer or for the major part of any of the Developer's property, and the same is not dismissed or stayed within sixty (60) days, the Village may elect, to the extent such election is permitted by law and is not unenforceable under applicable federal bankruptcy laws, but is not required, with or without notice of such election and with or without entry or other action by the Village, to forthwith terminate this Agreement. To effect the Village's termination of this Agreement under this Section, the Village's sole obligation shall be to record, in the Office of the Kane County Recorder, a Certificate of Default, executed by the President of the Village or such other person as shall be designated by the Village, stating that this Agreement is terminated pursuant to the provisions of this Section, in which event this Agreement, by virtue of the recording of such certificate, shall *ipso facto* automatically terminate and be of no further force and effect.

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

(d) In addition to any other rights or remedies, a party may institute legal action against the other party to cure, correct or remedy any default, or to obtain any other remedy consistent with the purpose of this Agreement, either at law or in equity, including, but not limited to the equitable remedy of an action for specific performance; provided, however, no recourse under or upon any obligation contained herein or for any claim based thereon shall be had against the Village, its officers, agents, attorneys, representatives or employees in any amount or in excess of any specific sum agreed to be paid by the Village hereunder, and no liability, right or claim at law or in equity shall be attached to or incurred by the Village, its officers, agents, attorneys, representatives or employees in any amount in excess of any specific sums agreed by the Village to be paid hereunder and any such claim is hereby expressly waived and released as a condition of and as consideration for the execution of this Agreement by the Village. Notwithstanding the foregoing, in the event either party shall institute legal action against the other party because of a breach of any agreement or obligation contained in this Agreement, the prevailing party shall be entitled to recover all costs and expenses, including reasonable attorneys' fees, incurred in connection with such action. Each party hereby waives any right to consequential, exemplary or punitive damages.

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

Section 16. Developer's Covenants

The Developer hereby covenants and agrees to repay to the Village any and all sums paid by the Village to the Developer pursuant to this Agreement in the event the Developer or any approved successor of the Businesses ceases to operate the Businesses at the Subject Property at any time during the term of this Agreement; provided, that the obligation to refund shall be reduced by twenty percent (20%) of the sums paid by the Village on each anniversary of the date of the commencement of the operation of the Businesses.

Section 17. Time; Force Majeure.

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

Section 18. Amendment

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

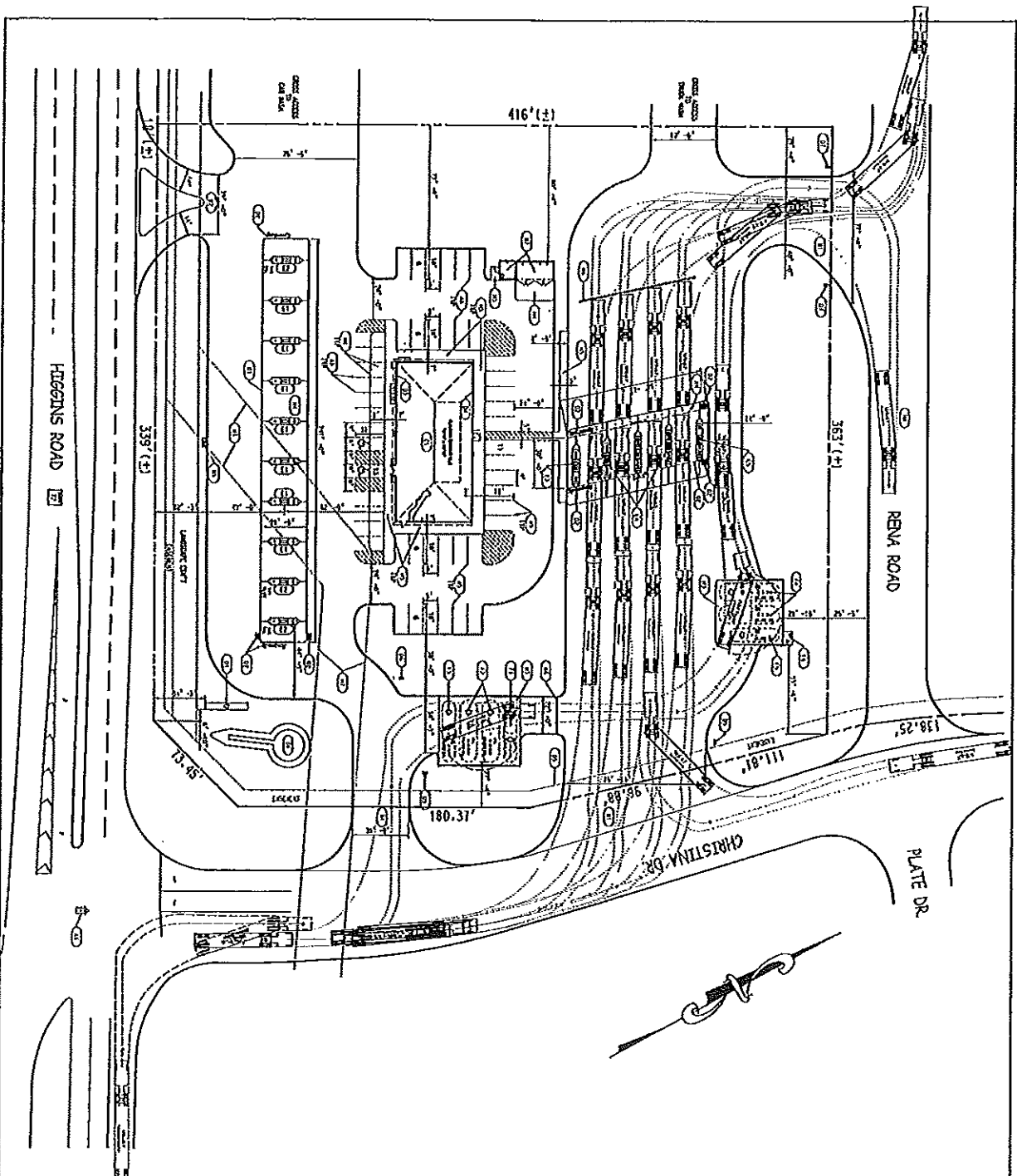
Section 19. Counterparts

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

Exhibit A

Legal Description of Subject Property

Exhibit B
Site Description



1. GENERAL NOTES
2. TRACK TYPE: 1/4 MILE, 1/2 MILE, 3/4 MILE, 1 MILE, 1 1/4 MILE, 1 1/2 MILE, 2 MILE, 2 1/2 MILE, 3 MILE, 4 MILE, 5 MILE, 6 MILE, 7 MILE, 8 MILE, 9 MILE, 10 MILE, 11 MILE, 12 MILE, 13 MILE, 14 MILE, 15 MILE, 16 MILE, 17 MILE, 18 MILE, 19 MILE, 20 MILE, 21 MILE, 22 MILE, 23 MILE, 24 MILE, 25 MILE, 26 MILE, 27 MILE, 28 MILE, 29 MILE, 30 MILE, 31 MILE, 32 MILE, 33 MILE, 34 MILE, 35 MILE, 36 MILE, 37 MILE, 38 MILE, 39 MILE, 40 MILE
3. TRACK TYPE: 1/4 MILE, 1/2 MILE, 3/4 MILE, 1 MILE, 1 1/4 MILE, 1 1/2 MILE, 2 MILE, 2 1/2 MILE, 3 MILE, 4 MILE, 5 MILE, 6 MILE, 7 MILE, 8 MILE, 9 MILE, 10 MILE, 11 MILE, 12 MILE, 13 MILE, 14 MILE, 15 MILE, 16 MILE, 17 MILE, 18 MILE, 19 MILE, 20 MILE, 21 MILE, 22 MILE, 23 MILE, 24 MILE, 25 MILE, 26 MILE, 27 MILE, 28 MILE, 29 MILE, 30 MILE, 31 MILE, 32 MILE, 33 MILE, 34 MILE, 35 MILE, 36 MILE, 37 MILE, 38 MILE, 39 MILE, 40 MILE
4. TRACK TYPE: 1/4 MILE, 1/2 MILE, 3/4 MILE, 1 MILE, 1 1/4 MILE, 1 1/2 MILE, 2 MILE, 2 1/2 MILE, 3 MILE, 4 MILE, 5 MILE, 6 MILE, 7 MILE, 8 MILE, 9 MILE, 10 MILE, 11 MILE, 12 MILE, 13 MILE, 14 MILE, 15 MILE, 16 MILE, 17 MILE, 18 MILE, 19 MILE, 20 MILE, 21 MILE, 22 MILE, 23 MILE, 24 MILE, 25 MILE, 26 MILE, 27 MILE, 28 MILE, 29 MILE, 30 MILE, 31 MILE, 32 MILE, 33 MILE, 34 MILE, 35 MILE, 36 MILE, 37 MILE, 38 MILE, 39 MILE, 40 MILE

NOTES: THE EXISTING TOPOGRAPHY HAS BEEN REVEALED AND THE TRACK LAYOUT HAS BEEN DEVELOPED TO ACCOMMODATE THE TRACK LAYOUT. THE TRACK LAYOUT IS TO BE COMPLETED BY THE TRACK DESIGNER. THE TRACK LAYOUT IS TO BE SET PRIOR TO CONSTRUCTION OF THE TRACK.

<p>PROJECT NO. 100000-C1</p> <p>DATE: 10/10/00</p> <p>SCALE: 1" = 40'</p> <p>DRAWN BY: J. HARRIS</p> <p>CHECKED BY: J. HARRIS</p>	<p>CONCEPTUAL PLAN</p> <p>NEW SPEEDWAY</p> <p>MANE COUNTY</p> <p>EAST BRIDGE, LA</p>	<p>DATE: 10/10/00</p> <p>SCALE: 1" = 40'</p> <p>DRAWN BY: J. HARRIS</p> <p>CHECKED BY: J. HARRIS</p>	<p>Speedway</p> <p>MANE COUNTY</p> <p>EAST BRIDGE, LA</p>
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Exhibit C

Eligible Reimbursable Project Costs

Site Acquisition	\$1,568,160.00
Sanitary Sewer Relocation	\$ 125,000.00
Water Main Relocation	\$ 58,685.00
Rena Road	\$ 239,560.00
IL Route 72 RI/RO Curb Cut	\$ 41,229.00
Decel Lane at Patricia Place	\$ 50,000.00
IL Route 72 Left Turn Lane at Patricia Place	\$ 101,500.00
Site Prep (Environmental/Soils)	\$ 887,265.88
Total	\$ 3,071,399.88

Exhibit D

REQUEST FOR REIMBURSEMENT

[Date]

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

Re: Redevelopment Agreement dated _____, by and between the Village of East Dundee, Illinois, and Speedway, LLC (the “Developer”)

Dear Sir:

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

1. The amount of \$ _____ requested to be disbursed pursuant to this Request for Reimbursement will be used to reimburse the Developers for those Business District Costs detailed in Schedule 1 attached to this Request for Reimbursement.
2. The undersigned certifies that:
 - (i) the amounts included in 1 above were made or incurred in accordance with the construction contracts, and building permits heretofore in effect;
 - (ii) the amounts paid, as set forth in this Request for Reimbursement, represents a part of the funds due and payable for Business District Costs;
 - (iii) the moneys requisitioned are not greater than those necessary to meet obligations due and payable or to reimburse the Developer for its funds actually advanced for Business District Costs;
 - (iv) the amount of Business District Costs to be reimbursed in accordance with this Request for Reimbursement, together with all amounts reimbursed to the Developer pursuant to the Agreement, is not in excess of lesser of twenty-five percent (25%) of the total Project Budget or \$2,500,000.00;
 - (v) the Developer is not in default under the Agreement and nothing has occurred to the knowledge of the Developer that would prevent the performance of its obligations under the Agreement.
3. Attached to this Request for Reimbursement is Schedule 1, together with copies of invoices or bills of sale and Mechanic’s Lien Waivers covering all items for which reimbursement is being requested, on which it has been noted all Business District Costs heretofore reimbursed to the Developer.

Speedway LLC

Date: _____

By: _____

Approved: Village of East Dundee, an Illinois municipal corporation

Date: _____

By: _____