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December 8, 2016

Bruce T. Block
Direct Dial: 414-298-8130
bblock@reinhartlaw.com

Mr. M. Chris Swartz
Village of Shorewood
3930 North Murray Avenue
Shorewood, WI 53211-2303

Dear Chris:

Re: Proposed Amendment to Roundy's
Block Development Agreement

As we have discussed, the developer of the Roundy's Block project has procured a purchaser for the grocery store and parking structure components of the project. Pursuant to Article IX, paragraph W of the December 31, 2014 development agreement, the Village is obligated to provide a written certification to a potential purchaser of any component of the project regarding: (a) the status of the development agreement with respect to such component; and (b) the existence or non-existence of any defaults under the development agreement. Typically, this type of certification takes the form of what is commonly referred to as an "estoppel certificate", and it is handled at the administrative level. However, there are some unique aspects of the pending transaction that warrant entering into an actual amendment to the development agreement. These unique aspects are: (1) the purchaser will be acquiring the limited liability interests of the grocery store developer and the parking structure developer, rather than fee title to the grocery store and the parking structure (thus, after the closing, the purchaser will in effect be stepping into the shoes of those two development entities under the development agreement); and (2) the purchaser does not require the \$6.5 million loan that the Village is obligated to make to the parking structure owner under the development agreement.

Because the definition of "developer" under the development agreement lumped the grocery store owner, the parking structure owner and the apartment developer all together (in effect, we cross-defaulted the development obligations related to all three components), we need to "unbundle" that definition of developer in the default section of the development agreement. And because the purchaser does not require the Village loan, it is advantageous to amend the development agreement to eliminate the Village's obligation with respect to same.

Accordingly, I enclose a form of amendment to the development agreement that does the following:

1. Confirms that construction of the grocery store and parking structure are complete, releases Michael Weiss from his personal construction completion guaranty for those components and states that the grocery store owner and parking structure owner have no obligation to complete the apartment component. The apartment component owner and Michael Weiss remain obligated to complete the apartment component.
2. Terminates the Village's obligation to make the Village loan and confirms that the Village has no remaining financial obligations toward the project or any of the three developer entities.
3. Terminates any obligation on the part of any of the three developer entities to provide annual financial statements to the Village. (This was a requirement tied to the Village loan; i.e., so long as the Village loan was outstanding, the developer entities had to provide annual financial statements. Since the obligation to fund the Village loan has terminated, this reporting obligation is similarly terminated.)
4. Removes the grocery store owner's obligation to participate in the \$150,000 letter of credit that is provided to the Village to secure the apartment component completion guaranty and the property tax guaranty pertaining to the apartment component. (The letter of credit also guaranteed any assessment shortfall payment due with respect to the grocery store, but the development agreement provides that upon the sale of the grocery store to an unrelated third party, this obligation terminates. The grocery store shortfall payments are separately secured by a recorded covenant that grants the Village special assessment powers.)
5. Modifies the default section of the development agreement to sever the grocery store owner and parking structure owner from the apartment owner. If the apartment owner defaults under any provisions of the development agreement, the Village's recourse will be solely against the apartment owner. Similarly, if either the grocery store owner or parking structure owner defaults, the Village's recourse will be solely against those parties, and not the apartment owner. The amendment retains a cross-default against the grocery store owner and the parking structure owner, since they will have common ownership and control.
6. Confirms that as of the effective date of the amendment, there are no outstanding defaults under the development agreement nor are there any pending claims that the Village is aware of that would give rise to the developer's indemnification obligations under the development agreement.
7. Confirms that all other terms and conditions of the development agreement remain in full force and effect, and for purposes of example and not limitation, the grocery store owner

and parking structure owner remain obligated for the following: (a) indemnification of the Village for any third party claims arising in connection with their respective components; (b) payment of prevailing wages for any public improvements related to their respective components; (c) prohibition against appealing an assessed valuation of the grocery store component below \$17 million; (d) prospective compliance with all of the tenant site delivery requirements; (e) prospective compliance with the obligation to review project traffic circulation with the Village in 2019; and (f) prospective compliance with the special privilege requirements relating to improvements in the public right-of-way.

8. Provides that if the pending sale transaction does not close by December 31, 2016, then the amendment terminates and is of no force or effect.

It is important to point out that the development agreement imposes a number of post-completion obligations upon the project. Except as noted in par. 7, above, these obligations are embodied in separate documents that were recorded against the real estate. Thus, there are three landscape maintenance easements that were recorded against each project component, the assessed valuation covenant was recorded against the grocery store parcel and a public access easement for the passageway between the parking structure and apartment component was recorded against both of those parcels. These documents establish independent enforcement rights and powers in favor of the Village.

Big picture, the proposed amendment performs the dual function of satisfying the Village's obligation to provide the certificate of status set forth in the development agreement and terminating the Village's obligation to make the Village loan. I will be available to answer questions regarding this document at both the Community Development Authority meeting and the Village Board meeting where this item will be considered.

Yours very truly,



Bruce T. Block

Amendment to Development Agreement

This Amendment to Development Agreement (the "Amendment") is entered into as of December _____, 2016 (the "Effective Date") by and among GENCAP SHOREWOOD GROCERY, LLC ("Grocery Developer"), GENCAP SHOREWOOD GARAGE, LLC ("Garage Developer"), GENCAP SHOREWOOD APARTMENTS, LLC ("Apartment Developer"), Michael Weiss ("Weiss") and the VILLAGE OF SHOREWOOD ("Village"). Each of the foregoing is a "Party," and collectively they are the "Parties."

RECITALS

The Parties hereto acknowledge the following:

A. Grocery Developer, Garage Developer, Apartment Developer and the Village entered into a Development Agreement dated as of December 31, 2014 (the "Development Agreement") and a Supplement to Development Agreement dated as of December 31, 2014 (the "Supplement") relating to the development of a mixed-use project (the "Project") to be located on the real property within the Village identified on Exhibit A attached hereto. Weiss also executed the Development Agreement and the Supplement in his capacity as guarantor of certain obligations set forth in the Development Agreement, as supplemented.

B. Each capitalized term set forth in this Amendment and not defined herein shall have the meaning ascribed to such term in the Development Agreement.

C. Grocery Developer, Garage Developer and Apartment Developer are affiliated entities and were collectively defined as the Developer in the Development Agreement and the Supplement.

D. Construction of Phase I of the Project has been completed and Grocery Developer and Garage Developer desire to sell their respective interests to an unrelated third party (the "Purchaser"). Such sale will be by conveyance of all ownership interests in Grocery Developer and Garage Developer to the Purchaser.

E. Article IX, paragraph W of the Development Agreement requires that the Village provide to any potential purchaser of a component of the Project a written certification as to the status of the Development Agreement with respect to the applicable component of the Project and whether there are any outstanding defaults or alleged defaults under the Development Agreement, and such purchaser is entitled to rely upon such statement.

F. Pursuant to Article IX, paragraph W, the Parties desire to set forth the remaining obligations of Grocery Developer and Garage Developer under the Development Agreement. Because the Purchaser does not intend to utilize the Village Loan, the Parties further desire to amend the Development Agreement and the Supplement so as to remove all provisions which refer to the Village Loan, the Village's obligation to make the Village Loan.

AGREEMENTS

In consideration of the Recitals and other good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the Parties hereto agree as follows:

1. The Village hereby confirms that construction of Phase I is complete. Apartment Developer, Grocery Developer and Garage Developer are hereby released from any further obligation with respect to the construction of Phase I and Weiss is released from his completion guaranty with respect to Phase I.

2. Phase II is not complete, but is progressing on schedule. Apartment Developer remains obligated to complete Phase II in accordance with the terms of the Development Agreement and Weiss' completion guaranty for Phase II remains in full force and effect. Grocery Developer and Garage Developer shall be released from any obligation with respect to the completion of Phase II.

3. The Village's obligation to make the Village Loan is hereby removed. There are no remaining obligations of the Village under the Development Agreement or the Supplement to provide financial assistance of any type or amount to the Project or to the Grocery Developer, the Garage Developer, the Apartment Developer or Weiss. Because the Village Loan has been removed from the Development Agreement, Grocery Developer, Garage Developer and Apartment Developer are not obligated to provide their respective financial statements pursuant to Article IX, paragraph A.

4. The Apartment Developer and Weiss remain obligated to provide to the Village the letter of credit referenced in Article III, paragraph D of the Development Agreement, which letter of credit secures the Apartment Developer's and Weiss' respective obligations with respect to Shortfall Payments and the completion guaranty for Phase II. The Grocery Developer and the Garage Developer are released from any obligation with respect to the aforesaid letter of credit.

5. Article VIII of the Development Agreement is amended to provide that the Grocery Developer, and the Garage Developer, on the one hand, and the Apartment Developer on the other, are separate obligors for purposes of any Default under the Development Agreement. A Default by the Apartment Developer does not constitute a Default by the Grocery Developer or the Garage Developer. Similarly, a Default by the Grocery Developer or the Garage Developer does not constitute a Default by the Apartment Developer. However, a Default by the Grocery Developer or the Garage Developer constitutes a Default by the Garage Developer or the Grocery Developer, respectively.

6. As of the Effective Date, no Grocery Store Shortfall Payment is currently payable under Article III, paragraph B.1 and there is no outstanding Default or condition which, if left uncured with the passage of time, would constitute a Default with respect to either Phase I, or the Grocery Developer or the Garage Developer. Moreover, as of the Effective Date, the Village has no notice or knowledge of any pending litigation or claims relating to either Phase I, or the Grocery Developer or the Garage Developer, which could cause the Village to invoke the indemnification provisions of Article IX, paragraph F of the Development Agreement.

7. Except as otherwise expressly set forth in this Amendment, all other terms and conditions of the Development Agreement and all terms and conditions of agreements executed in connection therewith remain in full force and effect. Exhibit B attached hereto sets forth certain landscape installations and maintenance obligations pertaining to public right-of-way. Subject to paragraph 1, above, and merely for purposes of example and not limitation, the Grocery Developer and the Garage Developer remain obligated to comply with the obligations set forth in Exhibit B and paragraphs F, G, P, Q, T and V of Article IX of the Development Agreement; provided, however, Grocery Developer and Garage Developer shall be responsible for such obligations: (i) only to the extent such obligations apply to Phase I; and (ii) with respect to obligations arising under paragraphs P, Q and T, only to the extent such obligations arise after the Effective Date. The Grocery Store Valuation Covenant dated as of January 27, 2015 between the Grocery Developer and the Village (the "Covenant") is hereby amended to expressly include the requirement set forth in paragraph P of Article IX of the Development Agreement, which provides that the owner of the Property (as defined in the Covenant) shall not at any time file an appeal or seek to reduce the assessed valuation of such Property below the amount of \$17,000,000.00.

8. The Purchaser shall be entitled to rely upon all of the terms, conditions and representations set forth in this Amendment.

9. This Amendment shall not become effective, and shall have no force or effect, unless and until the ownership interests of the Grocery Developer and the Garage Developer are conveyed to the Purchaser. If such conveyance does not occur by December 31, 2016, then this Amendment shall become void, and may not be revived without the express written consent of all Parties.

10. Apartment Developer shall reimburse the Village for the Village's reasonable out-of-pocket costs incurred in connection with the preparation of this Amendment.

[Signatures on following page]

IN WITNESS WHEREOF, this Agreement is executed as of the date first above written.

Village of Shorewood, Wisconsin

By: _____
Guy Johnson, President

Attest: _____
Sherry Grant, Village Clerk

STATE OF WISCONSIN)
)
MILWAUKEE COUNTY)

Personally appeared before this ____ day of December, 2016 the above-named Guy Johnson and Sherry Grant, the President and Village Clerk, respectively, of the Village of Shorewood, Wisconsin, to me known to be the persons who executed the foregoing agreement on behalf of the Village and by its authority.

Name: _____
Notary Public, State of Wisconsin
My Commission expires: _____

GENCAP SHOREWOOD APARTMENTS, LLC

By: General Capital Management, Inc.

Michael Weiss, President

STATE OF WISCONSIN)
)
MILWAUKEE COUNTY)

Personally appeared before this ____ day of December, 2016 the above-named Michael Weiss, President of General Capital Management, Inc., to me known to be the person who executed the foregoing agreement on behalf of said limited liability company and by its authority.

Name: _____
Notary Public, State of Wisconsin
My Commission expires: _____

GENCAP SHOREWOOD GARAGE, LLC

By: General Capital Management, Inc.

Michael Weiss, President

STATE OF WISCONSIN)
)
MILWAUKEE COUNTY)

Personally appeared before this ____ day of December, 2016 the above-named Michael Weiss, President of General Capital Management, Inc., to me known to be the person who executed the foregoing agreement on behalf of said limited liability company and by its authority.

Name: _____
Notary Public, State of Wisconsin
My Commission expires: _____

GENCAP SHOREWOOD GROCERY, LLC

By: General Capital Management, Inc.

Michael Weiss, President

STATE OF WISCONSIN)
)
MILWAUKEE COUNTY)

Personally appeared before this ____ day of December, 2016 the above-named Michael Weiss, President of General Capital Management, Inc., to me known to be the person who executed the foregoing agreement on behalf of said limited liability company and by its authority.

Name: _____
Notary Public, State of Wisconsin
My Commission expires: _____

GUARANTOR:

Michael Weiss

STATE OF WISCONSIN)
)
MILWAUKEE COUNTY)

Personally appeared before this ____ day of December, 2016 the above-named Michael Weiss, to me known to be the person who executed the foregoing agreement.

Name: _____
Notary Public, State of Wisconsin
My Commission expires: _____

EXHIBIT A

The Project is located on the following property:

Lots 1, 2 and 3 of Certified Survey Map No. 8661, recorded with the Register of Deeds of Milwaukee County on February 3, 2015 as Document No. 10432024.

EXHIBIT B



December 7, 2016

To: Village Manager Chris Swartz

From: Planning Director Ericka Lang

RE: Outstanding development items for 4075 & 4115 N. Oakland Avenue- Roundy's store and parking deck

Upon review of the General Capital Group Phase I development materials and developer agreement as it pertains to the Planning & Development Department, a special privilege permit shall be maintained for all items within the public right-of-way as identified in the approved landscape plans (L2). Improvement items include fencing, columns, raised planter beds and other hardscape amenities. These items shall be maintained by the owner of the above referenced properties to the satisfaction of the Village of Shorewood.