

Item #9:

Resolution Approving Transferee Assumption Agreement Sunset Grove

VILLAGE OF LONG GROVE

RESOLUTION NO. 2012-R-__

**RESOLUTION APPROVING SUNSET GROVE
TRANSFeree ASSUMPTION AGREEMENT**

WHEREAS, the Village of Long Grove has previously entered into a Redevelopment Agreement dated 25 March 2008 (the "**Redevelopment Agreement**") with the owners and developer of the Sunset Grove Property (collectively, the "**Developer**"), as well as a First Amendment to the Redevelopment Agreement dated July 27, 2010 (collectively, the "**RDA**"); and

WHEREAS, pursuant to the RDA, any transfers of ownership of the property subject to the RDA must be approved by the Village to ensure that the transferee is bound by the RDA; and

WHEREAS, to assist in the financing of the development that is the subject of the RDA, the Developer is transferring a portion of the property to an entity controlled by the same persons who control the Developer (the "**Transferee**"); and

WHEREAS, consistent with the requirements of the RDA, the Developer and Transferee have requested the Village to approve a Transferee Assumption Agreement in substantially the form as set forth as **Exhibit A** to this Resolution; and

WHEREAS, pursuant to Section 17.D of the RDA, the Village has previously agreed to approve such a Transferee Assumption Agreement if the Developer and Transferee were both controlled by Dr. Jay Levin;

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LONG GROVE, COUNTY OF LAKE, STATE OF ILLINOIS,
as follows:

SECTION ONE: **Recitals.** The foregoing recitals are incorporated into and made a part of this Resolution as if fully set forth in this Section One.

SECTION TWO: Approval of Transferee Assumption Agreement. The Transferee Assumption Agreement is hereby approved in substantially the form attached to this Resolution as **Exhibit A** (subject to final review of the terms by the Village President and Village Manager, in consultation with the Village Attorney), and the Village President and Village Clerk are hereby authorized to execute and attest the Transferee Assumption Agreement on behalf of the Village; provided, however, that the Village President and Village Clerk may not execute or attest the Transferee Assumption Agreement unless and until the Developer and Transferee have executed the Transferee Assumption Agreement and delivered such executed Transferee Assumption Agreement to the Village within 60 days after the effective date of this Resolution.

SECTION THREE: Effective Date. This Resolution will be in full force and effect upon its passage and approval in the manner provided by law.

PASSED THIS ____ DAY OF APRIL, 2012.

AYES:

NAYS:

ABSENT:

APPROVED THIS ____ DAY OF APRIL, 2012.

ATTEST:

Village President

Village Clerk

#11159300_v1

EXHIBIT A

Transferee Assumption Agreement

This document was prepared by,
and following recording should
be returned to:

Village of Long Grove
3110 RFD
Long Grove IL 60047
Attn: Village Manager

TRANSFeree ASSUMPTION AGREEMENT

THIS AGREEMENT, made as of this _____ day of _____, 2012, by, between and among **SUNSET GROVE LLC**, an Illinois limited liability company ("**Owner**"), **SUNSET GROVE PHASE I, LLC**, a Delaware limited liability company ("**Transferee**") and the **VILLAGE OF LONG GROVE**, Illinois, an Illinois municipal corporation ("**Village**"),

WITNESSETH:

WHEREAS, ~~pursuant to that certain real estate sale contract dated _____, 20____, the Owner and the Transferee have agreed to purchase from the Owner that~~ certain real property situated in Lake County, Illinois and legally described in Exhibit A attached hereto and by this reference incorporated herein and made a part hereof ("**Property**") will be conveyed to Transferee; and

WHEREAS, following the conveyance of the Property by the Owner, the Transferee will be the legal owner of the Property; and

WHEREAS, the Owner and Transferee represent and warrant that each of them is controlled by Dr. Jay Levin; and

WHEREAS, as a condition to the conveyance of the Property by the Owner, the Owner and the Village require that the Transferee agree to comply with all the terms, requirements, and obligations relating to the Property as set forth in that certain "Redevelopment Agreement between the Village of Long Grove and Sunset Grove Development Project Corp. (Sunset Grove Project)" dated March 25, 2008, and recorded in the Office of the Lake County Recorder on _____, ____, as Document No. _____, by and between the Village and Owner's predecessor in interest, as amended by the "First Amendment to Redevelopment Agreement between the Village of Long Grove and Sunset Grove LLC (Sunset Grove Project)" dated July 27, 2010, and recorded in the Office of the Lake County Recorder on _____, ____, as Document No. _____ (collectively, the "**Redevelopment Agreement**");

NOW, THEREFORE, in consideration of the agreement of the Owner to convey the Property to the Transferee and of the Village to accept the transfer of obligations as provided herein and to grant the releases granted herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed by, between, and among the Village, the Owner, and the Transferee as follows:

1. **Recitals**. The foregoing recitals are by this reference incorporated herein and made a part hereof as substantive provisions of this Agreement.

2. **Assumption of Obligations**. The Transferee, on its behalf and on behalf of its successors, assigns, heirs, executors and managers, hereby agrees, at its sole cost and expense, upon conveyance of the Property to Transferee, to comply with all of the terms, requirements, and obligations of the Redevelopment Agreement, including all exhibits and attachments thereto, with respect to the Property. The Transferee and Owner agree that the rights and obligations of the Redevelopment Agreement that are not attributable to the Property or the remainder of the real property that is subject to the Redevelopment Agreement shall ~~be~~ after the conveyance of the Property, be the joint and several responsibilities of the Owner and Transferee.

3. **Assurances of Financial Ability**. ~~Contemporaneously with the Transferee's execution of this Agreement, the Transferee shall deposit with the Village Manager any performance security required by the Redevelopment Agreement with respect to the Property. Upon execution of this Agreement by the Village and deposit with the Village Manager the required performance security, the Village shall surrender the original performance security (or such portion thereof relating to the Property) to the Owner.~~ Any performance security deposited with the Village shall remain with the Village and when released shall be returned to the Owner. All rights and obligations in regard to the tax increment financing for the Sunset Grove Project and any notes or bond proceeds related thereto shall remain the rights and obligations of the Owner and shall not be transferred or assumed by the Transferee. In light of the representation and warranty of the Owner and Transferee regarding their controlling interests, the Village shall not require evidence of financial ability as a precondition of the execution of this Agreement.

4. **Payment of Village Fees and Costs**. In addition to any other costs, payments, fees, charges, contributions, or dedications required by this Agreement, the Redevelopment Agreement or by applicable Village codes, ordinances, resolutions, rules, or regulations, the Transferee shall pay to the Village, immediately upon presentation of a written demand or demands therefor, all legal, engineering, and other consulting or administrative fees, costs and expenses incurred in connection with the negotiation, preparation, consideration, and review of this Agreement.

5. **Acknowledgment and Release of Transferor**. The Village hereby acknowledges its agreement to the Transferee's assumption of the obligation to comply with the terms, requirements and obligations of the Redevelopment Agreement, including all exhibits and attachments thereto, with respect to the Property. In addition, the Village hereby releases the Owner from any personal liability for failure to comply with the terms, requirements, obligations, and provisions of the Redevelopment Agreement pertaining to the Property, except as expressly provided herein. Nothing in

this Agreement shall alter or otherwise amend the terms, requirements, obligations, and provisions of the Redevelopment Agreement.

[Signature pages to follow.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first written above.

ATTEST:

THE VILLAGE OF LONG GROVE

Village Clerk

By:

Mayor

ATTEST:

SUNSET GROVE LLC

By:

Its: _____

ATTEST:

SUNSET GROVE PHASE I, LLC

By:

Its: _____

ACKNOWLEDGMENTS

STATE OF ILLINOIS)
) SS.
COUNTY OF LAKE)

This instrument was acknowledged before me on _____, 2012, by _____, the Village President of **THE VILLAGE OF LONG GROVE**, an Illinois municipal corporation, and by _____, the Village Clerk of said municipal corporation.

Signature of Notary

SEAL

My Commission expires:

STATE OF ILLINOIS)
) SS.
COUNTY OF LAKE)

The foregoing instrument was acknowledged before me on _____, 2012, by _____, Manager of **SUNSET GROVE PHASE I, LLC** and _____, _____ of **SUNSET GROVE PHASE I, LLC**.

Signature of Notary

SEAL

My Commission expires:

STATE OF ILLINOIS)
) SS.
COUNTY OF LAKE)

 This instrument was acknowledged before me on
_____, 2012, by _____, President of **SUNSET GROVE LLC**
and _____, _____ of **SUNSET GROVE LLC**.

Signature of Notary

SEAL

My Commission expires:

DRAFT

EXHIBIT A TO TRANSFEREE ASSUMPTION AGREEMENT

**LEGAL DESCRIPTION FOR
2012 ALTA BOUNDARY
LONG GROVE, ILLINOIS**

LOTS 4 THROUGH 6 AND OUTLOT "A" IN SUNSET GROVE SUBDIVISION, BEING A SUBDIVISION OF PART OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 43 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 23, 2010 AS DOCUMENT NUMBER 6648694 IN LAKE COUNTY, ILLINOIS.

TOGETHER WITH THAT PART OF LOT 1 IN SUNSET GROVE SUBDIVISION, BEING A SUBDIVISION OF PART OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 43 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 23, 2010 AS DOCUMENT NUMBER 6648694 IN LAKE COUNTY, ILLINOIS., DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 1; THENCE NORTH 00 DEGREES 23 MINUTES 24 SECONDS EAST, ALONG THE EAST RIGHT-OF-WAY OF ILLINOIS ROUTE 83 PER DOCUMENT NUMBER 3480422, ALSO BEING THE WEST LINE OF SAID LOT, 240.00 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 00 DEGREES 23 MINUTES 24 SECONDS EAST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, 84.91 FEET, THENCE SOUTH 89 DEGREES 36 MINUTES 36 SECONDS EAST, CONTINUING ALONG SAID LINE, 5.00 FEET, THENCE NORTH 00 DEGREES 23 MINUTES 24 SECONDS EAST, CONTINUING ALONG SAID LINE, 31.48 FEET, TO A POINT OF CURVATURE; THENCE NORTHEASTERLY, 78.44 FEET, CONTINUING ALONG SAID LINE BEING A CURVE TANGENT TO THE LAST DESCRIBED COURSE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 50.00 FEET, A CHORD BEARING OF NORTH 45 DEGREES 19 MINUTES 48 SECONDS EAST AND A CHORD DISTANCE OF 70.64 FEET, TO A POINT OF TANGENCY, SAID POINT ALSO BEING ON THE SOUTH RIGHT-OF-WAY OF APTAKISIC ROAD AS CONVEYED TO THE ILLINOIS DEPARTMENT OF TRANSPORTATION, DESCRIBED IN CASE 91 ED 42 AND SHOWN ON THE PLAT OF HIGHWAYS RECORDED AS DOCUMENT NUMBER 3480442 SAID LINE BEING 75.00 FEET SOUTHERLY OF AND PARALLEL WITH THE CENTER LINE OF SAID APTAKISIC ROAD; THENCE SOUTH 89 DEGREES 43 MINUTES 48 SECONDS EAST, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE AND THE EASTERLY EXTENSION THEREOF, 173.60 FEET; THENCE SOUTH 00 DEGREES 23 MINUTES 24 SECONDS WEST, 204.66 FEET; THENCE NORTH 89 DEGREES 36 MINUTES 36 SECONDS WEST, 22.00 FEET, TO A POINT OF CURVATURE; THENCE NORTHWESTERLY, 49.86 FEET, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 40.00 FEET, A CHORD BEARING OF NORTH 35 DEGREES 19 MINUTES 01 SECONDS WEST AND A CHORD DISTANCE OF 46.69 FEET; THENCE NORTH 89 DEGREES 36 MINUTES 36 SECONDS, 179.24 FEET, TO THE POINT OF BEGINNING.

CONTAINING 503,347 SQUARE FEET, (11.555 ACRES) MORE OR LESS.

DRAFT

| Comparison Details | |
|---------------------|----------------------------------------|
| Title | pdfDocs compareDocs Comparison Results |
| Date & Time | 4/20/2012 7:47:04 AM |
| Comparison Time | 2.95 seconds |
| compareDocs version | v3.4.7.36 |

| Sources | |
|-------------------|-------------------------------------------------------------------------------|
| Original Document | I:\ndEcho\Sunset Grove TRANSFEREE ASSUMPTION AGREEMENT.docxDMS Information |
| Modified Document | I:\ndEcho\Sunset Grove TRANSFEREE ASSUMPTION AGREEMENT(1).docxDMS information |

| Comparison Statistics | |
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| Insertions | 7 |
| Deletions | 0 |
| Changes | 4 |
| Moves | 0 |
| TOTAL CHANGES | 11 |
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| Word Rendering Set Markup Options | |
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| Name | [Rendering Set Name] |
| <u>Insertions</u> | |
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| Inserted cells | |
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| Merged cells | |
| Formatting | [Formatting options] |
| Changed lines | [Changed lines options] |
| Comments color | [Comments color options] |
| Balloons | [Use Balloons option only] |

| compareDocs Settings Used | Category | Option Selected |
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| Open Comparison Report after Saving | General | Always |
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| Character Level | Word | False |
| Include Headers / Footers | Word | True |
| Include Footnotes / Endnotes | Word | True |
| Include List Numbers | Word | True |
| Include Tables | Word | True |
| Include Field Codes | Word | True |
| Include Moves | Word | False |
| Show Track Changes Toolbar | Word | True |
| Show Reviewing Pane | Word | True |
| Update Automatic Links at Open | Word | False |
| Summary Report | Word | End |
| Include Change Detail Report | Word | Separate |
| Document View | Word | Print |
| Remove Personal Information | Word | False |