

10/18/2021  
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**ORDINANCE NO. 19-2021**

**AN ORDINANCE OF THE VILLAGE OF EVERGREEN PARK  
APPROVING A REDEVELOPMENT AGREEMENT FOR THE  
SUBARU INTERNATIONAL CARS PROJECT ON THE  
PROPERTY LOCATED 3101 WEST 95<sup>TH</sup> STREET,  
EVERGREEN PARK, ILLINOIS**

BE IT ORDAINED by the Mayor and Board of Trustees of the Village of Evergreen Park, Cook County, Illinois, as follows:

**Section 1**

That the Redevelopment Agreement For the Subaru International Cars Project on the Property Located 3101 West 95<sup>th</sup> Street, Evergreen Park, Illinois in substantially the form attached hereto, is hereby approved for and on behalf of the Village. The Mayor is hereby authorized to execute the same for and on behalf of the Village.

**Section 2**

All statutes of the State of Illinois or any parts thereof which are in conflict with the provisions of this ordinance are hereby superseded by this ordinance enacted under the home rule power of the Village of Evergreen Park.

**Section 3**

This ordinance shall be immediately in full force and effect after passage and approval.

This ordinance was passed and deposited in the office of the Village Clerk of the Village of Evergreen Park this 18<sup>th</sup> day of October, 2021.



*Catherine T. Aparo*  
\_\_\_\_\_  
CATHERINE T. APARO, Village Clerk

APPROVED by me this 18<sup>th</sup>  
day of October, 2021.

*Kelly Burke*  
\_\_\_\_\_

KELLY BURKE, Mayor

**REDEVELOPMENT AGREEMENT FOR THE SUBARU  
INTERNATIONAL CARS PROJECT ON THE PROPERTY LOCATED  
3101 WEST 95<sup>TH</sup> STREET, EVERGREEN PARK, ILLINOIS**

This Redevelopment Agreement dated as of October 18, 2021 (the "Agreement") is made by and among the Village of Evergreen Park, a home rule unit of government (the "Village"), and International Cars LLC, an Illinois limited liability company (the "Developer").

**RECITALS**

This Agreement is made with respect to the following facts:

A. *Statutory Authority.* The Village is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 11-74.4-1 *et seq.*, as amended and supplemented from time to time (the "TIF Act"), to among other things, finance redevelopment projects that create new job opportunities, increase industry and commerce within the state, increase the tax base and eradicate potentially blighting conditions, through the use of tax increment allocation financing for economic redevelopment.

B. *Village Authority.* To induce redevelopment pursuant to the TIF Act, the Mayor and Board of Trustees of the Village intend to form a redevelopment project area to be known as the Triangle TIF District (the "Redevelopment Project Area") on certain property located north of 95<sup>th</sup> Street and west of Utica Avenue.

C. *Developer Property.* The Developer, or an affiliate thereof, has acquired certain property located at 3101 West 95<sup>th</sup> Street, Evergreen Park, Illinois (the "Developer Property"), consisting of PINs 24-12-102-001-0000 and 24-12-102-002-0000, legally described on "Exhibit A" attached hereto; located within the proposed Redevelopment Project Area on which the Developer intends to construct, develop or operate a new Subaru Dealership (the "Project") in substantial conformity with the Site Plan attached hereto as "Exhibit B".

Notwithstanding the foregoing, the Village acknowledges and agrees that the interim and final design and construction of the Project may undergo revisions and adaptations in the discretion of the Developer, subject always to the ordinances and regulations of, and necessary permits and approvals from, the Village and other governmental authorities having jurisdiction over the proposed Redevelopment Project Area. The Village further acknowledges and agrees that the intended and the timeline for the completion of the Project (the "Timeline"), as attached hereto as "Exhibit C", may be extended due to *force majeure* or other conditions outside of the control of the Developer.

D. *Development Guidelines.* The Project will be developed in accordance with applicable Village ordinances and this Agreement.

E. *Redevelopment Incentive.* The Village has determined that the Developer Property has not been subject to growth and development through investment by private enterprise and cannot be reasonably anticipated to develop without the incentives provided herein; and,

therefore, has determined to allocate Limited Incremental Taxes to reimburse the Developer for various expenditures, such as land acquisition, land preparation and demolition of structures, which qualify as allowable redevelopment project costs under the TIF Act upon the conditions and in an amount not to exceed \$2,000,000.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

## **SECTION 1 RECITALS INCORPORATED**

1.1 *Recitals Incorporation as Substantive Provisions.* The foregoing recitals are hereby incorporated into and made a substantive part of this Agreement by reference and shall be binding upon the parties hereto.

## **SECTION 2 DEFINITIONS**

2.1 *Definitions.* For purposes of this Agreement, in addition to the terms defined in the foregoing Recitals, the following terms shall have the meanings set forth below:

"Eligible Costs" mean any costs which qualify as redevelopment project costs under 65 ILCS 5/11-74.4-3(q) and which are paid or incurred by the Developer in connection with the Project and approved by the Village.

"Employer" means the Developer and any contractor or subcontractor supplying labor or materials in conjunction with any redevelopment project for which Eligible Costs are subject to payment or reimbursement from Limited Incremental Taxes.

"Event of Default" shall have the meaning set forth in Section 12.1 hereof.

"Incremental Taxes" means the *ad valorem* taxes as defined by 65 ILCS 5/11-74.4-8 paid to the Village from the Developer Property.

"Limited Incremental Taxes" means 95% of the Incremental Taxes.

"Municipal Sales Tax" means the amount paid to the Village by reason of the Retailers' Occupation Tax Act (35 ILCS 120/1, *et seq.*) and the Service Occupation Tax Act (35 ILCS 115/1, *et seq.*), and which excludes any home rule sales tax or home rule service occupation tax.

"Special Tax Allocation Fund" means the special tax allocation fund established for the Triangle TIF District into which the Incremental Taxes will be deposited and from which Eligible Costs will be paid in accordance with this Agreement.

"Term of the Agreement" means the period of time commencing as of the date of this Redevelopment Agreement and ending on December 31, 2034, or earlier upon payment of the maximum reimbursement amount of \$2,000,000 to the Developer.

### **SECTION 3 THE PROJECT**

3.1 *Acquisition Phase.* The Developer has already acquired the Developer Property.

3.2 *Construction of Project.* The Developer will cause the Project to be built, installed and constructed in substantial compliance with this Agreement. The Developer will not commence construction of the Project until the Developer, and any contractors and subcontractors, have obtained all necessary Village permits and zoning approvals legally required to be obtained prior to commencement of construction of such component. The Developer estimates that the construction of the Project shall be completed by and that occupancy will be occur as per the Timeline. The Developer represents that it has obtained from Subaru of America, Inc. the necessary approvals to operate a Subaru dealership on the Developer Property and is not in breach of that agreement.

3.3 *Progress Reports.* The Developer shall provide the Village with written quarterly progress reports detailing the status of the Project, including a revised Timeline, if necessary.

3.4 *Feasibility.* The Developer hereby represents and warrants to the Village that the Developer has conducted environmental, economic and other studies sufficient to conclude that the Project may be constructed, completed and operated in accordance with all statutes of the State of Illinois, ordinances of the Village, and this Agreement.

### **SECTION 4 FINANCING**

4.1 *Costs and Sources of Funds.*

(a) The Developer intends to pay the costs of the Project from funds available to it or borrowed by it. Upon request of the Village, the Developer agrees to provide evidence of firm commitments for loans and funding to complete the Project.

(b) In order that the Developer will proceed with the Project, the Village agrees to provide the financial assistance in the form of reimbursements for Eligible Costs as set forth in this Agreement.

(c) The parties hereto acknowledge and agree, and the Village does hereby make an affirmative finding of fact, that the Project would not reasonably be developed without the establishment of the Redevelopment Project Area by the Village, by the allocation and payment of Limited Incremental Taxes pursuant to this Agreement, and by the reimbursement to Developer of Eligible Costs.

4.2 *Incremental Taxes Fund and Accounts.* All Incremental Taxes received by the Village during the Term of this Agreement shall be deposited into the Special Tax Allocation Fund which shall be maintained and operated by the Village as required by the TIF Act. The moneys on deposit in the Special Tax Allocation Fund shall be used by the Village solely and only for purposes allowed under the TIF Act.

4.3 *Incremental Tax Financing.* Limited Incremental Taxes on deposit in the Special Tax Allocation Fund shall be available for payment to the Developer for Eligible Costs incurred by Developer and not previously reimbursed, subject to the provisions of this Agreement. Prior to making a payment of Limited Incremental Taxes to the Developer for reimbursement of Eligible Costs, the Village Attorney shall have reviewed and approved such reimbursement.

4.4 *Pledge of Limited Incremental Taxes.* The Village agrees to, and does hereby, reserve and pledge the Limited Incremental Taxes to the payments due Developer for the reimbursement of Eligible Costs.

4.5 *TIF Obligations.* The Village and the Developer may agree that the Village issue bonds, obligations or notes to provide funding for payment of Eligible Costs, but the terms thereof shall be subject to mutual agreement between them.

## **SECTION 5 PAYMENTS FROM INCREMENTAL TAXES**

5.1 *Reimbursement.* The Village agrees to reimburse the Developer a maximum amount of \$2,000,000 from the Limited Incremental Taxes and from other sources during the term of this Agreement. The Village agrees to reimburse the Developer on December 20, 2022 and on the 20th day of December thereafter, to and including December 20, 2034, an annual amount equal to 50% of the Municipal Sales Tax paid to the Village during that calendar year from the operation of the Project until the Developer has received \$2,000,000 in total.

## **SECTION 6 CONDITIONS PRECEDENT**

The following conditions shall be complied with within the time periods set forth below or, if no time period is specified, prior to the first disbursement of Incremental Taxes for Eligible Costs:

6.1 *Other Governmental Approvals.* The Developer shall have secured all other necessary approvals and permits required to be obtained as and when necessary for commencement of construction, by any state, federal, or local statute, ordinance or regulation, including but not limited to the Illinois Department of Transportation and the Metropolitan Water Reclamation District of Greater Chicago.

6.2 *Company Documents.* The Developer shall provide to the Village a copy of its organizational documents together with the original certification of the Secretary of State of its state of organization and certificates of good standing from the Secretary of State of its state of organization and from the State of Illinois. The Developer shall disclose the ownership of all persons who have more than a 10% interest in the Developer Property or the Project. If the Developer Property is owned by a land trust or other entity, the Developer shall provide a disclosure showing all current beneficiaries thereof. Upon request of the Village, the Developer shall furnish a written opinion from its attorney opining as to the validity of all documents executed by the Developer.

## SECTION 7 COVENANTS/REPRESENTATIONS/WARRANTIES OF THE DEVELOPER

7.1 *General.* The Developer represents, warrants and covenants, as of the date of this Agreement and as of the date of each disbursement to Developer of Incremental Taxes hereunder, that:

(a) the Developer is a limited liability company duly organized, validly existing, and qualified to do business in Illinois;

(b) the Developer has the right, power and authority to enter into, execute, deliver and perform this Agreement;

(c) the execution, delivery and performances by the Developer of this Agreement has been duly authorized by all necessary limited liability company action, and does not and will not violate its Articles of Organization, by-laws or any applicable provision of law, or constitute a breach of, default under or require any consent under any agreement, instrument or document to which the Developer is now a party or by which the Developer is now or may become bound;

(d) the Developer is now and for the Term of the Agreement shall remain solvent and able to pay its debts as they mature;

(e) there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened or affecting the Developer which would impair its ability to perform under this Agreement; and

(f) the Developer has obtained, or shall obtain from time to time maintain during the Term of this Agreement, all government permits, certificates and consents (including, without limitation, appropriate environmental approvals) necessary to conduct its business and to commence construction, complete and operate the Project.

7.2 *Redevelopment Plan.* The Developer represents that the Project is and shall be in compliance with all of the terms of the Redevelopment Plan.

7.3 *Developer's Liabilities.* The Developer shall not enter into any transaction that would materially and adversely affect its ability to perform its obligations hereunder or to repay any material liabilities or perform any material obligations of the Developer to any other person or entity. The Developer shall immediately notify the Village of any and all events or actions which may materially affect the Developer's ability to carry on its business operations or perform its obligations under this Agreement or any other documents and agreements.

7.4 *Compliance with Laws.* To the best of the Developer's knowledge, after diligent inquiry, the Redevelopment Project Area and the Project are and shall be in compliance with all applicable federal, state or local laws, statutes, ordinances, rules, regulations, executive orders and codes pertaining to or affecting the Project and the Redevelopment Project Area.

7.5 *Compliance with Agreements.* The Developer will comply with all contracts, licenses, permits and agreements relating to the Project. Developer shall immediately notify the Village in writing of the occurrence of any default under any such contract, license, permit or agreement.

7.6 *Survival of Covenants.* All warranties, representations, covenants and agreements of the Developer contained in this Section and elsewhere in this Agreement shall be true, accurate and complete at the time of the Developer's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto.

## **SECTION 8 COVENANTS/REPRESENTATIONS/WARRANTIES OF THE VILLAGE**

8.1 *General.* The Village represents and warrants that it has the authority as a municipal corporation to execute and deliver this Agreement and to perform its obligations hereunder.

8.2 *Survival of Covenants.* All warranties, representations, and covenants of the Village contained in this Section or elsewhere in this Agreement shall be true, accurate, and complete at the time of the Village's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and be in effect throughout the Term of the Agreement.

## **SECTION 9 DEVELOPER'S EMPLOYMENT OBLIGATIONS**

9.1 *Compliance with Employment Obligations.* The Developer, on behalf of itself and its successors and assigns, hereby agrees, and shall contractually obligate all Employers operating within the Redevelopment Project Area to agree that during the period of any other parties' provision of services in connection with the construction of the Project:

(a) Each Employer shall take affirmative action to ensure that applicants are hired and employed without discrimination based upon race, religion, color, sex, national

origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income and are treated in a non-discriminatory manner with regard to all job-related matters, including without limitation: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Each Employer agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. In addition, the Employers, in all solicitations or advertisements for employees, shall state that all qualified applicants shall receive consideration for employment without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income.

(b) Each Employer shall comply with all federal, state and local equal employment and affirmative action statutes, rules and regulations, including but not limited to the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.*, and any subsequent amendments and regulations promulgated thereto.

(c) Each Employer shall, with respect to any construction which is located within any public right-of-way, comply with the provisions of the Illinois Workers on Public Works Act, 30 ILCS 570/0.02, *et seq.* and the Prevailing Wage Act, 820 ILCS 130/0.01, *et seq.*, to the extent applicable.

## **SECTION 10 INDEMNIFICATION**

10.1 *Developer Indemnification of Village.* The Developer agrees to indemnify, defend and hold the Village harmless from and against any losses, costs, damages, liabilities, claims, suits, actions, causes of action and expenses (including, without limitation, reasonable attorneys' fees and court costs) suffered or incurred by the Village arising from or in connection with (i) the Developer's failure to comply with any of the terms, covenants and conditions contained within this Agreement, or (ii) the existence of any material misrepresentation or omission in this Agreement or the Redevelopment Plan that is the result of information supplied or omitted by the Developer or its agents, employees, contractors or persons acting under the control or at the request of the Developer, or (iii) the Developer's failure to cure any misrepresentation by the Developer in this Agreement.

## **SECTION 11 MAINTAINING RECORDS/RIGHT TO INSPECTION**

11.1 *Books and Records.* The Developer shall keep and maintain separate, complete, accurate and detailed books and records necessary to reflect and fully disclose the total actual cost of the Project and the disposition of all funds from whatever source allocated thereto, and to monitor the Project. All such books, records and other documents shall be available at the Developer's offices for inspection, copying, audit and examination by an authorized representative of the Village. The Developer shall incorporate this right to inspect, copy, audit

and examine all books and records into all contracts entered into by the Developer with respect to the Project.

11.2 *Inspection Rights.* Until the Project has been granted an occupancy permit, upon 24 hours' notice, and after the occupancy has been granted upon 72 hours' notice, any authorized representative of the Village shall have access to all portions of the Project and the Developer Property during normal business hours for the Term of the Agreement to determine compliance with this Agreement.

## **SECTION 12 EVENTS OF DEFAULT**

12.1 *Events of Default.* The occurrence of any one or more of the following events, subject to the provisions of Section 12.3, shall constitute an "Event of Default" hereunder by the applicable party:

(a) the failure of a party to perform, keep or observe, in all material respects, the covenants, conditions, promises, agreements or obligations of such party under this Agreement or any related agreement;

(b) the making or furnishing by a party of any representation, warranty, certificate, schedule, report or other communication within or in connection with this Agreement or any related agreement which, when made, is or was materially untrue or materially misleading in any material respect;

(c) the commencement or any proceedings in bankruptcy by or against a party or for its liquidation or reorganization, or alleging that such party is insolvent or unable to pay its debts as they mature, or for the readjustment or arrangement of a party's debts, whether under the United States Bankruptcy code or under any other state or federal law, now or hereafter existing for the relief of debtors, or the commencement of any analogous statutory or non-statutory proceedings involving such party; provided, however, that if such commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such proceedings are not dismissed within ninety (90) days after the commencement of such proceedings;

(d) the appointment of a receiver or trustee for a party, for any substantial part of such party's assets or the institution of any proceedings for the dissolution, or the full or partial liquidation, or the merger or consolidation, of such party; provided, however, that if such appointment or commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such appointment is not revoked or such proceedings are not dismissed within ninety (90) days after the commencement thereof; or

(e) the entry of any judgment or order against a party in an amount in excess of \$100,000 which remains unsatisfied or undischarged and in effect for ninety (90) days after such entry without a stay of enforcement or execution.

12.2 *Suspension of Disbursements.* Upon the occurrence of an Event of Default, the Village may suspend all disbursements of Incremental Taxes to pay or reimburse Developer for Eligible Costs.

12.3 *Curative Period.* In the event a party to this Agreement shall fail to perform a monetary covenant which it is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless that party has failed to perform such monetary covenant within thirty (30) days of its receipt of a written notice from the other party specifying that it has failed to perform such monetary covenant. In the event a party to this Agreement shall fail to perform a non-monetary covenant which it is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless that party has failed to cure such default within sixty (60) days of its receipt of a written notice from the other party specifying the nature of this default; provided, however, with respect to those non-monetary defaults which are not capable of being cured within such sixty (60) day period, the Developer shall not be deemed to have committed an Event of Default under this Agreement if it has commenced to cure the alleged default within such sixty (60) day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured.

12.4 *Termination of Proceedings.* In case the Village or Developer shall have proceeded to enforce any right under this Agreement, and such proceeding or other action shall have been discontinued or abandoned for any reason (including a determination that no Event of Default has occurred and continues to exist), or such proceeding or other action shall have been determined adversely, then and in every such case, the Village and the Developer shall be restored to their former positions and rights hereunder, respectively, with regard to the Developer Property or rights subject to this Agreement, and all rights, remedies and powers of the parties hereto shall continue as if no such proceeding had been taken.

### SECTION 13 NOTICE

13.1 *Notice.* Unless otherwise specified, any notice, demand or request required hereunder shall be given in writing at the addresses set forth below, by any of the following means: (a) personal service; (b) telecopy or facsimile; (c) overnight courier; or (d) certified mail, return receipt requested:

If to the Village:

Mayor  
Village of Evergreen Park  
9418 S. Kedzie  
Evergreen Park, IL 60805

With copies to:

Vincent Cainkar, Attorney  
6215 West 79th Street, Suite 2A  
Burbank, Illinois 60459-1102

If to the Developer:

International Cars LLC  
8031 W. 159<sup>th</sup> Street  
Tinley Park, IL 60477

## SECTION 14 MISCELLANEOUS

14.1 *Amendment.* This Agreement and the Exhibits attached hereto may not be amended without the prior written consent of the Village and the Developer. Consent of the Village must be approved by a motion passed by the Mayor and Board of Trustees. The Mayor shall have the power and authority to make or grant, approve or deny approvals, requests, demands, notices and other actions required that are ministerial in nature or described in this Agreement for and on behalf of the Village. Francis Gesualdo shall have the power and authority to make or grant, approve or deny approvals, requests, demands, notices and other actions required that are ministerial in nature or described in this Agreement for and on behalf of the Developer.

14.2 *Entire Agreement.* This Agreement and the documents, agreements and other instruments to which reference is made herein or therein constitute the entire agreements between the parties hereto and it supersedes all prior agreements, negotiations and discussions between the parties relative to the subject matter hereof, and may not be modified or amended except by a written instrument executed by the parties hereto as provided in this Section.

14.3 *Further Assurances.* The Developer agrees to take certain actions, including the execution and delivery of such documents, instruments, petitions and certifications as may become necessary or appropriate to carry out the terms, provisions and intent of this Agreement.

14.4 *Waiver.* Waiver by the Village and the Developer with respect to any breach of this Agreement shall not be considered or treated as a waiver of the rights of the respective party with respect to any other default or with respect to any particular default, except to the extent specifically waived by the Village or the Developer in writing.

### 14.5 *Enforceability of the Agreement.*

(a) This Agreement shall be enforceable in any court of competent jurisdiction by any of the parties by an appropriate action at law or in equity to secure the performance of the provisions and covenants herein described.

(b) Any violation of this Agreement by a party shall entitle the other party to the remedy of specific performance, and any other remedy available at law or in equity, but in no event shall any judgment for monetary damages or award be entered against the Village, its officers or employees.

(c) All remedies provided for in this Agreement are cumulative and the election or use of any particular remedy by any of the parties hereto shall not preclude that

party from pursuing such other or additional remedies or such other or additional relief as it may be entitled to either in law or in equity.

14.6 *Disclaimer.* Nothing contained in this Agreement, nor any act of either or both parties to this Agreement, shall be deemed construed by any of the parties or by any third person, to create or imply any relationship of third-party beneficiary, principal or agent, limited or general partnership or joint venture, or to create or imply any association or relationship by or among such parties except as expressly set forth herein.

14.7 *Headings.* The paragraph and section headings contained herein are for convenience only and are not intended to limit, vary, define or expand the content thereof.

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

14.9 *Severability.* If any provision in this Agreement, or any paragraph, sentence, clause, phrase, word or the application thereof, in any circumstance, is held invalid, this Agreement shall be construed as if such invalid part were never included herein and the remainder of this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

14.10 *Governing Law.* This Agreement shall be governed by and construed in accordance with the internal laws of the State of Illinois, without regard to its conflicts of law principles.

14.11 *Form of Documents.* All documents required by this Agreement to be submitted, delivered or furnished to the Village shall be in form and content satisfactory to the Village.

14.12 *Binding Effect.* This Agreement shall be binding upon the Developer, the Village and their respective successors and permitted assigns (as provided herein) and shall inure to the benefit of the Developer, the Village and their successors and permitted assigns (as provided herein).

14.13 *Force Majeure.* Neither the Village nor the Developer nor any successor in interest to either of them shall be considered in breach of or in default of its obligations under this Agreement in the event of any delay caused by damage or destruction by fire or other casualty, strike, shortage of material, unusually adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below-freezing temperatures of abnormal degree or for an abnormal duration, tornadoes or cyclones, and other events or conditions beyond the reasonable control of the party affected which in fact interferes with the ability of such party to discharge its obligations hereunder.

14.14 *Exhibits.* All of the exhibits attached hereto are incorporated herein by reference.

14.15 *Assignment.* Developer may not assign this Agreement without the prior written consent of the Village.

14.16 *No Personal Liability of Officials of the Village or Developer.* No covenant or agreement contained in this Agreement shall be deemed to be the covenant or agreement of the Mayor, Corporate Authorities, any official, officer, partner, member, director, agent, employee or attorney of the Village or the Developer, in his or her individual capacity, and no official, officer, partner, member, director, agent, employee or attorney of the Village or Developer shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of or in connection with or arising out of the execution, delivery and performance of this Agreement, or any failure in that connection.

14.17 *Entire Agreement.* This Agreement constitutes the entire agreement of the parties on the subject matter hereof, except as to those documents specifically identified and referenced in this Agreement. The parties represent, warrant, covenant and agree that no representation, warranty, covenant or agreement shall be binding on the other party unless expressed in writing herein or by written modification.

14.18 *Interpretation.* This Agreement shall be construed without regard to the identity of the party who drafted the various provisions of this Agreement. Moreover, each and every provision of this Agreement shall be construed as though all parties thereto participated equally in the drafting of this Agreement. As a result of the foregoing, any rule or construction that a document is to be construed against the drafting party shall not be applicable to this Agreement.

14.19 *Freedom of Information Act.* The Village will use its best efforts to keep documents related to the Project that are generated, sent or received, confidential. The Developer recognizes, however, that the Freedom of Information Act of the State of Illinois may require the Village to release certain documents upon public request. The Village will notify the Developer of any such request by e-mail. The Developer shall have 48 hours after said notice is sent to instruct the Village to agree or deny the request. The Village shall be under no obligation to comply with Developer's instruction and shall not be liable to the Developer for any production. Provided, however, in the event the Village is instructed by the Developer to deny a request, and the Village complies with Developer's request, the Developer shall indemnify, defend, and hold harmless the Village to and from any claim arising from that decision, including reasonable attorney's fees and costs that may be awarded to the requesting party by a court.

IN WITNESS HEREOF, the parties hereto have executed and delivered this Agreement on the date first written above.

**VILLAGE OF EVERGREEN PARK,  
a home rule unit of government**

**INTERNATIONAL CARS LLC,  
an Illinois limited liability company**

\_\_\_\_\_  
KELLY BURKE, Mayor

\_\_\_\_\_  
Francis Gesualdo, Manager