

VILLAGE OF TOLONO, ILLINOIS

ORDINANCE NO. 02-09

AN ORDINANCE APPROVING AND AUTHORIZING
THE EXECUTION OF A REDEVELOPMENT AGREEMENT

BETWEEN

THE VILLAGE OF TOLONO

AND

GAM PROPERTIES, INC., DEVELOPER
(GREG MILLAGE, PRESIDENT)

ADOPTED BY THE VILLAGE PRESIDENT AND BOARD MEMBERS
OF THE VILLAGE OF TOLONO, ILLINOIS,
ON THE 6th DAY OF August, 2002.

VILLAGE OF TOLONO, ILLINOIS

ORDINANCE NO. 02-09

AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF A
REDEVELOPMENT AGREEMENT BETWEEN:

THE VILLAGE OF TOLONO AND
GAM PROPERTIES, INC., DEVELOPER

BE IT ORDAINED BY THE VILLAGE OF TOLONO THAT:

SECTION ONE: The TIF Redevelopment Agreement with GAM Properties, Inc., Developer (Exhibit A attached) is hereby approved.

SECTION TWO: The Village President is hereby authorized and directed to enter into and execute on behalf of the Village said Redevelopment Agreement and the Village Clerk of the Village of Tolono is hereby authorized and directed to attest such execution. *Subject to addition of Village review language approved of by the City Attorney.*

SECTION THREE: The Redevelopment Agreement shall be effective the date of its approval on the 6th day of August, 2002.

SECTION FOUR: This Ordinance shall be in full force and effect from and after its passage and approval as required by law.

SECTION FIVE: The Redevelopment Agreement, specifically Article G, shall be an obligation as described in 65 ILCS 5/11-74.4-7. The obligation shall be dated as of the date of the Redevelopment Agreement and shall mature not later than twenty (20) years from the date of the Redevelopment Agreement. The covenants, terms and conditions of said obligation shall be as provided in Article G of the Redevelopment Agreement, which provisions are incorporated herein by reference as if fully set forth at this point.

ADOPTED by the Village of Tolono this 6th day of August, 2002.

NAME OF VILLAGE BOARD MEMBER	AYE VOTE	NAY VOTE	ABSTAIN / ABSENT
James Snodgrass	X		
Jeffrey Little	X		
Leo Studer	X		
Dennis Davis			X
TOTAL VOTES:			

APPROVED: *[Signature]*, Date 8/6/2002
Village President, Village of Tolono

ATTEST: *Barbara E. Humer*, Date: 8/6/2002
Village Clerk

EXHIBIT A

TIF REDEVELOPMENT AGREEMENT

by and between

VILLAGE OF TOLONO, ILLINOIS

AND

GAM PROPERTIES, INC., DEVELOPER

(GREG MILLAGE, PRESIDENT)

DRAFT COPY FOR REVIEW PURPOSES ONLY

**TAX INCREMENT FINANCING DISTRICT
REDEVELOPMENT AGREEMENT**

by and between

VILLAGE OF TOLONO, ILLINOIS

and

**GAM PROPERTIES, INC., DEVELOPER
(Greg Millage, President)**

DRAFT COPY FOR REVIEW PURPOSES ONLY

4th Draft - New Language in Blue, Underlined Type 08/02/02

F:\WPfiles\Tolono\Agreements\MILLAGE_AGR_080202_New Section G Draft.wpd

REDEVELOPMENT AGREEMENT**VILLAGE OF TOLONO****and****GAM PROPERTIES, INC., DEVELOPER (Greg Millage, President)**

THIS AGREEMENT (including Exhibit 1) is entered into this ____ day of _____, 2002, by the Village of Tolono ("Village"), an Illinois Municipal Corporation, Champaign County, and GAM Properties, Inc., 1701 S. Prospect, Suite 12, Champaign, Illinois 61821 (the "Developer").

PREAMBLE

WHEREAS, the Village has the authority to promote the health, safety and welfare of the Village and its citizens, and to prevent the spread of blight and deterioration and inadequate public facilities, including sanitary sewer, by promoting the development of private investment in the marketability of property thereby increasing the tax base of the Village and providing employment for its citizens;

WHEREAS, pursuant to the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4 et seq., as amended (the "Act"), the Village has the authority to provide incentives to owners or prospective owners of real property to redevelop, rehabilitate and develop such property by reimbursing the owner for certain costs out of the resulting increases in real estate tax revenues ("Tax Increment Financing") or from other Village revenues.

WHEREAS, on June 4, 2002, recognizing the need to foster the development, expansion and revitalization of certain properties which are vacant, underutilized or obsolete or a combination thereof, the Village adopted Tax Increment Financing under the Act.

WHEREAS, the Developer plans to develop Windstone Subdivision, a residential development (i.e., single-family and duplex housing units) and an adjoining commercial site along US Route 45 to be valued at approximately \$7.4 million if incentives are made available by the Village.

WHEREAS, it is the intent of the Village to encourage economic development which will increase the real estate tax base of the Village, which increased taxes will be used, in part, to finance incentives to assist development within the Tax Increment Financing District.

WHEREAS, the Developer's project is consistent with the land uses of the Village as adopted;

WHEREAS, the Village has the authority under the Act to incur Redevelopment Project Costs ("Eligible Project Costs") and to reimburse Developer for such costs.

WHEREAS, the Developer requested that incentives for the development be provided by the Village from incremental increases in real estate taxes of the Village generated from its Project and the Village agreed to such incentives.

WHEREAS, the Village has determined that this Project requires the incentives requested as set forth in Exhibit 1 and that said Project will, as a part of the Plan, promote the health, safety and welfare of the Village and its citizens by attracting private investment to prevent blight and deterioration and to provide employment for its citizens and generally to enhance the economy of the Village.

WHEREAS, the parties have agreed to segregate within the Tax Incremental Redevelopment Fund the following: 100% of the net incremental increases in real estate taxes during the first three years (up to the first \$160,000 of TIF eligible project costs associated with the purchase and demolition of a two-story farmhouse located on the corner of Walnut and US Route 45); then 75% of the net incremental increases in real estate taxes during the remaining life of the District. Net increment is defined as real estate tax increment after administrative costs and any payments made to the School District as a result of an Intergovernmental Agreement derived from this Developer's Project. The Village will establish a separate account designated as the "GAM Properties, Inc. of Tolono Special Account" ("Special Account"). All monies deposited to this Special Account shall be used exclusively by the Village for the purposes set forth in this Agreement.

WHEREAS, in consideration of the execution of this Agreement, the Developer will construct a residential subdivision as set forth in Exhibit 1.

WHEREAS, the Village is entering into this Agreement to induce the Developer to purchase additional property and demolish antiquated structures as part of a plan to develop a residential subdivision within the Village of Tolono TIF District.

AGREEMENTS

NOW, THEREFORE, the Parties, for good and valuable consideration, the receipt of which is acknowledged, agree as follows:

A. PRELIMINARY STATEMENTS

- 1. The parties agree that the matters set forth in the recitals above are true and correct and form a part of this Agreement.
- 2. Any terms which are not defined in this Agreement shall have the same meaning as they do in the Act, unless indicated to the contrary.

DRAFT COPY FOR REVIEW PURPOSES ONLY

B. INCENTIVES

In consideration for the Developer completing its Project substantially as set forth in Exhibit 1, the Village agrees to extend to Developer the following incentives to assist Developer's Project:

- 1. One-hundred percent (100%) of years one, two and three (i.e., up to the first \$160,000 of TIF eligible project costs associated with the purchase and demolition of a two-story farmhouse located on the corner of Walnut and US Route 45); then seventy-five percent (75%) for the remaining life of the Tolono TIF District (or until Developer has been reimbursed for all eligible project costs) of the **net incremental increases in the real estate tax revenues** generated by the Project from the Developer's entire operation over the "base year."
- 2. Net increment, defined as real estate tax increment generated by this project after administrative costs and expenses, and payments to the School District as a result of an Intergovernmental Agreement derived from this Developer's Project, are to be allocated to and when collected shall be paid to the Village Treasurer for deposit in a separate account designated the "Special Account" for the purpose of reimbursing those Eligible Project Costs incurred in connection with the GAM Properties, Inc. Project. All monies deposited into this Special Account shall be used exclusively by the Village for the purposes set forth in this agreement.

C. ADOPTION OF TAX INCREMENT FINANCING

The Village has created a Tax Increment Financing District known as "Tolono TIF District" which includes the Developer's property. The City has approved certain Redevelopment Projects, including the Developer's Project which shall be known as the "GAM Properties, Inc. Project."

D. LIMITATION OF INCENTIVES TO DEVELOPER

1. The eligible project costs of Developer shall not exceed **\$3,278,000** total.
2. Developer shall be reimbursed by the Village for all Eligible Project Costs permitted by the Act (subject to a limitation of **\$3,278,000**) from the real estate tax increment generated by this Project located on the property described in Exhibit 1 and deposited into the Special Account but only for the term of the Plan and only from the property included in this project and currently owned by the Developer at that location.
3. It is not contemplated nor is the Village obligated to use any of its proportionate share of the monies for any of the Developer's Eligible Project Costs but, rather, the Village shall use such sums for any purpose under the Act as it may in its sole discretion determine.

E. PAYMENT OF ELIGIBLE PROJECT COSTS

1. Payment to the Developer for Eligible Project Costs as set forth by the Act, shall be made by a Requisition for Payment of Private Development Redevelopment Costs (Requisition) submitted from time to time by Developer to the Village's TIF Administrator (the "Administrator") and subject to their approval of the costs and to the availability of funds in the Special Account.
2. All Requisitions must be accompanied by verified bills or statements of suppliers, contractors, or professionals together with Mechanic's Lien Waivers as required by the Village.
3. The Developer shall use such sums only to the extent permitted by law and the Act and may allocate such funds for any purpose for the terms of this Agreement or the term of the TIF District whichever is longer.

4. The Administrator shall approve or disapprove a Requisition by written receipt to the Developer within thirty (30) business days after receipt of the Requisition. Approval of the Requisition will not be unreasonably withheld. If a Requisition is disapproved by the Clerk (or subsequently by the Illinois Department of Revenue) the reasons for disallowance will be set forth in writing and the Developer may resubmit the Requisition with such additional information as may be required and the same procedures set forth herein shall apply to such re-submittals.
 - . All sums approved shall then be paid from the Special Account to the Developer or to others for their benefit as soon as sums are available. Payment shall be made within 30 days after approval if funds are currently available in the Special Account, and if funds are not then available, payment shall be made within 30 days after funds become available.
6. To the extent the Developer incurs Eligible Project Costs in any years that exceed the available funds in the Special Account that year, the excess Eligible Project Costs shall carry over into future years until paid in full.
7. The parties acknowledged that the determination of Eligible Project Costs, and, therefore, qualification for reimbursement hereunder are subject to changes or interpretation made by amendments to the Act, administrative rules or judicial interpretation during the term of this Agreement. The Village has no obligation to the Developer to attempt to modify those decisions but will assist the Developer in every respect as to obtaining approval of Eligible Project Costs.
8. Eligible Project Costs shall be broadly defined in the Redevelopment Plan to include all costs defined in the Act as Redevelopment Project Costs.
9. The Developer may submit for prior approval by the Village as cost eligible expenses under the Act estimates of costs before they are incurred subject to later confirmation by actual bills.

F. VERIFICATION OF TAX INCREMENT

It shall be the sole responsibility of the Developer to provide to the Village as requested the following: **copies of all paid real estate tax bills, annually, for the property included**

in this Project. The failure of Developer to provide any information required herein after notice from the Village, and the continued failure to provide such information within 30 days after such notice shall be considered a material breach of this Agreement and shall be cause for the Village to deny payments hereunder to the Developer, which payments are conditional upon receipt of the foregoing information.

~~G. LIMITED OBLIGATION~~

~~The Village's obligation hereunder to pay Developer for Eligible Project Costs is a limited obligation to be paid solely from the Special Account. Said obligation does not now and shall never constitute an indebtedness of the Village within the meaning of any State of Illinois constitutional or statutory provision and shall not constitute or give rise to a pecuniary liability of the Village or a charge or lien against the Village's general credit or taxing power.~~

G. CONTRACT AS OBLIGATION

The parties hereto agree that this Redevelopment Agreement shall constitute an "obligation" as described in Section 7 of the Act (65 ILCS 5/11-74.4-7), subject to the provisions of this Article G.

Such obligations as described in this Article and in this Agreement does not constitute an indebtedness of the City within the meaning of any constitutional or statutory provision or limitation. The Developer shall not have the right to compel the exercise of any taxing power of the Village for payment of any obligation described in this Article G.

Upon commencement of construction of the subdivision and for a period of thirty-six (36) months thereafter, the Developer shall, not less often than semi-annually, notify the Village of interest paid by the Developer on any sum borrowed by the Developer for construction purposes. Said amount shall be the interest due on the obligation described in this Article; it being the intention of the parties that the interest described herein Subsection (q) (6) of Section 3 of the Act (65 ILCS 5/11-74.4-3 (q) (6)).

Such amounts so reported to the municipality as interest paid by the Developer for construction purposes shall be deemed to be the interest due on the obligation created in this Article and shall be payable in the same manner as any other eligible project cost

described herein.

Upon reasonable request of the Developer, the Village agrees to adopt such additional proceedings and Ordinances as may be necessary to perfect the nature of the obligation described in this Article provided that, no such supplemental proceeding or Ordinance shall expand the obligations of the Village provided in this Article.

In the event that the Village adopts an Ordinance providing for the issuance and sale of Bonds pursuant to Section 7 of the Act (65 ILCS 5/11-74.4-7) to any party other than the Developer, the provisions of this Article G shall be of no further force and effect, provided that the proceeds of the issuance and sale of such Bonds are used, in part, to:

1. Pay previously submitted eligible redevelopment costs, including the interest provided for in this Article G, of the Developer; and,
2. Provide funds for the payment of eligible redevelopment costs of the Developer for such purposes and in such amount as the Developer and the Village may agree, except that payment of such additional amount shall not, in any event, exceed the maximum allowable redevelopment costs provided for in this Agreement.

Notwithstanding any other provision of this Article G, nothing herein shall be interpreted, construed or applied as obligating to pay any obligation hereunder from any source of funds except the Special Tax Allocation Fund.

H. VILLAGE PUBLIC PROJECTS

The Developer and Village agree that any public project(s) to be undertaken by the City for the direct benefit of the Developer's private project are eligible for reimbursement from the Developer's real estate tax increment to the City. Although no public projects are currently anticipated, this agreement may, if necessary by mutual agreement between the Village and the Developer, be amended to add public costs (e.g., add Exhibit 2) in the future.

I. LIMITED LIABILITY OF VILLAGE TO OTHERS FOR DEVELOPER'S EXPENSES

There shall be no obligation by the Village to make any payments to any person other than Developer, nor shall the Village be obligated to make direct payments to any other

contractor, subcontractor, mechanic or material-person providing services or materials to Developer for the Project.

J. COOPERATION OF THE PARTIES

The Village and the Developer agree to cooperate fully with each other when requested to do so concerning the development of the Developer's Project. This includes without limitation the Village assisting or sponsoring the Developer, or agreeing to jointly apply with the Developer, for any grant, award, or subsidy which may be available as the result of the Developer's or Village's activities. This also includes without limitation the Developer assisting or sponsoring the Village, or agreeing to jointly apply with the Village, for any grant, award or subsidy which may be available as the result of the Village's or Developer's activities.

K. DEFAULT; CURE; REMEDIES

In the event of a default under this Redevelopment Agreement by any party hereto (the "Defaulting Party"), which default is not cured within the cure period provided for below, then the other party (the "Non-defaulting Party"), shall have an action for damages, or, in the event damages would not fairly compensate the Non-defaulting Parties for the Defaulting Party's breach of this Redevelopment Agreement, the Non-defaulting Party shall have such other equity rights and remedies as are available to them at law or in equity. Any damages payable by the Village hereunder shall be limited to the real estate tax increment payable to the Developer under the terms of this Agreement.

In the event a Defaulting Party shall fail to perform a monetary covenant which it is required to perform under this Redevelopment Agreement, it shall not be deemed to be in default under this Redevelopment Agreement unless it shall have failed to perform such monetary covenant within thirty (30) days of its receipt of a notice from a Non-defaulting Party specifying that it has failed to perform such monetary covenant. In the event a Defaulting Party fails to perform any nonmonetary covenant as and when it is required to under this Redevelopment Agreement, it shall not be deemed to be in default if it shall have cured such default within (30) days of its receipt of a notice from a Non-defaulting Party specifying the nature of the default, provided, however, with respect to those nonmonetary defaults which are not capable of being cured within such thirty (30) day period, it shall not be deemed to be in default if it commences curing within such thirty (30) day period, and

thereafter diligently and continuously prosecutes the cure of such default until the same has been cured.

L. TIME; FORCE MAJEURE

For this Agreement, time is of the essence; provided however, Developer shall not be deemed in default with respect to any obligations of this Agreement on its part to be performed if Developer 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, inability to procure materials, weather conditions wet soil conditions, failure or interruptions of power, restrictive governmental laws and regulations, condemnation, riots, insurrections, war, fuel shortages, accidents, casualties, Acts of God, acts caused directly or indirectly by the Village (or Village's agents, employees or invitees) or third parties, or any other cause beyond the reasonable control of Developer.

M. ASSIGNMENT

The rights and obligations of the Developer under this Agreement shall be fully assignable by means of written notice to the Village, provided that no such assignment shall be deemed to release the assignor of its obligations to the Village under this Agreement unless the consent of the Village to the release of the assignor's obligations is first obtained. Consent shall not be unreasonably withheld provided that the nature and financial status of the Project are not substantially changed.

N. PREPAYMENTS

Should the annual incremental tax revenue generated by the Project be sufficient to pay all cost eligible expenses prior to the expiration of the term of the Agreement, Village may, in its sole discretion, elect to pay all then remaining payments (except mortgage interest buy-down) in a single lump sum payment.

O. 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 of remedy does so in writing. No such waiver shall obligate such party to waive any right

of remedy hereunder, or shall be deemed to constitute a waiver of other rights and remedies provided said party pursuant to this Agreement.

P. 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.

Q. 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 Village:

Village Clerk
Village of Tolono
507 West Strong
P.O. Box 667
Tolono, IL 61880
Telephone: (217) 485-5212
Fax: (217) 485-5117

TO DEVELOPER:

GAM Properties, Inc.
Mr. Greg Millage, President
1701 S. Prospect, Suite 12
Champaign, IL 61820
Telephone: (217) 351-8440
Fax: (217) 351-8482

With Copy to:

Mr. Thomas N. Jacob, Village TIF Attorney
Thomas N. Jacob & Associates
1701 Clearwater Avenue
Bloomington, IL 61704
Telephone: (309) 664-7777
Fax: (309) 664-7878

R. SUCCESSORS IN INTEREST

Subject to the provisions of paragraph M, above, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, heirs and assigns.

S. 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.

T. TERM OF THE AGREEMENT

This Agreement shall expire upon the expiration of the Redevelopment Plan adopted by the Village or sooner if the Developer has received all incentives included herein.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed by their duly authorized officers on the above date at Tolono, Illinois.

VILLAGE OF TOLONO, ILLINOIS

Municipal Corporation

By:

**DRAFT COPY FOR REVIEW PURPOSES ONLY
NOT INTENDED FOR SIGNATURES**

Village President

DEVELOPER

GAM Properties, Inc.

By:

Greg Millage, President

ATTEST:

Village Clerk

ATTEST:

Secretary

EXHIBIT 1

SUMMARY OF ESTIMATED TIF ELIGIBLE PROJECT COSTS

GAM Properties, Inc. Windstone Residential Subdivision Project, Tolono TIF District

Land Acquisition and Demolition	\$ 510,000 <u>\$495,000</u>
<u>Site Preparation (Lancaster House)</u>	<u>\$160,000</u>
<u>Demolition</u>	<u>\$10,000</u>
Planning and Engineering	\$ 80,000 <u>\$70,000</u>
Legal	\$15,000
Accounting	\$3,000
Marketing / Other Professional Fees	\$20,000
<u>Exterior Lighting</u>	<u>\$4,000</u>
Public Infrastructure Improvements	\$810,000
(i.e., utilities , streets, sidewalks, water, storm sewer)	
<u>Utilities</u>	<u>\$40,000</u>
Construction Interest	\$ 317,000 <u>\$396,000</u>
<u>Long Term Interest Buy-Down</u>	<u>\$1,230,000</u>
(i.e., approx. 30% of (\$2,048,480 @ 10%, 20 years = \$4,096,960))	
Miscellaneous Eligible Project Costs	\$25,000
TOTAL	\$3,278,000