

AN ORDINANCE APPROVING AMENDING A DATE IN THE FIVE POINTS REALTY, LLC., REDEVELOPMENT AGREEMENT

(Five Points Northeast)

WHEREAS, in Ordinance No. 2005-01-04, the Urbana City Council approved a Redevelopment Agreement with Five Points Realty, LLC. (hereafter "Agreement"), which Agreement provided for certain mutual obligations of the parties based upon a projected timetable; and

WHEREAS, the date projected in the said Agreement for the acquisition by the Developer of Tract A of the Development Project Site, to wit, March 1, 2005, proved to be too optimistic, and the parties agree that such date should be amended to be May 1, 2005.

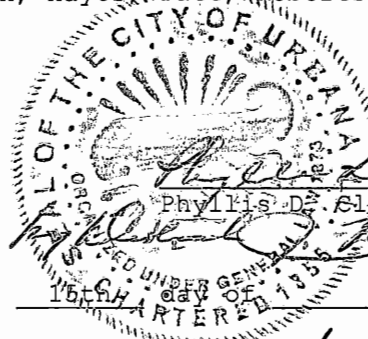
NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, that in Section 4.2 of the Agreement, the date set forth as March 1, 2005 for the Developer to acquire fee simple title to Tract A of the Development Project Site is hereby amended to read "May 1, 2005", and the said Agreement as so amended, is hereby re-adopted and approved. The Mayor is authorized to execute the attached Amendment 1 to the Five Points Realty, LLC. Redevelopment Agreement.

PASSED by the City Council this 4th day of April, 2005.

AYES: Alix, Chynoweth, Hayes, ~~Patty~~ Roberts, Wyman

NAYS:

ABSTAINS:



Phyllis D. Clark

 Phyllis D. Clark, City Clerk

[Signature]

 Deputy Clerk

APPROVED by the Mayor this 15th day of April, 2005.

Tod Satterthwaite

 Tod Satterthwaite, Mayor

**REDEVELOPMENT AGREEMENT
SECOND AMENDED AND RESTATED**

by and between the

CITY OF URBANA, CHAMPAIGN COUNTY, ILLINOIS

and

**FIVE POINTS NORTHEAST,
an Illinois limited liability company**

Dated as of April 1, 2005

Document Prepared By:

**Kenneth N. Beth
Evans, Froehlich, Beth & Chamley
44 Main Street, Third Floor
P.O. Box 737
Champaign, IL 61820**

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I DEFINITIONS	3
Section 1.1. Definitions	3
Section 1.2. Construction	3
ARTICLE II REPRESENTATIONS AND WARRANTIES	4
Section 2.1. Representations and Warranties of the City	4
Section 2.2. Representations and Warranties of the Developer	4
Section 2.3. Related Agreements	4
Section 2.4. Disclaimer of Warranties	5
ARTICLE III CITY'S COVENANTS AND AGREEMENTS	5
Section 3.1. City's Conveyance Obligation	5
Section 3.2. City's Obligations	5
Section 3.3. Defense of Redevelopment Project Area	6
ARTICLE IV DEVELOPER'S COVENANTS AND AGREEMENTS	6
Section 4.1. Agreement to Complete the Private Development.....	6
Section 4.2. Undertaking of Private Development.....	7
Section 4.3. Reserved	7
Section 4.4. Indemnity	7
Section 4.5. Compliance With All Laws.....	7
Section 4.6. Real Estate Tax Obligations.....	7
ARTICLE V DEFAULTS AND REMEDIES.....	8
Section 5.1. Defaults - Rights to Cure.....	8
Section 5.2. Remedies	9
Section 5.3. Costs, Expenses and Fees.....	9
Section 5.4. Development Loans.....	9
ARTICLE VI MISCELLANEOUS PROVISIONS.....	9
Section 6.1. Conditions Precedent.....	9
Section 6.2. Entire Contract and Amendments	10
Section 6.3. Third Parties	10
Section 6.4. Counterparts	10
Section 6.5. Special and Limited Obligation.....	10
Section 6.6. Time and Force Majeure	11
Section 6.7. Waiver	11

Section 6.8.	Cooperation and Further Assurances	11
Section 6.9.	Notices and Communications	11
Section 6.10.	Successors in Interest	12
Section 6.11.	No Joint Venture, Agency, or Partnership Created	13
Section 6.12.	Illinois Law; Venue	13
Section 6.13.	No Personal Liability of Officials of City	13
Section 6.14.	Superseder	13
Section 6.15.	Term	13

LIST OF EXHIBITS

EXHIBIT A Prior Redevelopment Agreement
EXHIBIT B Legal Description of City Real Estate
EXHIBIT C Site Plan

REDEVELOPMENT AGREEMENT SECOND AMENDED AND RESTATED

THIS REDEVELOPMENT AGREEMENT SECOND AMENDED AND RESTATED (including any exhibits and attachments hereto, collectively, this **"Agreement"**) is made and entered into as of April 1, 2005, but actually executed by each of the parties on the dates set forth beneath their respective signatures below, by and between the **City of Urbana, Champaign County, Illinois**, an Illinois municipal corporation (the **"City"**), and **Five Points Northeast**, an Illinois limited liability company (the **"Developer"**).

RECITALS

WHEREAS, in accordance with and pursuant to the Tax Increment Allocation Redevelopment Act (presently codified at Section 5/11-74.4-1 et seq. of Chapter 65 of the Illinois Compiled Statutes), as supplemented and amended (the **"TIF Act"**), including by the power and authority of the City as a home rule unit under Section 6 of Article VII of the Constitution of Illinois, the City Council of the City on December 23, 1986, adopted Ordinance No. 8687-45, "An Ordinance Approving a Redevelopment Plan and Redevelopment Project; Designating a Redevelopment Project Area; Adopting Tax Increment Allocation Financing; and Authorizing the Illinois Department of Revenue to Annually Certify and Cause to be Paid to the City of Urbana, Illinois an Amount Equal to the Increase in the Aggregate Amount of State Sales Taxes Paid by Retailers and Servicemen on Transactions at Places of Business Located Within the Redevelopment Project Area", including as subsequently supplemented and amended (collectively, the **"TIF Ordinances"**), copies of which were duly filed with the County Clerk of Champaign, County, Illinois; and

WHEREAS, under and pursuant to TIF Act and the TIF Ordinances, the City has designated the Redevelopment Project Area Number Two (the **"Redevelopment Project Area"**) and approved a related redevelopment plan (entitled "Downtown Urbana Tax Increment Area Two Conservation Redevelopment Plan and Projects"), as supplemented and amended (the **"Redevelopment Plan"**), including the related redevelopment projects described therein (the **"Redevelopment Projects"**); and

WHEREAS, the City and the Developer previously entered into a Redevelopment Agreement dated as of September 1, 2003, which was later superseded in its entirety by a Redevelopment Agreement First Amended and Restated dated as of April 1, 2004 (a copy of which is attached hereto as Exhibit A, the “**Prior Redevelopment Agreement**”) in order to induce the Developer to acquire and improve (or cause to be done) certain parcels of real estate and appurtenant facilities, as accomplished in one or more phases, and to market the same for commercial development by providing certain tax increment finance incentives from the City as authorized by the Act; and

WHEREAS, the Developer and the City have now fulfilled each of their respective obligations under the Prior Redevelopment Agreement; and

WHEREAS, as contemplated by the Redevelopment Plan and Redevelopment Projects, the Developer now proposes to undertake and complete the Private Development Project (as defined below); and

WHEREAS, the Development Project Site (as defined below) is within the Redevelopment Project Area; and

WHEREAS, the Developer is unwilling to undertake the Private Development Project without certain tax increment finance incentives from the City, which the City is willing to provide, and the City has determined that it is desirable and in the City’s best interests to assist the Developer in the manner set forth herein and as this Agreement may be further supplemented and amended; and

WHEREAS, effective as of April 1, 2005, the City and the Developer now desire to further supplement, amend and supersede in its entirety the Prior Redevelopment Agreement by the provisions of this Agreement.

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

ARTICLE I
DEFINITIONS

Section 1.1. Definitions. For purposes of this Agreement and unless the context clearly requires otherwise, the capitalized words, terms and phrases used in this Agreement shall have the same meanings as provided in the above Recitals and in the Prior Redevelopment Agreement, including such further meanings as follows:

“City Real Estate” means the real estate consisting of the parcel of real estate within the Development Project Site which is owned by the City and legally described on Exhibit B hereto.

“Development Project Site” means, collectively, the Development Area and the City Real Estate.

“Loan Documents” means, collectively, each of the promissory notes executed and delivered by the Developer under the Prior Redevelopment Agreement and each of the prior mortgages executed and delivered in connection therewith, including, as applicable, the substitute mortgages in the form attached to the Prior Redevelopment Agreement as Exhibit E and as described in Section 3.2(a) hereof.

“Private Development Project” means, collectively, each of the following: (i) the platting or replatting of the Development Project Site substantially in accordance with the Site Plan; (ii) the sale, transfer and conveyance of Lot 101 and Lot 102 as shown on the Site Plan to a party or entity obligated to construct and install a Walgreen Drug Store; and (iii) the construction and installation of a retail facility having not less than 30,000 square feet upon Lot 103 as shown on the Site Plan.

“Site Plan” means the proposed final plat for the Development Project Site as attached hereto as Exhibit C and all references herein to any numbered lot (“Lot ___”) shall be in accordance with the designation thereof on the Site Plan.

Section 1.2. Construction. This Agreement, except where the context by clear implication shall otherwise require, shall be construed and applied as follows:

- (a) definitions include both singular and plural.
- (b) pronouns include both singular and plural and cover all genders; and

- (c) headings of sections herein are solely for convenience of reference and do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.
- (d) all exhibits attached to this Agreement shall be and are operative provisions of this Agreement and shall be and are incorporated by reference in the context of use where mentioned and referenced in this Agreement.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.1. Representations and Warranties of the City. In order to induce the Developer to enter into this Agreement, the City hereby represents and warrants to the Developer that the representations and warranties of the City as contained in Section 2.1 of the Prior Redevelopment Agreement are true and correct as of the date hereof as if made on the date of the execution hereof by the City.

Section 2.2. Representations and Warranties of the Developer. In order to induce the City to enter into this Agreement, the Developer hereby represents and warrants to the City that the representations and warranties of the Developer as contained in Section 2.2 of the Prior Redevelopment Agreement are true and correct as of the date hereof as if made on the date of the execution hereof by the Developer.

Section 2.3. Related Agreements. The Developer shall deliver true, complete and correct copies of all Related Agreements (redacted by the Developer to protect any confidential or proprietary information) in existence as of the date hereof within 30 days of the execution of this Agreement, and thereafter shall deliver copies of any additional Related Agreements (redacted as aforesaid) within 20 days from the date of the execution thereof. Upon request of the City, the Developer shall make available for inspection and review an unaltered copy of all such redacted Related Agreements. The Developer represents and warrants to the City that such Related Agreements now executed and delivered are in full force and effect and have not been cancelled or terminated and that the Developer is not aware of any of its obligations under any of such existing Related Agreements required to be performed on or before the date hereof which have not been performed by the Developer or the other parties thereto.

Section 2.4. Disclaimer of Warranties. The City and the Developer acknowledge that neither has made any warranties to the other, except as set forth in this Agreement. The City hereby disclaims any and all warranties with respect to the Private Development Project, express or implied, including, without limitation, any implied warranty of fitness for a particular purpose or merchantability for the purposes of this Agreement. Nothing has come to the attention of the Developer to question the assumptions or conclusions or other terms and provisions of this Agreement.

ARTICLE III

CITY'S COVENANTS AND AGREEMENTS

Section 3.1. City's Conveyance Obligation. The City hereby covenants and agrees to sell, transfer and convey by warranty deed on or before April 15, 2005 title to the City Real Estate located within the Development Project Site for a purchase price of \$26,000,00, adjusted by prorations and credits for real estate taxes and title exceptions, if any.

Section 3.2. City's Obligations. The City shall have the following obligations relative to financing Eligible Costs in connection with the Private Development Project:

(a) to execute and deliver a release of any security interest created by each prior mortgage under the Loan Documents with respect to the Development Area concurrently with the sale, transfer and conveyance of Lot 101 and Lot 102 as specified by Section 4.1 hereof in connection with the completion of the Private Development Project, provided the Developer has first executed and delivered to the City a substitute mortgage in the form of that attached to the Prior Redevelopment Agreement as Exhibit E to secure each of the Development Loans, one such mortgage to grant a security interest in Lot 101 and Lot 102 and the other to grant a security interest in Lot 103;

(b) to subordinate any security interest created by any such substitute mortgage under the Loan Documents with respect to Lot 101 and Lot 102 and to Lot 103 in order to accommodate any required private financing for the construction and installation of: (1) a Walgreen Drug Store

upon Lot 101 or (ii) a retail facility upon Lot 103 as specified in Section 4.1 hereof in connection with the Private Development Project; and

(c) to forgive and discharge the Development Loan secured by the substitute mortgage on Lot 101 and 102 upon the completion of the construction and installation of the Walgreen Drug Store upon Lot 101 and to forgive and discharge the Development Loan secured by the substitute mortgage on Lot 103 upon the completion of the construction and installation of the retail facility upon Lot 103 within the time specified by Section 4.1 hereof.

Section 3.3. Defense of Redevelopment Project Area. In the event that any court or governmental agency having jurisdiction over enforcement of the TIF Act and the subject matter contemplated by this Agreement shall determine that this Agreement, including any payments or discharges to be made by the City are contrary to law, or in the event that the legitimacy of the Redevelopment Project Area is otherwise challenged before a court or governmental agency having jurisdiction thereof, the City will defend the integrity of the Redevelopment Project Area and this Agreement. The City may, to the extent permitted by law, use any Incremental Property Taxes to reimburse the City for its defense costs, including without limitation attorneys' fees and expenses.

ARTICLE IV

DEVELOPER'S COVENANTS AND AGREEMENTS

Section 4.1. Agreement to Complete the Private Development. The Developer covenants and agrees to commence and complete the Private Development Project in the manner and with the effect set forth in this Agreement, substantially in accordance with such schedule as follows:

<u>Activity</u>	<u>Completion Date</u>
Plat or replat Development Project Site in accordance with Site Plan	May 15, 2005
Sell, transfer and convey Lot 101 and Lot 102 as shown on the Site Plan	May 15, 2005
Construct and install retail facility upon Lot 103 as shown on the Site Plan	December 31, 2006

Section 4.2. Undertaking of Private Development Project. The Developer shall at all times undertake the Private Development Project in conformance with this Agreement and all applicable laws, rules and regulations, including all subdivision, zoning, environmental or other land use ordinances of the City. Any agreement of the Developer related to the Private Development Project with any other party or parties to any such agreements shall, to the extent applicable, contain provisions substantially similar to those required of the Developer under this Agreement.

Section 4.3. [RESERVED]

Section 4.4. Indemnity. The Developer agrees to forever indemnify and defend the City from and against any claims, suits, or actions for death or injury to persons or damage to property or breach of contract brought against the City arising from any alleged claims, acts or omissions of such Developer in connection with this Agreement, including any matter or thing in connection with the Private Development, whether or not suit is filed.

Section 4.5. Compliance With All Laws. The Developer agrees that upon completion and in the continued use, occupation, operation and maintenance of the Private Development Project, the Developer will comply with all applicable federal and state laws, rules and regulations and City ordinances.

Section 4.6. Real Estate Tax Obligations. The Developer, including any others claiming by the through it, agrees to pay and discharge, promptly and when the same shall become due, all general real estate taxes, and all applicable interest and penalties thereon, that at any time shall become due and payable upon or with respect to, or which shall become liens upon, any part of Development Project Site. The Developer, including any others claiming by or through it, hereby covenants and agrees not to file any application for property tax exemption for any part of the Development Project Site under any applicable provisions of the Property Tax Code of the State of Illinois (35 ILCS 200/1-1 et seq.), as supplemented and amended, unless the City and the Developer, including any other claiming by or through it, shall otherwise have first entered into a mutually acceptable agreement under and by which the Developer, including any others claiming by

or through it, shall have agreed to make a payment in lieu of taxes to the City, it being mutually acknowledged and understood by both the City and the Developer that any such payment of taxes (or payment in lieu thereof) by the Developer is a material part of the consideration under and by which the City has entered into this Agreement. This covenant of the Developer shall be a covenant that runs with the land being the Development Project Site upon which the Private Development Project is located and shall be in full force and effect until December 31, 2023, upon which date this covenant shall terminate and be of no further force or effect (and shall cease as a covenant binding upon or running with the land) immediately, and without the necessity of any further action by City or Developer or any other party; provided, however, upon request of any party in title to such land the City shall execute and deliver to such party an instrument, in recordable form, confirming for the record that this covenant has terminated and is no longer in effect.

ARTICLE V

DEFAULTS AND REMEDIES

Section 5.1. Defaults - Rights to Cure. Except as otherwise provided in Section 5.4 of this Agreement below in connection with defaults and remedies related to the Development Loans, any other failure or delay by either party to timely perform any term or provision of this Agreement shall constitute a default under this Agreement. The party who so fails or delays shall, upon receipt of written notice of the existence of such default, immediately commence to cure, correct or remedy such default and thereafter proceed with diligence to cure such default. The party claiming such default shall give written notice of the alleged default to the party alleged to be in default specifying the default complained of. Except as required to protect against immediate, irreparable harm, the party asserting a default may not institute proceedings against the other party until thirty (30) days after having given such notice. If such default is cured within such thirty (30) day period, the default shall not be deemed to constitute a breach of this Agreement. If the default is one which cannot reasonably be cured within such thirty (30) day period, such thirty (30) day period shall be extended for such time as is reasonably necessary for the curing of such default, so long as there is diligent proceeding to cure such default. If such default is cured within such extended period, the

default shall not be deemed to constitute a breach of this Agreement. However, a default not cured as provided above shall constitute a breach of this Agreement. Except as otherwise expressly provided in this Agreement, any failure or delay by either party in asserting any of its rights or remedies as to any default or alleged default or breach shall not operate as a waiver of any such default or breach of any rights or remedies it may have as a result of such default or breach.

Section 5.2. Remedies. The only other remedy available to either party in the event of a breach of this Agreement by the other party under any of the terms and provisions hereof shall be to institute legal action against the other party for specific performance or other appropriate equitable relief. Under no circumstances shall the City be subject to any monetary liability or be liable for damages (compensatory or punitive) under any of the provisions, terms and conditions of this Agreement. The provisions of this Section 6.2 shall not be applicable, however, to the indemnity obligations of the Developer under Section 4.4 of this Agreement.

Section 5.3. Costs, Expenses and Fees. If either party defaults in the performance of its obligations hereunder, and is determined in breach of this Agreement by a court of competent jurisdiction, each of the parties agree that the defaulting party shall pay the non-defaulting party's costs, expenses and fees of enforcing the defaulting party's obligations under this Agreement, including but not limited to reasonable fees of accountants, attorneys, engineers and other professionals.

Section 5.4. Development Loans. The rights and obligations of the parties in connection with each of the Development Loans, including any defaults and remedies associated therewith, shall be as otherwise set forth in each of the Loan Documents, anything to the contrary in this Article V or Section 6.1 of this Agreement notwithstanding.

ARTICLE VI

MISCELLANEOUS PROVISIONS

Section 6.1. Conditions Precedent. The agreements, obligations and undertakings of the City as set forth in this Agreement are expressly contingent upon the Developer having completed each "Activity" described in Section 4.1 of this Agreement on or before the "Completion Date"

specified in such Section 4.1 for the Private Development Project. If the Developer shall fail to provide to the City evidence of such completion or shall otherwise fail to demonstrate that it has fulfilled its obligations in connection with each "Activity" on or before the applicable "Completion Date" within ten (10) days following written notice of such failure from the City to the Developer, the City shall have no further obligations under this Agreement and this Agreement shall thereupon automatically terminate and be of no force and effect.

Section 6.2. Entire Contract and Amendments. This Agreement (together with the Exhibits A to C, inclusive, attached hereto) is the entire agreement between the City and the Developer relating to the subject matter hereof. This Agreement supersedes all prior and contemporaneous negotiations, understandings and agreements, written or oral, including the Prior Redevelopment Agreement, and may not be modified or amended except by a written instrument executed by both of the parties.

Section 6.3. Third Parties. Nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any other persons other than the City and the Developer and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third persons to either the City or the Developer, nor shall any provision give any third parties any rights of subrogation or action over or against either the City or the Developer. This Agreement is not intended to and does not create any third party beneficiary rights whatsoever.

Section 6.4. Counterparts. Any number of counterparts of this Agreement may be executed and delivered and each shall be considered an original and together they shall constitute one agreement.

Section 6.5. Special and Limited Obligation. This Agreement shall constitute special and limited obligation of the City according to the terms hereof. This Agreement shall never constitute a general obligation of the City to which its credit, resources or general taxing power are pledged. The City pledges to the payment of its obligations hereunder only the applicable amount of the Incremental Property Taxes, if, as and when received, and not otherwise.

Section 6.6. Time and Force Majeure. Time is of the essence of this Agreement; provided, however, neither the Developer nor the City shall be deemed in default with respect to any performance obligations under this Agreement on their respective parts to be performed if any such failure to timely perform is due in whole or in part to the following (which also constitute “unavoidable delays”): any strike, lock-out or other labor disturbance (whether legal or illegal, with respect to which the Developer, the City and others shall have no obligations hereunder to settle other than in their sole discretion and business judgment), civil disorder, inability to procure materials, weather conditions, wet soil conditions, failure or interruption of power, restrictive governmental laws and regulations, condemnation, riots, insurrections, acts of terrorism, war, fuel shortages, accidents, casualties, acts of God or third parties, or any other cause beyond the reasonable control of the Developer or the City, or for any other reasons not within the Developer’s or the City’s control.

Section 6.7. Waiver. Any party to this Agreement may elect to waive any right or remedy it may enjoy hereunder, provided that no such waiver shall be deemed to exist unless such waiver is in writing. No such waiver shall obligate the waiver of any other right or remedy hereunder, or shall be deemed to constitute a waiver of other rights and remedies provided pursuant to this Agreement.

Section 6.8. Cooperation and Further Assurances. The City and the Developer covenant and agree that each will do, execute, acknowledge and deliver or cause to be done, executed and delivered, such agreements, instruments and documents supplemental hereto and such further acts, instruments, pledges and transfers as may be reasonably required for the better assuring, mortgaging, conveying, transferring, pledging, assigning and confirming unto the City or the Developer or other appropriate persons all and singular the rights, property and revenues covenanted, agreed, conveyed, assigned, transferred and pledged under or in respect of this Agreement.

Section 6.9. Notices and Communications. All notices, demands, requests or other communications under or in respect of this Agreement shall be in writing and shall be deemed to

have been given when the same are (a) deposited in the United States mail and sent by registered or certified mail, postage prepaid, return receipt requested, (b) personally delivered, (c) sent by a nationally recognized overnight courier, delivery charge prepaid or (d) transmitted by telephone facsimile, telephonically confirmed as actually received, in each case, to the City and the Developer at their respective addresses (or at such other address as each may designate by notice to the other), as follows:

- (i) In the case of the Developer, to:

Five Points Northeast, LLC
c/o James Burch
2404 N. Mattis Avenue
Champaign, IL 61820
Tel: (217) 359-8333
Fax: (217) 359-9766

- (ii) In the case of the City, to:

City of Urbana, Illinois
400 South Vine Street
Urbana, IL 61801
Attn: Chief Administrative Officer
Tel: (217) 384-2454
Fax: (217) 384-2363

Whenever any party hereto is required to deliver notices, certificates, opinions, statements or other information hereunder, such party shall do so in such number of copies as shall be reasonably specified.

Section 6.10. Successors in Interest. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respectively authorized successors and assigns; provided, however, that Developer may not assign its rights under this Agreement prior to the completion of the Private Development Project without the express written consent of the City, which shall not be unreasonably withheld or delayed.

Section 6.11. No Joint Venture, Agency, or Partnership Created. Nothing in this Agreement nor any actions of either of the City or the Developer shall be construed by either of the City, the Developer or any third party to create the relationship of a partnership, agency, or joint venture between or among the City and any party being the Developer.

Section 6.12. Illinois Law; Venue. This Agreement shall be construed and interpreted under the laws of the State of Illinois. If any action or proceeding is commenced by any party to enforce any of the provisions of this Agreement, the venue for any such action or proceeding shall be in Champaign County, Illinois.

Section 6.13. No Personal Liability of Officials of City. No covenant or agreement contained in this Agreement shall be deemed to be the covenant or agreement of any official, officer, agent, employee or attorney of the City, in his or her individual capacity, and neither the members of the Corporate Authorities nor any official of the City shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of the execution, delivery and performance of this Agreement.

Section 6.14. Superseder. Except for any Loan Documents executed in connection therewith or herewith, this Agreement supersedes and completely replaces the Prior Redevelopment Agreement in its entirety. To the extent that any ordinance, resolution, rule, order or provision of the City's Code of Ordinances or any part thereof is in conflict with the provisions of this Agreement, the provisions of this Agreement shall be controlling.

Section 6.15. Term. Unless earlier terminated pursuant to the terms hereof, this Agreement shall be and remain in full force and effect until December 31, 2006. Anything to the contrary notwithstanding, however, the Developer's obligations under Sections 4.4 and 4.6 of this Agreement shall be and remain in effect in accordance with the express provisions of such Sections.

IN WITNESS WHEREOF, the City and the Developer have caused this Agreement to be executed by their duly authorized officers as of the date set forth below.

**CITY OF URBANA, CHAMPAIGN COUNTY,
ILLINOIS**

(SEAL)

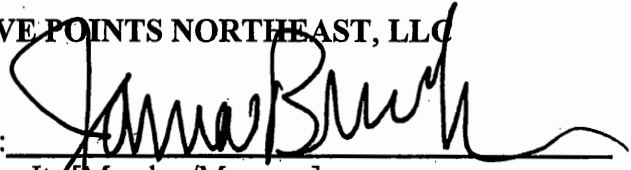
By: 
Mayor

ATTEST:


City Clerk

Date: 5/10/05

FIVE POINTS NORTHEAST, LLC

By: 
Its [Member/Manager]

Date: 5-4-05

[Exhibits A to C, inclusive, follow this page and are integral parts of this Agreement in the context of use.]

EXHIBIT A

Prior Redevelopment Agreement

EXHIBIT B

Legal Description of City Real Estate

EXHIBIT C

Site Plan