

**BUSINESS RETENTION ECONOMIC INCENTIVE AND SALES TAX REBATE
AGREEMENT FOR PRAIRIE FOOD CO-OP TO BE LOCATED AT
837 SOUTH WESTMORE-MEYERS ROAD, LOMBARD, ILLINOIS**

This Sales Tax Revenue Sharing Agreement (the "Agreement") is entered into on this 7th day of November, 2024 (the "Effective Date") by and between the Village of Lombard, Illinois, an Illinois municipal corporation (the "Village"), and Prairie Food Co-op, an Illinois business corporation (the "Business Owner"). (The Village and the Business Owner are sometimes referred to herein collectively as the "Parties" and individually as a "Party.")

RECITALS

- A. The Village deems it to be of significant importance to encourage development and redevelopment within the Village, so as to maintain a viable real estate tax and sales tax base and employment opportunities.
- B. The Village is authorized under Section 8-1-2.5 of the Illinois Municipal Code (65 ILCS 5/8-1-2.5) to appropriate and expend funds for economic development purposes, including, without limitation, the making of grants to any commercial enterprise that are deemed necessary or desirable for the promotion of economic development within the Village.
- C. Business Owner has entered into a lease agreement to occupy an existing retail space of approximately 7,860 square feet in size, also known as Unit A4-1 (the "Tenant Space") within the Eastgate Shopping Center located at 837 S. Westmore-Meyers Road, Lombard, Illinois 60148 (the "Subject Property"), legally described and depicted, respectively, in EXHIBITS A and B, attached hereto and made part hereof.
- D. The Business Owner intends to substantially renovate, improve and upgrade the Tenant Space for a new co-op retail grocery store, selling groceries and prepared foods and beverages, as described and depicted in EXHIBIT C and EXHIBIT D respectively, attached hereto and made a part hereof (collectively the "Project"). For purposes of this

Agreement, a “co-op retail grocery store” shall be defined as a consumer-owned retail grocery store that is managed by a General Manager appointed by the democratically elected Board of Directors .

- E. It is the express intent of the Parties to this Agreement that the economic incentives provided by the Village are expressly contingent on the Project being operated as a co-op retail grocery store, as set forth herein.
- F. The projected cost of the Project is estimated to be approximately Four Million Nine Hundred Thousand and No/100 Dollars (\$4,900,000.00), as more fully set forth on EXHIBIT E attached hereto and made part hereof.
- G. The Village has adopted four (4) ordinances related to the expenditure of funds for economic development purposes for qualifying business retention and economic development incentive activities:
 - 1. Ordinance 7990, entitled “An Ordinance Establishing an Economic Development Fund,” adopted October 21, 2021, the Village established an “Economic Development Fund” to provide a Village funding source for business retention activities;
 - 2. Ordinance 7991, entitled “An Ordinance Authorizing Additions and Amendments to The Village of Lombard Financial Policies Regarding the Year End General Fund Reserve Maintenance Policy Adopted July 21, 2016,” adopted October 21, 2021, the Village amended its “Year-End General Fund Reserve Maintenance Policy” to provide for funds to be deposited into the Economic Development Fund if certain conditions are met; and
 - 3. Ordinance 7992, entitled “An Ordinance Approving a Lombard Business Retention Economic Incentive Policy,” adopted October 21, 2021, the Village adopted a “Business Retention Economic Incentive Policy” to provide for economic incentives to retain businesses.

4. Ordinance 8051, adopted April 21, 2022, which amended the Business Retention Economic Incentive Policy to include the Subject Property, as further identified below, as a key development site and eligible business retention activities.

H. Pursuant to 65 ILCS 5/8-11-20, the Village finds as follows:

1. As to the vacant portion of the Subject Property:
 - (a) said portion has remained vacant for at least one (1) year; or
 - (b) any buildings that were located thereon were demolished within the last year, and would have been found to qualify under subsection 2 below;
2. As to the developed portion of the Subject Property, the buildings located thereon:
 - (a) no longer comply in all respects with current building codes; or
 - (b) have remained less than significantly occupied or utilized for a period of at least one (1) year;
3. The Project is expected to create job opportunities within the Village;
4. The Project will serve to further the development of adjacent areas;
5. Without this Agreement, the Project would not be possible;
6. The Business Owner meets/will meet the criteria set forth in 65 ILCS 5/8-11-20(6)(A), (B) and/or (C); which reads as follows:

That the developer meets high standards of creditworthiness and financial strength as demonstrated by one or more of the following:

(A) corporate debenture ratings of BBB or higher by

Standard & Poor's Corporation or Baa or higher by Moody's Investors Service, Inc.;

(B) a letter from a financial institution with assets

of \$10,000,000 or more attesting to the financial strength of the developer;
or

(C) specific evidence of equity financing for not

less than 10% of the total project costs;

7. The Project will strengthen the commercial sector of the Village;
8. The Project will enhance the tax base of the Village; and

9. This Agreement is made in the best interests of the Village.
- I. Business Owner and the Village acknowledge that Business Owner requires economic assistance from the Village in order to complete the Project, and that the Project would not be economically feasible, but for the economic assistance promised by the Village in this Agreement.
- J. Because the Project would not be economically feasible as proposed “but for” the economic assistance promised by the Village in this Agreement, the Village agrees, pursuant to the terms of this Agreement, to make economic incentive payments to Business Owner for identified capital improvements as identified on EXHIBIT F attached hereto and made a part hereof, of up to Fifty Thousand and No/100 Dollars (\$50,000) for eligible façade improvements, and up to Twenty Thousand and No/100 Dollars (\$20,000) for eligible interior capital building improvements; a credit for applicable Village building permit fees, and of up to Two Hundred Eighty Thousand and No/100 Dollars (\$280,000.00) in performance based sales tax revenues, if available and applicable, for up to a ten (10) year period, subject to the conditions of this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants and agreements herein made, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the Parties hereto, the Village and Business Owner hereby agree as follows:

ARTICLE I
RECITALS AS PART OF AGREEMENT

The Parties acknowledge that the statements and representations contained in the foregoing recitals to the actual knowledge of the Parties are true and accurate, and incorporate such recitals into this Agreement as if fully set forth in this Article I.

ARTICLE II

OBLIGATIONS OF BUSINESS OWNER – CONDITIONS PRECEDENT TO VILLAGE UNDERTAKINGS

- 2.01 Condition Precedent. Each of the obligations specified in this Article II shall be a condition precedent to the Village's financial undertakings in this Agreement. The Village shall have no financial obligation to Business Owner under this Agreement until the satisfaction by Business Owner of each and every condition of this Article II.
- 2.02 Pre-Construction Submissions and Reviews.
- (A) The Business Owner has provided the Village with the Project construction plans and associated Project construction costs (as set forth on Exhibits D and E). The Village shall review the Plans and Costs Submittal by construction discipline, either through an internal Village staff review (which shall be at Village's sole cost and expense), utilization of the Means Construction Manual, or other comparable construction documents, and / or a third-party review (which shall be at Business Owner's expense), to determine whether the proposed scope of work and proposed costs in the Plans and Costs Submittal are commercially reasonable. If, the Village finds, in its reasonable discretion, that the costs are not reflective of market conditions, the Village reserves the right to request that the Business Owner provide additional documentation and information setting forth the rationale and basis for the proposed Project costs in the Plans and Costs Submittal. Through this review, if the Village determines that the Project costs in the Plans and Costs Submittal are reasonable, the Village shall provide a written correspondence to the Business Owner confirming the Project costs in the Plans and Costs Submittal and establishing the Village-approved "Project Costs".
- (B) Within ninety (90) days after the Effective Date, the Business Owner shall provide the Village with a Project construction schedule.

- (C) Business Owner, as of the Effective Date, has (a) applied with the Village for building permits for the Project, and (b) applied for all necessary Project permits and approvals from all governmental agencies having jurisdiction over the Property, other than the Village or the DuPage County Health Department, as may be necessary to commence and complete construction of the Project.

2.03 Construction of the Project.

- (A) Construction of the Project has commenced as of the Effective Date.
- (B) Business Owner shall obtain a certificate of occupancy for the Project on or before January 1, 2025 subject to the *Force Majeure* provisions of Section 5.01 hereof.
- (C) The Project shall be built and operated in accordance with all applicable ordinances, rules and regulations of the Village. Business Owner shall not knowingly cause or permit the existence of any violation of Village ordinances, rules or regulations, including, but not limited to, Article VX of the Village Code (i.e., the Building Code, the Sign Ordinance, the Zoning Ordinance), and all rules and regulations thereunder applicable to the Project.
- (D) Within sixty (60) days of store opening, the Business Owner shall supply the Village with a sworn statement of the final paid construction costs of the Project certified as true by an officer of the Business Owner, paid lien waivers related thereto, or evidence of a satisfactory title indemnity are in place if any amounts are in dispute, and such other information and materials as are reasonably requested by the Village's Finance Director. The Business Owner represents and warrants that all such information produced to the Village pursuant to this provision is, to the best of the Business Owner's knowledge, true and accurate, and agrees and acknowledges that the Village may, and does, rely on the truth and accuracy of said information as a basis for its entering into this Agreement.

(E) The Business Owner shall be responsible for the payment of any and all fees, applicable to the development approval in relation to, and / or the construction of, the Project, as provided for by the Village Code as well as any required by any other governmental entities as required to facilitate the Project. Any building permit fees paid by the Business Owner which are applicable to completing the Tenant space improvements may be subject to reimbursement, as set forth more fully in Section 3.04 and 3.05.

(F) Business Owner shall pay, and shall require its contractors and subcontractors to pay, the prevailing rate of wages (as established under 820 ILCS 130/0.01 *et seq.* – the “Prevailing Wage Act”) to all workers involved with the construction of the Project, and shall comply with, and shall require its contractors and subcontractors to comply with, the Prevailing Wage Act, relative to the construction of the Project.

2.04 State Sales Taxes Information. In the event that the Illinois Department of Revenue ceases to make the following documents and information available to the Village at no cost, or if the Illinois Department of Revenue no longer directly collects state sales tax for purchased groceries on the premises, the Business Owner shall supply the Village with copies of State Sales Taxes (as defined in Section 3.03 below) information for the Project, certified as true by an officer of Business Owner, at the request of the Village's Finance Director. Business Owner represents and warrants that all such information produced to the Village pursuant to this provision is, and will be at all times in the future, true and accurate, and agrees and acknowledges that the Village relies on the truth and accuracy of said information as a basis for its entering into this Agreement. Business Owner shall submit to the Village an executed Illinois Department of Revenue form PTAX 1002-21 for the Project with a reporting period from the Effective Date through the date which is ten (10) years six (6) months after the Commencement Date (as defined in Section 3.02 below).

2.05 State and Village Sales Taxes Reporting, Audits and Confidentiality.

- (A) In the event that the Illinois Department of Revenue ceases to make the following documents and information available to the Village at no cost, the Business Owner hereby agrees to provide the Village with written reports of all the State Sales Taxes (as defined in Section 3.01(A)(2) below) generated by the Project during each Quarterly Payment Period (as defined in Section 3.03 below) of the Revenue Sharing Term (as defined in Section 3.01(B) below). Such reports shall be certified as true by an officer of Business Owner and shall have attached thereto certified copies of all monthly State of Illinois sales tax returns filed by Business Owner for said Quarterly Payment Period (as defined in Section 3.03 below). Business Owner will deliver said reports to the Village on a quarterly basis before the fifteenth (15) day following the end of the Quarterly Payment Period (as defined in Section 3.03 below) for which Business Owner is reporting.
- (B) Upon request, the Village shall have the right to audit Business Owner's records of Project costs and sales, and Business Owners Sales Taxes (as defined in Section 3.01(A)(4) below) returns from time-to-time, but no more often than once per calendar year. The Village hereby represents and warrants that any and all information regarding Business Owner's State Sales Taxes (as defined in Section 3.01(A)(2) below) shall be confidential and used only for the purpose of calculating any amounts due and owing to Business Owner pursuant to this Agreement. The Village and Business Owner acknowledge that Business Owner's sales and State Sales Taxes (as defined in Section 3.01(A)(2) below) information is financial information obtained from a business that is proprietary, privileged and/or confidential, and that disclosure of the Business Owner's sales and State Sales Taxes (as defined in Section 3.01(A)(2) below) information would cause competitive harm to Business Owner, and, therefore, would not be subject to

disclosure pursuant to a request under the Illinois Freedom of Information Act, 5 ILCS 140/1, *et seq.*, as amended (the "FOIA"). Business Owner agrees to reimburse the Village for the reasonable attorneys' fees and costs incurred by the Village in responding to any requests for information under FOIA, subpoena or otherwise relating to this Agreement or Business Owner's sales and State Sales Taxes (as defined in Section 3.01(A)(2) below) information supplied under this Agreement, but in no event shall the reimbursement be greater than \$5,000.00. Business Owner agrees that the Village's compliance with any court order to produce information shall not subject the Village to any liability hereunder for said information release. The Parties acknowledge that this Agreement is a public record that must be reported to the Illinois Department of Revenue and a summary of this Agreement must be posted on the Illinois Department of Revenue's website, per 65 ILCS 5/8-11-21.

- 2.06 Guaranteed Occupancy and Operation of the Project. Business Owner agrees that Business Owner shall occupy and operate the Project as a co-op retail grocery store on the Subject Property for a minimum of ten (10) years from the Commencement Date (as defined in Section 3.02 below). For purposes of this Agreement, a "co-op retail grocery store" shall be defined as "a consumer-owned cooperative grocery store that is managed and controlled by a Board of Directors elected by the people who have an ownership interest in the grocery store." Business Owner further agrees that the Village shall receive Business Owner Sales Taxes (as defined in Section 3.01(A)(4) below) from the Project for a minimum of ten (10) years from the Commencement Date (as defined in Section 3.02 below). Notwithstanding the foregoing, in the event that it is necessary for Business Owner to close the Project because of remodeling, rebuilding, maintenance or repairs, within fifteen (15) days of such closure, the Business Owner shall provide the Village with

a written notice detailing the reason for the closure and the expected date of reopening. In the event the Project is closed for more than twelve (12) months from the delivery of notice to the Village, the Village may provide written notice to Business Owner that the Village intends to terminate this Agreement. In the event that the Project has not reopened with sixty (60) days of delivery of the Village's notice to terminate this Agreement shall terminate and the Village shall be entitled to cease any further payments under this Agreement to Business Owner, other than those earned by Business Owner prior to the closure of the Project but not yet paid by the Village, and this Agreement shall be null and void. In the event the Project closes because of any Force Majeure events as set forth in Section 5.01 , the twelve (12) month period prescribed above shall be extended by an additional six (6) months presuming a valid lease is in place with a grocery user as required by this Agreement. The Business Owner shall be required to provide the Village with written notice, within fifteen (15) days of a closure of the Project lasting for more than fourteen (14) consecutive days for any such reason, in the same manner and containing the same information as in regard to a closure of the Project for remodeling, rebuilding, maintenance or repairs. If Business Owner or its successors or assigns do not reopen within the twelve (12) month period, the Village may provide written notice to Business Owner that the Village intends to terminate this Agreement. In the event that the Project has not reopened with sixty (60) days of delivery of the Village's notice, this Agreement shall terminate and the Village shall be entitled to cease any further payments under this Agreement to Business Owner other than those earned by Business Owner prior to the closure of the Project but not yet paid by the Village, and this Agreement shall be null and void. The Revenue Sharing Term, as defined in Section 3.01(B) below, shall not be extended as a result of the aforementioned temporary closures of the Project.

- 2.07 The Business Owner shall reimburse the Village for the third-party costs, including, but not limited to, attorney's fees, incurred by the Village in regard to the preparation of this

Agreement in an amount not to exceed \$5,000.00.

- 2.08 Certification of Project Costs. Business Owner shall supply the Village with a statement of the costs of the Project certified as true by a person holding the title of President or an officer of Business Owner or its successors or assigns, and such other information, in regard to the costs of the Project, reasonably requested by the Village's Finance Director. Business Owner represents and warrants that all such information produced to the Village pursuant to this provision is, at the time provided, true and accurate, and agrees and acknowledges that the Village may, and does, rely on the truth and accuracy of said information as a basis for its entering into this Agreement.
- 2.09 No Breach. Business Owner shall not at any time after the Effective Date be in breach of any term of this Agreement.
- 2.10 Lease. The Business Owner shall have a lease in place for the Tenant Space for at least the ten (10) years that permits the Business Owner to construct and operate the Project as required by this Agreement.

ARTICLE III **VILLAGE OBLIGATIONS AND UNDERTAKINGS**

3.01 Sales Tax Rebate.

(A) Definitions.

- (1) "Non-Home Rule Sales Tax " shall be those taxes generated by the Project and received by the Village pursuant to the Non-Home Rule Municipal Retailers' Occupation Tax Act (65 ILCS 5/8-11-1.3), as amended, and the Non-Home Rule Municipal Service Occupation Tax Act (65 ILCS 5/8-11-1.4), as amended, or any taxes received by the Village as a replacement for the taxes currently received pursuant to the Non-Home Rule Municipal Retailers' Occupation Tax Act or the Non-Home Rule Municipal Service Occupation Tax Act.

- (2) "State Sales Tax" shall be those taxes generated by the Project and received by the Village pursuant to the Retailers' Occupation Tax Act, 35 ILCS 120/1, *et seq.*, as amended, and the Service Occupation Tax Act, 35 ILCS 115/1, *et seq.*, as amended, or any taxes received by the Village as a replacement for the taxes currently received pursuant to the Retailers' Occupation Tax Act or the Service Occupation Tax Act. The Parties expressly acknowledge that pursuant to House Bill 3144, signed into law by the Governor as Public Act 103-781 (the "Act"), that on January 1, 2026, the State's one percent (1%) tax on groceries will be eliminated. The Act authorizes non-home rule municipalities to enact a local grocery sales tax in .25% increments up to 1%. Accordingly, the Project shall cease to generate State Sales Taxes on groceries as of January 1, 2026. The Business Owner agrees and expressly acknowledges that the Village shall have absolutely no obligation whatsoever to replace the taxes eliminated by the Act, as the decision of whether to enact a local grocery tax pursuant to the Act is within the exclusive legislative discretion of the Village Board, despite anything in this Agreement to the contrary. Nonetheless, if the Village does enact a local grocery tax pursuant to the Act, the revenue generated by the Project through said local grocery tax and received by the Village, shall be included in the definition of "State Sales Taxes" for purposes of this Agreement during the Revenue Sharing Term.
- (3) "Places for Eating Tax" shall be those taxes generated by the Project and received by the Village from applicable sales generated on the premises by the Business Owner pursuant to Section 98.111 of Village Code.
- (4) "Business Owner Sales Taxes" shall be: (i) State Sales Taxes; (ii) Non-Home Rule Sales Taxes; (iii) and Places for Eating Taxes, during each of

the twelve (12) month periods after the Commencement Date (as defined in Section 3.02 below).

(5) "Business Owner Sales Tax Allocation" shall be as follows:

- For twelve (12) months commencing on the Commencement Date: One hundred percent (100%) of Business Owner Sales Taxes;
- For months thirteen (13) to twenty-four (24): Ninety percent (90%) of Business Owner Sales Taxes;
- For months twenty-five (25) to thirty-six (36): Eighty percent (80%) of Business Owner Sales Taxes;
- For months thirty-seven (37) to forty-eight (48): Seventy percent (70%) of Business Owner Sales Taxes;
- For months forty-nine (49) to sixty (60): Sixty percent (60%) of Business Owner Sales Taxes;
- For months sixty-one (61) to seventy-two (72): Fifty percent (50%) of Business Owner Sales Taxes;
- For months seventy-three (73) to eighty-four (84): Forty percent (40%) of Business Owner Sales Taxes;
- For months eighty-five (85) to ninety-six (96): Thirty percent (30%) of Business Owner Sales Taxes;
- For months ninety-seven (97) to one hundred eight (108): Twenty percent (20%) of Business Owner Sales Taxes; and
- For months one hundred nine (109) to one hundred twenty (120): Ten percent (10%) of Business Owner Sales Taxes.

(B) Rebate.

Upon satisfaction by Business Owner of all of the conditions stated in Article II of this Agreement, the Village shall rebate to Business Owner the Business Owner

Sales Tax Allocation as set forth in this Agreement. Said payments shall be made by the Village to Business Owner for a period of one hundred twenty (120) months from the Commencement Date, as defined in Section 3.02 below, or until the Business Owner received Business Two Hundred Eighty Thousand and No/100 Dollars (\$280,000.00) in Business Owner Sales Taxes from the Business Owner Sales Tax Allocation, whichever occurs first (the "Revenue Sharing Term"). At the end of the Revenue Sharing Term, all future Business Owner Taxes generated by the Project shall be retained by the Village.

3.02 Commencement Date. The commencement date of the Revenue Sharing Term shall be defined as the first (1st) of the month following the date that the Business Owner opens the grocery store for business (the "Commencement Date"), provided that the Village has confirmed that the Business Owner has satisfied all of the conditions of Article II of this Agreement, to the extent said conditions can be satisfied as of the Commencement Date. In the event that the Village has not verified the Business Owner's satisfaction of all of the conditions of Article II of this Agreement, to the extent said conditions can be satisfied as of the Commencement Date, the Commencement Date shall be delayed until the first (1st) of the month following the date of the Village's verification of the Business Owner's satisfaction of all of said conditions of Article II of this Agreement, to the extent said conditions can be satisfied as of the Commencement Date.

3.03 Sales Tax Rebate Procedure Payment Procedure. After the Commencement Date, as long as the Business Owner is in compliance with the conditions of Article II of this Agreement, during the Revenue Sharing Term, the Village shall pay to Business Owner the Business Owner Sales Tax Allocation, relative to each three (3) month period following the Commencement Date (a "Quarterly Payment Period"), within forty-five (45) days of the Village's receipt of Business Owner Sales Taxes from each Quarterly Payment Period.

3.04 Building Permit Fee Reimbursement. As required by Village Code and this Agreement, the Business Owner shall submit to the Village for review and approval of all requisite building permits associated with the Project. Payment of associated building permit fees is a requisite for the Village issuing such permits for the Project.

Upon satisfactory completion of the Project, issuance of a Final Certificate of Occupancy/Zoning Certificate by the Village for the Tenant Space to the Business Owner, and as long as the Business Owner is in compliance with the conditions of Article II of this Agreement, the Business Owner shall be eligible to receive reimbursement funds for the total building permit fee costs paid for by the Business Owner and/or its contracted representatives (the "Building Permit Fee Reimbursement") for the Project. The total reimbursement shall equal the fees collected by the Village through the permit issuance process. Such reimbursement shall not include any applicable fees required by any other governmental entity that were incurred by the Business Owner through the construction process and is exclusively applicable to Tenant Space Improvements. As long as the Business Owner is in compliance with the conditions of Article II of this Agreement, the Building Permit Fee Reimbursement shall be made solely to the Business Owner no later than thirty (30) days after the date in which the Village has received a Building Permit Fee Reimbursement request from the Business Owner and has determined that the documentation provisions set forth within this Agreement have been satisfactorily met.

3.05 Exterior and Interior Tenant Space Enhancements. The Business Owner intends to undertake exterior signage, exterior façade work and rooftop screening activities associated with the Project (the "Exterior Tenant Space Enhancements"), which in total have an estimated cost of construction as set forth in Exhibit F. The purpose of the Exterior Tenant Space Enhancements is to enhance the visibility and prominence of the Tenant Space and to bring the Tenant Space into compliance with the Village Code.

The Village agrees to reimburse the Business Owner for its verifiable construction costs for the Exterior Tenant Space Enhancements in the amount of Fifty Thousand and No/100 Dollars (\$50,000.00) or fifty percent (50%) of the amount of verifiable and Village approved Exterior Tenant Space Enhancements costs, whichever is less.

The Business Owner intends to undertake interior capital improvement which will be a part of the tenant build out process including upgrades to plumbing, electrical and HVAC systems associated with their Project (the "Interior Tenant Space Enhancements"), which in total have an estimated cost of construction as set forth in Exhibit F. The purpose of the Interior Tenant Space Enhancements is to bring the Tenant Space into compliance with the Village Code. The Village agrees to reimburse the Business Owner for its verifiable construction costs for the Interior Tenant Space Enhancements in the amount of Twenty Thousand and No/100 Dollars (\$20,000.00) or fifty percent (50%) of the amount of verifiable and Village approved Interior Capital Tenant Space Enhancements costs, whichever is less.

Upon satisfactory completion of the Project construction related to the Exterior and Interior Tenant Space Enhancements (as evidenced by issuance of a certificate of occupancy for the improvements) submittal of all requisite documentation, including, without limitation, final paid invoices for the Exterior and Interior Tenant Space Enhancements, applicable waivers of lien or satisfactory evidence of a title indemnity any disputed amount and issuance of written confirmation from the Village that the Exterior Tenant Space Enhancements were constructed in accordance with the Village Code and this Agreement, and as long as the Business Owner is in compliance with the conditions of Article II of this Agreement, the Business Owner shall be eligible to receive reimbursement funds for identified and approved costs related to the Exterior Space Enhancements from the Village's Economic Development Fund in an amount not to exceed Fifty Thousand and No/100 Dollars (\$50,000.00), and for the Interior Space Enhancements in an amount not

to exceed Twenty Thousand and No/100 Dollars (\$20,000.00); each as set forth above. Such reimbursement for the Exterior Tenant Space and Interior Tenant Space Enhancements shall be made solely to the Business Owner no later than thirty (30) days after the date in which the Village has received a reimbursement request from the Business Owner from the date in which the Village has determined that the documentation provisions set forth within this Agreement have been satisfactorily met. Notwithstanding the provisions set forth above, the Village shall not release any grant fund reimbursements for the erected channel letter wall signage, as further depicted in EXHIBIT G attached hereto made a part hereof, until such time that the business has been opened to the public.

3.06 Limitation of Debt. Any obligations of the Village created by or arising out of this Agreement related to rebating Business Owner Sales Taxes to the Business Owner as set forth above, shall not be a general debt of the Village on, or a charge against, the Village's general credit or taxing powers, but shall be a limited obligation payable solely out of the Business Owner Sales Taxes as set forth in Article III. The Village's obligation to provide the Business Owner with Business Owner Sales Taxes is restricted to taxes generated by the Project and actually received by the Village.

3.07 No Breach by Village. The Village shall not at any time after the Effective Date be in breach of any term of this Agreement.

ARTICLE IV **PROJECT CONSTRUCTION REQUIREMENTS**

4.01 The Village may withhold or issue stop work orders with respect to any permit if the Business Owner has failed or refused to comply in all material aspects with this Agreement or applicable law.

4.02 It is expressly agreed and understood by the Business Owner that the terms of this Agreement shall be binding and applicable to all of Business Owner's contractors working on the Subject Property and/or adjacent public land or rights-of-way, in relation to the

construction of the Project (a "Business Owner Contractor"). The Business Owner shall ensure that each Business Owner Contractor is aware of the obligations imposed under this Agreement and shall take such measures to ensure each Business Owner Contractor complies herewith at all times. The Business Owner shall be liable for non-compliance with applicable provisions of this Agreement by a Business Owner Contractor, and shall promptly notify the Village, in the event any Business Owner Contractor fails or refuses to comply herewith. It is expressly agreed and understood that in the event of a breach of the provisions of this Agreement by any Business Owner Contractor, the Village will look solely to the Business Owner, and the Business Owner hereby accepts responsibility on behalf of any such Business Owner Contractor.

4.03 The Business Owner, via General Contractor or other duly authorized representative, shall deliver to the Village's Director of Building and Code Enforcement a progress report at the conclusion of each month following the commencement of the construction of the Project, which report shall describe the status of the work on the Project, any proposed changes to the construction schedule, and any proposed or revised completion date, if necessary, due to Force Majeure. The Business Owner shall meet with the Village as appropriate, and make presentations thereto as reasonably requested, in order to keep the Village apprised of the progress of the Project. The Business Owner shall provide adequate information, including, without limitation, engineering analyses and architectural analyses, as well as Village access to the appropriate Project development team personnel, at any such progress meetings, as may be requested by the Village, or as may be appropriate to provide an accurate progress report.

4.04 Following the commencement of the construction of the Project, the Business Owner shall use commercially reasonable efforts to continue the construction of the Project without interruption or delay, and otherwise diligently pursue and prosecute the construction of the Project to completion, subject to *Force Majeure*.

- 4.05 The Business Owner agrees that the Community Development Director, and/or respective designees, shall have the right at all times during normal business hours to reasonably inspect the progress of the construction of the Project. In the event such inspection is denied, the Business Owner shall be issued a stop work order, and no work shall be thereafter commenced until such time as an inspection is granted, and the stop work order is rescinded.
- 4.06 The Business Owner hereby agrees to defend, indemnify and hold harmless the Village, and its officers, employees and agents (the "Village Parties"), from and against, and to pay on behalf of, or reimburse as and when incurred, any and all liabilities, obligations, losses, damages, penalties, demands, claims, actions, suits, judgments, settlements, costs, expenses and disbursements (including reasonable attorney's fees) of whatever kind and nature, which may be imposed on or incurred by the Village Parties, related to this Agreement, the Subject Property or the Project, including, without limitation, Project construction performed pursuant to this Agreement and the non-compliance by the Business Owner, and/or the Business Owner's contractors and/or subcontractors, with the Prevailing Wage Act relative to the construction of the Private Development, which are not the result of any willful and wanton acts or omissions of the Village Parties, and shall provide the Village with evidence of such insurance, as required by the Lombard Village Code relative to the Project. For purposes of this Section, the fact that this Agreement is silent, as to the applicability of the Prevailing Wage Act to the Private Development, shall not be deemed to be a willful and wanton act or omission of the Village.

ARTICLE V **GENERAL PROVISIONS**

- 5.01 Delay and Force Majeure. For the purposes of any of the provisions of this Agreement, neither the Village nor Business Owner, as the case may be, nor any successor in interest, shall be considered in breach of, or default in, its obligations under this Agreement in the

event of any delay caused by damage or destruction by fire, flood, or other casualty, shortage of material, unusually adverse weather conditions such as, by way of illustration and not limitation, severe rain or storms or below freezing temperatures of abnormal degree or quantity for an abnormal duration, tornadoes and other events or conditions beyond the reasonable control of the Party affected which in fact interfere with the ability of such Party to discharge its respective obligations hereunder (which events shall be defined herein as "Force Majeure").

5.02 Assignment of Agreement. This Agreement may not be assigned by Business Owner under any circumstances.

5.03 Business Owner Authority. Business Owner hereby represents and warrants that it is an Illinois business corporation, authorized to do business in, and in good standing with, the State of Illinois. Business Owner further represents and warrants that all actions necessary to make Business Owner's obligations hereunder enforceable against Business Owner have been taken, and that no further approvals or actions are required.

5.04 Defaults; Remedies.

(A) In the event of any default under this Agreement, the Party not in default shall serve notice upon the Party in default, which notice shall be in writing and shall specify the particular default. Each Party shall have the right to cure any default of this Agreement or default within thirty (30) days from written notice of such default, subject to Force Majeure, or such longer period as is necessary to remedy the same so long as the Party is diligently pursuing the same to completion, but in no event longer than an additional sixty (60) days after written notice of default.

- (B) In the event of default by the Village of its obligations to Business Owner provided for in Article III, Business Owner's sole and exclusive remedy shall be to seek specific performance from a court of competent jurisdiction
- (C) In the event of a default under or violation of this Agreement by Business Owner, should such default not be cured or remedied within the time period referenced above, the Village shall be entitled to cease any further payments under this Agreement to Business Owner other than those earned by Business Owner prior to the event of default but not yet paid by the Village, and this Agreement shall be null and void. In no event shall Business Owner be responsible to return any payment made by Village and received by Business Owner, except in the event that an overpayment is made to the Business Owner as a result of an accounting error or other inadvertence on the part of the Village.
- (D) In the event that any default under this Agreement is not timely cured, the non-defaulting Party/Party not in default under this Agreement shall have the right, upon providing notice to the defaulting/violating Party, to terminate this Agreement.

5.05 Notices. All notices and requests required pursuant to this Agreement shall be sent by certified mail, return receipt requested, postage prepaid, or by personal or overnight delivery, as follows:

If to Business Owner: Prairie Food Co-op

General Manager

837 S. Westmore Meyers, Unit 4A-1

Lombard, IL 60148

with a copy to:

Leslee Keri

139 E. Sunset Ave

Lombard, IL 60148

If to the Village:

Village Manager

Village of Lombard

255 East Wilson Avenue

Lombard, Illinois 60148-3931

with copies to: Finance Director
Village of Lombard
255 East Wilson Avenue
Lombard, Illinois 60148-3931

Director of Community Development
Village of Lombard
255 East Wilson Avenue
Lombard, Illinois 60148-3931

and: Klein, Thorpe and Jenkins, Ltd.
15010 Ravinia Avenue, Suite 10
Orland Park, Illinois 60642
Attn: Jason A. Guisinger

or at such other addresses as either Party may indicate in writing to the other Party. Service by personal or overnight delivery shall be deemed to occur at the time of the delivery, and service by certified mail, return receipt requested, shall be deemed to occur on the third day after mailing.

- 5.06 Law Governing. This Agreement shall be construed and enforced in accordance with the laws of the State of Illinois. Venue for any legal action brought by either Party as a result of entering into the Agreement shall be in the Circuit Court of DuPage County, Illinois.
- 5.07 Time. Time is of the essence under this Agreement and all time limits set forth herein are mandatory, and cannot be waived except by a lawfully authorized and executed written waiver by the Party excusing such timely performance.
- 5.08 Limitation of Liability. Notwithstanding anything herein contained to the contrary by implication or otherwise, any obligations of the Village created by or arising out of this Agreement shall not be a general debt of the Village on, or a charge against, the Village's general credit or taxing powers, but shall be a limited obligation payable solely out of the Business Owner Sales Taxes as set forth in Article III of this Agreement, and shall further be limited to the actual sum of money paid to Business Owner by the Village.

- 5.09 No Waiver or Relinquishment of Right to Enforce Agreement. Failure of either Party to this Agreement to insist upon the strict and prompt performance of the terms covenants, agreements, and conditions herein contained, or any of them, upon the other Party imposed, shall not constitute or be construed as a waiver or relinquishment of the Party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.
- 5.10 Article and Section Headings. All Article and Section headings or other headings in this Agreement are for the general aid of the reader and shall not limit the plain meaning or application of any of the provisions thereunder whether covered or relevant to such heading or not.
- 5.11 Parties' Authorization to Execute. The Village President and Village Clerk of the Village hereby warrant that they have been lawfully authorized by the President and Board of Trustees to execute this Agreement. The undersigned on behalf of the Business Owner hereby warrants that the undersigned has been lawfully authorized pursuant to the bylaws and proper action of the Business Owner to execute this Agreement.
- 5.12 Amendment. This Agreement sets forth all the promises, inducements, agreements, conditions and understandings between Business Owner and the Village relative to the subject matter thereof. There are no promises, agreements, conditions or understandings, either oral or written, express or implied, between them, other than as herein set forth. No subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the Parties hereto unless authorized in accordance with law and reduced to writing and signed by them.
- 5.13 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which, taken together, shall constitute one and the same instrument.

5.14 Severability. If any provision of this Agreement is held invalid by a court of competent jurisdiction, such provision shall be deemed to be excised herefrom and the invalidity thereof shall not affect any of the other provisions contained herein.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed the Agreement as of the date of the last signatory below, which date shall be inserted on page 1 of this Agreement.

Village of Lombard,
an Illinois municipal corporation

Prairie Food Co-op.,
a Illinois business corporation

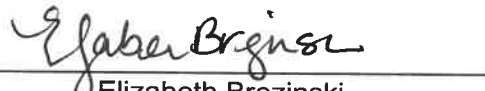
By: 
Keith Giagnorio
Village President

By: 
Leslee Keri, President

Date: 11/7/24

Date: 11/7/24

ATTEST:

By: 
Elizabeth Brezinski
Village Clerk

Date: 11/7/24

EXHIBIT A

Legal Description of the Subject Property

LOT 1 IN RAYMOND W. MACDONALD COUNTY CLERK'S EASTGATE SHOPPING CENTER ASSESSMENT PLAT IN PART OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER AND PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 7, 1976 AS DOCUMENT R76-72686, IN DUPAGE COUNTY, ILLINOIS.

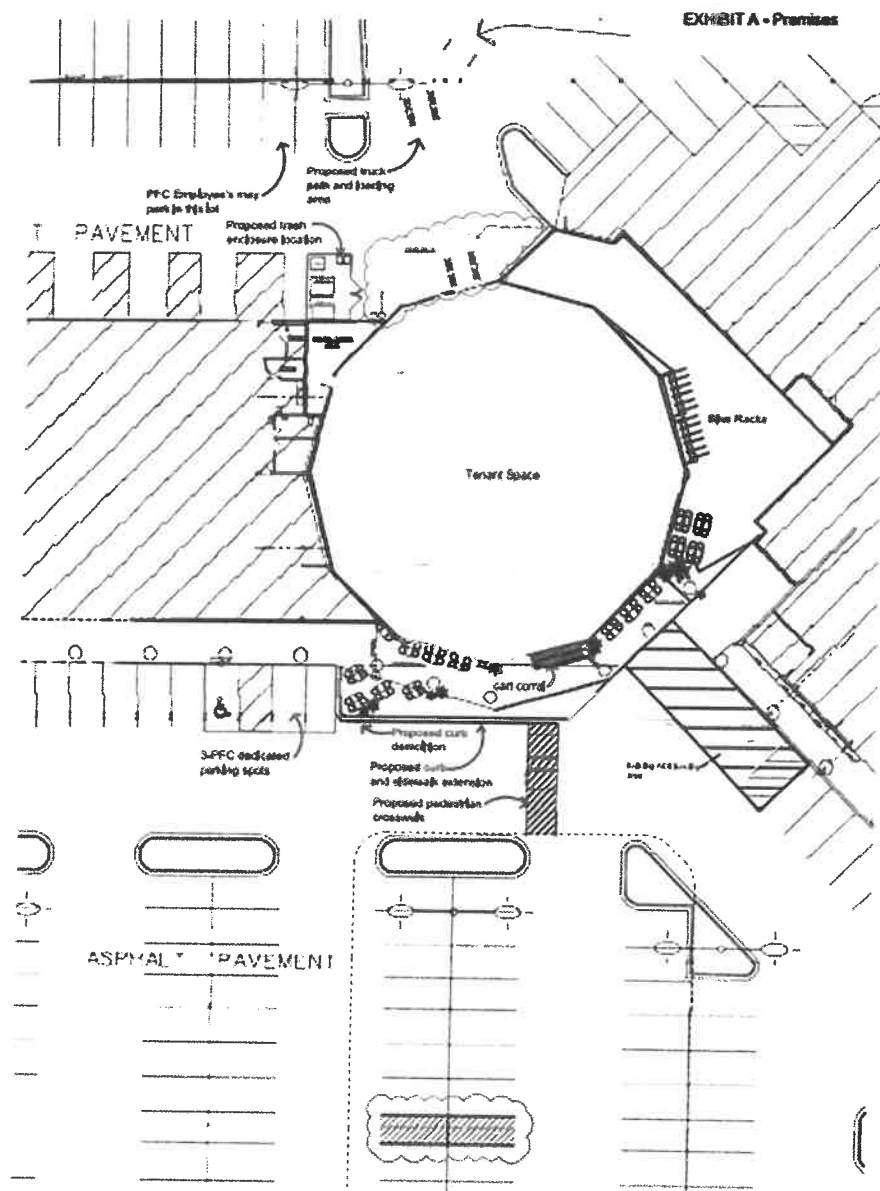
Parcel Number: 06-16-117-007 (the "Subject Property").

Common Address: 837 S. Westmore-Meyers Road, Lombard, IL 60148

Tenant Space: Unit A4-1

EXHIBIT B

Depiction of the Location of the Subject Property and Tenant Space



GROUP EXHIBIT C

Description and Depiction of the Project

Prairie Food Co-op is a for-profit, mission-driven business that aims to provide local, healthy food, boost our local economy, provide jobs and training, and build community connections. A full-service food store open to the public year-round, Prairie Food Co-op will carry a full range of fresh and prepared grocery products. Our mission includes focusing on local and organic food and transparency: how and where food was produced, from farm-fresh produce and eggs, to artisan breads and cheeses, to locally prepared and packaged goods. Shoppers will have sourcing information through our labeling system, our

in-store displays and information systems and informed employees. The store will feature additional services that will include a deli, bakery, and/or café seating area. The concept for Prairie Food Co-op is based on existing food co-ops that are successfully operating in areas with demographics similar to Lombard. Prairie Food Co-op will include an indoor community space that can potentially host food related educational classes. The outdoor community space will also have seasonal cafe seating with outdoor live music performances. Development of Prairie Food Co-op is overseen by an elected Board of Directors with several volunteer teams. The Board and planning team has, collectively, many decades of experience in the food industry. Our team includes the former front end manager of Sugar Beet Food Co-op in Oak Park, the current General Managers of two local food co-ops, business owners, real estate professionals, marketing professionals, attorneys, accountants, IT experts, designers, and writers. The team has also hired a General Manager with 20 years of experience in the grocery industry.

Throughout the planning process, the co-op Board has utilized the vast expertise of consultants representing decades of co-op operations, marketing, management, store design, and financial forecasting experience. As of December 2023, the co-op has 1788 member-owners.

EXHIBIT D

Project Plans

(attached)

EXHIBIT E

Project Costs

(attached)

EXHIBIT F

Identified Capital Improvements

Below is a summary of extraordinary costs associated with this project that improves the base building and incurred by the Co-op. The Landlord is contributing \$100K towards the RTU and Switchgear replacement in addition to \$207,000 towards general building updates - on a reimbursement basis. The Landlord contribution is scheduled to cover costs associated with bringing the base building up to current building codes. PFC incurs these costs upfront.

Expense Item	Cost	Fund Source	Type
Exterior Signage	\$23,000	50% Village Grant	Reimbursed
Facade Work	\$40,000	50% Village Grant	Reimbursed
Rooftop Screening	\$45,000	50% Village Grant	Reimbursed
Front Curb Patio Extension	\$12,000	State Grant	Reimbursed
Trash Enclosure and Gate	\$18,000	State Grant	Reimbursed
Electric Switchgear	\$75,000	State Grant	Reimbursed
New RTUs	\$350,000	50% Federal Grant 50% LL Contribution	Reimbursed
Bring building envelope up to current Energy Code Requirements (roof + perimeter walls)	\$101,200	LL Contribution	Reimbursed
Bring building restrooms up to current Accessibility Code (demolish & rebuild)	\$100,000	LL Contribution	Reimbursed
Site Demo	\$6,000	LL Contribution	Reimbursed
Plumbing	\$265,000	\$20,000 interior improvements Village Grant	Reimbursed

Total: \$1,035,200

EXHIBIT G

Photograph of Erected Channel Letter Wall Signage

