

**REDEVELOPMENT AGREEMENT BETWEEN DP HOMEWOOD, LLC,  
BANA THREE CORPORATION AND THE VILLAGE OF  
HOMEWOOD FOR PROPERTY AT 3043-3055 183<sup>RD</sup> STREET  
IN HOMEWOOD, COOK COUNTY, ILLINOIS**

This Redevelopment Agreement is executed effective as of April 30, 2024 (the “Effective Date”) by the Village of Homewood, Cook County, Illinois, an Illinois municipal corporation (the “Village”), DP Homewood, LLC , an Illinois limited liability company (“DP Homewood”) and Bana Three Corporation, an Illinois corporation (“Bana”) (DP Homewood and Bana may collectively and individually be referred to as the “Developer”). Capitalized terms used shall have the meaning ascribed in the Redevelopment Agreement unless expressly modified herein, or if the context clearly indicates otherwise.

WITNESSETH:

In consideration of the Preliminary Statements, the mutual covenants herein contained and other good and valuable consideration, the sufficiency and receipt of which is acknowledged, the parties agree:

**1. Preliminary Statements.**

Among the matters of mutual inducement which have resulted in this Agreement are:

(a) The Village in 2021 established the Kedzie Gateway Tax Increment Redevelopment Project Area (referred to as the “Kedzie Gateway TIF” or “TIRPA”) to encourage commercial development.

(b) Developer and Village have entered into a Purchase and Sale Agreement, incorporated herein and attached as Exhibit A, for the purchase of a 7.09-acre village-owned parcel in the Kedzie Gateway TIF (the “Property”), described in the Purchase Agreement.

(c) Once Cook County certifies the 2023 Equalized Assessed Valuation for the Property, the Village intends to remove the Property from the Kedzie Gateway TIF and include it in a new TIF.

(d) The Village has approved subdividing the Property into 4 lots (each a “Lot”). Any references to the “Property” shall mean the Property prior to and after being subdivided.

(e) Developer has proposed renovating the existing building for commercial tenants and constructing buildings for two fast food establishments on the Property, (“the Project”).

(f) Bana will be the Developer for Lot 1 and DP Homewood will be the Developer for Lots 2 and 3.

(g) Lot 4 contains a municipal pump station and will continue to be owned by the Village.

(h) Developer has requested assistance from the Village to acquire, renovate, and redevelop the Property.

(i) Developer represents and warrants that the Project requires economic assistance from the Village and that the Project as contemplated would not be economically viable without this assistance.

(j) The Project will enhance the Village’s economic viability by returning the Property to the tax rolls, creating employment opportunities, and adding retail and service options for local residents and patrons.

(k) For the purposes of this Agreement the development of each Lot shall be considered a separate Project, and the terms of this Agreement shall apply to each Lot and each Project on a lot by lot basis.

## **2. Village Authority.**

The Project is within an area designated by the Village as a Tax Incremental Redevelopment Project Area as authorized by Section 11-74.4-1 *et seq.* of the Illinois Municipal Code. (65 ILCS 5/11-74.4-1 *et seq.*) (the “TIF Act”) Section 11-74.4-4 authorizes municipalities to contract with private agencies or persons to carry out a Redevelopment Plan.

## **3. Term of the Agreement.**

The term of this Agreement shall commence on the day succeeding the date of execution first written above. Except for those portions of this Agreement that expressly survive the Agreement term, this Agreement shall expire at 11:59 p.m. on December 31, 2044, except that if the Village receives TIRPA funds from Cook County in 2045 from 2044 tax receipts, the Village will make one final additional payment to the Developer from those proceeds, provided the full incentive amount has not already been paid as provided in this Agreement.

#### **4. Conditions Precedent to the Village's Undertakings.**

The Village's obligation to reimburse the Developer for Redevelopment Project Costs as defined in the TIF Act are subject to the Developer satisfying these conditions:

(a) Developer shall have substantially completed the requirements of the Purchase and Sale Agreement for the timely acquisition, development and occupancy of the Property. It is understood that approvals from the Village Director of Public Works and any other necessary agency, board or commission of the Village as required in this agreement or the Purchase Agreement shall be given in their sole capacity as agents of a municipal corporation with discretion to approve all plans for development within the Village, and the Village shall not be deemed to have caused a default or have any liability for its failure to approve the final development plan, stages of development, or Final Completion of the Project.

(b) The Developer agrees to submit requests for building permits within three years after purchasing the Property. Developer shall construct each respective Project within 24 months from the receipt of all necessary permits from the State of Illinois, County of Cook and the Village. Upon mutual agreement by the parties, this time period may be extended. The Village's consent to extend these deadlines upon request shall not be withheld or delayed provided the Developer demonstrates its good faith efforts to complete the Project.

(c) Before acceptance of the Final Completion of the Project by the Village, Developer shall have delivered to the Village an unaudited certified statement of all costs of the Project signed by an officer of the Company, with such other relevant cost certifications relating to the Project as the Village may reasonably request, such as proof of TIF reimbursable expenses. Final Completion means the issuance by the Village of Homewood of a final or conditional occupancy permit for the building and improvements comprising the respective Project in question.

(d) Developer acknowledges that 65 ILCS 5/11-74.4-4 requires the Village to request alternate proposals or bids for the disposition of the Property. Village acknowledges that it has complied with its requirements under 65 ILCS 5/11-74.4-4 and that no alternate bids were received by the Village.

#### **5. Undertakings by the Village.**

The Village agrees as follows:

(a) The Village agrees to sell the Property to the Developer for \$1 as provided in the Purchase and Sale Agreement (Exhibit A).

(b) The Village covenants to support applications by DP Homewood and Bana to Cook County, Illinois, for a "Class 8" designation of the Property. The "Class 8" county program provides for a tax abatement to Developer which reduces the assessment rate for a twelve (12) year period. The applications will be made by Developer, and Village will provide the appropriate municipal resolution requested by Developer for said application. The Village makes no representations as to the merit of said application for a Class 8 designation. The Village and Developer acknowledge that Developer's application for Class 8 designation is an integral part of this Agreement. Based upon current Cook County rules, the Class 8 designation may be renewed for an additional twelve-year period upon expiration of the current designation. The current Village Board urges the board sitting when Developer submits a renewal application to approve renewal of the Class 8 application by Developer provided Developer has met all material obligations of this Agreement. The Village makes no representation of what a future Board will do.

(c) The Village will reimburse Developer for actual development costs for the scope of work performed and which are eligible under State law for reimbursements in the TIRPA as specified in 65 ILCS 5/11-74.4-3(q) and listed in Exhibit B in an amount not to exceed \$8,127,622.00. The payments shall be made annually as follows:

- (i) Within sixty (60) days of the expiration of each calendar year during the term of this Agreement, the Village will reimburse Developer in an amount equal to Seventy-Five Percent (75%) of the Incremental Property Taxes actually paid by Developer in the previous calendar year on the parcel(s) containing the Project.
- (ii) Should the Village receive a final notice that real estate taxes on the Property have been reduced by the Cook County Board of Review, the Illinois Property Tax Appeal Board or the Circuit Court of Cook County, Illinois, the amount of any such final real estate tax reduction may be used by the Village to offset its real estate tax increment payment under this Agreement for that or subsequent calendar years. Should such a real estate tax reduction be approved for Developer at any time in the future for any calendar year for which the Village reimbursed Developer for eligible development costs under TIRPA, then Village shall be entitled to a refund from Developer of 100% of the amount the Village had paid Developer for that calendar year, but not to exceed the amount of the approved tax reduction. This provision shall survive and continue in force beyond the term of this Agreement. Notwithstanding anything contained herein to the contrary, the provisions contained herein shall apply to each of the subdivided lots separately on a lot by lot basis.
- (iii) Payment of said reimbursement from incremental taxes shall be made over the life of the TIRPA including any extension of such term beyond

the initial term of the TIRPA, until full reimbursement of all eligible Project costs has been made, or until the TIRPA expires, whichever first occurs. Should the TIRPA be extended beyond calendar year 2044, Developer shall have the right each year during any such extended calendar period to receive reimbursement from the Village based upon Seventy-Five Percent (75%) of the incremental property taxes actually paid by Developer in the previous calendar year, as reimbursement for Project costs until such costs are paid in full to Developer or until the TIRPA expires, whichever first occurs. Developer understands that Village has no authority to extend the term of the TIRPA without the consent of other taxing bodies. Village has no obligation to request approval of an extension of the TIRPA from any of said taxing bodies.

- (iv) For purposes of this Agreement, Incremental Property Taxes shall be defined as that portion, if any, of the total ad valorem taxes billed to the property that are attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract, or parcel of real property in the redevelopment project area, over and above the initial equalized assessed value of each property existing at the time the new tax increment financing was adopted, minus the total current homestead exemptions pertaining to each piece of property provided by Article 15 of the Property Tax Code in the redevelopment project area.

(d) Payments by Village to Developer shall be subject to the following conditions:

- (i) For actual and eligible development costs, Developer shall provide certified copies of all construction contracts, pay estimates, lien waivers pertaining to completion of the work for which payment is being requested, copies of canceled checks or other evidence verifying payment, and other documentation reasonably requested by the Village.
- (ii) For real estate taxes, Developer shall submit copies of the original first installment and second installment real estate tax bills with copies of the canceled checks or other evidence of payment and including an affidavit of payment and a request for partial reimbursement in the appropriate amount signed by an officer of Developer. Upon receipt of such proof of payment by Developer, and confirmation by Cook County, Illinois, Village will reimburse Developer for TIF eligible expenses no later than sixty (60) days following the Villages' receipt of the tax funds from Cook County, Illinois.
- (iii) This Agreement does not constitute a general obligation of the Village and Developer acknowledges that Village has no obligation hereunder to make any payments to Developer from Village's General Fund or any

other funds except for the Kedzie Gateway Redevelopment Project Area Special Tax Allocation Fund or the new TIF. If sufficient funds are unavailable in any year to make reimbursement, but become available in any subsequent year, then Village shall make full reimbursement in such subsequent year, without interest.

- (iv) In the event Developer fails to deliver to the Village any of the foregoing certifications or affidavits set forth above, or otherwise violates any material term or provision of this Agreement, then in such event, the Village shall have no obligation to make any payment to Developer until such time as any such failure or violation is corrected to the reasonable satisfaction of the Village, and all rights of Developer to demand any current or future payment from the Village shall be suspended until such failure or violation is so corrected.

## **6. Undertakings on the Part of Developer.**

(a) Developer shall obtain Final Completion of the Project within 24 months, subject to any mutually agreed upon extensions, following the receipt of all necessary permits from the State of Illinois, County of Cook and the Village in substantial accordance with the Cost Estimates, plans and specifications approved by the Village, and all ordinances, rules and regulations of the Village and of other regulatory agencies from which approval must be obtained.

(b) Promptly upon completing the Project, DP Homewood or Bana, as the case may be, shall request a certificate from the Village certifying that Developer or DP Homewood or Bana, as the case may be, has completed their respective portion of the Project in conformance with the Cost Estimates (the "Certificate of Completion"), and the Village shall not unreasonably withhold or delay issuance of such Certificate of Completion. Denial of such Certificate of Completion by the Village shall be made within sixty (60) days from receipt of Developer's or DP Homewood or Bana, as the case may be, request for certification, and it shall include the specific elements of completion required for such certificate to be issued. DP Homewood or Bana, as the case may be, shall have sixty (60) days or such reasonable time to comply with the terms of the denial and to issue a new request for certification. With the request for a Certificate of Completion, DP Homewood or Bana, as the case may be, shall provide an affidavit that their respective portion of the Project has been completed free from any mechanics liens, and shall, at the Village's request, provide final lien waivers for all the work. Should the Developer contest and not settle any mechanics liens on the Property at the time of the request for a Certificate of Completion, Developer may deposit with its title insurance company such amount of money required by the title company to provide a title indemnity policy insuring against the collection of such liens and/or encumbrances, or it may provide to the title company a third party bond insuring the

title company against collection of such liens and/or encumbrances. A copy of such title insurance policy in the full amount of the contract work shall be evidence of the insurance over such liens and/or encumbrances, and such liens shall not preclude the issuance of the Certificate of Completion. In addition to, but not in lieu of the foregoing, Developer acknowledges that it must comply with Village codes and ordinances regarding issuing building and occupancy permits. Notwithstanding anything contained herein to the contrary, the provisions contained herein shall apply to each of the subdivided lots separately on a lot by lot basis.

(c) Developer recognizes and agrees that the Village has sole (but not arbitrary) discretion regarding all Village approvals and permits relating to the Project, and reasonable failure by the Village to grant any required approval or issue any required permit shall not be deemed a default by the Village under this Agreement or cause any claim against or liability to the Village under this Agreement. The Village shall endeavor to review and cause its consultants to review all permit requests within 15 days, provided the submissions and requests are substantially complete.

(d) Developer covenants and agrees to make all of its records relevant to the Village's determination of Project construction costs available to the Village for inspection and copying during regular business hours. The Village will attempt to maintain the confidentiality of any information identified by Developer as proprietary, privileged, or confidential, provided Developer certifies that disclosure of the commercial or financial information would cause competitive harm to the Developer. If the Village receives a request for disclosure of such information under the Illinois Freedom of Information Act, the Village shall notify Developer by providing a copy of the request to Developer, and Developer shall have five (5) business days to notify the Village in writing that it consents or refuses to consent to release of the information. If Developer refuses or fails to consent to disclosing such proprietary information within five (5) business days, the Village may refuse to disclose the information requested, and if because of such refusal, litigation is filed against the Village under the Illinois Freedom of Information Act or similar statute relating to the Village's failure to disclose such information, Developer shall indemnify and hold the Village harmless regarding any attorney's fees or costs or judgments imposed on or incurred by the Village in connection with such action. Developer acknowledges that the Village must comply with any court order requiring the release of any confidential or proprietary information and that the Village has no obligation to appeal such court order.

(e) During construction of the Project, Developer shall maintain or cause to be maintained worker's compensation insurance and liability insurance in amounts and with companies licensed or authorized to do business in Illinois and shall cause the Village, its elected public officials, officers, agents and employees to be named as additional insureds on such liability policy or policies for any claims made against the Village because of this Agreement for personal injury, wrongful death, or property

damage. A certificate of insurance verifying such coverage shall be furnished to the Village before the issuance of any construction permit. Developer shall indemnify, save, and hold harmless the Village, its elected officials, agents, and employees from and against any damage, liability, loss or deficiency (including, without limitation, reasonable attorney's fees and other costs) incident to any suit, demand, claim or liability regarding the Village's participation in this Agreement.

(f) At or before execution of this Agreement, Developer shall furnish proof of financing in the form of a letter of commitment acceptable to Village from a financial institution along with evidence of the equity required for the necessary funding to complete the Project. Alternatively, the Developer shall have the option to pay cash for the development of the Project. In this instance, the Developer represents to the Village that it has sufficient funds available to satisfy the terms of this Agreement. The Developer agrees to verify the above representation upon the reasonable request of the Village and to authorize the disclosure of such financial information to the Village that may be reasonably necessary to prove the availability of sufficient funds to complete construction of the Project.

(g) At closing on the Purchase and Sale Agreement, the Developer shall execute a Reverter Deed substantially similar to Exhibit C reconveying Lot 1 to the Village if the Developer is in default under this Agreement and fails to cure the default within the cure period provided in this Agreement. However, the Village's right to repurchase Lot 1 shall terminate when a minimum of 55,000 square feet is occupied and open for business by any lawful retailer that collects Illinois Retailers Occupation Tax. Upon written request the Village will acknowledge in writing that its right of repurchase has been extinguished. Provided, however, that said written acknowledgement shall not be required for the right of repurchase to be extinguished. The reverter deed shall be held by a mutually agreeable escrowee.

## **7. Representations and Warranties of Developer.**

(a) Developer represents and warrants that the Project requires economic assistance from the Village to complete the development of the Project substantially in accordance with the Cost Estimates, and, but for the economic assistance to be given by the Village, as heretofore stated, the Project as contemplated would not be economically viable.

(b) Developer represents and warrants that the Project shall be constructed and completed at a cost no less than the Cost Estimates, subject to Developer's right to obtain cost savings during construction, and Developer shall make no reduction therein without the reasonable approval of the Village.

(c) Developer represents and warrants that it shall comply with all laws, rules and regulations of the Village of Homewood, State of Illinois, County of Cook and the United States and all agencies thereof applicable to the Project.



(d) Developer represents and warrants that it shall pay all taxes, assessments, water charges, sewer charges and the like on the Project when the same are due and before any penalty attaches and shall provide the Village, or any agency designated by the Village, with paid receipts or other acceptable evidence of payment thereof. Notwithstanding the foregoing, the Developer may, except as otherwise provided in this Agreement, in good faith and with reasonable diligence, contest the validity or amount of any such taxes, assessments or charges, provided that, during any such contest, the enforcement of the lien of such taxes, assessments or charges is stayed.

## **8. Defaults.**

The occurrence of any of the following shall constitute a default under this Agreement:

(a) A default of any material term, condition or provision, contained in any agreement or document relating to the Project (other than this Agreement), and failing to cure such default within the time and manner as provided in any such agreement or document, provided such default has a material impact on the Project.

(b) Failure to comply with any material term, provision or condition within the times herein specified, provided however, that such time limit may be extended by either Party if the defaulting Party is diligently attempting to comply.

(c) If a representation or warranty of Developer contained herein is not true and correct for ninety (90) days after written notice to Developer by the Village.

(d) Developer shall: (i) become insolvent; and (ii) be unable, or admits in writing its inability to pay, its debts as they mature; or (iii) make a general assignment for the benefit of creditors or to an agent authorized to liquidate any substantial amount of its or their property; or (iv) be adjudicated a bankrupt; or (v) file a petition in bankruptcy or to effect a plan or other arrangement with creditors; or (vi) file an answer to a creditor's petition admitting the material allegations thereof for an adjudication of bankruptcy or to effect a plan or other arrangement with creditors; or (vii) apply to a court to appoint a receiver for the Property; or (viii) have a receiver or similar official appointed for any of its assets, or, if such receiver or similar official is appointed without the consent of Developer and such appointment shall not be discharged within sixty (60) days after his appointment or Developer has not bonded against such receivership or appointment; or (ix) a petition described in (v) is filed against Developer and remains undismissed for sixty (60) consecutive days, unless the same has been bonded.

Upon an occurrence of a default by either Party under this Agreement or the Purchase Agreement, the non-defaulting Party shall be relieved of any of its obligations arising under this Agreement and such obligations shall be immediately canceled and with no force or effect. After an uncured default, the non-defaulting Party may exercise

remedies available to it under the terms of this Agreement. The remedies shall include, but are not limited to, revoking the site plan and building permits, exercising such rights and remedies set forth herein, or taking whatever action at law or in equity as may appear necessary or desirable to enforce performance of this Agreement. Provided, however, the Village shall be required to perform its obligations under paragraph 5 if Developer has substantially performed its obligations. Notwithstanding anything contained herein to the contrary, in no event shall Developer or the Village be liable for consequential or indirect damages. Notwithstanding anything contained herein to the contrary, the provisions contained herein shall apply to each of the subdivided lots separately on a lot by lot basis.

**9. Notices.**

All notices and requests required under this Agreement shall be sent by personal delivery or Certified Mail as follows:

**To the Village:**

Village Manager  
Village of Homewood  
2020 Chestnut Road  
Homewood, Illinois 60430

**To the Developer:**

David Bossy  
DP Homewood, LLC  
2803 Butterfield Rd, Suite 300  
Oak Brook, IL 60523

Silken Patel  
Bana Three Corp  
8655 Glenberry Ln  
Tinley Park, IL 60487

**With Copy to:**

Christopher J. Cummings  
Christopher J. Cummings, P.C.  
2024 Hickory Road, Suite 205  
Homewood, Illinois 60430

**With Copy to:**

George J. Arnold  
Sosin, Arnold & Schoenbeck, Ltd.  
9501 W. 144<sup>th</sup> Place, Suite 205  
Orland Park, IL 60462

and

Alan D. Pearlman  
Law Offices of Alan D. Pearlman, LLC  
2803 Butterfield Road, Suite 300  
Oak Brook, Illinois 60523

or at such other addresses as the parties may indicate in writing to the other either by personal delivery or by Certified Mail, return receipt requested, with proof of delivery.

## **10. Law Governing.**

This Agreement shall be construed and enforced under the laws of the State of Illinois.

## **11. Assignment or Transfer of Property.**

(a) Before Final Completion of a Project, Developer may not transfer or assign its interest in the Property to another entity without the Village's consent, which shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, the Village shall not be obligated to consent to any transfer to any owner or user that would be exempt from payment of taxes under the Illinois Property Tax Code. (35 ILCS 200/1-1 *et seq.*) Any such transferee shall be bound by the terms of this Agreement.

(b) Upon execution of this Agreement, the parties shall also execute a Memorandum of Agreement in the form attached as Exhibit D to this Agreement. Village shall record that Memorandum of Agreement upon transfer of title to Developer or Developer's nominee under the Purchase Agreement between Village and Developer. Upon Developer's compliance with its transfer obligations under this Agreement, Village shall release the Memorandum of Agreement.

## **12. Continuity of Obligations.**

(a) Developer acknowledges that the Village has entered into this Agreement in reliance on the Developer's representation that Developer will construct the Project and pay real estate taxes on the Subject Property for the term of this Agreement. Developer restates that representation. Developer's obligations under this Agreement shall constitute covenants running with the land. This covenant shall be released upon the termination of this Agreement or upon agreement of the parties.

(b) After Final Completion of the Project, Developer may transfer or assign its interest in the Property to another entity without the Village's consent. Notwithstanding the foregoing, the Village shall not be obligated to make payments under paragraph 5(d)(iii) above, including payment for previously unreimbursed Redevelopment Project Costs, if the subsequent owner or user is exempt from payment of taxes under the Illinois Property Tax Code. (35 ILCS 200/1-1 *et seq.*)

## **13. Time.**

Time is of the essence under this Agreement. All time limits set forth are mandatory and cannot be waived except by a lawfully authorized and executed written waiver by the party excusing such timely performance; provided, if the time for giving of any notice or the performance of any obligation or cure shall expire on a Saturday, Sunday or legal holiday, such time shall be extended to the end of the next regular business day.

**14. Binding Effect.**

This Agreement shall inure to the benefit of and shall be binding upon the Village and Developer and their respective successors and assigns.

**15. Limitation of Liability and Indemnification.**

(a) No recourse under or upon any obligation, covenant or provision of this Agreement or for any claim based thereon or otherwise in respect thereof shall be had against the Village, its officers, agents and employees, in any amount in excess of the obligations of the Village under this Agreement, or in excess of any specific sum agreed by the Village to be paid to Developer, subject to the terms herein, and no liability, right or claim at law or in equity shall attach to or shall be incurred by the Village, its officers, agents and employees in excess of such amounts and all and any such rights or claims of Developer against the Village, its officers, agents and employees for amounts in excess of such Village obligations are expressly waived and released as a condition of and as consideration for the execution of this Agreement by the Village.

(b) Developer agrees to indemnify, defend and hold the Village harmless from and against any losses, costs, damages reasonable, liabilities, claims, suits, actions, causes of action and expenses (including reasonable attorneys' fees and court costs) suffered or incurred by the Village arising from or in connection with (i) the failure of Developer to perform its obligations under this Agreement, or (ii) material misrepresentations or omissions in this Agreement, the Project development plan or any financing documents related thereto which result from information supplied or omitted by the Developer or by agents, employees, contractors, or persons acting under the control or at the request of the Developer, or (iii) the failure of Developer to cure any misrepresentations or omissions in this Agreement or any other agreement relating hereto, or (iv) any claim or cause of action for injury or damage to persons or property brought by third parties arising out of the construction or operation of the Project by Developer. Notwithstanding anything contained herein to the contrary, in no event shall Developer or the Village be liable for consequential or indirect damages.

**16. Reimbursement for Legal Fees and Expenses.**

In the event either Party institutes legal proceedings against the other Party relating to a default under this Agreement and secures a judgment in its favor, the court having jurisdiction thereof shall determine and include in its judgment all expenses of such legal proceedings incurred by the prevailing party, including court costs, reasonable attorneys' fees, and witness fees in connection therewith.

**17. Force Majeure.**

In case by reason of "Force Majeure" either party is unable wholly or in part to carry out its obligation under this Agreement, then if such party gives written notice, including the full particulars of such "Force Majeure" to the other party within a reasonable time after occurrence of the cause relied on, the obligation of the party giving such notice, so far as it is affected by such "Force Majeure" shall be suspended during the continuance of the inability, but for no longer period, and such party shall endeavor to remove such inability with all reasonable dispatch. The term "Force Majeure" as used herein means but shall not be limited to: Acts of God, strikes, lockouts, or other industrial disturbances, acts of public enemy, orders of any kind of the Government of the United States, or the State of Illinois or any civil or military authority, insurrections, riots, epidemics, pandemics, landslides, lightning, earthquake, fire, hurricanes, tornadoes, storms, floods, washouts, droughts, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals and frozen ground or other winter weather which prevents the excavation and completion of footings and foundation. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty but that the above requirement that any "Force Majeure" shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable to it in the judgment of the party having the difficulty.

**18. No Waiver or Relinquishment of Right to Enforce Agreement.**

Failure of any 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 any other party imposed, shall not constitute or be construed as a waiver or relinquishment of any party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force.

**19. Village Approval or Direction.**

Where Village approval or direction is required by this Agreement, such approval or direction means the approval or direction of the Corporate Authorities of the Village unless otherwise expressly provided or required by law, and any such approval may be required to be given only after and if all requirements for granting such approval have been met unless such requirements are inconsistent with this Agreement.

**20. Section Headings and Subheadings.**

All section headings or other headings in this Agreement are for general aid of the reader and shall not limit the plain meaning or application of the provisions thereunder whether covered or relevant to such heading or not.

**21. Authorization to Execute.**

The officers of Developer who have executed this Agreement warrant they respectively have been lawfully authorized by the Developer to execute this Agreement on behalf of Developer. The President and Clerk of the Village warrant that the Village Board of the Village have lawfully authorized them to execute this Agreement. Developer and Village shall deliver, upon request to each other, copies of all articles of incorporation, bylaws, minutes and other evidence of the authority to so execute this Agreement on behalf of the respective parties.

**22. Amendment.**

This Agreement sets forth all the promises, inducements, agreements, conditions and understandings between Developer and the Village relative to the subject matter thereof, and there are no promises, agreements, conditions or understandings, either oral or written, express or implied, between them, other than are herein set forth. No subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the parties unless authorized under law and reduced to writing and signed by them.

**23. Curing Default.**

In the event of any default under or violation of this Agreement, the party not in default or violation shall serve written notice upon the party or parties in default or violation, which notice shall be in writing and shall specify the particular violation or default. The parties shall use their commercially reasonable efforts to cure any violation of this Agreement or default by any of them within ninety (90) days from written notice of such default. Should the default continue throughout the ninety (90) day cure period, and the defaulting party has provided no evidence of a good faith effort to correct such default, then the Agreement shall be terminated, and the non-defaulting Party shall have such rights and remedies set forth herein, including but not limited to any right to repurchase Lot 1 as set forth in Section 6(g) above or take action at law or equity to enforce performance of the Agreement.. Should the defaulting party provide sufficient evidence of a good faith effort to correct the default within the initial ninety (90) day cure period, then the cure period shall be extended for a period not to exceed ninety (90) days or such reasonable time to cure said default, whichever is greater. If such default is so cured to the reasonable satisfaction of the parties within the cure period not

exceeding ninety (90) days, all the terms of this Agreement shall remain in full force. Any obligation of the Village to make payments during any default period shall be stayed. Any period of default shall not extend the time limits set forth for payments.

**24. Conflict Between the Text and Exhibits.**

If a conflict in the provisions of the text of this Agreement and the exhibits attached hereto, the text of the Agreement shall control.

**25. Severability.**

If any provision of this Agreement is held invalid by a court of competent jurisdiction or in the event such a court shall determine that the Village does not have the power to perform any such provision, such provision shall be deemed excised here from and the invalidity thereof shall affect none of the other provisions contained herein, and such judgment or decree shall relieve Village from performance under such invalid provision of this Agreement; provided, however, if the judgment or decree relieves the Village of its obligations under paragraph 5, then Developer will be relieved of its obligations.

**26. Expiration and Termination.**

The Agreement shall terminate upon its expiration or upon a default not otherwise cured.

**27. Recording of Agreement.**

This Agreement may be recorded with the Cook County Clerk-Recording Division, at the Developer's expense.

**28. Execution of Agreement and Counterparts.**

This Agreement shall be signed last by the Village and the President of the Village shall affix the date on which he signs this Agreement on page 1 which date shall be the effective date of this Agreement. This Agreement may be executed in two or more counterparts, each of which taken together, shall constitute the same instrument.

IN WITNESS WHEREOF, this Agreement is entered into as of the date and year first above written.

**Village of Homewood  
an Illinois municipal corporation**

**DP Homewood, LLC , an Illinois limited  
liability company**

By: \_\_\_\_\_  
Village President

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Attest:  
  
\_\_\_\_\_  
Village Clerk

**Bana Three Corp., an Illinois  
corporation**  
  
By: \_\_\_\_\_  
Its: \_\_\_\_\_



## Exhibit A - Purchase and Sale Agreement

### REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT (“Agreement”) is made on \_\_\_\_\_, 2024, between DP Homewood, LLC, an Illinois limited liability company, or its assignee (“Purchaser”), and the Village of Homewood (“Seller”). The date that the last party signs the Agreement and delivers a copy to the other party shall be the date filled in above and shall be referred to herein as the “Effective Date.”

#### WITNESSETH:

THAT FOR and in consideration of the mutual covenants, agreements and undertakings herein set forth, and other valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Seller agrees to sell and convey to Purchaser and Purchaser agrees to purchase from Seller the real property described in Paragraph 1 below on the following terms:

#### Agreement of Purchase and Sale.

Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller:

- 1.1. The real property legally described in Exhibit A attached, consisting of 7.09 acres of land (collectively the “Land”) at 3043-3055 183<sup>rd</sup> Street, Homewood, Illinois, 60430.
- 1.2 All improvements on the Land, including without limitation the single story building, landscaping, parking lot, and other improvements (collectively called the “Improvements”).
- 1.3 All mineral, water, irrigation and other property rights of Seller, if any, running with or otherwise pertaining to such Land.
- 1.4 All of Seller’s right, title and interest in any easements, covenants, declarations, reciprocal easement agreements, tenements, hereditaments, gaps, gores and appurtenances to the Land.

The property interests described in Sections 1.1 through 1.4 hereof are hereinafter referred to as the “Property.”

#### Purchase Price.

- 2.1 The Purchase Price for the Property (the “Purchase Price”) shall be One Dollar (\$1.00).

2.2 The Purchase Price shall be payable by delivery by Purchaser to Seller at Closing of good federal funds by check or wire transfer in an amount equal to the Purchase Price, subject to adjustment as provided herein and as set forth in the settlement statement.

#### Seller's Deliveries.

On or before the Effective Date, Seller shall have delivered to Purchaser copies of all the items on Exhibit B attached (the "Due Diligence Materials") to the extent in Seller's possession. If Seller obtains new or updated information or documentation regarding the Property before Closing, Seller shall immediately notify Purchaser of such fact and will promptly deliver all such supplemental information and documentation to Purchaser. Seller is not aware of any inaccuracies or incomplete documents in the Due Diligence Materials and Seller warrants that the copies delivered are true, correct and complete copies of the documents.

#### Contingency for Inspection, Approvals and Third-Party End Users.

##### 4.1. Inspection Period.

(a) During the period commencing on the Effective Date and ending at 6:00 p.m. (CST) on the day which is thirty (30) days thereafter (the "Inspection Period"), Purchaser shall have the right, at Purchaser's sole cost and expense, to: (i) review the Due Diligence Materials, (ii) inspect and test the Property, including, but not limited to, for engineering, environmental, zoning, appraisals, to obtain a new survey or update an existing survey, to perform marketing and cost studies and for any other purposes related to Purchaser's determination of the feasibility of the Property

(b) During the period commencing on the Effective Date and ending at 6:00 p.m. (CST) on the day which is one hundred eighty (180) days thereafter (the "Governmental Approval Period"), Purchaser shall have the right, at Purchaser's sole cost and expense, to: obtain any necessary zoning approvals, special use permits, conditional use approvals, variances, administrative approvals, subdivisions, consolidations, annexation agreements, parking agreements, easements, vacations, permits, plat of subdivisions, and similar approvals or documents with the municipality, county, any other governmental authority or any entity or agency, Seller shall cooperate with Purchaser's efforts to obtain any approvals and shall diligently sign any zoning applications, permit applications, ownership authorization and provide any documentation or information required by the applicable governmental authority or agency as part of Purchaser's process to obtain its approvals. The Governmental Approval Period may be extended upon written agreement by Purchaser and Seller.

(c) Purchaser shall give Seller reasonable advance notice of the dates and times of its inspections of the Property. Seller or its representative and Purchaser, its representatives, agents, and independent contractors shall have the right to be present at any such inspections. If Purchaser is satisfied or not satisfied with the Property, including, but not limited to, its review and inspections, in Purchaser's sole and absolute discretion, Purchaser shall provide written notice to Seller that it is or not proceeding with the Agreement before the expiration of the Inspection Period.

(d) Purchaser and Seller acknowledge that the inspections, investigations, survey and environmental inspections made by Purchaser and Purchaser's agents before Closing are for the benefit and at the instance of Purchaser. Purchaser expressly acknowledges that nothing in this Agreement authorizes Purchaser, or any person dealing with, through or under Purchaser to subject Seller's interest in the Property to mechanic's or materialmen's liens before Closing. Purchaser shall indemnify, hold harmless and defend Seller from any claim, liability, loss, damage, cost or expense (including reasonable attorney's fees, but expressly excluding any punitive, speculative or consequential damages) which Seller incurs solely due to the entry on the Property by Purchaser, its employees, agents or independent contractors before Closing, or damage to or liens placed on the Property caused by Purchaser, its agents, employees, or independent contractors for any such entry. Purchaser's indemnification obligations shall not extend or apply to and Purchaser shall not be liable to Seller for: (i) any release of pre-existing hazardous substances arising from the conduct of any investigation or testing of the Property or for any diminution in the market value of the Property resulting from the information disclosed by any such investigation or tests, (ii) for any negligence or misconduct of Seller or any agent, contractor, or employee of Seller, or (iii) any pre-existing conditions on or about the Property. Purchaser's obligations shall survive any termination of this Agreement. Before Purchaser or its agents or contractors entering the Property, Purchaser shall obtain or cause its vendors to obtain commercial general liability insurance in the amount of not less than \$1,000,000.00 naming the Village of Homewood as an additional insured on an ISO CG 20 10 form endorsement from an Illinois licensed insurance company. Purchaser shall maintain this coverage from the Effective Date through the Closing Date.

(e) Notwithstanding the expiration of the Inspection Period, Purchaser shall have access to the Property through the Closing Date for inspections, obtaining any reports, surveys, appraisals, and engineering and environmental tests and reports.

#### 4.2. Redevelopment Agreement.

This contract is contingent upon the Village of Homewood (Seller), and DP Homewood, LLC, or its assignee ("Purchaser"), entering into a redevelopment agreement for the property within ninety (90) days of the contract date. If a redevelopment agreement is not approved by all parties within ninety (90) days, Purchaser or Seller may terminate this contract with no further obligation.

#### Commitment for Title Insurance/Title and Survey Matters.

5.1 Within ten (10) days after the Effective Date, Purchaser, at Seller's sole cost and expense, shall cause Chicago Title Insurance Company ("Title Company" and "Escrow Agent") to deliver to Purchaser a commitment for an ALTA owner's policy of title insurance (the "Commitment"), showing Seller as fee title owner, naming Purchaser as the insured in the amount of the Purchase Price (or minimum amount required), issued by the Title Company, insuring the Property, together with legible copies of all recorded title documents referred to in the Commitment ("Title Documents"). The Commitment shall be subject to only the: (i) "Permitted Exceptions" (defined in Section 5.2 below), (ii) any mortgages and similar liens of a definite or ascertainable amount which must be paid by Seller out of the closing proceeds ("Monetary Encumbrances") and (iii) any matters not objected to by Purchaser.

5.2 The term "Permitted Exceptions" shall mean: (i) all non-delinquent taxes and assessments not yet due at the time of Closing, and (ii) any other title matters not objected to, waived or deemed waived by Purchaser.

5.3 If Purchaser objects to the Commitment and/or any survey, Purchaser shall give written notice to Seller before the expiration of the Inspection Period, specifying Purchaser's objections to such title exceptions and/or survey matters (the "Unpermitted Exceptions"). Seller shall at its option have five (5) days from receiving such notice to notify Purchaser in writing of any Unpermitted Exceptions that Seller shall cure, insure over or have removed from the Commitment before Closing. If Seller notifies Purchaser within such five (5) day period, or fails to notify Purchaser, that it is unable or unwilling to have the Unpermitted Exceptions removed before Closing, Purchaser shall, as Purchaser's sole remedy, have the option either to (i) terminate this Agreement, whereupon neither party shall have any further liability or obligation to the other, except as expressly provided herein; or (ii) proceed with the Closing and accept title to the Property as reflected in the Commitment and survey, whereupon such exceptions shall be deemed Permitted Exceptions, other than Monetary Encumbrances which shall be paid by Seller out of Closing proceeds. Purchaser shall exercise such option by delivery of written notice of such exercise to Seller

within five (5) days after the earlier of: (a) the expiration of Seller's notice period for responding to Purchaser's title and survey objections, or (b) the date Seller gives Purchaser notice of its unwillingness or inability to remove any the Unpermitted Exceptions. If any title exceptions or survey matters are disclosed or modified by updates of the Commitment and/or the survey or other title "date-downs" that affect the marketability or insurability of the title to the Property or that adversely affect the use of the Property for its intended purposes or are objectionable to Purchaser, then Purchaser may after the discovery thereof notify Seller in writing, in which event Seller shall promptly employ its good faith best efforts to procure a cure for same, as required above, and upon the failure of Seller to effectuate a cure or Seller's failure to respond to Purchaser in writing, then Purchaser may elect any of the options set forth in subclauses (i) and (ii) above. If Purchaser fails to notify Seller of Purchaser's election within the five-day period required for Purchaser's notification of its election, then Purchaser shall be deemed to have elected option (ii).

#### Closing, Possession and Conditions Precedent to Closing.

6.1 Closing. The closing (the "Closing") of the transaction contemplated shall take place on or before \_\_\_\_\_, 2024. The date upon which the Closing actually occurs shall be referred to herein as the "Closing Date." Seller shall give sole and exclusive possession of the Property to Purchaser at Closing, subject only to the Permitted Exceptions. The Closing shall take place at the Chicago office of the Title Company (which shall allow delivery of documents into escrow) by means of a "New York Style Closing" with the parties delivering their closing documents, the Title Company's concurrently delivering the closing documents, committing to delivery of the Title Policy described in Section 6.4(b) below to Purchaser, and the concurrent payment of the Purchase Price, all with no parties required to be present.

6.2 At Closing, Seller shall deliver to the Escrow Agent, with copies to Purchaser:

(a) A duly executed and acknowledged Special Warranty Deed (the "Deed") conveying to Purchaser the fee simple interest in the Property, subject only to the Permitted Exceptions.

(b) A duly executed affidavit of Seller, stating Seller's United States taxpayer identification number and that Seller is not a foreign person as defined in Internal Revenue Code § 1445.

(c) A MyDec transfer tax declaration in form customary for the State, County City of the Property ("Transfer Tax Declaration") and any municipal transfer tax declarations.

(d) A resolution from Seller approving and authorizing it to sell the Property and granting authority to a specific person to bind the Seller.

(e) A settlement statement agreed to between Seller and Purchaser ("Settlement Statement"), signed by Seller, setting forth the Purchase Price, credits, prorations, and disbursements under this Agreement.

(f) An owner's affidavit.

(g) Documents requested by the title company for obligations required of Seller under this Agreement or to provide extended coverage, including, without limitation, Owner's Affidavit, Survey Affidavit of no change, if required by the Title Company to provide extended coverage, Gap Indemnity, and any other reasonable documentation.

6.3 At Closing, Purchaser shall deliver to the Escrow Agent:

(a) The balance of the Purchase Price, subject to adjustment on the Settlement Statement, by wire transfer of federal funds.

(b) The Settlement Statement signed by Purchaser, setting forth the Purchase Price, credits, prorations, and disbursements under this Agreement.

(c) Any other document requested by the Title Company to close the transaction.

6.4 Conditions to Obligations to Close. The obligations of Purchaser to consummate the transactions contemplated shall be subject to fulfilling these conditions ("Purchaser's Conditions"), any of which may be waived in writing by Purchaser in its sole and absolute discretion:

(a) At Closing, Seller will cause the Title Company to issue (or commit irrevocably and unconditionally to issue) to Purchaser an owner's policy of title insurance in accordance with the requirements of the Commitment with an extended coverage endorsement, subject only to the Permitted Exceptions (the "Title Policy").

(b) The representations and warranties of Seller in this Agreement shall be true and correct on and as of the Closing Date with the same force and effect as though such representations and warranties had been made on and as of the Closing Date, and Seller will so certify.

(c) Seller shall have performed the agreements, covenants and obligations made and contained in this Agreement to be performed or complied with by Seller on or before the Closing Date.

(d) Delivery of sole and exclusive possession of the Property to Purchaser subject only to the Permitted Exceptions.

(e) The Redevelopment Agreement between Purchaser and Seller is in full force and effect.

#### Prorations; Closing Adjustments.

7.1 All real estate taxes and assessments, due and owing or delinquent before Closing, whether or not they have become liens, shall be the responsibility of Seller and paid by Seller before the due date and at or before Closing. This obligation shall survive Closing.

7.2 In the event any special assessments, water or sewer assessment, code violations, fines or other assessments have been levied against the Property for any period on or before the Closing Date, Seller shall pay the same at or before Closing. These obligations shall survive Closing. All water, sewer, and other utility charges currently due shall be adjusted as of the Closing Date. Any of these payments due and owing as of the Closing Date shall be credited to Purchaser from Seller at Closing and any prepaid amounts shall be credited to Seller from Purchaser.

7.3 Seller shall pay: (i) the cost of the Title Commitment; (ii) the costs for the standard coverage portion of the Purchaser's owner's Title Policy premium plus extended coverage; (iii) all State, County and municipal transfer taxes; (iv) half of all escrow and closing costs, and (v) all costs for any endorsements to cure, remove or insure over any title exceptions agreed to be cured by Seller. Purchaser shall pay: (i) the cost of all endorsements to the Title Policy requested by Purchaser; (ii) half of all escrow costs, and (iii) the cost to record the deed. The parties shall pay their respective attorney's fees. Any other costs and charges in connection with the Closing shall be paid by Seller or Purchaser, respectively, as is customary in the area in which the Property is located.

#### Representations, Warranties, Covenants and Agreements of Seller and Purchaser.

8.1 Seller represents, covenants and warrants to Purchaser and agrees, as of the date of this Agreement and, without further writing as of the Closing Date, as follows:

(a) Seller holds fee title to the Property subject only to those rights-of-way, easements, conditions, covenants and restrictions of record. There are no persons in possession or occupancy of the Property or any part thereof, nor are there any persons who have possessory rights regarding the Property or any part thereof through written agreement, orally or by operation of law.

(b) All required payments of Seller have been made and there is no default by Seller, nor has Seller received any written notice of default from any property owner, tenant or other party under any reciprocal easement agreements or declarations or similar documents, nor are there any facts known to the Seller that would constitute a default by Seller or, to Seller's knowledge, by any property owner or tenant under any reciprocal easement agreements or declarations or similar documents.

(c) There is no lawsuit or similar proceeding filed, or to the best of Seller's knowledge, threatened to be filed, against Seller regarding the Property before any court, tribunal, mediator, arbitrator, governmental or administrative agency. Seller has received no notices and is not aware of any pending or threatened: (a) condemnation, eminent domain or similar proceeding against the Property, (b) special assessments against the Property, or any real estate tax protest, or similar proceeding; or (c) any public plans or proposals for changes in road grade, access or other municipal improvements or for any adjacent developments that may affect the Property. There is no bankruptcy, assignment for the benefit of creditor or insolvency proceedings filed against or by Seller wherein Seller is identified as the debtor.

(d) Seller has taken all required measures to approve the sale and has all requisite power and authority to enter into and perform Seller's obligations under this Agreement and to sell the Property. The execution of this Agreement has been duly authorized by all requisite actions and this Agreement is enforceable against Seller under its terms.

(e) To the best of the Seller's knowledge, the Property has utilities necessary for the operation of the Property and no fact or condition exists that would cause the termination of access to and from the Property or the cessation of utilities for the operation of the Property.

(f) Seller shall not, without the prior written consent of Purchaser, enter into, amend, extend or grant any concessions regarding any lease, reciprocal easement agreement, declaration or any other documents affecting the property, or accept any prepayment of rent for more than one month in advance. Seller shall promptly deliver to Purchaser a copy of any notice (including without limitation, a notice of default) received from any property owners under any easement agreements, declarations or from any governmental authority or from any tenant or adjacent property owners. Seller shall not intentionally do anything, or permit anything to be done, that would impair or modify the status of title as shown on the Commitment or the survey. Seller shall not, without prior written consent of Purchaser, petition or apply for any map amendments or take any action which will change the permitted use of the Property



(g) Seller is not a foreign person or entity under the Foreign Investment and Real Estate Property Tax Act or the Tax Reform Act of 1984.

(h) As of the Closing Date, the Property will be clear of any encumbrances or liens of an ascertainable amount which can be removed by the payment of a liquidated amount of money, except for the Permitted Exceptions, and such encumbrances and liens as paid by Seller at Closing.

(i) From the Effective Date until Closing, Seller shall continue to manage and operate the Property in a reasonable manner consistent with other similar commercial properties in Homewood, Illinois, including, but not limited to, performing all maintenance and snow removal, paying all operating expenses, real estate taxes, insurance and utilities before their due date, keeping the Property free of liens and code violations, and maintaining property and liability insurance in commercially reasonable amounts.

(j) Except as set forth in the Due Diligence Materials, to the best of Seller's knowledge, the Property complies with all environmental laws relating to "hazardous materials or toxic materials or substances" (as those terms are defined under all applicable environmental laws, rules, regulations and ordinances in Illinois, , the United States, and by the United States Environmental Protection Agency (hereinafter referred to as "Environmental Laws")) and Seller has received no notice from any person, property owner, or governmental agency that the Property is in violation or may violate any Environmental Laws or of any release or suspected release of hazardous materials on the Property or adjacent properties. There are no underground storage tanks at the Property. The Property is not being used, and to the best of Seller's knowledge, has never been used, for the storage or disposal of any hazardous materials or toxic waste or as a dump site, the Property is not currently subject to any grading, slope or drainage restrictions which would obligate or require any owner of the Property to accept, supply, deliver or collect drainage water, surface water or irrigation water to or from any real property within the reasonable vicinity of the Property and there are no unrecorded share expense agreements, repayment agreements, reimbursement agreements, tax increment financing or development agreements that affect all or any portion of the Property and that could require Purchaser to pay any money in full or partial satisfaction of any such agreements.

(k) Seller owns no personal property located on the Property or to the extent it does will remove it by Closing.

(l) Seller is not a party to any management, service or other contracts or agreements that will be binding on Purchaser or the Property after Closing.

(m) Seller will (1) continue to operate the Property as heretofore operated; (2) maintain the Property in its current condition and perform routine and required maintenance and replacements; (3) pay before Closing all sums due for work, materials or services furnished or otherwise incurred in the ownership, use or operation of the Property; (4) comply with all governmental requirements applicable to the Property; (5) not place or permit to be placed on any portion of the Property any new improvements of any kind or remove or permit any improvements to be removed from the Property; and (6) not cause or create any easements, encumbrances, or liens to arise or to be imposed upon the Property or to allow any amendment or modification to any existing easements or encumbrances.

(n) To Seller's knowledge, the Due Diligence Materials are true, correct and complete in all material respects. Seller has delivered to Purchaser all Due Diligence Materials its possession or control.

(o) There are no rights of first refusal or options to purchase the Property (or any part thereof) contained in any agreement affecting the Property (or any part thereof).

8.2 Seller shall indemnify and hold Purchaser harmless from and against any costs, fees, charges, penalties or liabilities of any kind resulting from any "bulk sales" taxes, fees or charges assessed by any applicable governmental authority or agency related solely to the period of Seller's ownership of the Property. This indemnification shall survive the Closing.

8.3 Purchaser represents and warrants to Seller, as of the date of this Agreement and without further writing as of the Closing that Purchaser is authorized and permitted to enter into this Agreement, to execute any documentation required, and to perform this Agreement, none of which conflicts with any provision of any law, rule or regulation applicable to Purchaser. This Agreement is a valid and binding obligation of Purchaser under its terms.

8.4 All representations and warranties of Seller or Purchaser in this Agreement shall survive the Closing.

#### Damage or Condemnation.

9.1 In the event of any eminent domain or condemnation action before or on the Closing Date Seller shall immediately notify Purchaser and Purchaser may elect, in its sole discretion, to (a) terminate this Agreement, in which event neither party shall have any further liability under this Agreement except for those obligations which expressly survive the termination of this Agreement, or (b) proceed to Closing, whereupon at Closing Seller shall transfer the Property

less any portion of the Property taken by eminent domain or condemnation or conveyed in lieu of condemnation. If Purchaser elects to close on the Closing Date, Seller shall assign to Purchaser, all of Seller's interest in any proceeds or awards that may thereafter be made for any taking or condemnation. The Purchase Price shall be reduced by any such proceeds or awards collected and retained by Seller before the Closing Date, provided, however, Seller shall not negotiate and agree to any settlement or payment without Purchaser's prior written approval, which shall not be unreasonably withheld or delayed.

9.2 If the Property suffers any damage or destruction before Closing, Purchaser may elect, at Purchaser's sole option, to: (a) proceed to Closing and take the Property subject to such damage or destruction and Seller shall assign any insurance proceeds to Purchaser (but only to the extent of Seller's rights in same) and Purchaser shall receive a credit at Closing in the amount of any deductible being carried under such insurance policy, or (b) terminate this Agreement in which event neither party shall have any further liability under this Agreement except for those obligations which expressly survive the termination of this Agreement.

#### Brokerage.

Each party represents and warrants to the other, as of the date of this Agreement and without further writing as of the Closing, there are no real estate agents or brokers involved that are owed a commission or finder's fee in connection with this transaction. Each party agrees to indemnify, defend, and hold harmless the other party regarding any claim made for any commission or finder's fee arising out of the warranting party's conduct. This Section 10 shall survive the Closing.

#### Default.

11.1 If this transaction does not close due to Purchaser's default or Purchaser is otherwise in default of its obligations under this Agreement, then Seller shall have the right, as its sole and exclusive remedy, to terminate this Agreement by written notice to Purchaser and upon such termination this Agreement shall be of no further force and effect and neither party shall have any further rights, duties, or obligations except regarding the provisions hereof which expressly survive the termination of this Agreement. Purchaser shall not be liable to Seller for any punitive, speculative, incidental, consequential or damages for loss of opportunity or lost profit if Purchaser's default occurs.

11.2 If this transaction is not closed due to a default of Seller or Seller is otherwise in default of its obligations under this Agreement, then Purchaser shall have the option of (i) terminating this Agreement by written notice to Seller, and neither party shall have any further liability under this Agreement, except for

those obligations which expressly survive the termination of this Agreement, or (ii) enforcing this Agreement by specific performance, or (iii) Purchaser shall have all rights and remedies at law and in equity if any intentional default by Seller occurs that renders specific performance unavailable.

11.3 Before exercising any remedy under this Agreement, the non-defaulting party shall provide notice to the defaulting party and the defaulting party shall have three (3) days to cure such default.

Notices.

All notices permitted or required under this Agreement may be made by a party or the party' attorney to the other party or the other party's attorney and shall be in writing and shall be served by one of these methods: (a) hand delivery, or (b) deposit thereof with Federal Express or other nationally recognized overnight delivery service for next day delivery, or (c) by facsimile transmission, or (d) by email transmission. All notices shall be addressed to the parties to whom such notices are intended as set forth below:

If to Seller:  
Village of Homewood  
2020 Chestnut Road  
Homewood, IL 60430  
Attention: Village Manager  
Email: nhaney@homewoodil.gov

with a copy to:  
Christopher J. Cummings  
Village Attorney  
2024 Hickory Road, #205  
Homewood, IL 60430  
Email: chris@cjcummingslaw.com

If to Purchaser:  
David Bossy  
DP Homewood, LLC  
2803 Butterfield Rd, Suite 300  
Oak Brook, IL 60523

With a copy to:  
George J. Arnold  
Sosin, Arnold & Schoenbeck, Ltd.  
9501 W. 144th Place, Suite 205  
Orland Park, IL 60462

and

Alan D. Pearlman  
Law Offices of Alan D. Pearlman, LLC  
  
2803 Butterfield Road, Suite 300  
Oak Brook, Illinois 60523

Either party may change its address by giving notice to the other under this Section. Notice sent by an attorney on behalf of their client shall be deemed proper

notice from the party. Notice personally delivered shall be effective on the date of delivery. Notices sent by a nationally recognized overnight courier shall be effective on the date of delivery as indicated by the carrier's on-line record. Notice sent by facsimile shall be effective on the date of delivery during the hours of 8a.m. to 6p.m. CST, Monday through Friday, with proof of successful transmission which shall be retained by the sender. Notice sent by email shall be effective on the date of delivery during the hours of 8a.m. to 6p.m. CST, Monday through Friday.

#### Miscellaneous.

13.1 Section Headings. The Section headings of this Agreement are for convenience only and in no way limit or enlarge the scope or meaning of the language thereof.

13.2 Entire Agreement. All previous negotiations and agreements between the parties, regarding the transaction set forth herein, are merged in this instrument which alone fully and completely expresses the parties' rights and obligations. This Agreement is the entire agreement between the parties regarding the Property and supersedes any other prior agreements and understandings, whether written or oral, formal or informal.

13.3 Governing Law. This Agreement shall be governed by the internal laws of the State of Illinois without reference to its conflict of law provisions.

13.4 Invalidity of Terms. If any term or provision of this Agreement is held illegal, invalid or unenforceable as a matter of law, the remaining terms and provisions of this Agreement shall not be affected, but each such term and provision shall be valid and shall remain in full force.

13.5 Time/Dates. Time is of the essence of this Agreement. If any date in this Agreement for the delivery of any document or the happening of any event should, under the terms hereof, fall on a weekend or holiday, then such date shall be automatically extended to the next succeeding weekday that is not a holiday.

13.6 Dispute/Attorney's Fees. If a dispute arises between the parties regarding the enforcement of either party's obligations contained herein, the prevailing party shall be entitled to reimbursement of its reasonable attorney's fees, court costs, and expenses incurred in connection therewith. This Section 13.6 shall survive the early termination or closing of this transaction.

13.7 Amendment. This Agreement may be amended, modified or terminated only by a written instrument executed by Seller and Purchaser.

13.8 Termination at Closing. Except as expressly provided for herein, the provisions of this Agreement shall terminate with the Closing and shall be of no further force or effect.

13.9 Waiver of Rights. No right under this Agreement may be waived, except by written instrument executed by the party waiving such right. No waiver of any breach of any provision in this Agreement shall be deemed a waiver of any preceding or succeeding breach of that provision or of any other provision in this Agreement. No extension of time for performance of any obligations or acts shall be deemed an extension of the time for performance of any other obligations or acts.

13.10 Assignment. Purchaser may assign this Agreement to any assignee or single purpose entity; provided that: (i) such assignee shall expressly assume all of Purchaser's obligations; and (ii) Purchaser shall provide Seller with written notice of such assignment.

13.11 1031 Exchange. At either party's option and at no loss, cost, liability, or expense to the other party, both parties agree to cooperate with one another in closing this transaction as a like-kind exchange under Section 1031 of the Internal Revenue Code, provided that (a) no party making such accommodation shall be required to acquire any substitute property, (b) such exchange shall not affect the representations, warranties, liabilities and obligations of the parties to each other under this Agreement, (c) no party making such accommodation shall incur any additional cost, expense or liability in connection with such exchange (other than expenses of reviewing and executing documents required in connection with such exchange), and (d) no dates in this Agreement will be extended as a result thereof. Each party's right, title and interest under this Agreement, but not its obligations, shall be assignable to a "Qualified Intermediary" of its choice. For purposes of this Agreement, the term "Qualified Intermediary" shall have the same meaning as that found in Section 1.103(k)-(g)(4)(iii), Income Tax Regulations.

13.12 Binding Agreement. Purchaser and Seller acknowledge and agree that they intend this Agreement to be a binding and enforceable agreement, subject to the terms set forth herein, and each party waives any right to hereafter challenge the enforceability of this Agreement because the inspection and due diligence contingencies in this Agreement are not sufficient consideration to make this Agreement a valid contract. Purchaser agrees to use its good faith efforts to perform its due diligence activities regarding the Property. Seller agrees that Purchaser's due diligence efforts will require Purchaser to expend significant time and money, and that the expenditure of such time and money by Purchaser constitutes sufficient consideration to Seller for Seller granting Purchaser the

time set forth in this Agreement to investigate and resolve all of its contingencies and agreeing to be bound by this Agreement.

13.13. Counterpart Signatures. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all such counterparts shall together constitute the same Agreement. Any counterparts of this Agreement and any subsequent amendments may be executed and delivered by any party by email transmission in portable document format "(PDF)" and any document so executed and delivered shall be considered an original for all purposes

#### Confidentiality.

14.1 Either party (the "Providing Party") may provide the other party (the "Receiving Party") with confidential or proprietary information, including intended future use site plans and identification of proposed future users, whether disclosed orally, in writing or upon inspection of documents or other tangible property (such information, together with any documents or records prepared by the Providing Party or Receiving Party or any of its affiliates, which contain or otherwise reflect or are generated from such information, the "Confidential Information"). The term "Confidential Information" shall not include information that (i) is or becomes generally available to the public other than because of a disclosure by the Receiving Party; (ii) is specifically permitted in writing by the Providing Party, before any disclosure by the Receiving Party, to be so disclosed; or (iii) is disclosed in compliance with the requirements of any law, subpoena or administrative, regulatory or judicial process (provided that, to the extent reasonably feasible under the circumstances, prior written notice of such disclosure is furnished to the other party Providing Party to afford the Providing Party an opportunity to seek a protective order).

14.2 The Receiving Party's review and inspection of the Confidential Information shall be undertaken solely to evaluate the transaction contemplated herein. The Receiving Party shall use the Confidential Information solely for such purpose. Except as specifically provided, the Receiving Party shall not disclose, and shall use reasonable efforts to prevent any other person or entity from disclosing, any Confidential Information to any other party without the Providing Party's prior written consent; provided, however, that the Receiving Party may share Confidential Information with its advisors, consultants, attorneys, investors, accountants and lenders in connection with evaluating and financing the transaction contemplated.

14.3 If the Closing does not occur, the Receiving Party shall promptly deliver to the Providing Party or destroy all documents furnished by the Providing Party constituting Confidential Information.

14.4 Notwithstanding the foregoing, the parties acknowledge that Seller is a public body subject to the Illinois Freedom of Information Act (FOIA). If the Seller receives a FOIA request, Seller shall have the sole authority to determine what records concerning this transaction, if any, are responsive to the FOIA request and shall be tendered to the requestor. If Purchaser provides Seller with information, documents, or data it believes to be proprietary, privileged, or confidential as defined by Section 7, paragraph (1)(g) of the FOIA (5 ILCS 140/7(1)(g)), it shall identify them as such when tendered to the Seller.

Exclusivity.

Seller acknowledges that Purchaser will expend substantial time, effort and resources to consummate the transaction contemplated by this Agreement. In consideration of such effort, unless this Agreement is terminated, during the period from the Effective Date until the Closing Date (the "Exclusivity Period"), Seller shall not (and shall cause its affiliated and associated entities, and its and its affiliated and associated companies' principals, officers, directors, managers, members, employees, agents, brokers and representatives and any other person acting for it or them, not to) enter into any agreement or discussion with any other party regarding, or solicit or entertain proposals for or about the sale or lease of any part of the Property or any other transactions or negotiations that would prohibit or adversely affect the sale of the Property to Purchaser or any other aspect of the transaction contemplated.

(Signatures on next page)



IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the date of mutual execution and delivery.

**Purchaser**

**DP Homewood, LLC , an Illinois limited liability company**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

**Seller**

Village of Homewood

By: \_\_\_\_\_

Richard A. Hofeld  
Village President

Date: \_\_\_\_\_

EXHIBIT A to Purchase & Sale Agreement

Legal Description of Property

Lots 1, 2, and 3 in Upham Subdivision Plat 2, being a resubdivision of Lot 1 of Upham Subdivision, in part of the Northwest Quarter of the Northwest Quarter of Section 1, Township 35 North, Range 13 East of the Third Principal Meridian in Cook County, Illinois

Property Index Number:

31-01-100-012-0000 (includes this and other property)

Common address: 3043-3055 183<sup>rd</sup> Street, Homewood, Illinois 60430

## EXHIBIT B to Purchase & Sale Agreement

### Due Diligence Materials

1. A copy of any leases for the Property and all schedules, exhibits, riders, amendments, guaranties and memorandums of lease related thereto.
2. A copy of all vendor, property management and third-party agreements or contracts for the Property, including any maintenance agreements.
3. A copy of any and all environmental reports from Seller or its predecessor, in Seller's possession, including, but not limited to, any existing phase I environmental site assessments reports, Phase II reports, asbestos reports, asbestos correspondence, and any other environmental reports, and correspondence with any governmental agencies relating to the Property.
4. Copies of any surveys of the Property.
5. Copies of any soils reports or geotechnical reports, and engineering studies, if any.
6. Copy of Seller's owner's title policy and any current title commitments for the Property and all recorded title documents referenced therein.
7. Copies of any plats or proposed plats related to the subdivision or consolidation of the Property and surrounding parcels.
8. Copies of the current real estate tax bills for the Property.
9. Copies of any declarations, reciprocal easement agreements, development agreements, easement agreements, use restrictions, deed restrictions, rights of first refusal, property owner's association documents, property owner's rules and regulations, bylaws and articles of organization.

**Exhibit B - TIF Reimbursable Costs**

Lot 1 - Rehab of existing building at 3043-3055 183<sup>rd</sup> Street

TO COME

**3055 183rd Street, Homewood - Redevelopment  
STARBUCK'S LOT #2 (.72 Acres)**

**Total Projected  
Cost:**

<b>Type of Expenditure</b>	<b><u>Description</u></b>	<b><u>COST</u></b>
<b>Land Acquisition Cost</b>	Land Purchase	<b>\$425,000</b>
<b>Hard Building Costs</b>		
<b>On-Site Improvements</b>	underground detention and engineering and sitework	<b>\$400,000</b>
<b>Soft Costs</b>		
	Legal and Accounting	\$30,000
	Interest for the Loan (30% of interest costs)	\$100,000
	Insurance - Construction Liability Insurance - Builders Risk	\$15,000
	Civil Engineering-	<u>\$65,000</u>
	<b>Total Soft Costs</b>	<b>\$210,000</b>
<b>TOTAL OUTOT COSTS</b>		<b>\$1,035,000</b>

**3055 183rd Street, Homewood - Redevelopment  
OUTLOT #3 (.925 Acres)**

**Total Projected  
Cost:**

<b>Type of Expenditure</b>	<b><u>Description</u></b>	<b><u>COST</u></b>
<b>Land Acquisition Cost</b>	Land Purchase	<b>\$400,000</b>
<b>Hard Building Costs</b>		
<b>On-Site Improvements</b>	underground detention and engineering and sitework	<b>\$400,000</b>
<b>Soft Costs</b>		
	Legal and Accounting	\$30,000
	Interest for the Loan (30% of interest costs)	\$75,000
	Insurance -	\$15,000
	Civil Engineering-	<u>\$50,000</u>
	<b>Total Soft Costs</b>	<b>\$170,000</b>
<b>TOTAL OUTOT COSTS</b>		<b>\$970,000</b>



**Exhibit C - Reverter Deed**

**REVERTER**

**QUITCLAIM DEED**

**The Grantor, DP Homewood, LLC, an Illinois limited liability company, for and in consideration of Ten and no/100 DOLLARS, and other good and valuable considerations in hand paid, and under authority given by its board of directors, CONVEYS and QUITCLAIMS to the Village of Homewood, a municipal corporation, Homewood, Cook County, Illinois, all interest in the following real estate in Cook County, Illinois:**

**Lot 1 in Upham Subdivision Plat 2, being a resubdivision of Lot 1 of Upham Subdivision, in part of the Northwest Quarter of the Northwest Quarter of Section 1, Township 35 North, Range 13 East of the Third Principal Meridian in Cook County, Illinois**

**Address of Real Estate: 3043-3055 183<sup>rd</sup> Street, Homewood, Illinois 60430**

**PIN: 31-01-100-012-0000 (includes this and other property)**

**Subject to:**

**General taxes not yet due.**

**Building and zoning laws and ordinances.**

**Other covenants, conditions and restrictions of record, which do not affect merchantability of title, or permitted uses under existing building codes and zoning laws and ordinances.**

**Public and utility easements, roads, highways and roadway easements, if any, provided said easements, roads, highways, and roadway easements are shown on the survey of the Property.**





act, and as their free and voluntary act, and the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

Given under my hand and seal, on \_\_\_\_\_, 20\_\_.

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NOTARY PUBLIC

This instrument was prepared by: Christopher J. Cummings, Village Attorney,  
Village of Homewood, 2024 Hickory Rd., Suite 205, Homewood IL 60430.

Mail Recorded Deed to:

Send subsequent tax bills to:

## Exhibit D - Memorandum of Agreement

### MEMORANDUM OF AGREEMENT

On April 30, 2024, the VILLAGE OF HOMEWOOD, Cook County, Illinois (“Village”), DP Homewood, LLC , an Illinois limited liability company (“DP Homewood”) and Bana Three Corporation, an Illinois corporation , (the collectively referred to as the “Developer”), entered into a Redevelopment Agreement covering the following property:

Lots 1, 2, and 3 in Upham Subdivision Plat 2, being a resubdivision of Lot 1 of Upham Subdivision, in part of the Northwest Quarter of the Northwest Quarter of Section 1, Township 35 North, Range 13 East of the Third Principal Meridian in Cook County, Illinois

Address of Real Estate: 3043-3055 183<sup>rd</sup> Street, Homewood, Illinois 60430

PIN: 31-01-100-012-0000 (includes this and other property)

The Redevelopment Agreement provided for transfer of the said property from Village to DP Homewood, LLC, construction of improvements by Developer on the property, and reimbursement of TIF eligible expenses to the Developer by the Village. See the Agreement for specific details.

IN WITNESS WHEREOF, this Agreement is entered into as of the date and year first above written.

**Village of Homewood  
an Illinois municipal corporation**

**DP Homewood, LLC , an Illinois limited  
liability company**

By: \_\_\_\_\_  
Village President

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Attest:  
  
\_\_\_\_\_  
Village Clerk

**Bana Three Corp., an Illinois  
corporation**  
  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

This document prepared by and return to: Christopher J. Cummings,  
Christopher J. Cummings, P.C., 2024 Hickory Rd., Suite 205, Homewood IL 60430.