

**ECONOMIC INCENTIVE AGREEMENT BETWEEN THE  
VILLAGE OF HOMEWOOD, FORD OF HOMEWOOD, INC.  
AND FORD OF HOMEWOOD PROPERTIES, LLC**

This Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2022, between the VILLAGE OF HOMEWOOD, Cook County, Illinois, an Illinois municipal corporation (the "Village"), and Ford of Homewood, Inc., an Illinois corporation, and Ford of Homewood Properties, LLC, an Illinois limited liability company (referred to jointly as "Developer").

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:

Under the Tax Increment Allocation Redevelopment Act of the State of Illinois, 65 ILCS 5/11-74.1-1 *et seq.*, (the "TIF Act"), the President and Board of Trustees of the Village (the "Corporate Authorities") are empowered to undertake the development or redevelopment of a designated area within the municipal boundaries of the Village where conditions constitute a "conservation area" as defined in Section 11-74.4-3(a) of the TIF Act.

In early 2021 the Developer began discussions with the Village about acquiring the former Van Drunen Ford dealership at 3233 183<sup>rd</sup> Street in Homewood (the "Project") and exploring financial incentives that could make the acquisition viable. In June 2021, the Developer acquired the dealership and the real estate where the dealership is located. The acquisition cost of the real estate was \$1.8 million, as evidenced by the tax stamps affixed to the deed and issued by the State of Illinois at \$1.00 per \$1,000 of the purchase price.

As a result of its discussions with the Developer, the Village approved an inducement resolution on July 13, 2021 stating the Village's intention to reimburse the Developer for TIF eligible expenses once the TIF was established.

In accordance with the requirements of the TIF Act, the Corporate Authorities by Ordinance M-2196, passed October 12, 2021, approved a redevelopment plan and project (the "Redevelopment Plan") for the Kedzie Gateway Redevelopment Project Area (the "Redevelopment Project Area"), which sets forth a plan for the development,

redevelopment, and revitalization of the Redevelopment Project Area which included the dealership site.

Under Section 11-74.4-4(b) of the TIF Act, the Village may make and contract with property owners, developers, tenants, overlapping taxing bodies, and others necessary or incidental to the implementation and to further its redevelopment plan and project.

The Developer has announced its intention to continue and expand operations of the dealership, enhancing employment opportunities and stabilizing a significant parcel within the newly established TIF District.

The Developer has represented and warranted that the Project requires economic assistance from the Village and, but for the economic assistance to be given by the Village, the Project as contemplated would not be economically viable.

## **2. Definitions**

As used in this Agreement, these definitions shall control:

“Dealership” shall mean the existing Ford of Homewood site (formerly Van Drunen Ford) at 3233 183<sup>rd</sup> Street, Homewood, Illinois.

“Municipal Sales Tax” and “Municipal Sales Tax Revenue” shall be construed to refer to the distribution to the Village under the Illinois Municipal Retailers’ Occupation Tax Act, Service Occupation Tax Act, Illinois Service Use Tax Act, and Illinois Use Tax Act and revenue derived from such taxes, as those Acts may be amended.

“Base Municipal Sales Tax” shall mean the average annual municipal sales tax revenue generated by Van Drunen Ford for the (3) years before Developer’s acquisition of the property. The Base Municipal Sales Tax is \$149,192.00.

## **3. Findings by the Village**

The Village makes these findings:

- (a) The project is expected to retain job opportunities within Homewood;
- (b) The project will further development of adjacent areas;
- (c) Without this agreement, the project would not be possible;
- (d) The project will strengthen Homewood’s commercial sector;
- (e) The project will enhance Homewood’s tax base; and

(f) This agreement is made in the best interest of the Village.

#### **4. Undertakings by the Village**

The Village agrees to reimburse the Developer up to One Million Dollars (\$1,000,000.00) as provided based upon the incremental increase in municipal sales tax revenue generated by the dealership after its acquisition by the Developer. This commitment does not constitute a general obligation of the Village, but only an obligation to reimburse Developer from sales taxes generated by the Project.

Municipal sales tax incentive payments to the Developer shall be calculated for each 12-month period according to the formula in Exhibit A attached to this agreement. Should sales taxes during any twelve (12) month period not exceed the Municipal Sale Tax Base, no payment shall be due to Developer for that twelve-month period. Payments by the Village under this agreement shall be made annually, by April 30 of each year, with the first payment due on April 30, 2023.

Source of payments. The Village shall provide for the sales tax incentive payments required under this Agreement by including in its annual budget ordinance the estimated amount of sales tax payment for the fiscal year in which such payment may be due to Developer.

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

(a) The Developer shall operate the Dealership at its current location.

(b) The obligation to provide sales tax information to the Village is Developer's responsibility. During the term of this Agreement, Developer shall cause them to be provided to the Village with certified copies of all sales tax returns (Illinois Department of Revenue Forms ST-1 and/or ST-2).

(c) Developer covenants and agrees to make all of its books and records relevant to the Village's determination of sales tax revenues available to the Village in the office where Developer customarily maintains such records for inspection and copying during regular business hours, so long as the Village is obligated to make payments. The Village shall maintain the confidentiality of any proprietary information received by it under this subparagraph (c) as provided by law, provided, however, the Village may disclose such proprietary information to those Village employees and elected officials with a need to know.

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

(a) Developer represents and warrants that the Project requires economic assistance to make the dealership economically viable, and, but for the economic assistance as heretofore stated, the Project dealership would not be economically viable.

(b) Developer represents and warrants 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.

(c) Developer represents and warrants it shall pay all taxes, assessments, water charges, sewer charges on the Subject Property when the same are due and before any penalty attaches and shall upon request by the Village, provide the Village, or any agency designated by the Village, with paid receipts or other acceptable evidence of payment. 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.

(d) Developer shall maintain the Property in accordance with the Village's Life Safety & Property Maintenance Codes.

## **7. Defaults**

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

(a) Violating any term, condition or provision, contained in any agreement or document relating to the Project including this Agreement; or failing to cure such default within the time and manner as provided in any such agreement or document.

(b) Failure to comply with any term, provision or condition of this Agreement within the times herein specified.

(c) If a representation or warranty of Developer contained herein is not true and correct for thirty (30) 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 for the appointment of a receiver for any asset; 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 a period of sixty (60) consecutive days, unless the same has been bonded.

Upon an occurrence of a default by Developer as hereinabove set forth, the Village may abate any of its obligations arising under this Agreement and such obligations by the Village shall be immediately abated until the default is cured, and the Village may take whatever action at law or in equity as may appear necessary or desirable to enforce performance and observance of any obligation, undertaking, covenant or agreement of Developer in this Agreement.

## **8. Notices**

All notices and requests required under this Agreement shall be sent by certified mail as follows:

to Developer: Steve Phillipos  
Ford of Homewood  
3233 183<sup>rd</sup> St.  
Homewood, Illinois 60430

with copies to: Joseph S. Kayne, Esq.  
Hardt, Stern & Kayne, P.C.  
2610 Lake Cook Road, Suite 200  
Riverwoods, Illinois 60015

to the Village: Village Manager  
Village of Homewood  
2020 Chestnut Road  
Homewood, Illinois 60430

with copies to: Christopher J. Cummings  
Village Attorney  
2024 Hickory Road  
Suite 205  
Homewood, Illinois 60430

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

## **9. Force Majeure**

In case by reason of "Force Majeure" either party is unable wholly or in part to carry out its obligations 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 continuation 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: 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, landslides, lighting, earthquake, fire, hurricanes, tornadoes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty and 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. A decision by Developer not to proceed with the Project or to delay the Project for economic reasons or other reasons of a business nature shall not constitute "Force Majeure."

#### **10. Law Governing**

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

#### **11. Assignments**

Developer shall not assign this Agreement to any person or entity without first giving the Village thirty (30) days advance written notice of the assignment. The Village may object to such assignment by giving written notice to Developer within thirty (30) days of receiving written notification of the proposed assignment. The Village shall not object where (i) a proposed assignee or transferee of Developer shall operate a similar Project that generates retail sales in an amount similar to Developer's Project (evidence of such sales to be based upon comparable retail information provided by the transferee or assignee and accepted by the Village) it is replacing and (ii) such transferee or assignee shall have expressly assumed the obligations of Developer. If Developer in the course of bankruptcy proceedings, desires or is required by a court of competent jurisdiction to relinquish its rights to operate the Project to be located on the Subject Property, and such court of competent jurisdiction approves a third party entity which is not a Related Party (as hereinafter defined) to undertake and operate the Project, the Village shall have the right, but not the obligation, to terminate this Agreement or to consent to the assignment of this Agreement to such third party entity. Developer shall have the right, upon notification to the Village but without the requirement of obtaining Village approval under this Agreement, to execute, assign and transfer any commercially reasonable collateral, assignments and/or mortgages of Developers rights

and/or sales and leasebacks. In addition, Developer shall have the right, upon notification to the Village and without its consent to assign, this Agreement to any of the following (a "Related Party"): (i) any partnership, whether limited or otherwise, provided that Developer is a general partner and is the controlling entity under the partnership agreement and maintains ownership interest of over fifty percent (50%) of the partnership; (ii) a joint venture in which Developer maintains sole and exclusive control and preserves an ownership interest of over fifty percent (50%); (iii) a corporation in which the officers of the corporation are officers of Developer and Developer maintains control and ownership of over fifty percent (50%) of the outstanding voting shares of the corporation; (iv) a limited liability company in which Developer maintains an ownership interest of over fifty percent (50%); or (v) any other similar entity in which Developer maintains sole and exclusive authority for the management of the business entity and maintain a direct ownership interest of over fifty percent (50%).

## **12. Time**

Time is of the essence under this Agreement and all time limits set forth are mandatory and cannot be waived except by lawfully authorized and executed written wavier by the party excusing such time performance.

## **13. 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.

## **14. Limitation of Liability**

No recourse under or upon any obligation, covenant or agreement of this Agreement or for any claim based thereon or otherwise in respect thereof shall be had against the Village, it officers, agents and employees, in any amount 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 over such amounts and all and any such rights or claims of Developer against the Village, its officers, agents and employees are expressly waived and released as a condition of and as consideration for the execution of this Agreement by the Village.

## **15. 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 and effect.

**16. No Debt of Village**

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 Funds or any other Funds except as provided for herein.

**17. Captions**

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 any of the provisions thereunder whether covered or relevant to such heading or not.

**18. Authorization to Execute**

The officers of Developer who have executed this Agreement warrant they respectively have been lawfully authorized by Developer's Board of Directors to execute this Agreement on behalf of Developer. The President and Clerk of the Village warrant that they have full authority 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.

**19. 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 in writing and signed by them.



**20. Curing Default**

If any default occurs 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 reserve the right to cure any violation or default. The parties reserve the right to cure any violation of this Agreement or default by any of them within thirty (30) days from written notice of such default. If such default is so cured to the reasonable satisfaction of the parties within the thirty (30) day period, all the terms of this Agreement shall remain in full force and effect. Any obligation of the Village to make payments during any default period shall be stayed and, any period of default shall not extend the time limits set forth for payments.

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

In the event of a conflict in the provisions of the text to this Agreement and the Exhibits attached hereto, the text of the Agreement shall control and govern.

**22. 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.

**23. No Third-Party Beneficiaries**

This Agreement is intended only to benefit the parties hereto and not to benefit any third party not a party to this Agreement.

**24. 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 hereof 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 instrument.

**25. Term**

This Agreement shall commence on the date first written above and shall terminate on April 30, 2037, or when the Developer receives reimbursement of One Million Dollars (\$1,000,000.00) pursuant to the terms of this Agreement, whichever occurs first.

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

VILLAGE OF HOMEWOOD  
An Illinois municipal corporation

FORD OF HOMEWOOD, INC.

By: \_\_\_\_\_  
Richard S. Hofeld  
Village President

By: \_\_\_\_\_  
Name:  
Title:

Attest:

FORD OF HOMEWOOD PROPERTIES,  
LLC

\_\_\_\_\_  
Village Clerk

By: \_\_\_\_\_  
Name:  
Title:

STATE OF ILLINOIS        )  
  )  
COUNTY OF \_\_\_\_\_)        ss

I, the undersigned, a Notary Public in and for said County, in the State of Illinois, DO HEREBY CERTIFY that \_\_\_\_\_, personally known to me to be the \_\_\_\_\_ of Ford of Homewood, Inc., and whose name is subscribed to the foregoing instrument, appeared before me this day in person, and signed, sealed and delivered this instrument as their free and voluntary act, for the uses and purposes set forth above.

Given under my hand and seal on \_\_\_\_\_, 2022.

\_\_\_\_\_. Notary Public

STATE OF ILLINOIS        )  
  )  
COUNTY OF \_\_\_\_\_)        ss

I, the undersigned, a Notary Public in and for said County, in the State of \_\_\_\_\_, DO HEREBY CERTIFY that \_\_\_\_\_, personally known to me to be the \_\_\_\_\_ of Ford of Homewood Properties, LLC and whose name is subscribed to the foregoing instrument, appeared before me this day in person, and signed, sealed and delivered this instrument as their free and voluntary act, for the uses and purposes set forth above.

Given under my hand and seal on \_\_\_\_\_, 2022.

\_\_\_\_\_. Notary Public

STATE OF ILLINOIS        )  
                                      )  
COUNTY OF COOK        )        ss

I, the undersigned, a Notary Public in and for said County, in the State of Illinois, DO HEREBY CERTIFY that Richard A. Hofeld and Marilyn A. Thomas, personally known to me to be the Village President and Village Clerk of the Village of Homewood, and whose names are subscribed to the foregoing instrument, appeared before me this day in person, and they signed, sealed and delivered this instrument as their free and voluntary act, for the uses and purposes set forth above.

Given under my hand and seal on \_\_\_\_\_, 2022.

\_\_\_\_\_. Notary Public

## EXHIBIT A - INCENTIVE AGREEMENT CALCULATION FORMULA

Village to receive first \$149,192 of annual municipal sales tax, then split:

<b>Year</b>	<u>Developer Percentage</u>	<u>Village Percentage</u>
1	0.90	0.10
2	0.90	0.10
3	0.80	0.20
4	0.80	0.20
5	0.70	0.30
6	0.70	0.30
7	0.60	0.40
8	0.60	0.40
9	0.50	0.50
10	0.50	0.50
11	0.40	0.60
12	0.40	0.60
13	0.30	0.70
14	0.30	0.70
15	0.20	0.80

Developer's incentive capped at \$1,000,000.