

**PRE-DEVELOPMENT AGREEMENT BY AND BETWEEN  
THE VILLAGE OF ARLINGTON HEIGHTS AND CBFC DEVELOPMENT, LLC**

**THIS PRE-DEVELOPMENT AGREEMENT (“Agreement”)**, is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2022, by and between the **VILLAGE OF ARLINGTON HEIGHTS**, an Illinois municipal corporation (“**Village**”) and **CBFC DEVELOPMENT, LLC**, an Illinois limited liability company (“**CBFC**”).

**IN CONSIDERATION OF**, and in reliance upon, the recitals and the mutual covenants set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Village and CBFC mutually agree as follows:

**SECTION 1. RECITALS.**

**A.** CBFC is the contract purchaser of the real property consisting of approximately 326 acres, bounded generally by Wilke Road to the east, Euclid Avenue to the south, Rohlwing Road and Illinois Route 53 to the west, and Northwest Highway to the north (“**Property**”).

**B.** Between 1927 and 2021, the Property was improved with, and used for, the Arlington International Racecourse, an internationally-renowned horse racing facility.

**C.** CBFC is an affiliate of the Chicago Bears Football Club, Inc., which owns and operates the Chicago Bears professional football team, a charter member of the National Football League (“**NFL**”).

**D.** CBFC is exploring plans for the redevelopment of the Property with a mixed-use transit-oriented development, to be comprised of several buildings, including an enclosed NFL quality football stadium, and other buildings to be used for entertainment and hospitality uses, which may include one or more hotels, other commercial and retail uses, a fitness center, a sportsbook facility, a hall of fame, a performance venue, restaurants, and residences, along with open space, parks, other compatible uses and improvements, and sufficient utilities, and which also will entail the demolition of the existing horse racing facilities and buildings on the Property (collectively, the “**Project**”).

**E.** The Village is a home rule unit of government in accordance with Article VII, Section 6, of the 1970 Illinois Constitution. The Village has the authority, pursuant to the laws of the State of Illinois, to promote the health, safety and welfare of the Village and its inhabitants, to prevent the presence of blight, to encourage private development in order to enhance the local tax base, to promote additional tax revenue realization by the Village, to foster increased economic activity within the Village, to increase employment opportunities within the Village, and to enter into contractual agreements with third parties for the purpose of achieving the aforesaid purposes, and to otherwise further the best interests of the Village.

**F.** The Village desires that the Property be redeveloped comprehensively and cohesively with structures and buildings that will serve as a regional destination that will both generate revenues for the Village and benefit the Village’s current and future residents, while reflecting and continuing the historic importance and renown of the Property during its former use as the Arlington International Racecourse.

**G.** The Village anticipates that the whole Project, if designed, planned, and constructed appropriately, has the potential to generate additional new tax revenue in excess of

any anticipated one-time or ongoing public costs that it may incur in connection with the Project, generating a net fiscal and economic benefit to the community and the region.

**H.** The Project is a complex undertaking that requires partnerships among several stakeholders to establish a master development plan that will be implemented over time. The feasibility and success of these partnerships and the Project are dependent on an agreement that addresses many complex issues, including comprehensive land and utility planning, zoning and land use regulation, infrastructure requirements, and financial feasibility.

**I.** In that spirit, the Village and CBFC have determined that it is in their mutual best interests to cooperate and collaborate on the exploration of the redevelopment of the Property with the Project, and desire to enter into this Agreement to identify the several actions necessary to fully design and plan for, and implement, the Project, all in a manner that protects and enhances the Village and the surrounding community.

## **SECTION 2. STATEMENT OF COOPERATION.**

The Village and CBFC each declare their interest in redeveloping the Property with improvements including a stadium capable of hosting NFL games and other sporting and entertainment events, as part of a mixed-use transit-oriented development for the entire Property, in accordance with the Project and this Agreement. The Village and CBFC each pledge to cooperate in good faith with each other and with all other stakeholders to take all reasonable steps toward the full design and implementation of the Project, as set forth in this Agreement.

## **SECTION 3. PURPOSE AND IMPACT OF AGREEMENT.**

**A. Statement of Purpose.** This Agreement represents a statement of mutual cooperation of the Parties for the development of the Property for the Project. This Agreement sets forth the Parties' mutual understanding, and current plans for the pursuit and completion, of all tasks and actions that will be necessary for the Project to come to fruition. Accordingly, the purpose of this Agreement is to serve as a "roadmap" for the further preparation of plans necessary for the Project and the establishment of all necessary governmental approvals for the Project. The Parties recognize and agree that this Agreement is the first of many agreements and contracts that will be necessary to properly and fully implement the Project.

**B. Failure to Act.** This Agreement is not to be deemed or interpreted as an obligation on either Party to take any actions, or to refrain from any actions, with respect to the Project. Neither Party is or will be under any obligation to act in any way contemplated by, or to exercise any of the rights granted to it in, this Agreement. Further, neither Party will be liable to the other Party for the failure to take any action contemplated by this Agreement.

**C. Termination.** Either Party may terminate this Agreement at any time, for any reason, upon the provision of advance written notice to the other Party.

## **SECTION 4. COMMUNITY BENEFITS AGREEMENT.**

The Parties mutually recognize that, given its size and scope, the Project will both generate many positive impacts for the Village and the surrounding community, and simultaneously present challenges for the Village and the community. The Parties are committed to harnessing the benefits of the Project while also working cooperatively, with each other and with the residents, property owners, and businesses of Arlington Heights and its surrounding

region to mitigate any challenges posed by the Project. To those ends, the Parties agree to cooperate in good faith to identify community needs and issues, to negotiate in good faith the community benefits that address those community needs and issues, and to incorporate those benefits into a future agreement or agreements between the Parties, all to best enhance and protect the Village and its residents while also preserving the viability and success of the Project.

**SECTION 5. CONCEPTUAL SITE PLAN.**

**A. Conceptual Site Plan.** The Parties agree that the conceptual site plan attached to this Agreement as ***Exhibit A (“Conceptual Site Plan”)*** is reflective of shared, broad goals for the development of the Project on the Property.

**B. Study and Refinement.** The Parties acknowledge and agree that the Conceptual Site Plan has not been, and must be, carefully and fully evaluated to ascertain the feasibility and impacts of proposed Project on the Village and surrounding communities, including, without limitation: (1) vehicular and pedestrian traffic impacts, and the feasibility of traffic management in the area of the Property; (2) the economic feasibility of the Project for CBFC; (3) the economic impacts and benefits of the Project to the Village and to other local governments that serve the Village; and (4) other impacts on the community that may be caused by the Project, including environmental, stormwater, and related concerns. The Parties agree to cooperate in good faith to refine and modify the Conceptual Site Plan, as appropriate, to reflect the results of the evaluative studies that the Parties will conduct, and to reflect Village and public input regarding the Conceptual Site Plan specifically, and the Project generally.

**SECTION 6. AMENDMENT OF VILLAGE COMPREHENSIVE PLAN.**

**A. Review and Consideration by Village.** The Village’s existing 2015 Comprehensive Plan contemplates a mixed-use development of the Property, but does not contemplate the development of an NFL stadium specifically or the Project generally. Given the importance of the Property to the Village and the surrounding community, the Village agrees to review and consider the adoption of amendments to its 2015 Comprehensive Plan that will allow the development of the Project in a manner generally consistent with the Conceptual Site Plan (***“Proposed Comprehensive Plan Amendment”***). The Village agrees to consider the Proposed Comprehensive Plan Amendment in a timely manner and in accordance with the procedure required by law. If adopted by the Village, the Proposed Comprehensive Plan Amendment will become part of the Comprehensive Plan, and will serve as an updated roadmap for the development of the Property for the Project.

**B. Content of Proposed Comprehensive Plan Amendment.** The Proposed Comprehensive Plan Amendment must be in a form acceptable to the Village, and must include, without limitation: (1) a preliminary traffic and parking analysis for the Project; (2) a preliminary analysis of the infrastructural requirements of, and needs for, the Project; and (3) a preliminary analysis of the impact on, and need for, Village services in connection with the completed Project. The Village agrees to cooperate in good faith with CBFC with respect to the specific content of the Proposed Comprehensive Plan Amendment.

**SECTION 7. ADOPTION OF VILLAGE ZONING REGULATIONS.**

**A. Review and Consideration by Village.** If and after the Village Board of Trustees adopts the Proposed Comprehensive Plan Amendment, the Village will subsequently review and consider the adoption of text amendments to the Village Zoning Code (***“Zoning Code”***) that will

allow the development of the Project, in a manner generally consistent with the Proposed Comprehensive Plan Amendment (“**Proposed Zoning Code Amendments**”). The Village agrees to consider the Proposed Zoning Code Amendments in a timely manner and in accordance with the procedure required by law.

**B. Content of Proposed Zoning Code Amendments.**

1. The Proposed Zoning Code Amendments must be in a form acceptable to the Village, and must include, without limitation: (1) establishment of a new zoning district appropriate for the development of the Property with the Project; (2) identification of uses that will be allowed on the Property, either as permitted uses or special uses; (3) bulk regulations for development on the Property, including height, setback, floor-area ratio, and density regulations; (4) off-street parking and loading regulations; (5) any additional substantive and procedural requirements for consideration of a Planned Unit Development for the Property, of the type appropriate for a development of the scale of the Project; and (6) special procedures for review and approval of proposed developments on the Property, including appropriate provisions for phased development, and any unique processes that may apply to different areas or components of the development of the Project. The Village agrees to cooperate in good faith with CBFC with respect to the specific content of the Proposed Zoning Code Amendments.

2. The Parties acknowledge that the proposed amendment of the text of the Zoning Code concerning the use of sports wagering facilities on the Property, currently scheduled to be considered by the Village Plan Commission and Village Board of Trustees during the months of September through November 2022, is a separate legislative initiative that is distinct from the Proposed Zoning Code Amendments described in this Section 7. The Parties agree that, if adopted, the sports wagering facility amendment described in this Section 7.B.2 will be incorporated into the Proposed Zoning Code Amendments.

**C. Application Procedure.** The Village and CBFC agree to cooperate in good faith toward identification of specific content of the Proposed Zoning Code Amendments that are mutually satisfactory, and toward an appropriate timeline for formal consideration by the Village of the Proposed Zoning Code Amendments.

**SECTION 8. APPLICATION FOR ZONING APPROVALS.**

The Parties acknowledge and agree that, pursuant to the Village Code and the Zoning Code and applicable law, the Project may not be constructed, and the Property may not be operated or used as contemplated by the Project or this Agreement, except upon approval by the Village of the zoning, land use, and subdivision approvals necessary for the Project, in accordance with the requirements and procedures of the Village Code and the Zoning Code (collectively, the “**Zoning Approvals**”). If and after the Village Board of Trustees adopts the Proposed Zoning Code Amendments, CBFC may file applications with the Village for the Zoning Approvals necessary for the Project. The Zoning Approvals must be: (a) of form and substance contemplated by the Zoning Code, as amended by the Proposed Zoning Code Amendments; (b) generally consistent with the Proposed Comprehensive Plan Amendment, as adopted by the Village; and (c) submitted on forms provided by the Village Department of Planning & Community Development. The Village agrees to consider all applications for Zoning Approvals in a timely manner and in accordance with the procedure required by law.

**SECTION 9. EXPLORATION OF PUBLIC-PRIVATE PARTNERSHIPS.**

**A. Acknowledgments.**

1. The Village acknowledges that CBFC intends to request that the Village enter into a public-private partnership to participate in funding a portion of infrastructure costs and other costs as may be authorized by state law that will be required for the financially feasible completion and operation of the Project. CBFC has expressed, and hereby acknowledges, that it will not seek Village assistance to pay for construction costs of development of an NFL stadium structure on the Property.

2. Consistent with its longstanding practices, the Village is willing to discuss with CBFC the use of Project-generated revenue to support public financing tools and options for the Project only to the extent justified by economic and fiscal analyses conducted by the Village and/or competent consultants regarding the Project. The Village will not use Project-generated revenue to support public financing except upon a determination that: (a) but for the provision and implementation of a public-private partnership, the Project would not be feasible; and (b) the Project will generate a net fiscal benefit, whereby the Project results in an increase in tax revenues for the Village above current levels, even after factoring in new costs incurred from the presence of the Project.

3. CBFC acknowledges and agrees that this Agreement is not to be deemed or interpreted as a promise or obligation in any way for the Village to provide or promote any public financing whatsoever for the Project. CBFC understands that the Village will only consider public financing in accordance with the standards and criteria identified in Section 9.A.2 of this Agreement, and only as part of its overall evaluation of the Project and its potential benefits for the Village and its residents, property owners, and businesses.

**B. Potential Types of Village Participation.** The Parties agree to cooperate in good faith to identify alternative mechanisms and sources of Project-generated revenue to support public financing for new infrastructure improvements and other costs as may be authorized by state law required for the construction and/or the operation of the Project, which may include: tax increment financing; special service areas; special assessments; the creation of a business district and imposition of a business district tax for the Project area; imposition of a parking tax within the Project area; and imposition of other taxes generated by the Project.

**C. Other Funding Sources.** The Village acknowledges that CBFC also intends to request, from other governmental sources, assistance for a portion of infrastructure costs and other costs that will be required for the financially feasible completion and operation of the Project, including, without limitation: implementation of a fair and equitable property tax formula, other development incentives, and/or other county, state, and federal funding. The Village agrees to work in good faith with CBFC to explore options for such assistance from other governmental sources, in a manner that provides net public benefits for, and best serves the interests of, the Village and the surrounding community.

**SECTION 10. COORDINATION WITH PUBLIC AND WITH OTHER STAKEHOLDERS.**

**A. Public and Media Communications.** The Parties agree to: (1) cooperate in good faith to ensure that the general public receives regular and timely information concerning the status of the Project; and (2) coordinate communications with the public and the media concerning the Project.

**B. Public Meetings and Presentations.** The Parties acknowledge that there will be several public presentations and meetings related to the Project, including, without limitation, the hearings required under Illinois law for the review and potential approval of the Proposed Comprehensive Plan Amendments, amendments to the Village’s zoning regulations, and approval of specific zoning relief for the Project. The Parties agree to collaborate to address the concerns and ideas identified by members of the public at these several public presentations and meetings, and, in response and as appropriate and feasible to modify the plans for the Project and the nature and specific content of any amendments or approvals for the Project.

**C. Other Stakeholders.** The Parties agree to cooperate in good faith in communications with, and to address the concerns and ideas of, other units of government and area organizations and entities with an interest in the Project, including, without limitation: the State of Illinois, including the Illinois Department of Transportation and the Illinois Commerce Commission; Metra; the Regional Transportation Authority; the Union Pacific Rail Road; Cook County; the Metropolitan Water Reclamation District; Palatine Community Consolidated School District 15; Township High School District 211; Township High School District 214; Harper College; the Salt Creek Rural Park District; other area municipalities located in the vicinity of the Property; and other economic development and business promotion organizations in the vicinity of the Property.

**SECTION 11. COSTS.**

**A. Ratification of Cost Reimbursement Agreement.** On April 4, 2022, CBFC delivered to the Village the letter attached to this Agreement as *Exhibit B*, by which CBFC agreed to reimburse the Village for certain third-party costs and expenses incurred by the Village in connection with the review and processing by the Village of the plans and applications for the development of the Property (*“Cost Reimbursement Agreement”*). The Parties hereby ratify and re-affirm the Cost Reimbursement Agreement.

**B. Responsibility for Costs.** Except as provided to the contrary in the Cost Reimbursement Agreement, each Party is responsible for bearing its own costs and expenses incurred in connection with the Project.

**SECTION 12. GENERAL PROVISIONS.**

**A. Notices.** All notices required or permitted to be given under this Agreement must be given by the Parties by (i) personal delivery, (ii) deposit in the United States mail, enclosed in a sealed envelope with first class postage thereon, or (iii) deposit with a nationally recognized overnight delivery service, addressed as stated in this Section 12.A. The address of any Party may be changed by written notice to the other Parties. Any mailed notice will be deemed to have been given and received within three days after the same has been mailed and any notice given by overnight courier will be deemed to have been given and received within 24 hours after deposit. Notices and communications to the Parties must be addressed to, and delivered at, the following addresses:

If to Village: Village of Arlington Heights  
 33 S. Arlington Heights Rd.  
 Arlington Heights, IL 60005  
 Attention: Village Manager

With a copy to: Elrod Friedman LLP

325 N. LaSalle St., Ste. 450  
Chicago, IL 60654  
Attention: Hart M. Passman, Village Attorney

If to CBFC: CBFC Development, LLC  
1920 Football Drive  
Lake Forest, Illinois  
Attention: Cliff Stein

With a copy to: DLA Piper LLP (US)  
444 W. Lake St., Ste. 900  
Chicago, IL 60606  
Attention: Paul W. Shadle, Esq.

**B. Relationship of the Parties.** Nothing in, nor done pursuant to, this Agreement will be construed to create the relationship of principal and agent, employer and employee, partners, or joint ventures between the Village and CBFC.

**C. Consents.** Unless otherwise provided in this Agreement, whenever the consent, permission, authorization, approval, acknowledgement, or similar indication of assent of any Party, or of any duly authorized officer, employee, agent, or representative of any Party, is required in this Agreement, the consent, permission, authorization, approval, acknowledgement, or similar indication of assent must be in writing. Neither Party may unreasonably withhold or delay any such consent or assent.

**D. Governing Law.** This Agreement is governed by, construed, and enforced in accordance with the internal laws, but not the conflicts of laws rules, of the State of Illinois. Venue for any action shall be the Circuit Court of Cook County, Illinois.

**E. Severability.** It is hereby expressed to be the intent of the Parties that should any provision, covenant, agreement, or portion of this Agreement or its application to any person or property be held invalid by a court of competent jurisdiction, the remaining provisions of this Agreement and the validity, enforceability, and application to any person or property will not be impaired thereby, but the remaining provisions will be interpreted, applied, and enforced so as to achieve, as near as may be, the purpose and intent of this Agreement to the greatest extent permitted by applicable law; provided, however, that in interpreting the manner in which the Agreement shall be interpreted absent the invalid provision, the Court shall direct a result which will provide equity to all parties and no party shall be required to perform acts for which it would have received full or partial compensation if the compensation in money or in other acts cannot be performed because of the invalidity.

**F. Entire Agreement.** This Agreement constitutes the entire agreement of the Parties relative to the subject matter of this Agreement, expressly superseding all prior agreements and negotiations between and among the Parties, whether written or oral, relating to the subject matter of this Agreement.

**G. Headings.** The headings, titles, and captions in this Agreement have been inserted only for convenience and in no way define, limit, extend, or describe the scope or intent of this Agreement.

**H. Interpretation.** This Agreement will be construed without regard to the identity of the Party who drafted the various provisions of this Agreement. Moreover, each and every provision of this Agreement will be construed as though all parties to this Agreement participated equally in the drafting of this Agreement. As a result of the foregoing, any rule or construction that a document is to be construed against the drafting party is not applicable to this Agreement.

**I. Exhibits.** Exhibits A and B attached to this Agreement are by this reference, incorporated into, and made a part of, this Agreement. In the event of a conflict between the text of this Agreement and an exhibit to this Agreement, the text of this Agreement will control.

**J. Amendments and Modifications.** No amendment or modification to this Agreement will be effective until it is reduced to writing and approved and executed by the Village and CBFC in accordance with all applicable statutory procedures.

**K. Rules of Construction.**

1. Grammatical Usage and Construction. In construing this Agreement, feminine or neuter pronouns are to be substituted for those masculine in form and vice versa, and plural terms are to be substituted for singular and singular for plural, in any place in which the context so requires.

2. Headings. The headings, titles, and captions in this Agreement have been inserted only for convenience and in no way define, limit, extend, or describe the scope or intent of this Agreement.

3. Calendar Days. Unless otherwise provided in this Agreement, any reference in this Agreement to “day” or “days” means calendar days and not business days. If the date for giving of any notice required to be given, or the performance of any obligation, under this Agreement falls on a Saturday, Sunday, or federal holiday, then the notice or obligation may be given or performed on the next business day after that Saturday, Sunday, or federal holiday.

**L. No Third-Party Beneficiaries.** No claim as a third-party beneficiary under this Agreement by any person, firm, or corporation may be made, or be valid, against CBFC or the Village.

**M. Counterparts.** This Agreement may be executed in counterparts, each of which will constitute an original document and together will constitute the same instrument.

[SIGNATURE PAGE FOLLOWS]



**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

ATTEST:

**VILLAGE OF ARLINGTON HEIGHTS**

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

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

Village Clerk

Village President

ATTEST:

**CBFC DEVELOPMENT, LLC**

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

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

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

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