



**NOTICE OF SPECIAL MEETING
OF THE CITY COUNCIL OF THE CITY OF GENEVA**

Visitors are welcome to all City meetings; however, pursuant to Governor Pritzker's Executive Order 2020-43 limiting gatherings of no more than 50 persons (or 50% of room occupancy) and a requirement to wear a face covering in public places, physical attendance at public meetings may be limited or restricted. Meetings will be livestreamed for the public to provide the ability to contemporaneously hear all discussion, testimony and roll call votes of the open meeting in real time. Please visit the City [website](#) for details on how to watch the meeting live.

For more information please see the "Notice Regarding Meeting and Public Comment Rule Modification Due to COVID-19".

NOTICE IS HEREBY GIVEN that the Committee of the Whole of the City of Geneva shall conduct a special meeting on Monday, August 17, 2020 at 7 pm. The special meeting will be held at Geneva City Hall Council Chamber, 109 James Street, Geneva, Illinois.

1. Roll Call
2. New Business/Public Comment
3. Consider Resolution 2020-48 Authorizing Execution of Development Economic Incentive and Reimbursement Agreement Between the City of Geneva and Industry House, L.L.C.
4. Adjournment

Date: August 14, 2020

This notice has been posted at City Hall,
City of Geneva, 22 South First Street,
Geneva, Illinois on August 14, 2020
and has been tendered to members of
the media requesting notices of public meetings.



AGENDA ITEM EXECUTIVE SUMMARY

Agenda Item:	Development Economic Incentive Agreement Industry House LLC, 124 W. State Street		
Presenter & Title:	Cathleen Tymoszenko, Economic Development Director		
Date:	August 14, 2020		
Please Check Appropriate Box:			
<input type="checkbox"/>	Committee of the Whole Meeting	<input checked="" type="checkbox"/>	Special Committee of the Whole Meeting
<input checked="" type="checkbox"/>	City Council Meeting	<input type="checkbox"/>	Special City Council Meeting
<input type="checkbox"/>	Public Hearing	<input type="checkbox"/>	Other -
Associated Strategic Plan Goal/Objective: EV-11			
Estimated Cost: \$N/A	Budgeted?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Other Funding? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If "Other Funding," please explain: Incentive is a rebate of future municipal retail tax paid by business.			
Executive Summary:			
<p>As a non-home rule municipality, Geneva has limited resources and tools to help restaurants and businesses financially generally and specifically to offset impacts caused by the Covid-19. While, Geneva does not have the legal authority to provide sales tax rebates to existing businesses, Kane County received CARES ACT funding and has proposed a grant program for businesses. Despite the limited tools, Geneva has supported businesses in a variety of ways throughout the pandemic as follows:</p> <ul style="list-style-type: none"> • Authorized expanded outdoor seating on public and private property • Waived license renewal fees for the period May 1, 2020 - April 30, 2021 • Suspended utility service disconnections for non-payment • Waived utility late payment charges • Suspended the 5% Municipal Utility Tax for water • Provided accommodations for use of public parking for curbside pick-up • Authorized carry-out, pick-up, and delivery of alcoholic beverages by non-licensees • Waived daily fee parking in the parking deck and downtown commuter parking lots <p>Working to implement economic vitality goals for Geneva is supporting local business. Filling vacancies, securing investment and designing responses to the changing desires of consumers helps local businesses thrive. Geneva has a longstanding commitment to active economic development. Geneva has not been a market spectator hoping for goal realization. Geneva has partnered with investors to approve uniquely structured incentives that have made the City of</p>			

Geneva what it is today including approving property dedications, land swaps, façade loans, sales tax rebates, tax increment financing projects, strategic utility upgrades, special assessments, special service areas, public parking projects, license agreements, code appeals, sharing of hotel motel tax, event grants, no cost city services, utility and fee payment plans, fee waivers and more.

Numerous favorite stores, restaurant, cafes, bakeries, spas, etc. are enjoyed in Geneva today because of active economic development efforts and incentives. Every business at one time was new and created new competition. Geneva market facts show that food revenues and new restaurants grow in tandem, second concept are desirable and pursued, new competition does not reduce sales for existing businesses and a strong demand for improved restaurant space exists.

Approval of the proposed incentive for Industry House, LLC will grow Geneva’s economy and move forward expressed goals. The proposed incentive proposes no upfront money and uses future tax dollars generated by the occupant business to create a cycle of investment to allow for adaptive reuse. As such, it will transform 124 W. State from a vacant, underutilized, retail/warehouse space into a dynamic restaurant attraction, filling a food-offering void in the market. The proposed sales tax rebate is uniquely possible at this location because the property meets state requirements for use of a sales tax rebate, i.e. the building on the property has remained less than significantly unoccupied or underutilized for a period of at least one year. It is possible because there is an end user to generate tax dollars to create a cycle of investment. It is financeable because the buyer and seller have each conceded to move closer together.

Creating a cycle of investment as proposed offers no risk to the City. If the business does not produce tax dollars, no money will be released. The proposed Agreement has changed from the prior version reviewed in response to equity and nonpayment concerns. Specifically, the Agreement now includes a backstop guarantee to the City for any unpaid deferred permit and parking fees should the restaurant cease operation and a new sales taxpayer not be secured and approved by the City or if the building is sold. This guarantee is in the form of Exhibit F, Fee Reimbursement Agreement.

This addition removes all risk for the City of nonpayment for services and fees. Approval of the Agreement as proposed will further efforts to maintain economic vitality by filling a vacancy along State Street, securing a substantial investment, bringing in a new business, enhancing the destination draw for Geneva, helping to bridge important connection between Third Street and State Street on each side of the river.

Attachments: *(please list)*

- Resolution and Development Economic Incentive Agreement

Voting Requirements:

This motion requires 5 affirmative votes for passage.

The Mayor may vote on three occasions: (a) when the vote of the aldermen or trustees has resulted in a tie; (b) when one half of the aldermen or trustees elected have voted in favor of an ordinance, resolution, or motion even though there is no tie vote; or (c) when a vote greater than a majority of the corporate authorities is required by state statute or local ordinance to adopt an ordinance, resolution, or motion.

Recommendation / Suggested Action: *(how the item should be listed on agenda)*

Recommend Approval of Resolution 2020-___ Authorizing a Development Economic Incentive Agreement By and Between the City of Geneva and Industry House LLC.

RESOLUTION NO. 2020-

**RESOLUTION AUTHORIZING EXECUTION OF
DEVELOPMENT ECONOMIC INCENTIVE AND REIMBURSEMENT AGREEMENT
BETWEEN
THE CITY OF GENEVA AND INDUSTRY HOUSE, L.L.C.**

BE IT RESOLVED BY THE CORPORATE AUTHORITIES OF THE CITY OF GENEVA, KANE COUNTY, ILLINOIS, as follows:

SECTION 1: That the Mayor and City Clerk are hereby authorized to execute, on behalf of the City of Geneva, a Development Economic Incentive and Reimbursement Agreement by and between the City of Geneva and Industry House L.L.C, an Illinois limited liability company, in the form attached hereto at Exhibit “A”, relating to the development of the commercial real estate located at 124 West State Street, in the City of Geneva, Kane County, Illinois.

SECTION 2: The Corporate Authorities hereby adopt, by reference, the findings of fact set forth in the Development Economic Incentive and Reimbursement Agreement attached hereto at Exhibit “A.”

SECTION 3: As referenced at Section IV C of the Development Economic and Reimbursement Agreement, the City Administrator is authorized to defer payment of the Owner’s and Tenant’s obligations under the Development Economic Incentive and Reimbursement Agreement relating to (i) parking fees in lieu of required parking spaces under Section 11-11A-4 of the City Code and (ii) building permit fees under Section 10-1-6 of the City Code. The maximum amount to be deferred, cumulatively for these fees, is \$150,000. Payment of these fees shall be made to the City from the last \$150,000.00 of the sales tax reimbursement under said Agreement.

SECTION 4: This Resolution shall become effective from and after its passage as in

accordance with law.

PASSED by the City Council of the City of Geneva, Kane County, Illinois, this ___ day of _____, 2020

AYES: NAYS: ABSENT: ABSTAINING: HOLDING OFFICE:

Approved by me this ___ day of _____, 2020.

Mayor

ATTEST:

City Clerk

DEVELOPMENT ECONOMIC INCENTIVE AGREEMENT

By and Between

CITY OF GENEVA AND INDUSTRY HOUSE L.L.C.

This Agreement is entered into this _____ day of _____, 2020, by the CITY OF GENEVA, Kane County, Illinois, an Illinois Municipal Corporation (hereinafter referred to as the "CITY" or "corporate authorities"); and Industry House L.L.C, an Illinois limited liability company, 1499 N. 3045th Road, Ottawa, IL 61350 (hereinafter referred to as "OWNER"). The CITY and the OWNER are collectively referred to as the "Parties."

Pursuant to the provisions of statutes hereinafter cited and the Illinois Constitution of 1970, and in consideration of the Findings set forth below, the mutual covenants herein contained and other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the Parties agree as follows:

SECTION I. AUTHORITY

The authority for the Parties to enter into this Agreement is:

- A. As a non-home rule unit of government the City's authority is expressly limited by Article VII, Section 7 of the Illinois Constitution, which provides in part that non-home rule units of government shall only have powers granted to them by law.
- B. Accordingly, under Illinois law (65 ILCS 5/8-11-20) it is provided that the corporate authorities of a municipality may enter into an economic incentive agreement relating to the development or redevelopment of land within the corporate limits of the municipality and that the municipality may agree to share or rebate a portion of any retailers' occupation taxes received by the municipality that were generated by the development or redevelopment over a finite period of time.

SECTION II. FINDINGS

In accordance with the statutory provisions cited above, the factors of consideration that have resulted in this Agreement are the following:

A. The OWNER is the contract purchaser of certain real property (" Property") located within the boundaries of the City, commonly known as 124 W. State Street and legally described in Exhibit "A". The Property is improved with a two-story brick and block building consisting of approximately 14,000 square feet ("Building"). The Building is located in an established downtown commercial area on a well-traveled State highway.

B. The Property was fully occupied by Bicycle Heaven from 2011 to 2017 and partially occupied by H4 Fitness from 2017 to 2019. The Property has remained less than significantly unoccupied or underutilized for a period of at least two year.

C. The OWNER has entered into a contingent lease with B.A.S.H. LLC, an Illinois Limited Liability Company, 1012 North LaSalle Street, Ottawa, IL 61350 (TENANT) attached hereto as Exhibit "B" ("Lease"). Pursuant to the Lease TENANT shall complete an extensive remodeling of the Building and use the Building as a B.A.S.H. Burger and Sushi House Restaurant that will serve approximately 242 guests in an enclosed/open concept with private dining areas including an additional capacity for 60 guests on the exterior patio. Pursuant to the Lease TENANT will fully occupy the Property for a term of not less than ten (10) years.

D. The corporate authorities further finds that the Subject Property, as it exists on the date of this Agreement, requires certain site and building improvements to meet the specifications and occupancy requirements of the TENANT hereafter sometimes referred to as the "Project" as further defined in the Project Budget as set forth in Exhibit "C". Among the site and building improvements to be made are a new elevator; heating, ventilation, and air conditioning system (HVAC); stairs/emergency ingress/egress; commercial kitchen and restrooms.

E. The Parties acknowledge that the Project may require municipal of reviews and approvals by either the City's Plan and Zoning Commission, the Historic Preservation Commission and City Council.

F. The OWNER, who shall act as the developer ("Developer") of the Project, is seeking economic assistance from the CITY in order to complete improvements and has demonstrated that without the economic assistance to be given by the CITY the Project as contemplated by the Project Budget would

not be economically viable and the leasehold tenancy cannot be secured; and

G. The corporate authorities finds that the OWNER has demonstrated that if the Project expenditures are made, the vacant commercial space will become leasable and occupied; and

H. The corporate authorities also finds that OWNER is a recognized and established developer of a similar restaurant development and has provided specific evidence of equity financing for not less than 10% of the total project costs; and

I. The corporate authorities finds that completing the Project requires assistance from the CITY in order to complete the improvements and it is in the City of Geneva's best interest to enter into this Agreement in order to have the Property redeveloped and re-tenanted in accordance with the Project, that the re-tenanting of the Subject Property will increase employment opportunities in the CITY, the project will strengthen the commercial sector of the CITY and enhance the tax base of the CITY.

J. Accordingly, and based on such Findings, which satisfy all of the Findings required to be made under the statute as set forth in Section I. B. above, and subject to the Conditions Precedent set forth in Section III. below, the CITY is prepared to commit to incentives under the terms and conditions hereinafter set forth to induce and assist in the Project.

K. For the purpose of this Agreement, the use of the terms not otherwise defined herein will have the following meanings:

(i) "sales tax" and "sales tax revenue" shall be construed to refer to that net portion of taxes imposed by the State of Illinois (hereinafter referred to as "State") for distribution to the CITY pursuant to the Retailer's Occupation Tax Act (as said Act may be amended), or any other "sales tax" or similar tax that may be enacted by the State of Illinois or any governmental agency or body created under the laws of the State of Illinois and located within the State of Illinois, and which are collected by the State of Illinois and distributed to the CITY. Currently such net portion is one percent (1%) of the total amount of gross sales within the CITY that are subject to the aforementioned tax;

(ii) “Commencement Date” means the date the restaurant opens for business as stated at Section IV B below;

(iii) “Department” means the Illinois Department of Revenue;

(iv) “Maximum Payment” means the amount of \$515,200.00;

(v) “Sales Tax Participation Period” means a period of 10 years beginning on the Commencement Date;

(vi) “Sales Tax Year(s)” means the 12 consecutive month period starting on the Commencement Date and ending 12 months later and each consecutive succeeding 12-month period thereafter.

SECTION III. CONDITIONS PRECEDENT

All undertakings on the part of the CITY pursuant to the Agreement are subject to the satisfaction of the following conditions:

A. The Owner shall provide evidence, reasonably satisfactory to the CITY, that Owner has obtained fee title to the Property and that Owner and Tenant have entered into a non-contingent lease. Further, the plans for building, landscaping, and signage improvements constituting the Project will have been approved by the CITY as required by law and as provided in CITY ordinances.

B. OWNER and TENANT will have completed the modifications and enhancements as set forth in the Project Budget for all portions of the leasable area of the Property, the CITY has issued an unconditional occupancy permit, and is reasonably projected to meet the Sales Projections and Employment Estimates set forth in Exhibit “D” hereto.

C. OWNER will have demonstrated to the reasonable satisfaction of the CITY that it has contributed up to \$ 3,000,000 (or more than such amount) toward the Project Budget within twenty-four (24) months of the date of this Agreement. Prior to any reimbursement and following completion of the Project, OWNER shall provide CITY with any documentation necessary to establish its Reimbursable

Improvement Costs as defined in Exhibit E hereto. Such documentation shall include, but shall not be limited to, written proof of CITY inspections indicating code compliance (or no violations of codes) and/or compliance with approved plans, as applicable, and proof that the persons making such improvements have been paid in full.

D. In the event the foregoing conditions precedent are not satisfied within twenty-four (24) months of the date of this Agreement, either party may terminate this Agreement by sending thirty (30) days' written notice to the other party, whereupon this Agreement shall terminate and be of further force and effect upon the expiration of such thirty (30) day period unless the foregoing conditions precedent are satisfied prior to the expiration of such 30 day period.

E. OWNER affirms that during the term of this agreement all sales tax generated by the Project shall be reported solely as sales tax revenue attributable to and reportable to the CITY and to no other municipality, all in compliance with 65 ILCS 5/8-11-21, as amended.

SECTION IV. DEVELOPMENT INCENTIVE REIMBURSEMENT

Upon the satisfaction of the Conditions Precedent set forth in Section III. above, the incentives to be granted to OWNER shall be applied as hereinafter set forth:

A. Local Sales Tax Rebate: Provided the Owner shall materially comply with and continue to be in material compliance with the provisions of this Agreement, subject to the expiration of any cure period as provided in Section VI O hereof, CITY shall distribute 75 percent of the CITY'S share of the Sales Taxes, as defined at Section IIK above, generated by taxable sales activities of the Property for each Sales Tax Year during the Sales Tax Participation Period to the Owner, to the extent these Sales Taxes are received by the CITY from the Department (the "Sales Tax Distribution(s)"). The total amount of Sales Taxes distributed to the OWNER shall not exceed the Maximum Payment, to-wit: \$515,200.00. Any and all funds committed by the CITY herein are to be solely derived from the sales tax generated by the Subject Property.

B. The period of payment to OWNER shall commence on the date that the TENANT opens its restaurant

for business to the public, and shall continue thereafter for ten (10) years from the said business opening or until such time that the OWNER receives one hundred percent (100%) of the amount OWNER expended for the improvements but not exceeding the amount set forth in the Project Budget detailed as Reimbursable Improvement Costs. Notwithstanding the statements contained in the prior sentence to the contrary, this Agreement shall terminate on December 31, 2032.

C. Notwithstanding any provision herein to the contrary, the Parties agree that \$150,000.00 of the Maximum Payment is designated as OWNER/TENANT'S obligation to pay the CITY (i) parking fees in lieu of required parking spaces under Section 11-11A-4 of the City Code and (ii) building permit fees under Section 10-1-6 of the City Code. Payment of these fees have been deferred by the CITY and shall be paid to the CITY by the CITY retaining the last \$150,000.00 of the Maximum Payment. In the event that the Taxpayer ceases operation prior to the completion of payment of deferred fees referenced herein, or if another operator capable of maintaining the payment structure as defined is not establishes and accepted by City; or if the premises are leased or sold to a non-sales taxpaying entity; Industry House L.L.C. will reimburse the City the remainder of the deferred fees prior to the establishment of occupancy of a new tenant or the transfer of title per the a Fee Reimbursement Agreement included as Exhibit F.

SECTION V. REIMBURSEMENT PROCEDURES

A. Sales Tax Reports: OWNER shall be responsible for duly executing appropriate agreements with TENANT in the Subject Property requiring same, and require such TENANT contemporaneous with the filing of sales tax reports with the Illinois Department of Revenue or successor agency, to furnish to the CITY certified copies of any and all sales tax returns, sales tax reports, amendments, or any other paper filed with the State of Illinois, said Department of Revenue or other appropriate governmental entity, which documents are being provided to the CITY for purposes of identifying sales tax revenues collected pursuant to this Agreement. The OWNER will take all reasonable actions necessary to provide the Department with any and all documentation, to the extent reasonably available, that may be required by the Department and will provide the CITY with a power of attorney letter addressed to, and in a form satisfactory to, the Department authorizing the Department to release all general gross revenue and sales tax information to the CITY, which letter will authorize disclosing such information to the CITY during the Sales Tax Participation Period. Such letter will be in a form attached hereto as Exhibit G or such other

or additional forms as are required from time to time by the Department to release such information to the CITY. If the Department refuses or otherwise fails to make the necessary sales tax information available to the CITY, then the OWNER will furnish to the CITY copies of the ST-1 and ST-2 monthly statements filed with the Department, certified by the OWNER, showing the amount of Sales Taxes paid during such month by the OWNER and, to the extent permitted by tenant leases, the same information for all tenants of the Property, together with evidence of the payment of such revenues, and the CITY agrees to rely on such certified monthly statements and evidence of payment in calculating the amount of Sales Tax Distributions available for disbursement to the OWNER hereunder. If the Department stops using either the ST-1 or ST-2 monthly statement forms for the reporting of gross sales receipts and the determination of gross sales tax obligations, then the OWNER will furnish to the CITY, and the CITY, in fulfilling its obligations under this Section 3, will rely on such equivalent or replacement forms as the Department may then employ for determining and receiving such information, provided the CITY receives certified copies of such equivalent or replacement forms and evidence of payment of the sums referred to in such forms. In the alternative, OWNER shall be responsible for obtaining, and subsequently providing to the CITY, a list of the names and Illinois Department of Revenue Retail Occupancy Tax Identification Numbers for Tenant not later than ten (10) days after the last day of each quarter year. To the extent permitted by law, the CITY shall maintain the confidentiality of the information contained in such reports, but shall be permitted to disclose such information and documents to employees and consultants as the CITY, in its sole discretion, deems appropriate in order to monitor compliance with and audit, this Agreement. The CITY shall employ all legal means to protect the privacy of this information including the defense of any legal action brought against the CITY. In such event, OWNER shall be joined by the CITY to such litigation and OWNER shall provide its own counsel and shall bear all of its costs of defense. OWNER shall not be obligated to provide a defense for the CITY.

B. Payment Dates and Change in Sales Tax Structure: The CITY hereby agrees to pay tri-annual installment payments on March 31, July 31, and November 30 of each year (payment date) beginning with the second payment date after the TENANT in the Subject Property opens for business to the public and continuing until such time as to include all sales tax revenues generated from actual sales occurring within the period indicated in Section IV, subject to the following calculations, deductions, terms and conditions:

- (i) The "tri-annual installment payment" shall mean an amount equal to seventy-five percent (75%)

of the local share of sales tax revenue attributable to sales generated by the Project provided that the sales tax information has been received by the CITY in a timely manner, all amounts paid to OWNER will be due and payable solely from the sales tax revenue received by the CITY from the Project.

(ii) However, if the CITY no longer receives sales tax revenues from the Subject Property due to a change in Illinois statutes, then the CITY shall make payments to OWNER in the amount of the Local Sales Tax Rebate described in Section IV. hereof from any alternate sources of revenue provided to the CITY by the State specifically as a replacement or substitute for sales tax revenue presently received by the CITY. In the event that the CITY's share of said sales tax or substitute tax is reduced or increased by the State, then the OWNER's share thereof shall be reduced or increased utilizing the same percentage factor. Nothing in this Subsection 2) changes or affects Subsection IV. C. hereof.

C. The CITY will provide for payments required under this Section 3 in its annual budget ordinance for the fiscal year in which such payment may be due.

SECTION VI. ADDITIONAL COVENANTS

A. Cessation of Business Operation: In the event of complete cessation of restaurant operation on the Property before the total of the above described sales tax rebate disbursements are made, and only in such event, the remaining sales tax rebate obligation equal to but not exceeding the above described reimbursable costs may not be transferred to any successors or assigns of any interest of OWNER in the Subject Property without the consent of the CITY.

B. Time: Time is of the essence unless otherwise stated in this Agreement and 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.

C. Binding Effect: This Agreement shall inure to the benefit of and shall be binding upon the CITY and OWNER and their respective successors and assigns. Notwithstanding anything herein to the contrary, the rights and benefits of this Agreement shall remain personal to OWNER, provided, however, OWNER may assign, without release of OWNER its duties, obligations and benefits to any entity which meets the

standards for transfer, conveyance or sale set forth below, and CITY shall direct such reimbursement payments in accordance with any assignment notice to be provided by OWNER to CITY within thirty (30) days of such assignment. The standards for transfer, conveyance or sale shall be that the transferee developer meets high standards of creditworthiness and financial strength as demonstrated by one or more of the following:

(i) Corporate debenture ratings of BBB or higher by Standard & Poor's Corporation or Baa or higher by Moody's Investors Service, Inc.;

(ii) A letter from a financial institution with assets of \$10,000,000 or more attesting to the financial strength of the transferee developer; or

(iii) Specific evidence of equity financing for not less than 10% of the total project costs.

Once reimbursements to OWNER commences, OWNER may freely sell the Project or any portion thereof and retain the right to receive such reimbursements as this Agreement shall not be construed to run with the land. Notwithstanding anything herein to the contrary, OWNER may assign this Agreement to a construction or mortgage lender as security for a loan with respect to the Project.

D. Law Governing: This Agreement shall be construed and enforced in accordance with the laws of the State of Illinois.

E. 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 CITY does not have the power to perform any such provision, such provision shall be deemed to be excised here from and the invalidity thereof shall not affect any of the other provisions continued herein.

F. Notices: All notices and requests required pursuant to this Agreement shall be sent by certified mail as follows:

To the OWNER:

Industry House, L.L.C.
1499 N. 3045TH Street
Ottawa, IL 61350
Attn: Cody Renkosik
Phone: 815- 343-8104

To the CITY:

City Clerk, City of Geneva
22 South First Street
Geneva, Illinois 60134
Phone: (630) 232-7494

With copies to:

City Administrator
22 South First Street
Geneva, Illinois 60134
Phone: (630) 232-7494

City Attorney
2 South First Street
Geneva, Illinois 60134
Phone: (630) 232-4511

G. Authority to Execute: The signatories of the parties hereto have been authorized by the corporate authorities of the CITY and the OWNER to execute this Agreement on their behalf.

H. Successors and Assigns. All the terms and provisions of this Agreement will be binding on and inure to the benefit of all of the successors and assigns of the parties hereto.

I. Third-Party Beneficiaries. The CITY and the OWNER agree that this Agreement is for the benefit of the parties hereto and not for the benefit of any third-party beneficiary. Except as otherwise provided herein, no third party will have any rights or claims against the CITY arising from this Agreement.

J. Time. Subject to Section VIK hereof, time is of the essence under this Agreement, and 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.

K. Limitation of Liability. Notwithstanding anything herein to the contrary by implication or otherwise, any obligations of the CITY created by or arising out of this Agreement will not be a general debt of the CITY on or a charge against its general credit or taxing powers but will be payable solely out of the Sales Tax revenues as set forth in Section IV. No recourse will be had for any payment pursuant to this Agreement against any officer, employee, attorney, or elected or appointed official, past, present, or future, of the CITY.

L. No Waiver or Relinquishment of Right To Enforce Agreement. Failure of any party to this Agreement to insist on the strict and prompt performance of the terms, covenants, agreements, and conditions herein contained, or any of them, on any other party imposed will 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, which will continue in full force and effect.

M. Amendment. This Agreement sets forth all the promises, inducements, agreements, conditions, and understandings between the OWNER and the CITY relative to the subject matter thereof, and there are no promises, agreements, conditions, or understandings, either oral or written, express or implied, between them related thereto, other than as herein set forth. No subsequent alteration, amendment, change, or addition to this Agreement will be binding on the parties hereto unless authorized in accordance with law and reduced in writing and signed by them. However, whenever under the provisions of this Agreement any notice or consent of the CITY or the OWNER is required, or the CITY or the OWNER is required to agree or to take some action at the request of the other, such approval or such consent or such request will be given for the CITY, unless otherwise provided herein, by the President or his or her designee and for the OWNER by any officer or employee as the OWNER so authorizes.

N. Counterparts. This Agreement may be executed in two or more counterparts, each of which taken together will constitute one and the same instrument.

O. Default. In the event of any material default under or violation of this Agreement, the party not in default or violation will serve written notice on the party or parties in default or violation, which notice will be in writing and will specify the particular violation or default. All parties hereto reserve the right to cure any violation of this Agreement or default by any of them hereunder within 30 days after receipt of written notice of such default, provided that said 30-day period will be extended (a) if the alleged violation or default is not reasonably susceptible to being cured within this 30-day period, (b) if the party in default has promptly initiated a cure of the violation or default, and (c) if the party in default diligently and continuously pursues a cure of the violation or default until its completion.

IN WITNESS WHEREOF, this Agreement is entered into at Geneva, Illinois, as of the date and year shown above.

APPROVED BY the City of Geneva, Kane County, Illinois, by Resolution No. 2020-_____, on the ____ day of _____, 2020.

CITY OF GENEVA,
an Illinois Municipal Corporation

INDUSTRY HOUSE, L.L.C.,
an Illinois limited liability company

Kevin R. Burns
Mayor

Cody Renkosik
Manager

ATTEST:

City Clerk

EXHIBIT A: LEGAL DESCRIPTION

PARCEL ONE: LOT 4 AND THE WESTERLY 25 FEET OF LOT 3 IN BLOCK 52 OF THE ORIGINAL TOWN OF GENEVA IN THE CITY OF GENEVA, KANE COUNTY, ILLINOIS.

PARCEL TWO: THE WESTERLY 11 FEET OF THE EASTERLY 35 FEET OF LOT 3 IN BLOCK 52 OF THE ORIGINAL TOWN (NOW CITY) OF GENEVA, IN THE CIYT OF GENEVA, KANE COUNTY, ILLINOIS.

PARCEL THREE: EASEMENT FOR INGRESS AND EGRESS CREATED BY GERNAT RECORDED JANUARY 27, 1984, AS DOCUMENT 1667696 MADE BY THE CITY OF GENEVA TO THE FIRSTAR BANK OF GENEVA F/K/A THE FIRST NATIONAL BANK OF GENEVA AS TRUSTEE UNDER TRUST AGREEMENT DATED FEBRUARY 14, 1974, KNOWN AS TRUST NUMBER 356 FOR THE PARCEL 1 AND 2 OVER THE WESTERLY 15 FEET OF THE EASTERLY 22 FEET OF LOT 8 IN BLOCK 52 OF THE ORIGINAL TOWN OF GENEVA, IN THE CITY OF GENEVA, KANE COUNTY, ILLINOIS.

EXHIBIT “B”: LEASE

TO BE ADDED

EXHIBIT C: PROJECT BUDGET AND BUILDING ELEVATIONS AND PLANS

Property Acquisition	1,100,000
Tenant Build Out*	1,960,000
TOTAL	3,060,000

*Tenant Buildout Detail

Building	1,363,000
Site	170,000
Equipment	227,000
Professional Fees	200,000
TOTAL	1,960,000

Cost estimates do not include City permit or other fees.

EXHIBIT D: INCOME AND SALES TAX PROJECTIONS

Annual Sales \$5,000,000

Sales Tax to City (MT & NHR) 100,000

Annual Sales Tax Allocation

Geneva (25% MT +100% NHR) 62,500

Industry, LLC (75% MT) 37,500

Potential Sales Tax Accumulation over Term (10 year)

Geneva \$ 625,000

Industry, LLC \$ 375,000

Employment Estimates

Restaurant Jobs 85-100

Annual Wages \$ 2M-2.3M

EXHIBIT E: REIMBURSEABLE AND DEFERRED IMPROVEMENTS COSTS*

Water	\$ 40,000
Fire & Sprinkler	\$80,000
Elevator	\$100,000
Second Floor Access	\$112,000
Parking Fee in lieu of parking spaces under Section 11-11A-4 of the Geneva City Code and certain permit fees under Section 10-1-6 (Building Permit Fees of the Geneva City Code (these constitute deferred payment of fees owed to the CITY.	\$150,000
Construction Contingency 10%	\$ 33,200
Total	\$515,200

* Owner shall be entitled to receive 100% of amounts contributed up to the Reimbursable Improvements except Parking Fee and Building Permit Fee. Costs in accordance with the terms of the Agreement, even if it contributes less than the full amount of the Reimbursable Improvements Costs. Applicable line items may increase or decrease within the \$365,200.

EXHIBIT “F” FEE REIMBURSEMENT AGREEMENT

STATE OF ILLINOIS)

COUNTY OF _____)

FEE REIMBURSEMENT AGREEMENT

Industry House, L.L.C. has entered into a Development Economic Incentive Agreement (Agreement) with the City of Geneva (City) approved on _____, 2020. The Agreement provides for the deferral of certain fees owed to the City including the Parking Fee in lieu of parking spaces under Section 11-11-A-4 of the Geneva City Code and certain permit fees under Section 10-1-6 (Building Permit Fees of the Geneva City Code). Section IV C of the Agreement provides for payment of such fees to the City by the City’s retention of the last \$150,000 of the maximum payment to Industry House, LLC. Such payment to be derived from sales tax dollars paid to the City from B.A.S.H., L.L.C. (the “Taxpayer”).

In the event that the Taxpayer ceases operation prior to the completion of payment of deferred fees referenced above, or if another operator capable of maintaining the payment structure as defined is not established and accepted by City; or if the premises are leased or sold to a non-sales taxpaying entity; Industry House L.L.C. will reimburse City the remainder of deferred fees referenced herein owed prior to the establishment of occupancy of a new tenant or the transfer of title.

The undersigned agrees to the terms of this Fee Reimbursement Agreement.

Signatures:

Industry House, L.L.C.,
an Illinois limited liability company
Cody Renkosik, Manager

B.A.S.H, L.L.C., an Illinois limited liability Company

_____, Manager

EXHIBIT “G”: SALES TAX FORM

STATE OF ILLINOIS) ss.
COUNTY OF _____)

AUTHORIZATION

The undersigned is an authorized officer of **B.A.S.H., LLC** (the “Taxpayer”), which is doing business at _____ (the “Property”), in Geneva, Illinois (the “City”).

To induce the development of the Property, the City is utilizing certain sales tax revenues to provide certain benefits with respect to that development.

The undersigned Taxpayer hereby authorizes the Illinois Department of Revenue (the “Department”) to release to the City the monthly amount of municipal Retailer’s Occupation Tax generated by Taxpayer as shown in required filings with the Department.

This Authorization is valid for a period of 10 years, commencing on _____, 2020, and ending on _____, 2030, at which time it will be null and void and of no further force or effect, without need of notice of any kind.

Taxpayer

By: _____

Taxpayer Illinois Sales Tax Number

SUBSCRIBED and SWORN to before me this _____ day of _____, 2020.

Notary Public