

CITY OF LeROY
COUNTY OF McLEAN
STATE OF ILLINOIS

ORDINANCE NO. 340

AN ORDINANCE APPROVING EXECUTION OF A CONTRACT
ON BEHALF OF THE CITY OF LE ROY

ADOPTED BY THE CITY COUNCIL OF THE CITY OF LeROY THIS 1st DAY OF May, 1989

PRESENTED: May 1, 1989

PASSED: May 1, 1989

APPROVED: May 1, 1989

RECORDED: May 1, 1989

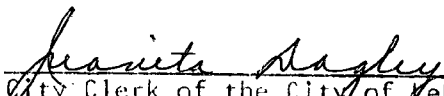
PUBLISHED: May 1, 1989

In Pamphlet Form/~~In Newspaper~~

Voting "Aye" 6

Voting "Nay" 0

The undersigned being the duly qualified and acting City Clerk of the City of LeRoy does hereby certify that this document constitutes the publication in pamphlet form, in connection with and pursuant to Section 1-2-4 of the Illinois Municipal Code, of the above-captioned ordinance and that such ordinance was presented, passed, approved, recorded and published as above stated.



City Clerk of the City of LeRoy,
McLean County, Illinois

(SEAL)

Dated: May 1, 1989

AN ORDINANCE APPROVING EXECUTION OF A CONTRACT
ON BEHALF OF THE CITY OF LEROY.

WHEREAS, the Mayor and City Council of the City of LeRoy, McLean County, Illinois, an Illinois municipal corporation, have determined that it is in the best interest of the City and of its residents to enter into an agreement with Hardee's GMR, LeRoy, Illinois.

providing for the development of property as described in said agreement, said development and property being located within the LeRoy First Tax Increment Financing District, and

WHEREAS, the Mayor and City Council of the City of LeRoy, find that the proposed agreement is reasonable in scope and assures certain benefits to the City through the use of its Tax Increment Financing District Incentives, and to the developer, by application of the aforesaid incentives, and said ordinance having been reviewed by the City Council,

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of LeRoy, Illinois, in lawful meeting assembled, as follows:

Section 1. The proposed Contract for Application of TIF incentives through the LeRoy First Tax Increment Financing District to assist in the development of real estate as described in the aforesaid contract, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference, is hereby approved.

Section 2. The Mayor and City Clerk of the City of LeRoy are hereby directed and authorized to execute the original agreement, conforming with the copy attached hereto, and several copies as may reasonably be required, retaining a signed copy of the contract for the City, said officers to ratify it and approve its adoption effective April 17, 1989, or such date as may later be affixed thereto by action of the Mayor and City Clerk in executing said document.

Section 3. This ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as required by law.

Aldermen elected: 6

Aldermen present: 6

AYES: Jon Winston, Steve Dean, Randy Zimmerman, Jerry Davis, William Swindle
Gary Builta

NAYS: None

Juanita Dagley
Juanita Dagley, City Clerk
of the City of LeRoy, Illinois

Approved by the Mayor of the City of LeRoy, Illinois
this 1st day of May, 1989.

Jack Moss
Jack Moss, Mayor
of the City of LeRoy, Illinois

Attest:

(seal)

Juanita Dagley
Juanita Dagley, City Clerk
of the City of LeRoy, Illinois

TAX INCREMENT REDEVELOPMENT AGREEMENT
FOR THE
CITY OF LEROY

This Agreement is entered into this 24 day of April, 1989, by and between The City of LeRoy, an Illinois Municipal Corporation (the "City"), and M.G.M. LeRoy, INC. ("Owner(s)/ Developer(s)").

PREAMBLE

WHEREAS, City has the authority to promote the health, safety and welfare of City and its citizens, and to prevent the spread of blight and deterioration and inadequate public facilities by promoting the development of private investment in industry, business and housing which will enhance the marketability of property, thereby increasing the tax base of City and reducing the unemployment of its citizens;

WHEREAS, City has by Ordinance undertaken a program and plan of redevelopment of City by the adoption of Tax Incremental Financing and the creation of a Redevelopment Plan (the "Plan"), Redevelopment Project Area (the "Area") and Redevelopment Projects (the "Projects") pursuant to the Tax Increment Allocation Redevelopment Act, Illinois Revised Statutes, 1985 Chapter 24, Section 11-74.4-1, et.seq., as amended (the "Act");

WHEREAS, Owner/Developer proposes to develop property as set forth in EXHIBIT 1, attached hereto and by reference made a part hereof, pursuant to said Plan;

WHEREAS, said proposed project is consistent with the land uses and the projects of the Plan as adopted and is located within the Area;

WHEREAS, Owner/Developer has requested that incentives for the development be provided by City from incremental increases in both real estate taxes and sales, use and services taxes of City and the State of Illinois, which incentives are consistent with those of the Plan and are set forth in EXHIBIT 1;

WHEREAS, City has the authority under the Act to incur Redevelopment Project Costs ("eligible project costs") and to reimburse Developer for such costs;

WHEREAS, City by ordinance has determined that all incremental increases in real estate taxes and sales taxes in the Area are to be allocated to and when collected shall be paid to City Treasurer for deposit into the Special Tax Allocation Fund for the LeRoy Tax Increment Financing Redevelopment District II (the "Fund") for the purpose of payment of eligible project costs;

WHEREAS, the parties desire to segregate within the Fund the incremental increases in real estate taxes and City and State sales

taxes derived from Owner's/Developer's Project which separate account shall be designated Hardee's Special Account (the "Special Account");

WHEREAS, this Project has been determined by City to require the incentives requested as set forth in EXHIBIT 1 and that said Project will, as a part of the Plan, promote the health, safety and welfare of City and its citizens by attracting private investment to prevent blight and deterioration and to provide employment for its citizens and generally to enhance the economy of City;

NOW, THEREFORE, the Parties, for good and valuable consideration, the receipt of which is acknowledged, agree as follows:

1. ACQUISITION OF PROPERTY AND CONSTRUCTION OF PROJECT IMPROVEMENTS

Owner/Developer shall acquire the property described in EXHIBIT 1, on or before January 1, 1990.

Construction by Owner/Developer shall commence as provided in the Project, Owner/Developer shall occupy the property and begin operations as set forth in the timetable in EXHIBIT 1. Failure to meet this timetable will nullify this contract.

2. INCENTIVES

Owner/Developer shall be reimbursed by City for all eligible project costs permitted by the Act from those sums generated by the Project and deposited into the Special Account of the Fund but only to the extent of those proportions and amounts provided for in EXHIBIT 1, and only for the term of the Plan. It is not contemplated nor is City obligated to use any of its proportionate share of the monies in the Special Account of the Fund to reimburse Owner/Developer for any cost eligible expense but, rather, City shall use such sums for any purpose under the Act as it may in its sole discretion determine.

If City enters into other agreements to encourage development within the Redevelopment Area and for any reason the amounts available from the sales tax increment generated throughout the TIF District is not sufficient annually to provide reimbursement for all projects covered by agreement, then the reimbursement required by the individual agreements shall be funded prorata based upon the amount of increased incremental sales tax generated by a business subject to an agreement to the total sales tax increment generated by all businesses subject to such agreements. That ratio will be applied to the total sales tax increment deposited in the Special Tax Allocation Fund that year for the entire district to determine that business' share. One half, or 50%, of the increment so generated and received will be used for Owner's/Developer's expenses until all cost eligible expenses are paid or until the LeRoy Tax Increment Redevelopment District I is dissolved.

3. PAYMENT FOR ELIGIBLE PROJECT COSTS

Payment to Owner/Developer for eligible project costs, as set forth by the Act, shall be made upon Request for Verification of Cost

Eligibility ("Request") submitted from time to time by Owner/Developer to the LeRoy City Clerk (the "Clerk") and upon the approval of the LeRoy City Council (the "Council") and subject to the availability of funds in the Special Account.

All Requests must be accompanied by verified bills or statements of suppliers, contractors, or professionals as required by City.

Council shall approve or disapprove a Request by written notice to Owner/Developer within twenty (20) business days after receipt of the Request. Approval of the Request will not be unreasonably withheld. If a Request is disapproved by Council or subsequently by the Illinois Department of Revenue the reasons for disallowance will be set forth in writing and the Owner/Developer may resubmit the Request with such additional information as may be required and the same procedures set forth herein shall apply to such resubmittals. Should the resubmittals fail to qualify for reimbursement, then the developer will refund the disallowed amount to the City within 30 days.

The parties acknowledge that the determination of eligible costs, Area and Projects and, therefore, qualification for reimbursement hereunder, are subject to changes or interpretation made by amendments to the Act, administrative rules or judicial interpretation during the term of this Agreement and City has no obligation to Owner/Developer to attempt to modify those decisions but will assist Owner/Developer in every respect as to obtaining approval of eligible project costs, the Area and this Project.

4. VERIFICATION OF TAX INCREMENT

It shall be the sole responsibility of Owner/Developer to provide to City as requested the following:

A. The Illinois Business Identification Number of the business or businesses developed in the Project.

B. A certified or verified copy of all sales tax reports filed by Owner/Developer or by developments occurring within the Project with the State of Illinois annually from January first (1) through December thirty-first (31) or more frequently if requested by City.

C. Certified copies of all 1988 real estate tax bills for the tax year 1988 on the property located in the Project and, annually thereafter, certified copies of all paid real estate tax bills for the immediate preceding real estate tax year for the property in the Project.

The failure of Owner/Developer to provide any information required herein shall be considered a material breach of this Agreement and shall be cause for City to deny payments hereunder to Owner/Developer which payments are conditioned upon receipt of the foregoing information.

5. LIMITED OBLIGATION

City's obligation hereunder to pay Owner/Developer for eligible project costs is a limited obligation to be paid solely from this Special Account in the Fund. Said obligation does not now and shall never constitute an indebtedness of City within the meaning of State of Illinois constitutional or statutory provisions and shall not constitute or give rise to a pecuniary liability of City or a charge or lien against City's general credit or taxing power.

6. CITY DETERMINATION PURSUANT TO SECTION 11-74.4-8a OF THE ACT

Pursuant to Section 11-74.4-8a (1) of the Act, City hereby finds and determines that no portion of the increase in the aggregate amount of taxes paid or to be paid by retailers and servicemen under the Retailer's Occupation Tax Act, Use Tax Act, Service Use Tax Act, or the Service Occupation Tax Act is the result of the initiation of retail or service operations in the Redevelopment Project Area by either Owner/Developer or any tenants or occupants of the Redevelopment Project Area known to City with a resulting termination of retail or service operations by Owner/Developer or said tenants or occupants at another location in City's standard metropolitan statistical area.

7. LIMITED LIABILITY OF CITY TO OTHERS

There shall be no obligation by City to make any payments to any person other than Owner/Developer nor shall City be obligated to pay any other contractor, subcontractor, mechanic, materialman providing services or materials to Owner/Developer for the Project.

8. TIME; FORCE MAJEURE

For this Agreement, time is of the essence; provided, however, Owner/Developer shall not be deemed in default with respect to any obligations of this Agreement on its part to be performed if Owner/Developer fails to timely perform the same and such failure is due in whole or in part to any strike, lock-out, labor trouble (whether legal or illegal), civil disorder, inability to procure materials, weather conditions, wet soil conditions, failure or interruption of power, restrictive governmental laws and regulations, condemnation, riots, insurrections, war, fuel shortages, accidents, casualties, Acts of God, acts caused directly or indirectly by City (or City's agents, employees or invitees) or third parties, or any other cause beyond the reasonable control of Owner/Developer, including but not limited to delays in acquiring interests in or possession of the Subject Property caused by the parties who are contractually obligated to convey and grant the same to Owner/Developer.

9. ASSIGNMENT

The rights and obligations of Owner/Developer under this Agreement shall be fully assignable by means of written notice to City, provided that no such assignment shall be deemed to release the

assignor of its obligations to City under this Agreement unless the consent of City to the release of the assignor's obligations is first obtained. Consent shall not be unreasonably withheld provided that the nature of the project is not substantially changed.

10. PREPAYMENTS

Should the annual incremental tax revenue generated by the Project be sufficient to pay all cost eligible expenses, except mortgage interest buy-down, prior to the expiration of the term of this Agreement, City may, in its sole discretion, elect to pay all then remaining payments (except mortgage interest buy-down) in a single lump sum payment.

11. WAIVER

Any party to this Agreement may elect to waive any remedy it may enjoy hereunder, provided that no such waiver shall be deemed to exist unless the party waiving such right or remedy does so in writing. No such waiver shall obligate such party to waive any right or remedy hereunder, or shall be deemed to constitute a waiver of other rights and remedies provided said party pursuant to this Agreement.

12. SEVERABILITY

If any section, subsection, term or provision of this Agreement or the application thereof to any party or circumstance shall, to any extent, be invalid or unenforceable, the remainder of said section, subsection, term or provision of this Agreement or the application of same to parties or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

13. NOTICES

All notices, demands, requests, consents, approvals or other instruments required or permitted by this Agreement shall be in writing and shall be executed by the party or an officer, agent or attorney of the party, and shall be deemed to have been effective as of the date of actual delivery, if delivered personally, or as of the third (3rd) day from and including the date of posting, if mailed by registered or certified mail, return receipt requested, with postage prepaid, addressed as follows:

To Developer:
Hardees
Michael C. McCracken
1234 E. Empire St.
Bloomington, IL 61701

With Copy to:
LeRoy City Clerk
City of LeRoy
111 East Center Street
LeRoy, IL 61752

13. SUCCESSORS IN INTEREST

Subject to the provisions of Section 11, above, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

15. NO JOINT VENTURE, AGENCY, OR PARTNERSHIP CREATED

Neither anything in this Agreement nor any acts of the parties to this Agreement shall be construed by the parties or any third person to create the relationship of a partnership, agency, or joint venture between or among such parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers on the above date at LeRoy, Illinois.

CITY OF LEROY, ILLINOIS
Municipal Corporation

by: *Jacobson*
Mayor

Attest:

City Clerk

Owner(s)/Developer(s):
[Signature]

EXHIBIT I

City: LeRoy, Illinois

Developer: MGM, - Inc.

Project: Hardee's Restaurant

A. Narrative Description of the Project:
Construction of a Fast Food Hardee's Franchised Restaurant
(Attach Site Plan or Elevations)

B. Timetable

- 1. Commence Construction April 3, 1989
- 2. Complete Construction July 1, 1989
- 3. Commence Operations April 3, 1990

C. Summary of Project Financial Data:

- 1. Construction or Renovation
 - a. Estimated Total Project Costs \$ 710,000⁰⁰
 - b. Estimated Eligible Project Costs \$ _____
- 2. Anticipated Incremental Increase in Real Estate and Sales Taxes:
 - a. Real Estate Tax \$ 8,000⁰⁰
 - b. City Sales Tax \$ 10,000⁰⁰
 - c. State Sales Tax \$ 50,000⁰⁰
- 3. Number of Jobs Retained/Created 75 40 Full
35 Part

D. Developer's/City's Prorata Share of TIF Proceeds

- 1. Real Estate Increment 50 % / 50 %
- 2. City Sales Tax Increment 50 % / 50 %
- 3. State Sales Tax Increment 50 % / 50 %

E. Final Costs (To Be Documented upon Completion of Project)

- 1. Cost Eligible Expenses \$ 122,000
- 2. Mortgage--Total Amount and Terms \$ 788,000⁰⁰ @ 13.90
10 years
Loan

CERTIFICATE

I, Juanita Dagley, certify that I am the duly elected and acting municipal clerk of the City of LeRoy, McLean County, Illinois.

I further certify that on May 1, 1989, the Corporate Authorities of such municipality passed and approved Ordinance No. 340, entitled:

AN ORDINANCE APPROVING EXECUTION OF A CONTRACT
ON BEHALF OF THE CITY OF LE ROY

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 340, including the Ordinance and a cover sheet thereof was prepared, and a copy of such Ordinance was posted at the municipal building, commencing on May 1, 1989, and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the municipal clerk.

Dated at LeRoy, Illinois, this 1st day of May, 1989.

(seal)

Juanita Dagley
Municipal Clerk

STATE OF ILLINOIS)
)SS
COUNTY OF MC LEAN)

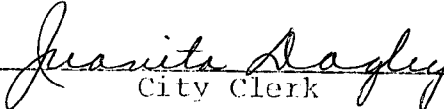
I, Juanita Dagley, do hereby certify
that I am the duly qualified and acting City Clerk of
the City of LeRoy, McLean County, Illinois, and as such
City Clerk that I am the keeper of the records and files
of the Mayor and the City Council of said City.

I do further certify that the foregoing is a true,
correct and complete copy of an ordinance entitled:

AN ORDINANCE APPROVING EXECUTION OF A CONTRACT
ON BEHALF OF THE CITY OF LE ROY

That said ordinance was adopted by the Mayor and
City Council of the City of LeRoy at a regular meeting
on the 1st day of May, 1989,
and that a faithful record of said ordinance has been
made in the record books.

Dated this 1st day of May, 1989.



City Clerk

(seal)