

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

 X Resolution or Ordinance (Blue) X *Waiver of First Requested*
____ Recommendations of Boards, Commissions & Committees (Green)
____ Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: David A. Hulseberg, Village Manager

DATE: February 8, 2012 (B of T) Date: February 16, 2012

TITLE: Lombard Business District No. 1 – First Amendment

SUBMITTED BY: Department of Community Development *DH*

BACKGROUND/POLICY IMPLICATIONS:

The Department of Community Development transmits for your consideration an ordinance approving a First Amendment to the Business District Redevelopment Agreement by, between and among Yorktown Holdings, LLC, Highland Yorktown, LLC and the Village of Lombard.

Staff is requesting a waiver of first reading.

Please place this item on the Febraury 16, 2012 Board of Trustees agenda.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X _____ Date _____
Finance Director X _____ Date _____
Village Manager X _____ Date _____

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda Distribution.



MEMORANDUM

TO: David A. Hulseberg, AICP, ICMA-CM, Village Manager

FROM: William J. Heniff, AICP
Director of Community Development *WJH*

DATE: February 16, 2012

SUBJECT: **First Amendment to the Lombard Business District #1 Redevelopment Agreement and Redevelopment Note**

Attached for Village Board consideration is an Ordinance and draft First Amendment to the Lombard Business District #1 Redevelopment Agreement and Redevelopment Note. This amendment is intended to remove the Phase IV construction phasing portion and its associated financial commitments required as part of the creation of the initial Business District creation in 2006. For reference purposes, staff has attached a copy of the original Agreement as well.

BACKGROUND

The Business District was created in 2006 to facilitate the construction of capital improvements within the Yorktown Shopping Center, including site preparation, private construction, public water main and roadway infrastructure. The District is funded through a one percent surcharge upon sales within the defined project area. In consideration of these improvements, the District provided for the partial reimbursement of costs incurred through the construction activities. The first three improvement phases anticipated through the Business District were completed by the owners (Yorktown Holdings, LLC and Highland Yorktown, LLC), while the fourth and final phase has not proceeded to date.

Pacific Retail Capital Partners (PRCP), with their investment partner Kohlberg Kravis Roberts (KKR), is in the process of acquiring the Yorktown Shopping Center and is expected to close in March, 2012. PRCP was formed in January 2008, with a focus on acquiring regional malls and lifestyle centers with strong value added or redevelopment opportunities. While they are a relatively new company, their executive team has a combined 50 years of retail real estate experience, including experience with Westfield Group, one of the world's largest shopping mall owners. PRCP focuses on regional malls in stable markets as they see this as top tier retail property. Some case studies they cited as example investment strategies include:

1. Metrocenter Mall, Phoenix, AZ- This is a 1.4 million square foot mall that was underperforming. The investment team implemented a complete interior/exterior renovation, including complete renovation of parking lot, landscaping, and new entrances. They also replaced vacant spaces with national retail tenants.

2. Queen Ka'ahumanu Center, Kahului, Maui, HI- This is a 570,000 square foot mall. The investment team implemented cosmetic improvements and attracted new national retail and restaurant tenants.
3. West Oaks Mall, Houston, TX- This is a 1.1 million square foot mall. The investment team completed renovation of entrances, lighting, floors, food court, soft seating, play areas and parking lot. This resulted in improved sales growth and sales per square foot.
4. La Cumbre Plaza, Santa Barbara, CA- This is a 500,000 square foot mall. The investment team implemented cosmetic improvements and attracted new national retail and restaurant tenants.

Initial funding for PRCP's acquisition was from the private equity firm of Lubert-Adler, which provided an initial \$200 million for the firm's retail real estate investments. PRCP have recently entered into a partnership with the investment firm Kohlberg Kravis Roberts (KKR), a private equity and venture capital firm specializing in acquisitions, leveraged buyouts, management buyouts, growth equity, and middle market investments. KKR considers investments in all industries, including real estate and have assets worth \$58 Billion.

PROPOSED AMENDMENT

The proposed buyer is seeking the amendment to remove the obligations and the corresponding redevelopment project costs reimbursement eligibility, as identified in Phase IV of the Agreement. This amendment would reduce the original redevelopment note by \$1,400,000 from the previously established \$13,658,425 (the original redevelopment project costs) to \$12,258,425. The overall maximum reimbursement amount, which also includes interest payments, will also be reduced from \$25,000,000 to \$22,437,479.07 accordingly. All other provisions associated with the business district agreement not amended by the removal of the fourth phase, and its related financial obligations, would remain in full force and effect.

The buyer is representing that this amendment is in their best interest as it would remove the corresponding obligations associated with constructing the final phase of improvements. Staff notes that should the amendment be approved and the Phase IV improvements are undertaken in the future, they would not be subject to the business district reimbursement provisions. At their request, the amendment also includes provisions to designating future payments to Yorktown Holdings, LLC and Highland Yorktown, LLC.

ACTION REQUESTED

Attached for Village Board consideration is an Ordinance and companion First Amendment to the Lombard Yorktown Business District. In order to accommodate the pending sale of the property in March, 2012, staff is requesting a waiver of first reading of the Ordinance.



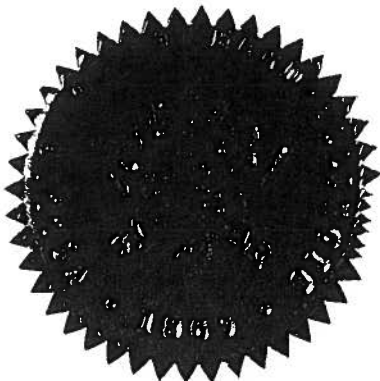
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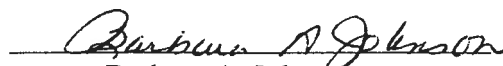
I, **Barbara A. Johnson**, hereby certify that I am the duly qualified Deputy Village Clerk of the **Village of Lombard**, DuPage County, Illinois, as authorized by Statute and provided by local Ordinance, and as such Deputy Village Clerk, I maintain and am safekeeper of the records and files of the President and Board of Trustees of said Village.

I further certify that attached hereto is a true and correct copy of ORDINANCE 5880
AN ORDINANCE APPROVING A
REDEVELOPMENT AGREEMENT BETWEEN AND
AMONG YORKTOWN HOLDINGS LLC,
HIGHLAND YORKTOWN LLC AND THE
VILLAGE OF LOMBARD IN REGARD TO
LOMBARD BUSINESS DISTRICT NO. 1.

of the said Village as it appears from the official records of said Village duly passed on June 1, 2006.

In Witness Whereof, I have hereunto affixed my official signature and the Corporate Seal of said **Village of Lombard**, Du Page County, Illinois this 26th day of June, 2006.





Barbara A. Johnson
Deputy Village Clerk
Village of Lombard
DuPage County, Illinois

ORDINANCE NO. 5880

**AN ORDINANCE APPROVING A REDEVELOPMENT AGREEMENT
BETWEEN AND AMONG YORKTOWN HOLDINGS LLC,
HIGHLAND YORKTOWN LLC AND THE VILLAGE OF LOMBARD
IN REGARD TO LOMBARD BUSINESS DISTRICT NO. 1**

BE IT ORDAINED by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

SECTION 1: The President and Board of Trustees find as follows:

A. That on October 6, 2005 and October 20, 2005, public hearings were held by the President and Board of Trustees relative to the designation of Lombard Business District No. 1;

B. That notice of said public hearings was published in the *Lombard Spectator*, on September 16, 2005 and September 21, 2005 (a copy of the Publisher's Certificate in regard to said publications being attached as Exhibit "A" to Ordinance No. 5776, adopted November 17, 2005), and mailed to each taxpayer of record within the proposed Lombard Business District No. 1 by certified mail, return receipt requested, and by First Class U.S. Mail, on September 16, 2005 (a copy of the Certificate of Mailing in regard to said taxpayer of record notice being attached as Exhibit "B" to Ordinance No. 5776, adopted November 17, 2005);

C. That at said public hearings, Village Staff and a representative of Kane, McKenna and Associates, Inc. made presentations in regard to the proposed Redevelopment Plan for Lombard Business District No. 1; a "blighted area" designation, pursuant to 65 ILCS 5/11-74.3-5, for Lombard Business District No. 1; and proposed redevelopment within Lombard Business District No. 1;

D. That at said public hearings, all members of the public who desired to speak relative to the designation of proposed Lombard Business District No. 1, the "blighted area" designation in relation thereto, or the proposed redevelopment plan in relation thereto, were given an opportunity to speak;

E. That the area legally described below is an area in need of commercial redevelopment so as to maintain and revitalize stable commercial growth within the Village in accordance with Title 3, Chapter 38 of the Lombard Village Code;

F. That, for the reasons as more specifically set forth in the Redevelopment Plan, entitled "Village of Lombard Highland Avenue/Butterfield Road Business District No. 1 Plan" and prepared by Kane, McKenna and Associates, Inc. (a copy of said Redevelopment Plan being attached as Exhibit "C" to Ordinance No. 5776, adopted November 17, 2005), the area legally described below:

- (1) is a "blighted area" as defined in 65 ILCS 5/11-74.3-5 by reason of the predominance of defective or inadequate street layout, unsafe conditions and deterioration of site improvements;

- (2) constitutes an economic liability to the Village in its present condition and use; and
- (3) on the whole has not been subject to growth and development by private enterprises and would not reasonably be anticipated to be developed or redeveloped without the adoption of the Redevelopment Plan;

G. That pursuant to Ordinance No. 5776, adopted on November 17, 2005, the following legally described area was designated as Lombard Business District No. 1:

LOT 1 IN TBA RESUBDIVISION, BEING A SUBDIVISION OF PART OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 13, 2003 AS DOCUMENT R2003-433529, IN DUPAGE COUNTY, ILLINOIS;

ALSO THAT PART OF LOTS 2, 3 AND 4 IN YORKTOWN, BEING A SUBDIVISION OF PART OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 27, 1968 AS DOCUMENT R68-44972 IN DUPAGE COUNTY, ILLINOIS AND DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 4; THENCE NORTHERLY ALONG THE WEST LINE OF SAID LOTS 4, 3 AND 2 TO THE NORTHWEST CORNER OF SAID LOT 2; THENCE NORTH 89 DEGREES, 44 MINUTES, 47 SECONDS EAST, ALONG THE NORTH LINE OF SAID LOT 2, A DISTANCE OF 558.70 FEET TO A POINT OF CURVATURE; THENCE NORTHEASTERLY, 189.37 FEET ALONG THE ARC OF A CURVE CONCAVE NORTHWESTERLY, SAID CURVE HAVING A RADIUS OF 500.00 FEET; THENCE SOUTH 22 DEGREES, 23 MINUTES, 10 SECONDS EAST, A DISTANCE OF 301.25 FEET TO THE NORTH LINE OF SAID LOT 3; THENCE NORTH 60 DEGREES, 00 MINUTES, 00 SECONDS WEST, ALONG SAID NORTH LINE, A DISTANCE OF 70.00 FEET; THENCE SOUTH 89 DEGREES, 17 MINUTES, 40 SECONDS WEST, ALONG SAID NORTH LINE, 561.13 FEET; THENCE SOUTHWESTERLY, 36.55 FEET ALONG THE ARC OF A CURVE CONCAVE SOUTHEASTERLY, SAID CURVE HAVING A RADIUS OF 210.00 FEET AND A CHORD BEARING SOUTH 04 DEGREES, 38 MINUTES, 41 SECONDS WEST, 36.51 FEET; THENCE SOUTH 00 DEGREES, 20 MINUTES, 30 SECONDS EAST, A DISTANCE OF 680.98 FEET; THENCE SOUTH 82 DEGREES, 05 MINUTES, 50 SECONDS EAST, A DISTANCE OF 240.24 FEET; THENCE NORTH 60 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 165.00 FEET; THENCE NORTH 30 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 138.17 FEET; THENCE SOUTH 60 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 451.49 FEET; THENCE SOUTH 30 DEGREES, 00 MINUTES, 00 SECONDS WEST, A DISTANCE OF 65.00 FEET; THENCE SOUTH 60 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 17.45 FEET; THENCE

SOUTH 30 DEGREES, 00 MINUTES, 00 SECONDS WEST, A DISTANCE OF 147.37 FEET; THENCE NORTH 60 DEGREES, 00 MINUTES, 00 SECONDS WEST, A DISTANCE OF 460.45 FEET; THENCE SOUTH 30 DEGREES, 00 MINUTES, 00 SECONDS WEST, A DISTANCE OF 580.73 FEET; THENCE SOUTH 89 DEGREES, 39 MINUTES, 30 SECONDS WEST, A DISTANCE OF 286.52 FEET TO THE POINT OF BEGINNING;

ALSO THE WEST 20 FEET OF LOT 1 IN THE RESUBDIVISION OF LOT 5 OF YORKTOWN, BEING A SUBDIVISION OF PART OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 4, 1971 AS DOCUMENT R71-37779, IN DUPAGE COUNTY, ILLINOIS; ALSO PART OF LOTS 4 AND 6 IN YORKTOWN, BEING A SUBDIVISION OF PART OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 27, 1968 AS DOCUMENT R68-44972 IN DUPAGE COUNTY, ILLINOIS; ALSO PART OF LOT 1 IN PEHRSON SECOND RESUBDIVISION OF LOTS 2 AND 3 IN THE RESUBDIVISION OF LOT 5 OF YORKTOWN, BEING A SUBDIVISION OF PART OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID PEHRSON SECOND RESUBDIVISION, RECORDED SEPTEMBER 3, 1976 AS DOCUMENT R76-62393 IN DUPAGE COUNTY, ILLINOIS AND DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 1 IN THE RESUBDIVISION OF LOT 5 OF YORKTOWN; THENCE NORTH 37 DEGREES, 24 MINUTES, 23 SECONDS WEST, A DISTANCE OF 212.19 FEET; THENCE NORTH 02 DEGREES, 58 MINUTES, 02 SECONDS WEST, A DISTANCE OF 165.00 FEET; THENCE SOUTH 87 DEGREES, 01 MINUTES, 58 SECONDS WEST, A DISTANCE OF 85.00 FEET; THENCE SOUTH 02 DEGREES, 58 MINUTES, 02 SECONDS EAST, A DISTANCE OF 149.12 FEET; THENCE SOUTH 38 DEGREES, 25 MINUTES, 42 SECONDS WEST, A DISTANCE OF 604.76 FEET; THENCE SOUTH 66 DEGREES, 33 MINUTES, 07 SECONDS WEST, A DISTANCE OF 515.96 FEET; THENCE SOUTH 67 DEGREES, 08 MINUTES, 52 SECONDS WEST, A DISTANCE OF 189.32 FEET TO A POINT ON THE WEST LINE OF SAID LOT 6; THENCE SOUTH 30 DEGREES, 00 MINUTES, 00 SECONDS WEST, ALONG SAID WEST LINE, A DISTANCE OF 314.64 FEET TO THE SOUTHWEST CORNER OF SAID LOT 6; THENCE NORTH 67 DEGREES, 08 MINUTES, 52 SECONDS EAST, ALONG THE SOUTH LINE OF SAID LOT 6, A DISTANCE OF 377.85 FEET; THENCE NORTH 00 DEGREES, 20 MINUTES, 12 SECONDS WEST, A DISTANCE OF 97.52 FEET; THENCE NORTH 66 DEGREES, 07 MINUTES, 38 SECONDS EAST, A DISTANCE OF 169.70 FEET; THENCE SOUTH 02 DEGREES, 57 MINUTES, 12 SECONDS EAST, A DISTANCE OF 97.10 FEET TO THE SOUTH LINE OF SAID LOT 6; THENCE NORTH 66 DEGREES, 33 MINUTES, 07 SECONDS EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 821.09 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1; THENCE NORTH 02 DEGREES, 58 MINUTES, 03 SECONDS WEST, ALONG THE WEST LINE OF SAID LOT 1, A DISTANCE

OF 295.00 FEET; THENCE NORTH 87 DEGREES, 01 MINUTES, 57 SECONDS EAST, ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 150.00 FEET TO THE POINT OF BEGINNING;

P.I.N.'s: Pt. 06-29-101-036; 06-29-101-037; Pt. 06-29-101-038;. 06-29-101-039; Pt. 06-29-101-040; Pt.06-29-200-017; Pt. 06-29-200-028; Pt. 06-29-200-054; Pt. 06-29-301-008;. 06-26-301-012; and Pt. 06-29-400-002;

Commonly known as the Northeast Corner of Highland Avenue and Butterfield Road on the Yorktown Mall Property;

H. That pursuant to Ordinance No. 5776, adopted on November 17, 2005, the Redevelopment Plan referenced in Subsection F above was approved as the redevelopment plan for Lombard Business District No. 1;

I. That pursuant to Ordinance No. 5788, adopted December 1, 2005, Business District Retailers' Occupation and Business District Service Occupation Taxes were imposed within the boundaries of Lombard Business District No. 1, each at the rate of one percent (1%), pursuant to and in accordance with 65 ILCS 5/11-74.3-6;

J. So as to achieve the economic redevelopment goals, as set forth in the Redevelopment Plan for Lombard Business District No. 1, it is necessary to enter into redevelopment agreements with one or more of the owners of the property located within the boundaries of Lombard Business District No. 1;

K. That the redevelopment agreement attached hereto as Exhibit 1, entitled, "Business District Development Agreement By, Between and Among Yorktown Holdings LLC, a Delaware limited liability company and Highland Yorktown LLC, an Illinois limited liability company and Village of Lombard, an Illinois municipal corporation," and made part hereof (hereinafter the "Redevelopment Agreement"), will, if entered into by the Village, help to achieve the economic redevelopment goals as set forth in the Redevelopment Plan for Lombard Business District No. 1; and

L. That it is in the best interests of the Village to enter into the Redevelopment Agreement attached hereto as Exhibit 1.

SECTION 2: Based upon the foregoing, and pursuant to: 65 ILCS 5/11-74.3-1, *et seq.*; Title 3, Chapter 38 of the Lombard Village Code; Ordinance No. 5776, adopted November 17, 2005; Ordinance No. 5788, adopted December 1, 2005; and the Redevelopment Plan for Lombard Business District No. 1; the Redevelopment Agreement, attached hereto as Exhibit 1, is hereby approved, and the President and Clerk of the Village be and they are hereby authorized and directed to execute said Redevelopment Agreement on behalf of the Village of Lombard.

SECTION 3: That this Ordinance shall be in full force and effect from and after its adoption, approval and publication in pamphlet form as provided by law.

Passed on first reading this 18th day of May, 2006.

First reading waived by action of the Board of Trustees this ____ day of _____, 2006.


Passed on second reading this 1st day of June, 2006, pursuant to a roll call vote as follows:

AYES: Trustees Gron, Tross, O'Brien, Sebby, Florey and Soderstrom

NAYS: None


ABSENT: None

APPROVED by me this 1st day of June, 2006.



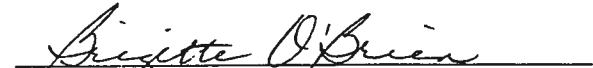
William J. Mueller
Village President

ATTEST:



Brigitte O'Brien
Village Clerk

Published by me in pamphlet form this 7th day of June, 2006.



Brigitte O'Brien
Village Clerk

BUSINESS DISTRICT REDEVELOPMENT AGREEMENT

BY, BETWEEN AND AMONG

**YORKTOWN HOLDINGS LLC,
a Delaware limited liability company**

and

**HIGHLAND YORKTOWN LLC,
an Illinois limited liability company**

and

**VILLAGE OF LOMBARD,
an Illinois municipal corporation**

May __, 2006



1 This **BUSINESS DISTRICT REDEVELOPMENT AGREEMENT** (this
2 “Agreement”) is entered into as of the Effective Date (as hereinafter defined) by, between and
3 among the **VILLAGE OF LOMBARD**, an Illinois municipal corporation (the “Village”),
4 **YORKTOWN HOLDINGS LLC**, a Delaware limited liability company (“Yorktown
5 Holdings”) and **HIGHLAND YORKTOWN LLC**, an Illinois limited liability company
6 (“Highland Yorktown”). Yorktown Holdings and Highland Yorktown are referred to
7 individually as an “Owner” and collectively as “Owners”. The Village and Owners are referred
8 to individually as a “Party” and collectively as the “Parties”.

9 **RECITALS**

10 A. Yorktown Holdings and Highland Yorktown are collectively the owners and/or
11 contract purchasers of a portion of a retail shopping center located in the Village commonly
12 known as the “Yorktown Center”, which consists of buildings and parking lots and drives, utility
13 and storm drainage, parking lot lighting and other improvements. Such portion of the Yorktown
14 Center is legally described in Exhibit A attached hereto and is referred to hereinafter as the
15 “Property”.

16 B. On September 15, 2005, the Village expressed its intent to establish a “business
17 district” and adopt a “redevelopment plan” for certain property legally described in Exhibit A-1
18 attached hereto (the “Business District Property”) pursuant to the provisions of 65 ILCS
19 5/11-74.3-1 et seq. (the “Act”) by adopting and approving Resolution 22-06, entitled *“A*
20 *Resolution Expressing the Village’s Official Intent to Proceed with the Establishment of*
21 *Lombard Business District No. 1 and the Adoption of a Business District Development Plan”*
22 (the “Inducement Resolution”). The Property constitutes a portion of the Business District
23 Property.

24 C. On October 6, 2005 and October 20, 2005, pursuant to and in accordance with the
25 provisions of the Act, the Village’s President and Board of Trustees (the “Corporate
26 Authorities”) held public hearings to consider the establishment of a business district on the
27 Business District Property and the adoption of a redevelopment plan for the Business District
28 Property.

29 D. The Corporate Authorities have determined that the Business District Property:
30 (i) is a “blighted area” as defined in the Act, by reason of the predominance of defective or
31 inadequate street layout, unsafe conditions and deterioration of site improvements;
32 (ii) constitutes an economic liability to the Village in its present condition and use; and (iii) on
33 the whole has not been subject to growth and development by private enterprises and would not
34 reasonably be anticipated to be developed or redeveloped without the adoption of the
35 Redevelopment Plan (as hereinafter defined).

36 E. On November 17, 2005, pursuant to and in accordance with the provisions of the
37 Act, the Village adopted Ordinance No. 5776, entitled *“An Ordinance Designating Lombard*
38 *Business District No. 1 [Highland Avenue/Butterfield Road Business District](Northeast Corner*
39 *of Butterfield Road and Highland Avenue on the Yorktown Mall Property, Generally Consisting*
40 *of the Former Montgomery Wards Store Site and Surrounding Areas)”* (the “Designation
41 Ordinance”). The Designation Ordinance designated the Business District Property as a

42 “business district” (the “Business District”) and adopted a “redevelopment plan” with respect to
43 such Business District (the “Redevelopment Plan”) within the meaning of the Act.

44 F. On December 1, 2005, pursuant to and in accordance with the provisions of the
45 Act, the Village adopted Ordinance No. 5788 (the “Sales Tax Ordinance”) imposing: (i) a
46 Business District Retailers’ Occupation Tax upon all persons engaged in the business of selling
47 tangible personal property within the Business District at the rate of one percent (1%) of the
48 gross receipts from the sales made in the course of such business; and (ii) a Business District
49 Service Occupation Tax upon all persons engaged in the business of making sales of service
50 within the Business District who, as an incident to making those sales of service, transfer
51 tangible personal property within the Business District, at the rate of one percent (1%) of the
52 selling price of tangible personal property so transferred within the Business District.

53 G. Owners have proposed to redevelop the Property in four phases with retail,
54 restaurant, parking and other uses (collectively, the “Project”). A site plan depicting the Project
55 is attached hereto as Exhibit B. The four phases of the Project are described with particularity on
56 Exhibit B-1 attached hereto.

57 H. Owners have represented to the Village that they cannot undertake the
58 redevelopment of the Property and the construction of the Project in an economically feasible
59 manner, and that they will not undertake construction of the Project, unless they are reimbursed a
60 portion of Redevelopment Project Costs, as hereinafter provided.

61 I. In reliance upon the Village’s adoption of the Inducement Resolution and the
62 Designation Ordinance, Owners have incurred, and intend to incur, Redevelopment Project Costs
63 (as hereinafter defined) in furtherance of the redevelopment of the Property and the construction
64 of the Project.

65 J. The Village seeks to encourage Owners’ redevelopment of the Property and
66 Owners’ construction of the Project, and in order to make it economically feasible for Owners to
67 do so, the Village has agreed to reimburse Owners a portion of the Redevelopment Project Costs
68 (as hereinafter defined), up to the Maximum Reimbursement Amount (as hereinafter defined),
69 using Sales Taxes (as hereinafter defined) collected pursuant to the Sales Tax Ordinance.

70 **NOW, THEREFORE**, in consideration of the foregoing recitals, the covenants and
71 agreements hereinafter set forth and other good and valuable consideration, the receipt and
72 sufficiency of which are hereby acknowledged, the Parties agree as follows:

73 **ARTICLE 1**

74 **RECITALS**

75
76 The recitals set forth above are accurate and are expressly incorporated into this
77 Agreement by this reference thereto as if fully set forth in this Article 1.

78 ARTICLE 2

79
80 AUTHORITY

81 This Agreement is entered into by the Village pursuant to applicable provisions of the
82 Illinois Constitution of 1970 and the Act.

83 ARTICLE 3

84
85 DEFINITIONS

86 (A) Commencement Date. Saturday, July 1, 2006.

87 (B) Department. The Illinois Department of Revenue.

88 (C) Effective Date. The date of execution of this Agreement by the Village.

89 (D) Force Majeure. Fire or other casualty, condemnation, strike, lock-out, civil
90 disorder, war, restrictive governmental regulations, acts of God, unusually adverse weather
91 conditions, delays in issuance of permits by the Village, any temporary or permanent injunction
92 or other court order or other cause beyond the Parties' reasonable control.

93 (E) Manager. The Village Manager of the Village or his/her designee.

94 (F) Maximum Reimbursement Amount. The sum of Thirteen Million Six Hundred
95 Fifty Eight Thousand Four Hundred Twenty Five and No/100 Dollars (\$13,658,425.00), plus
96 interest as provided in the Redevelopment Note, up to an aggregate maximum amount of Twenty
97 Five Million and No/100 Dollars (\$25,000,000.00).

98 (G) Quarter. Any period of three consecutive months ending on March 31, June 30,
99 September 30, or December 31.

100 (H) Quarterly Payment Date. The date which is thirty (30) days following the
101 Village's receipt of Sales Taxes from the Department which include Sales Taxes generated in the
102 Business District for the last month of the immediately preceding Quarter.

103 (I) Redevelopment Account. The Lombard Business District No.1 Business District
104 Tax Allocation Fund, which is the special fund established or to be established by the Village
105 pursuant to the Sales Tax Ordinance, into which the Village shall deposit the Sales Taxes
106 generated in the Business District during the Reimbursement Period.

107 (J) Redevelopment Note. Defined in Article 5, Section (A) below.

108 (K) Reimbursement Period. The period of time commencing on the Commencement
109 Date and ending on June 30, 2024.

110 (L) Redevelopment Project Costs. Defined in Article 4, Section (A) below.

111 (M) Reimbursement Termination Date. The date which is the earlier of: (i) the next
112 Quarterly Payment Date following June 30, 2024 (as shall be automatically extended until the
113 Manager makes all required disbursements to Owners of Sales Taxes generated during the
114 Reimbursement Period); or (ii) the date the Manager makes final payment to Owners of the
115 Maximum Reimbursement Amount.

116 (N) Sales Taxes. The taxes described in Recital (F) hereof or any other sales tax or
117 successor tax that may be authorized or enacted by the State as a supplement or replacement
118 thereto generated in the Business District during the Reimbursement Period and distributed to the
119 Village pursuant to the Act.

120 (O) State. The State of Illinois.

121 ARTICLE 4

122 REDEVELOPMENT OF THE PROPERTY

123
124 (A) Redevelopment Project Costs. The Village acknowledges that Owners, as of the
125 Effective Date have incurred and after the Effective Date will incur, costs in furtherance of the
126 redevelopment of the Property and the construction of the Project that are eligible for
127 reimbursement pursuant to the Redevelopment Plan. Such costs are set forth on Exhibit C
128 attached hereto (the "Redevelopment Project Costs").

129 (B) Completion of the Project. Subject to Owners' receipt of all governmental
130 permits and approvals required for the construction of the Project and subject to Force Majeure,
131 Owners shall complete the several phases of the Project substantially in accordance with the
132 phasing schedule attached hereto as Exhibit B-1, or in accordance with such later dates as the
133 Village Board of Trustees may approve for the completion of such work, which approval shall
134 not require an amendment to this Agreement and which approval shall not be unreasonably
135 withheld.

136 ARTICLE 5

137 REIMBURSEMENT OF REDEVELOPMENT PROJECT COSTS

138
139 (A) The Village's Agreement to Reimburse. The Village, pursuant to the provisions
140 of this Agreement and the Act, shall reimburse Owners a portion of the Redevelopment Project
141 Costs, up to the Maximum Reimbursement Amount, through the payment to Owners of Sales
142 Taxes that are generated within the Business District during the Reimbursement Period. The
143 Village shall evidence such obligation by executing and delivering to Owners a non-recourse
144 redevelopment note in the form of Exhibit D attached hereto (the "Redevelopment Note"). The
145 Village shall execute and deliver the Redevelopment Note to Owners concurrently with the
146 execution of this Agreement. The Redevelopment Note shall be in the original principal amount
147 of Thirteen Million Six Hundred Fifty Eight Thousand Four Hundred Twenty Five and No/100
148 Dollars (\$13,658,425.00), which principal amount shall bear simple interest at the rate of seven
149 percent (7%) per annum until fully paid. Amounts of interest due under the Redevelopment Note
150 that are not paid when due shall accrue and be added to the principal balance of the

151 Redevelopment Note. OWNERS ACKNOWLEDGE THAT ALL AMOUNTS DUE
152 UNDER THE REDEVELOPMENT NOTE SHALL BE PAYABLE SOLELY FROM THE
153 SALES TAXES COLLECTED AND REMITTED TO THE VILLAGE AS A RESULT OF
154 SALES OCCURRING IN THE BUSINESS DISTRICT DURING THE
155 REIMBURSEMENT PERIOD. OWNERS FURTHER ACKNOWLEDGE THAT THE
156 VILLAGE'S OBLIGATIONS UNDER THE REDEVELOPMENT NOTE SHALL
157 CONSTITUTE LIMITED OBLIGATIONS OF THE VILLAGE AND THAT SAID
158 OBLIGATIONS DO NOT NOW AND SHALL NEVER CONSTITUTE A GENERAL
159 INDEBTEDNESS OF THE VILLAGE WITHIN THE MEANING OF ANY STATE OF
160 ILLINOIS CONSTITUTIONAL OR STATUTORY PROVISION AND SHALL NOT
161 CONSTITUTE OR GIVE RISE TO A PECUNIARY LIABILITY OF THE VILLAGE OR
162 A CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWER.

163 (B) Supporting Documentation. Prior to receiving the initial payment of Sales
164 Taxes pursuant to the Redevelopment Note and this Agreement, Owners shall submit to the
165 Manager, to the extent not theretofore submitted to the Village, the following documentation:
166 (i) a detailed description of the Redevelopment Project Costs that Owners have incurred in
167 connection with the construction of the Project; and (ii) evidence reasonably acceptable to the
168 Village that confirms that Owners have expended the amounts for which Owners then seek
169 reimbursement (the "Supporting Documentation").

170 (C) Quarterly Reimbursements. The Village, subject to the provisions of Article 5
171 and Article 6 hereof, shall make disbursements of Sales Taxes deposited in the Redevelopment
172 Account to Owners as follows: on the first Quarterly Payment Date following the
173 Commencement Date and on each succeeding Quarterly Payment Date until the Reimbursement
174 Termination Date, the Manager shall disburse to Owners the Sales Taxes generated within the
175 Business District and distributed to the Village by the Department for the immediately preceding
176 Quarter (and any undisbursed Sales Taxes carried over from previous Quarters) for all
177 unreimbursed Redevelopment Project Costs for which appropriate Supporting Documentation
178 has been submitted to the Village. Sales Taxes shall be disbursed to accounts established by
179 Owners according to instructions provided to the Manager by Owners. The payments to Owners
180 contemplated by this Agreement shall continue as may be necessary following the expiration of
181 the Reimbursement Period until the Reimbursement Termination Date.

182 (D) Accounting. Together with every Quarterly disbursement delivered to Owners in
183 accordance with Article 5, Section (C) hereof, the Village shall prepare and deliver to Owners an
184 accounting of the Redevelopment Account showing: (i) the amount of Redevelopment Project
185 Costs disbursed to Owners to date, detailing the amounts attributable to principal and interest due
186 and paid Owners on the Redevelopment Note; and (ii) the remaining principal balance due on the
187 Redevelopment Note.

188 (E) Appropriation of Funds. To the extent the Village is required to do so by law,
189 the Village shall take such actions as may be required from time to time to appropriate funds
190 pursuant to Illinois law to satisfy its obligations to Owners under this Agreement and under the
191 Redevelopment Note.

192 **ARTICLE 6**

193 **THE REDEVELOPMENT ACCOUNT**

194
195 (A) **Establishment of Redevelopment Account.** The Village shall establish the
196 Redevelopment Account pursuant to the provisions of the Redevelopment Plan and the Act for
197 purposes of distributing Sales Taxes in accordance with the provisions of this Agreement.
198 Thereafter, the Village shall deposit into the Redevelopment Account all Sales Taxes generated
199 within the Business District that are distributed to the Village by the Department.

200 (B) **Distribution of Sales Taxes Deposited in Redevelopment Account.** Sales
201 Taxes deposited from time to time in the Redevelopment Account shall be disbursed by the
202 Village as follows:

203 (i) On the first Quarterly Payment Date, a one-time fee in the amount of one-
204 quarter of one percent (0.25%) of the original principal balance of the Redevelopment
205 Note shall be paid to the Village for issuing the Redevelopment Note. If such amount is
206 not deposited in full into the Redevelopment Account as of the first Quarterly Payment
207 Date, the balance of such amount that remains due shall be paid in accordance with
208 subsection (ii) below.

209 (ii) On each subsequent Quarterly Payment Date, Sales Taxes shall be
210 disbursed as follows:

211 (a) any remaining balance due the Village on the one-time fee
212 described in subsection (i) above shall be paid to the Village;

213 (b) next, an amount equal to one percent (1%) of the amount of Sales
214 Taxes deposited into the Redevelopment Account during the immediately
215 preceding Quarter shall be paid to the Village as a fee for administering the
216 Redevelopment Account;

217 (c) next, Sales Taxes shall be paid to the Village to pay any accrued
218 and current expenses (including, without limitation, attorneys' fees) incurred by
219 the Village pursuant to Article 13 hereof;

220 (d) next, Sales Taxes shall be paid to Owners to pay any accrued and
221 current expenses (including, without limitation, attorneys' fees) incurred by
222 Owners pursuant to Article 13 hereof;

223 (e) next, Sales Taxes shall be paid to Owners to pay any amounts of
224 previously unpaid principal and interest that are past due on the Redevelopment
225 Note under the amortization schedule that is attached to the Redevelopment Note
226 as Exhibit 1 (the "Amortization Schedule");

227 (f) next, Sales Taxes shall be paid to Owners to pay current amounts
228 of interest then due on the Redevelopment Note in the amounts set forth on the
229 Amortization Schedule;

230 (g) next, Sales Taxes shall be paid to Owners to pay current amounts
231 of principal then due on the Redevelopment Note in the amounts set forth on the
232 Amortization Schedule;

233 (h) next, Sales Taxes shall be held by the Village in the
234 Redevelopment Account in trust for the benefit of Owners to secure the Village's
235 payment of future principal and interest payments that will become payable under
236 the Redevelopment Note; and

237 (i) next, Sales Taxes shall be paid to the Village to reimburse the Village
238 for any redevelopment project costs the Village has incurred or will incur in
239 accordance with the Redevelopment Plan and the Act.

240 (C) **Other Terms Governing the Redevelopment Account.** The Redevelopment
241 Account shall be governed by and subject to the following additional terms and understandings
242 of the Parties:

243 (i) The Village covenants that, until the Reimbursement Termination Date, it
244 shall not: (a) encumber the Redevelopment Account for any purpose, nor shall it borrow,
245 use or pledge the Redevelopment Account unless otherwise agreed to by Owners; (b) use
246 funds in the Redevelopment Account directly or indirectly in any fashion other than as set
247 forth in this Agreement; or (c) use funds in the Redevelopment Account to replace any
248 other source of revenue or to repay any other obligation of the Village now existing or
249 arising during the Term of this Agreement.

250 (ii) The Manager shall automatically and punctually pay Owners, or cause
251 Owners to be paid, the applicable Sales Taxes deposited in the Redevelopment Account
252 pursuant to this Agreement and the Redevelopment Note until the Reimbursement
253 Termination Date. The Manager shall have no obligation to pay, transfer or advance
254 other money or otherwise incur any financial liability in the performance of any of his or
255 her duties under this Agreement.

256 (iii) All interest earned on the investment of the monies deposited in the
257 Redevelopment Account from time to time shall be deposited into the Redevelopment
258 Account and used to pay the amounts that are to be distributed under the terms of this
259 Agreement.

260 (iv) If it is established at any time that the Manager has overpaid Owners, the
261 amount of such overpayment shall be deducted from the next payment or payments due
262 Owners, or if there are no further payments to be made, the amount of the overpayment
263 shall be returned to the Village by Owners upon the Village making a written demand
264 therefor.

265 ARTICLE 7

266 DOCUMENTATION OF SALES

267

268 (A) **Filing.** As a condition precedent to its receipt of Sales Taxes, Owners shall use
269 commercially reasonable efforts to cause each tenant within the Business District to: (i) file a
270 separate IDOR Form ST-1 (or any successor reporting form) with the Department in order to
271 separately identify the Sales Taxes that result from retail sales within the Business District;
272 (ii) upon written request of the Village, supply or cause to be promptly supplied to the Village,
273 copies of its State sales tax returns filed with the Department promptly after filing thereof; and
274 (iii) designate retail sales as being sales originating from the Business District that are subject to
275 the imposition of the Sales Tax hereinabove described to the fullest extent permitted by law. The
276 Village agrees that it shall from time to time deliver notice to all retailers and other business
277 within the Business District as may be reasonably necessary to inform such retailers and other
278 businesses of their obligation to collect the Sales Taxes.

279 (B) **Confidentiality.** To the extent permitted by law, the Village shall endeavor to
280 maintain the confidentiality of the information contained in the reports filed with the
281 Department, but shall be permitted to disclose such information to such Village employees and
282 consultants as the Village, in its sole discretion, deems appropriate in order to monitor
283 compliance and audit this Agreement. The Village shall also disclose such information pursuant
284 to the provisions of the Illinois Freedom of Information Act or similar statute unless it
285 determines the request is exempt. If the Village receives a request pursuant to the Illinois
286 Freedom of Information Act or similar statute which the Village determines to be exempt, prior
287 to the Village refusing to provide such information, the Village shall notify Owners and provide
288 Owners with a copy of the request. Owners shall have the opportunity, within three (3) business
289 days (or such lesser period of time as may be necessary for the Village to respond to the request
290 within the statutory time period), to notify the Village that it consents to the request. If no
291 consent is received within said time period, the Village may proceed to refuse to disclose the
292 information. If an action is ever commenced against the Village pursuant to the Illinois Freedom
293 of Information Act or similar statute as a result of withholding any information contained in
294 reports filed with the Department and delivered to the Village, Owners agree to indemnify the
295 Village and its officers, agents and employees against, and to hold the Village and its officers,
296 agents and employees harmless from, all costs, liabilities, damages, suits, causes of action and
297 expenses (including, without limitation, attorney's fees) imposed on or incurred by the Village
298 and its officers, agents and employees in conjunction with such action.

299 (C) **Audit.** Following the close of each fiscal year of the Village, as is usual and
300 customary and required by law, the Village shall undertake to audit the financial transactions of
301 the Village contemplated herein in the manner provided by law. Upon the receipt of any such
302 audit which concerns funds received by, deposited in and/or disbursed from the Redevelopment
303 Account, the Village shall provide a certified copy of those portions of each such audit to
304 Owners. Each audit shall show and give an accounting of the receipts of and disbursements from
305 the Redevelopment Account.

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ARTICLE 8

TERM

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On November 16, 2028, this Agreement shall be and become null and void and of no further effect whatsoever, without further action on the part of the Village or any other person, firm or corporation. Notwithstanding the foregoing, this Agreement shall remain in effect for purposes of audit and final accounting and for purposes of enforcement actions hereon. Once such final accounting is completed and any remaining monies to be paid to Owners pursuant to the terms of this Agreement are paid, the Redevelopment Note shall be marked "canceled" and returned to the Village.

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ARTICLE 9

MUTUAL ASSISTANCE

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The Village and Owners agree to do all things necessary or appropriate to carry out, and to aid and assist each other in carrying out, the terms of this Agreement and in implementing the Parties' intent, as reflected by the terms of this Agreement.

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ARTICLE 10

SUCCESSORS AND ASSIGNS

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This Agreement shall be binding upon and inure to the benefit of the Parties' respective successors and assigns.

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ARTICLE 11

GOVERNING LAW, WAIVER AND NOTICES

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This Agreement shall be governed by the laws of the State of Illinois and the sole and exclusive venue for any disputes arising out of this Agreement shall be the Circuit Court of the 18th Judicial Circuit, DuPage County, Illinois. A waiver of any part of this Agreement shall be limited to that specific event and shall not be a waiver of the entire Agreement. Any notices required in this Agreement shall be effective when in writing received by the other Party via certified mail, return receipt requested, or by delivering the same in person or by facsimile, when appropriate, addressed to the Party to be notified.

337

All notices to the Village shall be sent to:

Village of Lombard
255 E. Wilson Avenue
Lombard, Illinois 60148-8222
Attn: Village Manager
Fax: 630-620-8222

340 or to such other addresses as a Party may designate for itself by notice given from time to time to
341 the other Parties in the manner provided herein.

342 **ARTICLE 12**

343 **DEFAULT**

344
345 If the Village materially defaults in the performance of an obligation under this
346 Agreement, Owners may terminate this Agreement and their obligations hereunder or may
347 secure the specific performance of the covenants and agreements contained herein, provided
348 Owners have delivered to the Village written notice specifying such default and a thirty (30) day
349 period in which to cure such default following such notice. If Owners materially default in the
350 performance of an obligation under this Agreement, the Village's sole remedy shall be to
351 terminate this Agreement and to withhold further reimbursements for Redevelopment Project
352 Costs and payments under the Redevelopment Note, provided the Village has delivered to
353 Owners written notice specifying such default and a thirty (30) day period in which to cure such
354 default following such notice.

355 **ARTICLE 13**

356 **INDEMNIFICATION**

357 (A) If an action or suit is made or filed against the Village and/or Owners and/or their
358 respective officers, agents and employees that relates to or arises out of a representation or
359 agreement of Owners made in this Agreement, or in any document delivered to the Village
360 pursuant to this Agreement, or the performance of any undertaking by Owners under this
361 Agreement, the Village and/or Owners (as the case may be) shall promptly notify the other Party
362 thereof and Owners shall thereafter indemnify and defend the Village and its officers, agents and
363 employees against, and hold the Village and its officers, agents and employees harmless from,
364 any and all damages, costs, liabilities and expenses (including, without limitation, reasonable
365 attorney's fees) incurred, suffered or sustained by the Village and/or its officers, agents and
366 employees as a result of the making or filing of such claim, action or suit.

367 (B) If an action or suit is filed against the Village and/or Owners and/or their
368 respective officers, agents and employees that relates to or arises out of the adoption of the
369 Designation Ordinance or the Sales Tax Ordinance, the establishment of the Business District,
370 the approval of the Redevelopment Plan and/or the Village's approval and execution of this
371 Agreement, the Village shall promptly notify Owners thereof and the Parties shall thereafter fully
372 cooperate with one another in the defense of such action or suit.

373 (C) All sums paid or incurred by the Village and Owners pursuant to the provisions of
374 this Article 13 shall be reimbursed to the Parties through the payment of Sales Taxes in
375 accordance with Article 6, Section (B) hereof, and, in the case of Owners, even if such payments,
376 when added to other amounts reimbursed to Owners pursuant to this Agreement, exceed the
377 Maximum Reimbursement Amount. If requested by Owners and necessary to conform to the
378 requirements of law, the Village shall enact an ordinance amending the Redevelopment Plan to

379 expand the scope of eligible redevelopment costs so as to allow for such addition of such sums to
380 the principal balance of the Redevelopment Note.

381 **ARTICLE 14**

382
383 **MISCELLANEOUS**

384 (A) **Integration.** This Agreement contains the entire agreement of the Parties with
385 respect to the transactions contemplated by this Agreement. All prior agreements, negotiations,
386 and understandings are expressly merged herein and superseded hereby. All exhibits to this
387 Agreement are expressly incorporated herein by this reference thereto.

388 (B) **Severability.** Each section of this Agreement, and each sentence, clause or
389 phrase contained in such section, shall be considered severable and if, for any reason, any
390 section, or any sentence, clause or phrase contained in such section, is determined to be invalid
391 or unenforceable, such invalidity or unenforceability shall not impair the operation, effect
392 enforceability or validity of the remaining portions of this Agreement.

393 (C) **Amendment.** This Agreement may be amended by, and only by, a written
394 instrument signed by the Parties. The Site Plan has been attached to this Agreement for the sole
395 and limited purpose of identifying the phasing of the construction of the Project. The Site Plan
396 and other Project plans may be modified by Owners, and Owners shall have the right to construct
397 improvements on the Property not currently depicted on the Site Plan, without amending the
398 provisions of this Agreement, subject to Owners' compliance with the provisions of all
399 applicable and duly-adopted Village codes and ordinances.

400 (D) **Headings.** Section or other headings contained in this Agreement are for
401 reference purposes only and shall not affect in any way the meaning or interpretation of this
402 Agreement.

403 (E) **Time is of the Essence.** Time is of the essence of this Agreement and of each
404 and every provision hereof.

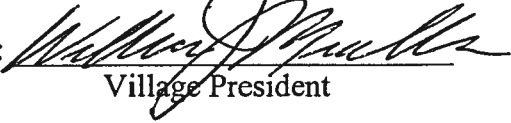
405 (F) **No Third-Party Beneficiaries.** This Agreement is not intended and shall not be
406 deemed to benefit any person, company or other entity not a Party to this Agreement.

407 [SIGNATURE PAGE FOLLOWS]

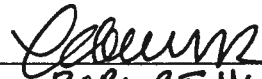
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409 IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates set
410 forth below their respective signatures, to be effective as of the Effective Date.

VILLAGE OF LOMBARD, an Illinois
municipal corporation


By: 
Village President

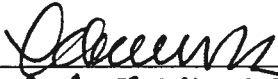
YORKTOWN HOLDINGS LLC, a Delaware
limited liability company

By: 
Name: ROBERT W. LONG
Its: AUTHORIZED REPRESENTATIVE

ATTEST:

HIGHLAND YORKTOWN LLC, an Illinois
limited liability company

By: 
Village Clerk

By: 
Name: ROBERT W. LONG
Its: AUTHORIZED REPRESENTATIVE

[SEAL]

411

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

PARCEL 1

THAT PART OF LOT 2 IN YORKTOWN, BEING A SUBDIVISION OF PART OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 27, 1968 AS DOCUMENT NO. R68-44972 AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 2; THENCE NORTH 00 DEGREES, 20 MINUTES, 30 SECONDS WEST, ALONG THE WEST LINE OF SAID LOT 2, A DISTANCE OF 92.26 FEET; THENCE NORTH 44 DEGREES, 29 MINUTES, 23 SECONDS EAST, A DISTANCE OF 18.44 FEET; THENCE NORTH 00 DEGREES, 20 MINUTES, 30 SECONDS WEST, A DISTANCE OF 15.75 TO A POINT OF CURVATURE OF A NON-TANGENT CURVE; THENCE NORTHEASTERLY, 62.14 FEET ALONG THE ARC OF A CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 80.00 FEET AND A CHORD BEARING NORTH 67 DEGREES, 02 MINUTES, 34 SECONDS EAST, 60.59 FEET TO A POINT OF TANGENCY; THENCE NORTH 89 DEGREES, 17 MINUTES, 40 SECONDS EAST, A DISTANCE OF 110.92 TO A POINT OF CURVATURE; THENCE SOUTHEASTERLY, 39.43 FEET ALONG THE ARC OF A CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 25.00 FEET AND A CHORD BEARING SOUTH 45 DEGREES, 31 MINUTES, 25 SECONDS EAST, 35.47 FEET; THENCE SOUTH 00 DEGREES, 20 MINUTES, 30 SECONDS EAST, A DISTANCE OF 118.79 FEET TO THE SOUTH LINE OF SAID LOT 2; THENCE SOUTH 89 DEGREES, 17 MINUTES, 40 SECONDS WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 205.01 FEET TO THE POINT OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS.

PARCEL 2

THAT PART OF LOT 3 IN YORKTOWN, BEING A SUBDIVISION OF PART OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 27, 1968 AS DOCUMENT NO. R68-44972 AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 3; THENCE NORTH 89 DEGREES, 17 MINUTES, 40 SECONDS EAST, ALONG THE NORTH LINE OF SAID LOT 3, A DISTANCE OF 205.01 FEET; THENCE SOUTH 00 DEGREES, 20 MINUTES, 30 SECONDS EAST, A DISTANCE OF 448.23 FEET TO A POINT OF CURVATURE; THENCE SOUTHWESTERLY, 39.27 FEET ALONG THE ARC OF A CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 25.00 FEET AND A CHORD BEARING SOUTH 44 DEGREES, 39 MINUTES, 30 SECONDS WEST, 35.36 FEET; THENCE SOUTH 89 DEGREES, 39 MINUTES, 30 SECONDS WEST, A DISTANCE OF 114.00 FEET TO A POINT OF CURVATURE; THENCE NORTHWESTERLY, 73.36 FEET ALONG THE ARC OF A CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 90.00 FEET AND A CHORD BEARING NORTH 65 DEGREES, 17 MINUTES, 52 SECONDS WEST, 71.34 FEET; THENCE NORTH 37 DEGREES, 32 MINUTES, 31 SECONDS WEST, A DISTANCE OF 13.83 FEET TO THE WEST LINE OF SAID LOT 3; THENCE NORTH 00 DEGREES, 20 MINUTES, 30 SECONDS WEST, ALONG SAID WEST LINE, A DISTANCE OF 337.91 FEET; THENCE NORTH 07 DEGREES, 19 MINUTES, 31 SECONDS EAST, ALONG SAID WEST LINE, A DISTANCE OF 52.46 FEET; THENCE NORTH 00 DEGREES, 20 MINUTES, 30 SECONDS WEST, ALONG SAID WEST LINE, A DISTANCE OF 41.06 FEET TO THE POINT OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS.

PARCEL 3

THAT PART OF LOT 3 IN YORKTOWN, BEING A SUBDIVISION OF PART OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT

THEREOF RECORDED SEPTEMBER 27, 1968 AS DOCUMENT NO. R68-44972 AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 3; THENCE NORTH 00 DEGREES, 20 MINUTES, 30 SECONDS WEST, ALONG THE WEST LINE OF SAID LOT 3, A DISTANCE OF 57.36 FEET; THENCE NORTH 03 DEGREES, 39 MINUTES, 45 SECONDS EAST, ALONG SAID WEST LINE, A DISTANCE OF 100.22 FEET; THENCE NORTH 00 DEGREES, 20 MINUTES, 30 SECONDS WEST, ALONG SAID WEST LINE, A DISTANCE OF 182.60 FEET TO A POINT OF CURVATURE OF A NON-TANGENT CURVE; THENCE NORTHEASTERLY, 78.64 FEET ALONG THE ARC OF A CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 77.00 FEET AND A CHORD BEARING NORTH 59 DEGREES, 54 MINUTES, 54 SECONDS EAST, 75.27 FEET; THENCE NORTH 89 DEGREES, 39 MINUTES, 30 SECONDS EAST, A DISTANCE OF 114.00 FEET TO A POINT OF TANGENCY; THENCE SOUTHEASTERLY, 39.27 FEET ALONG THE ARC OF A CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 25.00 FEET AND A CHORD BEARING SOUTH 45 DEGREES, 20 MINUTES, 30 SECONDS EAST, 35.35 FEET; THENCE SOUTH 00 DEGREES, 20 MINUTES, 30 SECONDS EAST, A DISTANCE OF 352.27 FEET TO THE SOUTH LINE OF SAID LOT 3; THENCE SOUTH 89 DEGREES, 39 MINUTES, 30 SECONDS WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 212.00 FEET TO THE POINT OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS.

PARCEL 4

THAT PART OF LOT 4 IN YORKTOWN, BEING A SUBDIVISION OF PART OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 27, 1968 AS DOCUMENT NO. R68-44972 AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 4; THENCE NORTH 89 DEGREES, 39 MINUTES, 30 SECONDS EAST, A DISTANCE OF 400.10 FEET; THENCE NORTH 30 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 177.55 FEET; THENCE NORTH 60 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 165.00 FEET; THENCE NORTH 30 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 138.17 FEET; THENCE SOUTH 60 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 451.49 FEET; THENCE SOUTH 30 DEGREES, 00 MINUTES, 00 SECONDS WEST, A DISTANCE OF 65.00 FEET; THENCE SOUTH 60 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 17.45 FEET; THENCE SOUTH 30 DEGREES, 00 MINUTES, 00 SECONDS WEST, A DISTANCE OF 147.37 FEET; THENCE NORTH 60 DEGREES, 00 MINUTES, 00 SECONDS WEST, A DISTANCE OF 460.45 FEET; THENCE SOUTH 30 DEGREES, 00 MINUTES, 00 SECONDS WEST, A DISTANCE OF 580.73 FEET TO THE SOUTH LINE OF SAID LOT 4; THENCE SOUTH 89 DEGREES, 39 MINUTES, 30 SECONDS WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 286.52 FEET TO THE SOUTHWEST CORNER OF SAID LOT 4; THENCE NORTHERLY ALONG THE WEST LINE OF SAID LOT 4 TO THE NORTHWEST CORNER OF SAID LOT 4 AND THE POINT OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS.

PARCEL 5

LOT 1 IN TBA RESUBDIVISION, BEING A SUBDIVISION OR PART OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 13, 2003 AS DOCUMENT NO. R2003-433529, IN DUPAGE COUNTY, ILLINOIS.

PARCEL 6

ALSO THE WESTERLY 20.00 FEET OF LOT 1 IN THE RESUBDIVISION OF LOT 5 OF YORKTOWN, BEING A SUBDIVISION OF PART OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 4, 1971 AS DOCUMENT R71-37779, IN DUPAGE COUNTY, ILLINOIS; ALSO PART OF LOT 4 IN YORKTOWN, BEING

A SUBDIVISION OF PART OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 27, 1968 AS DOCUMENT R68-44972 IN DUPAGE COUNTY, ILLINOIS; ALSO PART OF LOT 1 IN PEHRSON SECOND RESUBDIVISION OF LOTS 2 AND 3 IN THE RESUBDIVISION OF LOT 5 OF YORKTOWN, BEING A SUBDIVISION OF PART OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID PEHRSON SECOND RESUBDIVISION, RECORDED SEPTEMBER 3, 1976 AS DOCUMENT R76-62393 IN DUPAGE COUNTY, ILLINOIS AND DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 1 IN THE RESUBDIVISION OF LOT 5 OF YORKTOWN; THENCE NORTH 37 DEGREES, 24 MINUTES, 23 SECONDS WEST, A DISTANCE OF 212.19 FEET; THENCE NORTH 02 DEGREES, 58 MINUTES, 02 SECONDS WEST, A DISTANCE OF 165.00 FEET; THENCE SOUTH 87 DEGREES, 01 MINUTES, 58 SECONDS WEST, A DISTANCE OF 85.00 FEET; THENCE SOUTH 02 DEGREES, 58 MINUTES, 02 SECONDS EAST, A DISTANCE OF 149.12 FEET; THENCE SOUTH 38 DEGREES, 25 MINUTES, 42 SECONDS WEST, A DISTANCE OF 348.84 FEET TO A POINT ON A SOUTHWESTERLY LINE OF SAID LOT 4; THENCE SOUTH 60 DEGREES, 00 MINUTES, 00 SECONDS EAST, ALONG SAID LOT LINE, A DISTANCE OF 294.66 FEET; THENCE SOUTH 2 DEGREES, 58 MINUTES, 03 SECONDS EAST, A DISTANCE OF 78.22 FEET TO THE SOUTH LINE OF SAID LOT 4; THENCE NORTH 66 DEGREES, 33 MINUTES, 07 SECONDS EAST, A DISTANCE OF 41.05 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1; THENCE NORTH 02 DEGREES, 58 MINUTES, 03 SECONDS WEST, ALONG THE WEST LINE OF SAID LOT 1, A DISTANCE OF 295.00 FEET; THENCE NORTH 87 DEGREES, 01 MINUTES, 57 SECONDS EAST, ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 150.00 FEET TO THE POINT OF BEGINNING.

414

EXHIBIT A-1

415

LEGAL DESCRIPTION OF THE BUSINESS DISTRICT PROPERTY

LOT 1 IN TBA RESUBDIVISION, BEING A SUBDIVISION OF PART OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 13, 2003 AS DOCUMENT R2003-433529, IN DUPAGE COUNTY, ILLINOIS.

ALSO THAT PART OF LOTS 2, 3 AND 4 IN YORKTOWN, BEING A SUBDIVISION OF PART OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 27, 1968 AS DOCUMENT R68-44972 IN DUPAGE COUNTY, ILLINOIS AND DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 4; THENCE NORTHERLY ALONG THE WEST LINE OF SAID LOTS 4, 3 AND 2 TO THE NORTHWEST CORNER OF SAID LOT 2; THENCE NORTH 89 DEGREES, 44 MINUTES, 47 SECONDS EAST, ALONG THE NORTH LINE OF SAID LOT 2, A DISTANCE OF 558.70 FEET TO A POINT OF CURVATURE; THENCE NORTHEASTERLY, 189.37 FEET ALONG THE ARC OF A CURVE CONCAVE NORTHWESTERLY, SAID CURVE HAVING A RADIUS OF 500.00 FEET; THENCE SOUTH 22 DEGREES, 23 MINUTES, 10 SECONDS EAST, A DISTANCE OF 301.25 FEET TO THE NORTH LINE OF SAID LOT 3; THENCE NORTH 60 DEGREES, 00 MINUTES, 00 SECONDS WEST, ALONG SAID NORTH LINE, A DISTANCE OF 70.00 FEET; THENCE SOUTH 89 DEGREES, 17 MINUTES, 40 SECONDS WEST, ALONG SAID NORTH LINE, 561.13 FEET; THENCE SOUTHWESTERLY, 36.55 FEET ALONG THE ARC OF A CURVE CONCAVE SOUTHEASTERLY, SAID CURVE HAVING A RADIUS OF 210.00 FEET AND A CHORD BEARING SOUTH 04 DEGREES, 38 MINUTES, 41 SECONDS WEST, 36.51 FEET; THENCE SOUTH 00 DEGREES, 20 MINUTES, 30 SECONDS EAST, A DISTANCE OF 680.98 FEET; THENCE SOUTH 82 DEGREES, 05 MINUTES, 50 SECONDS EAST, A DISTANCE OF 240.24 FEET; THENCE NORTH 60 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 165.00 FEET; THENCE NORTH 30 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 138.17 FEET; THENCE SOUTH 60 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 451.49 FEET; THENCE SOUTH 30 DEGREES, 00 MINUTES, 00 SECONDS WEST, A DISTANCE OF 65.00 FEET; THENCE SOUTH 60 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 17.45 FEET; THENCE SOUTH 30 DEGREES, 00 MINUTES, 00 SECONDS WEST, A DISTANCE OF 147.37 FEET; THENCE NORTH 60 DEGREES, 00 MINUTES, 00 SECONDS WEST, A DISTANCE OF 460.45 FEET; THENCE SOUTH 30 DEGREES, 00 MINUTES, 00 SECONDS WEST, A DISTANCE OF 580.73 FEET; THENCE SOUTH 89 DEGREES, 39 MINUTES, 30 SECONDS WEST, A DISTANCE OF 286.52 FEET TO THE POINT OF BEGINNING;

ALSO THE WESTERLY 20.00 FEET OF LOT 1 IN THE RESUBDIVISION OF LOT 5 OF YORKTOWN, BEING A SUBDIVISION OF PART OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 4, 1971 AS DOCUMENT R71-37779, IN DUPAGE COUNTY, ILLINOIS; ALSO PART OF LOTS 4 AND 6 IN YORKTOWN, BEING A SUBDIVISION OF PART OF SECTION 29,

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TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 27, 1968 AS DOCUMENT R68-44972 IN DUPAGE COUNTY, ILLINOIS; ALSO PART OF LOT 1 IN PEHRSON SECOND RESUBDIVISION OF LOTS 2 AND 3 IN THE RESUBDIVISION OF LOT 5 OF YORKTOWN, BEING A SUBDIVISION OF PART OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID PEHRSON SECOND RESUBDIVISION, RECORDED SEPTEMBER 3, 1976 AS DOCUMENT R76-62393 IN DUPAGE COUNTY, ILLINOIS AND DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 1 IN THE RESUBDIVISION OF LOT 5 OF YORKTOWN; THENCE NORTH 37 DEGREES, 24 MINUTES, 23 SECONDS WEST, A DISTANCE OF 212.19 FEET; THENCE NORTH 02 DEGREES, 58 MINUTES, 02 SECONDS WEST, A DISTANCE OF 165.00 FEET; THENCE SOUTH 87 DEGREES, 01 MINUTES, 58 SECONDS WEST, A DISTANCE OF 85.00 FEET; THENCE SOUTH 02 DEGREES, 58 MINUTES, 02 SECONDS EAST, A DISTANCE OF 149.12 FEET; THENCE SOUTH 38 DEGREES, 25 MINUTES, 42 SECONDS WEST, A DISTANCE OF 604.76 FEET; THENCE SOUTH 66 DEGREES, 33 MINUTES, 07 SECONDS WEST, A DISTANCE OF 515.96 FEET; THENCE SOUTH 67 DEGREES, 08 MINUTES, 52 SECONDS WEST, A DISTANCE OF 189.32 FEET TO A POINT ON THE WEST LINE OF SAID LOT 6; THENCE SOUTH 30 DEGREES, 00 MINUTES, 00 SECONDS WEST, ALONG SAID WEST LINE, A DISTANCE OF 314.64 FEET TO THE SOUTHWEST CORNER OF SAID LOT 6; THENCE NORTH 67 DEGREES, 08 MINUTES, 52 SECONDS EAST, ALONG THE SOUTH LINE OF SAID LOT 6, A DISTANCE OF 377.85 FEET; THENCE NORTH 00 DEGREES, 20 MINUTES, 12 SECONDS WEST, A DISTANCE OF 97.52 FEET; THENCE NORTH 66 DEGREES, 07 MINUTES, 38 SECONDS EAST, A DISTANCE OF 169.70 FEET; THENCE SOUTH 02 DEGREES, 57 MINUTES, 12 SECONDS EAST, A DISTANCE OF 97.10 FEET TO THE SOUTH LINE OF SAID LOT 6; THENCE NORTH 66 DEGREES, 33 MINUTES, 07 SECONDS EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 821.09 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1; THENCE NORTH 02 DEGREES, 58 MINUTES, 03 SECONDS WEST, ALONG THE WEST LINE OF SAID LOT 1, A DISTANCE OF 295.00 FEET; THENCE NORTH 87 DEGREES, 01 MINUTES, 57 SECONDS EAST, ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 150.00 FEET TO THE POINT OF BEGINNING.

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EXHIBIT B

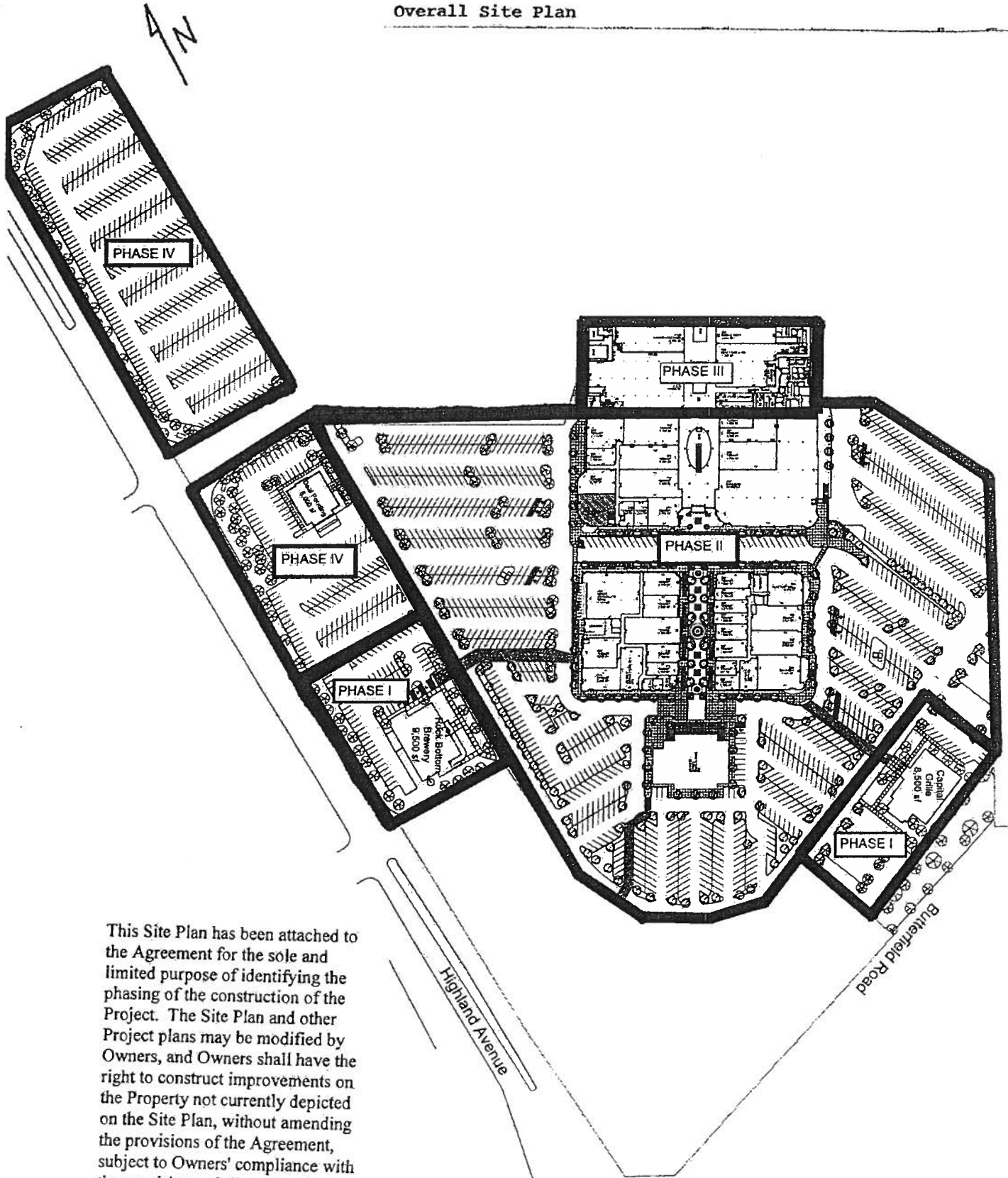
420

SITE PLAN

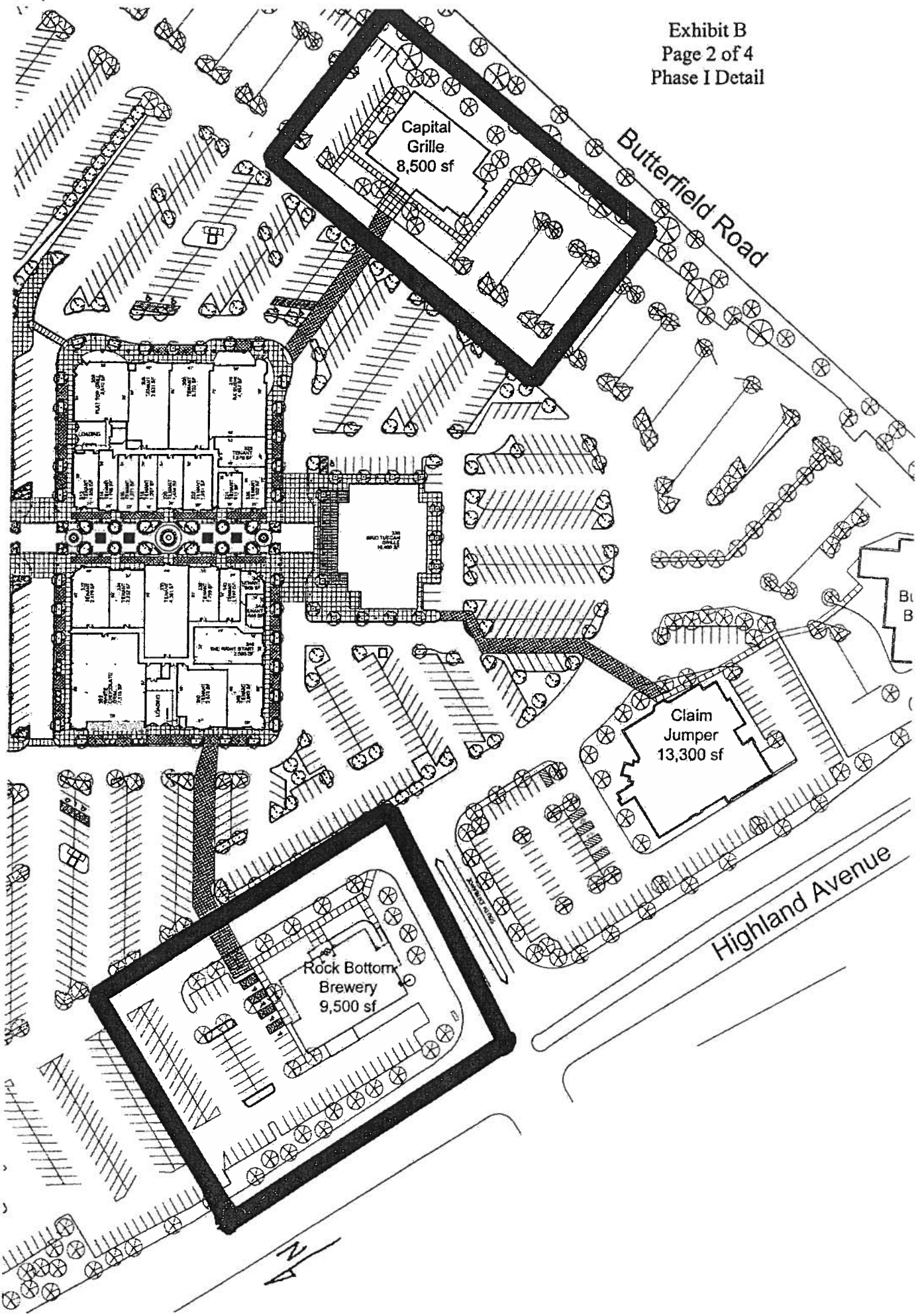
421

[ATTACHED]

EXHIBIT B
Page 1 of 4
Overall Site Plan



This Site Plan has been attached to the Agreement for the sole and limited purpose of identifying the phasing of the construction of the Project. The Site Plan and other Project plans may be modified by Owners, and Owners shall have the right to construct improvements on the Property not currently depicted on the Site Plan, without amending the provisions of the Agreement, subject to Owners' compliance with the provisions of all applicable and duly-adopted Village codes and ordinances.



Capital
Grille
8,500 sf

Butterfield Road

Claim
Jumper
13,300 sf

Rock Bottom
Brewery
9,500 sf

Highland Avenue



EXHIBIT B
Page 3 of 4
Phase II Detail

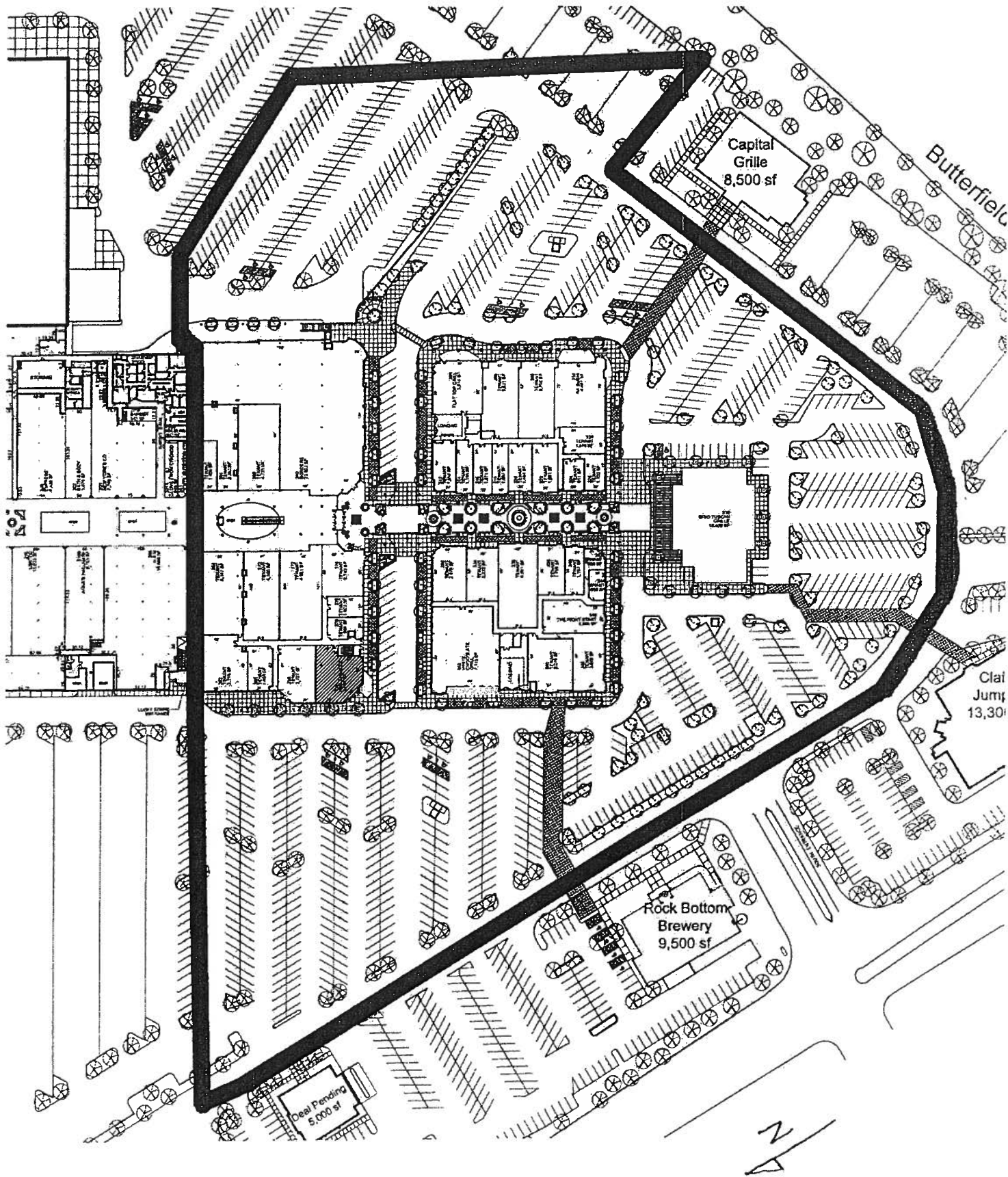
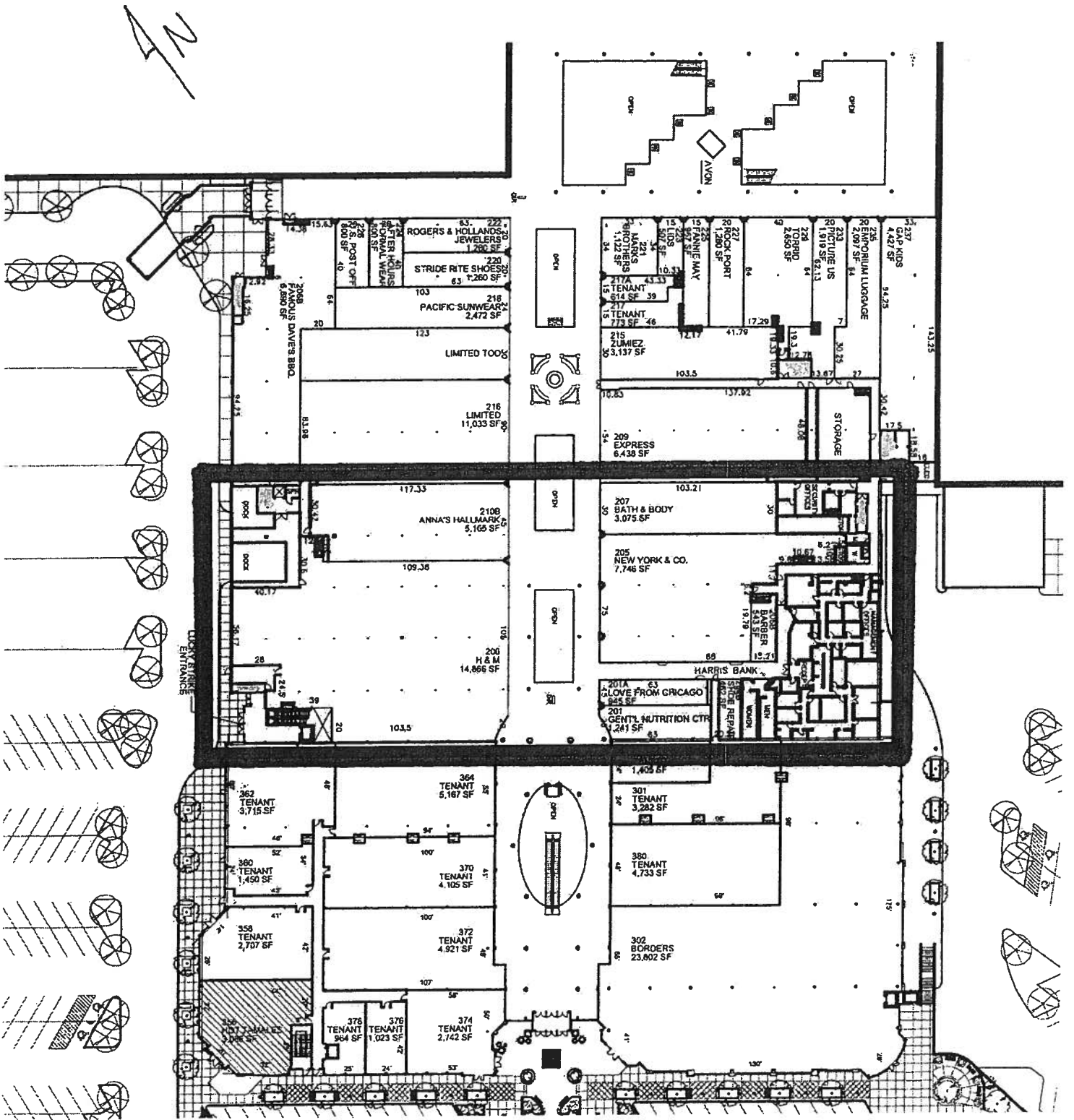


EXHIBIT B
 Page 4 of 4
 Phase III Detail



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EXHIBIT B-1

423

PROJECT DESCRIPTION AND PHASING SCHEDULE

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<u>Phase*</u>	<u>Description</u>	<u>Completion Date</u>
<u>Phase I</u>	Site preparation for outlots.	September, 2006
<u>Phase II</u>	“The Shops on Butterfield”, includes redevelopment of Ward’s building and construction of two new multi-tenant buildings and site preparation for Brio Tuscan Grill.	June, 2007
<u>Phase III</u>	Interior mall space redevelopment.	July, 2008
<u>Phase IV</u>	Carson’s Parcels redevelopment, currently parking, to be improved with retail, restaurant and/or other commercial uses consisting of approximately 51,000 square feet.	January, 2010

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427 *Phase numbers are in reference to those depicted on the Site Plan (Exhibit B).

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EXHIBIT C

429

REDEVELOPMENT PROJECT COSTS

430

[ATTACHED]

EXHIBIT C - Table 2
REDEVELOPMENT PROJECT COSTS
PAGE 1 OF 2

	Total Costs	Eligible Costs	Extraordinary Costs	Reason for Being Extraordinary
LAND COSTS				
Former Wards Parcel	\$9,500,000	\$9,500,000	\$ 0	Extraordinary cost for Wards site is calculated on Table 2 (attached) and is the difference between the capitalized value of rents and the total cost of the parcel (land+carry+rehab) - extraordinary cost is shown in rehab column
Carrying costs through 06/30/07	\$4,546,000		\$ 0	
Carson's parcels	\$4,675,000	\$4,675,000	\$ 0	
Carrying costs through 06/30/07	\$150,000			
TOTAL LAND COSTS	\$18,871,000	\$14,175,000	\$0	
HARD COSTS				
New Construction	\$5,127,863			
Demolition	\$823,146	\$823,146		
Rehab-Arcade 3	\$807,019	\$807,019	\$ 807,019	Project required rehab of entrance to provide vertical transportation and circulation to the former Wards basement level. The expenses do not result in higher rental income, thus they are extraordinary.
Rehab-Exisiting Mall	\$1,409,459	\$1,409,459	\$ 1,409,459	Project required rehab of common areas which do not generate rental income. Further expenditures are required to rehab outdated interior and design.
Remodel Bldg E (Wards)	\$11,535,186	\$11,535,186	\$ 6,421,006	Please see attached Table 2.
Site, Grade Parking	\$1,935,130	\$1,935,130	\$ 1,935,130	To attract tenants in this competitive market, we are required to make monetary concessions in the nature of building allowances, which are not reflected in the rental rate.
Environmental	\$125,000	\$125,000	\$ 125,000	
Pad Prep, Demo & Utilities	\$986,000	\$986,000		
Site Prep - Carson's parcels	\$1,400,000	\$1,400,000	\$ 1,400,000	For clearing and grading of the site and bringing the necessary utilities to the site.
Construction - Carson's parcel	\$375,000			
Governmental and Utility Fees	\$770,254			
Common Area Amenities	\$500,000			
Misc	\$200,000			
Signage	\$200,000			
Building Permit	\$0			
Landscaping	\$220,000			
Contingency (included in above)	\$0			
TOTAL HARD COSTS	\$26,414,057	\$19,020,940	\$12,097,614	
SOFT COSTS				
Architectural/ Design Consultants	\$2,081,081	\$2,081,081	\$ 1,560,811	75% of architectural fees are extraordinary due to the very unique and integrated nature of this redevelopment plan
Engineers Civil	\$156,390	\$156,390		
Specialty Consultants	\$120,000	\$120,000		
Legal	\$715,000	\$715,000		
Development Fee	\$2,116,177			
Leasing And Broker Fees	\$1,925,476			
Construction Management	\$1,055,670			
Impact Fees/Offsite	\$0			
Marketing	\$500,000			
Approx Loan Amount				
Loan Costs	\$1,000,000			
Miscellaneous	\$850,000			
Contingency @	\$440,877			
Tenant Allowances	\$15,972,549			
Predevelopment Costs	\$450,000			
TOTAL SOFT COSTS	\$27,383,220	\$3,072,471	\$1,560,811	
Grand Total Project Costs	\$ 72,668,277	\$ 36,268,411	\$ 13,658,425	

EXHIBIT C
REDEVELOPMENT PROJECT COSTS
PAGE 2 OF 2

	Square Feet		Rent Per Square Foot		Total Annual Rent
Apparel	4,687	\$	24.00	\$	112,488
Right Start	1,500		30.00		45,000
Jamba Juice	847	\$	30.00	\$	25,410
Destinations (Maternity)	2,312	\$	28.00	\$	64,736
Destinations (Maternity)	1,376	\$	25.00	\$	34,400
Restaurant (Mexican)	3,142	\$	24.00	\$	75,408
Apparel	5,172	\$	24.00	\$	124,128
The Gap	15,722	\$	18.00	\$	282,996
Barnes & Noble (gross)	28,518	\$	17.85	\$	509,046
Barnes Opex Reduction		\$	(11.00)	\$	(313,698)
Lucky Strike Lanes	27,836	\$	24.51	\$	682,260
Lucky Opex Reduction		\$	(8.04)	\$	(223,801)
Home Goods	23,601	\$	10.00	\$	236,010
Opex Reduction		\$	(8.04)	\$	(189,752)
Total Annual Rent From Wards Parcel				\$	1,464,631
Non-Recoverable Expenses (CAM, Vacancy, Mgmt. Fee)					9%
Net Operating Income				\$	1,332,814
Cap Rate					8%
Estimated Fair Market Value of Wards Parcel				\$	16,660,180
Amount Paid for Wards Parcel					
Acquisition				\$	9,500,000
Carrying Costs				\$	4,546,000
Rehab Costs				\$	11,535,186
Total Cost of Wards Parcel				\$	25,581,186
Amount Paid Above Value for Wards Store (Extraordinary Cost)				\$	8,921,006
Less: Amount allocated towards Claim Jumpers				\$	2,500,000
Net Extraordinary Cost or Wards Parcel				\$	6,421,006

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EXHIBIT D

FORM OF REDEVELOPMENT NOTE

REDEVELOPMENT NOTE

VILLAGE OF LOMBARD, DUPAGE COUNTY, ILLINOIS

\$13,658,425.00 INTEREST BEARING NON-RECOURSE REDEVELOPMENT NOTE

(Yorktown Center Redevelopment Project)

SERIES _____

439 **Date of Note:** _____

440 **Original Principal Balance:** \$13,658,425.00

441 **FOR VALUE RECEIVED, THE VILLAGE OF LOMBARD, DUPAGE COUNTY,**
442 **ILLINOIS** (the "Village"), an Illinois municipal corporation, promises to pay to the order of
443 **YORKTOWN HOLDINGS LLC**, an Illinois limited liability company ("Yorktown Holdings")
444 and **HIGHLAND YORKTOWN LLC**, an Illinois limited liability company ("Highland
445 Yorktown") (Yorktown Holdings and Highland Yorktown are referred to collectively as
446 "Owners"), the principal sum of **THIRTEEN MILLION SIX HUNDRED FIFTY EIGHT**
447 **THOUSAND FOUR HUNDRED TWENTY FIVE AND NO/100 DOLLARS**
448 (\$13,658,425.00) pursuant to the Redevelopment Agreement (as hereinafter defined), together
449 with simple interest on the principal balance outstanding from time to time calculated at the rate
450 of seven percent (7%) per annum.

451 This Redevelopment Note is made pursuant to that certain Business District
452 Redevelopment Agreement dated as of _____, 2006 by and between the Village and
453 Owners (the "Redevelopment Agreement"). All terms not defined herein shall have the same
454 meanings given them in the Redevelopment Agreement. In the event of any conflict between the
455 terms of this Redevelopment Note and the terms of the Redevelopment Agreement, the
456 Redevelopment Agreement shall control. The terms and conditions of the Redevelopment
457 Agreement are hereby incorporated into this Redevelopment Note by this reference thereto as if
458 fully set forth herein. Amounts payable pursuant to this Redevelopment Note shall be paid in
459 accordance with the provisions of the Redevelopment Note.

460 1. **Authority.** This Redevelopment Note is issued by the Village pursuant to: (i) the
461 exercise of the Village's power and authority as a unit of local government; (ii) an ordinance
462 adopted on November 17, 2005, and captioned Ordinance No. 5776, "*An Ordinance Designating*
463 *Lombard Business District No. 1 [Highland Avenue/Butterfield Road Business*
464 *District](Northeast Corner of Butterfield Road and Highland Avenue on the Yorktown Mall*
465 *Property, Generally Consisting of the Former Montgomery Wards Store Site and Surrounding*
466 *Areas*"; and (iii) an ordinance adopted on May ____, 2006, and captioned Ordinance No. _____,
467 "*An Ordinance _____*", which Ordinance authorizes the Redevelopment
468 Agreement that provides for this Redevelopment Note.

511 8. Miscellaneous.

512 (a) Time is of the essence of this Redevelopment Note.

513 (b) The Village shall not be deemed in default with respect to any of its
514 obligations under this Redevelopment Note if the Village fails to timely perform the same
515 and such failure is due in whole or in part to a change in governmental laws and
516 regulations, acts caused directly or indirectly by Owners (or their agents or employees) or
517 any other cause beyond the reasonable control of the Village.

518 (c) Upon assignment or other transfer of this Redevelopment Note by
519 Owners, or either one of them, as provided in the Redevelopment Agreement, the term
520 "Owners" as used herein shall be deemed to mean such assignee or other transferee or
521 successor who may become the holder of this Redevelopment Note by virtue of any
522 assignment or transfer of this Redevelopment Note. Subject to the terms of the
523 Redevelopment Agreement, this Redevelopment Note shall inure to the benefit of
524 Owners and their successors and assigns and shall be binding upon the Village and its
525 successors and assigns.

526 (d) The Village hereby waives presentment and demand for payment, notices
527 of nonpayment and of dishonor, protest of dishonor and notice of protest.

528 **IN WITNESS WHEREOF**, the Village of Lombard has caused this Redevelopment
529 Note to be executed in its name and on its behalf by its President and its Village Clerk and its
530 corporate seal to be hereunto affixed.

Dated:

VILLAGE OF LOMBARD, an Illinois
municipal corporation

By:

Village President

531 ATTEST:

By:

Village Clerk

EXHIBIT 1 TO REDEVELOPMENT NOTE

AMORTIZATION SCHEDULE

Principal Amount	\$ 13,658,425				
Note Interest Rate	7.00%				
	Total Projected BID Revenue Available	Principal Balance	Interest Payment	Principal Amount	Total Payment (99% of BID Revenue - Net of 1% Village Admin Fee)
2006	\$ 0	\$ 13,658,425			\$ 0
2007	\$ 564,244	\$ 14,055,914	\$ 956,090	\$ (397,489)	\$ 558,601
2008	\$ 1,007,196	\$ 14,042,704	\$ 983,914	\$ 13,210	\$ 997,124
2009	\$ 1,186,583	\$ 13,850,976	\$ 982,989	\$ 191,727	\$ 1,174,717
2010	\$ 1,280,584	\$ 13,552,767	\$ 969,568	\$ 298,210	\$ 1,267,778
2011	\$ 1,336,217	\$ 13,178,605	\$ 948,694	\$ 374,161	\$ 1,322,855
2012	\$ 1,379,855	\$ 12,735,051	\$ 922,502	\$ 443,554	\$ 1,366,057
2013	\$ 1,424,918	\$ 12,215,835	\$ 891,454	\$ 519,216	\$ 1,410,669
2014	\$ 1,471,453	\$ 11,614,205	\$ 855,108	\$ 601,630	\$ 1,456,739
2015	\$ 1,519,508	\$ 10,922,887	\$ 812,994	\$ 691,318	\$ 1,504,313
2016	\$ 1,569,131	\$ 10,134,049	\$ 764,602	\$ 788,838	\$ 1,553,440
2017	\$ 1,620,376	\$ 9,239,260	\$ 709,383	\$ 894,789	\$ 1,604,172
2018	\$ 1,673,294	\$ 8,229,447	\$ 646,748	\$ 1,009,813	\$ 1,656,561
2019	\$ 1,727,940	\$ 7,094,848	\$ 576,061	\$ 1,134,599	\$ 1,710,661
2020	\$ 1,784,371	\$ 5,824,960	\$ 496,639	\$ 1,269,888	\$ 1,766,527
2021	\$ 1,842,644	\$ 4,408,490	\$ 407,747	\$ 1,416,471	\$ 1,824,218
2022	\$ 1,902,821	\$ 2,833,291	\$ 308,594	\$ 1,575,199	\$ 1,883,793
2023	\$ 1,964,963	\$ 1,089,845	\$ 198,330	\$ 1,743,446	\$ 1,941,776
2024	\$ 2,029,135				
2025	\$ 2,095,402				
2026	\$ 2,163,833		Capped At \$25 Million Total		
2027	\$ 2,234,499				
2028	\$ 2,307,473				
Total	\$ 36,086,440		\$ 12,431,420	\$ 12,568,580	\$ 25,000,000

ORDINANCE NO. _____

**AN ORDINANCE APPROVING A
FIRST AMENDMENT TO THE
BUSINESS DISTRICT REDEVELOPMENT AGREEMENT
BY, BETWEEN AND AMONG YORKTOWN HOLDINGS, LLC,
HIGHLAND YORKTOWN, LLC AND THE VILLAGE OF LOMBARD
(LOMBARD BUSINESS DISTRICT NO. 1)**

BE IT ORDAINED by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

SECTION 1: The President and Board of Trustees (the "Village Board") find as follows:

A. That on November 17, 2005, the Village Board designated the following legally described area as Lombard Business District No. 1 [Highland Avenue/Butterfield Road Business District] ("Lombard Business District No. 1"), and approved the Village of Lombard Highland Avenue/Butterfield Road Business District No. 1 Plan (the "Redevelopment Plan"), pursuant to Ordinance No. 5776, entitled, "An Ordinance Designating Lombard Business District No. 1 [Highland Avenue/Butterfield Road Business District] (Northeast Corner of Butterfield Road and Highland Avenue on the Yorktown Mall Property, generally Consisting of the Former Montgomery Wards Store Site and Surrounding Areas)":

LOT 1 IN TBA RESUBDIVISION, BEING A SUBDIVISION OF PART OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 13, 2003 AS DOCUMENT R2003-433529, IN DUPAGE COUNTY, ILLINOIS;

ALSO THAT PART OF LOTS 2, 3 AND 4 IN YORKTOWN, BEING A SUBDIVISION OF PART OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 27, 1968 AS DOCUMENT R68-44972 IN DUPAGE COUNTY, ILLINOIS AND DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 4; THENCE NORTHERLY ALONG THE WEST LINE OF SAID LOTS 4, 3 AND 2 TO THE NORTHWEST CORNER OF SAID LOT 2; THENCE NORTH 89 DEGREES, 44 MINUTES, 47 SECONDS EAST, ALONG THE NORTH LINE OF SAID LOT 2, A DISTANCE OF 558.70 FEET TO A POINT OF CURVATURE; THENCE NORTHEASTERLY, 189.37 FEET ALONG THE ARC OF A CURVE

CONCAVE NORTHWESTERLY, SAID CURVE HAVING A RADIUS OF 500.00 FEET; THENCE SOUTH 22 DEGREES, 23 MINUTES, 10 SECONDS EAST, A DISTANCE OF 301.25 FEET TO THE NORTH LINE OF SAID LOT 3; THENCE NORTH 60 DEGREES, 00 MINUTES, 00 SECONDS WEST, ALONG SAID NORTH LINE, A DISTANCE OF 70.00 FEET; THENCE SOUTH 89 DEGREES, 17 MINUTES, 40 SECONDS WEST, ALONG SAID NORTH LINE, 561.13 FEET; THENCE SOUTHWESTERLY, 36.55 FEET ALONG THE ARC OF A CURVE CONCAVE SOUTHEASTERLY, SAID CURVE HAVING A RADIUS OF 210.00 FEET AND A CHORD BEARING SOUTH 04 DEGREES, 38 MINUTES, 41 SECONDS WEST, 36.51 FEET; THENCE SOUTH 00 DEGREES, 20 MINUTES, 30 SECONDS EAST, A DISTANCE OF 680.98 FEET; THENCE SOUTH 82 DEGREES, 05 MINUTES, 50 SECONDS EAST, A DISTANCE OF 240.24 FEET; THENCE NORTH 60 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 165.00 FEET; THENCE NORTH 30 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 138.17 FEET; THENCE SOUTH 60 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 451.49 FEET; THENCE SOUTH 30 DEGREES, 00 MINUTES, 00 SECONDS WEST, A DISTANCE OF 65.00 FEET; THENCE SOUTH 60 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 17.45 FEET; THENCE SOUTH 30 DEGREES, 00 MINUTES, 00 SECONDS WEST, A DISTANCE OF 147.37 FEET; THENCE NORTH 60 DEGREES, 00 MINUTES, 00 SECONDS WEST, A DISTANCE OF 460.45 FEET; THENCE SOUTH 30 DEGREES, 00 MINUTES, 00 SECONDS WEST, A DISTANCE OF 580.73 FEET; THENCE SOUTH 89 DEGREES, 39 MINUTES, 30 SECONDS WEST, A DISTANCE OF 286.52 FEET TO THE POINT OF BEGINNING;

ALSO THE WEST 20 FEET OF LOT 1 IN THE RESUBDIVISION OF LOT 5 OF YORKTOWN, BEING A SUBDIVISION OF PART OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 4, 1971 AS DOCUMENT R71-37779, IN DUPAGE COUNTY, ILLINOIS; ALSO PART OF LOTS 4 AND 6 IN YORKTOWN, BEING A SUBDIVISION OF PART OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 27, 1968 AS DOCUMENT R68-44972 IN DUPAGE COUNTY, ILLINOIS; ALSO PART OF LOT 1 IN PEHRSON SECOND RESUBDIVISION OF LOTS 2 AND 3 IN THE RESUBDIVISION OF LOT 5 OF YORKTOWN, BEING A SUBDIVISION OF PART OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID PEHRSON SECOND RESUBDIVISION, RECORDED SEPTEMBER 3, 1976 AS DOCUMENT R76-62393 IN DUPAGE COUNTY, ILLINOIS AND DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 1 IN THE RESUBDIVISION OF LOT 5 OF YORKTOWN; THENCE NORTH 37

DEGREES, 24 MINUTES, 23 SECONDS WEST, A DISTANCE OF 212.19 FEET; THENCE NORTH 02 DEGREES, 58 MINUTES, 02 SECONDS WEST, A DISTANCE OF 165.00 FEET; THENCE SOUTH 87 DEGREES, 01 MINUTES, 58 SECONDS WEST, A DISTANCE OF 85.00 FEET; THENCE SOUTH 02 DEGREES, 58 MINUTES, 02 SECONDS EAST, A DISTANCE OF 149.12 FEET; THENCE SOUTH 38 DEGREES, 25 MINUTES, 42 SECONDS WEST, A DISTANCE OF 604.76 FEET; THENCE SOUTH 66 DEGREES, 33 MINUTES, 07 SECONDS WEST, A DISTANCE OF 515.96 FEET; THENCE SOUTH 67 DEGREES, 08 MINUTES, 52 SECONDS WEST, A DISTANCE OF 189.32 FEET TO A POINT ON THE WEST LINE OF SAID LOT 6; THENCE SOUTH 30 DEGREES, 00 MINUTES, 00 SECONDS WEST, ALONG SAID WEST LINE, A DISTANCE OF 314.64 FEET TO THE SOUTHWEST CORNER OF SAID LOT 6; THENCE NORTH 67 DEGREES, 08 MINUTES, 52 SECONDS EAST, ALONG THE SOUTH LINE OF SAID LOT 6, A DISTANCE OF 377.85 FEET; THENCE NORTH 00 DEGREES, 20 MINUTES, 12 SECONDS WEST, A DISTANCE OF 97.52 FEET; THENCE NORTH 66 DEGREES, 07 MINUTES, 38 SECONDS EAST, A DISTANCE OF 169.70 FEET; THENCE SOUTH 02 DEGREES, 57 MINUTES, 12 SECONDS EAST, A DISTANCE OF 97.10 FEET TO THE SOUTH LINE OF SAID LOT 6; THENCE NORTH 66 DEGREES, 33 MINUTES, 07 SECONDS EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 821.09 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1; THENCE NORTH 02 DEGREES, 58 MINUTES, 03 SECONDS WEST, ALONG THE WEST LINE OF SAID LOT 1, A DISTANCE OF 295.00 FEET; THENCE NORTH 87 DEGREES, 01 MINUTES, 57 SECONDS EAST, ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 150.00 FEET TO THE POINT OF BEGINNING;

P.I.N.s: Pt. 06-29-101-036; 06-29-101-037; Pt. 06-29-101-038;
Pt. 06-29-101-041; 06-29-101-042;
Pt. 06-29-200-017; Pt. 06-29-200-028;
Pt. 06-29-301-008; 06-29-301-014; Pt. 06-29-301-015;
and Pt. 06-29-400-002;

Commonly known as the Northeast Corner of Highland Avenue and Butterfield Road on the Yorktown Mall Property.

B. That on December 1, 2005, the Village Board adopted Ordinance No. 5788, which imposed Business District Retailers' Occupation and Business District Service Occupation Taxes, each at the rate of one percent (1%), within the boundaries of Lombard Business District No. 1;

C. That on June 1, 2006, the Village Board approved a "BUSINESS DISTRICT REDEVELOPMENT AGREEMENT BY, BETWEEN AND AMONG YORKTOWN HOLDINGS, LLC, a Delaware limited liability company and HIGHLAND YORKTOWN, LLC, an Illinois limited liability company and THE VILLAGE OF LOMBARD, an Illinois municipal corporation," (the "Original Agreement") pursuant to Ordinance No. 5880, a

copy of which was recorded with the DuPage County Recorder's Office on July 19, 2006, as document no. R2006-138339;

D. So as to achieve the economic redevelopment goals, as set forth in the Redevelopment Plan for Lombard Business District No. 1, it is necessary to amend the Original Agreement;

E. That the first amendment to the Original Agreement attached hereto as Exhibit 1, entitled, "First Amendment to the Business District Development Agreement By, Between and Among Yorktown Holdings, LLC, Highland Yorktown, LLC and the Village of Lombard (Lombard Business District No. 1)," and made part hereof (hereinafter the "First Amendment"), will, if entered into by the Village, help to achieve the economic redevelopment goals as set forth in the Redevelopment Plan for Lombard Business District No. 1; and

F. That it is in the best interests of the Village to enter into the First Amendment attached hereto as Exhibit 1.

SECTION 2: Based upon the foregoing, and pursuant to: 65 ILCS 5/11-74.3-1, *et seq.*; Title 3, Chapter 38 of the Lombard Village Code; Ordinance No. 5776, adopted November 17, 2005; Ordinance No. 5788, adopted December 1, 2005; Ordinance No. 5880, adopted June 1, 2006; and the Redevelopment Plan for Lombard Business District No. 1; the First Amendment, attached hereto as Exhibit 1, is hereby approved, and the President and Clerk of the Village be and they are hereby authorized and directed to execute said First Amendment on behalf of the Village of Lombard, as well as any additional documents in furtherance thereof.

SECTION 3: That this Ordinance shall be in full force and effect from and after its adoption, approval and publication in pamphlet form as provided by law.

Passed on first reading this _____ day of _____, 2012.

First reading waived by action of the Board of Trustees this _____ day of _____, 2012.

Passed on second reading this _____ day of _____, 2012,
pursuant to a roll call vote as follows:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED by me this _____ day of _____, 2012.

William J. Mueller
Village President

ATTEST:

Brigitte O'Brien
Village Clerk

Published by me in pamphlet form this _____ day of _____,
2012.

Brigitte O'Brien
Village Clerk

**FIRST AMENDMENT TO THE
BUSINESS DISTRICT REDEVELOPMENT AGREEMENT
BY, BETWEEN AND AMONG YORKTOWN HOLDINGS, LLC,
HIGHLAND YORKTOWN, LLC AND THE VILLAGE OF LOMBARD
(LOMBARD BUSINESS DISTRICT NO. 1)**

This First Amendment to the Business District Redevelopment Agreement (the "First Amendment") is made and entered into as of the ____ day of _____, 2012 by, between and among the Village of Lombard, Illinois, an Illinois municipal corporation (the "Village"), Yorktown Holdings, LLC, a Delaware limited liability company ("Yorktown Holdings") and Highland Yorktown, LLC, an Illinois limited liability company ("Highland Yorktown"). Yorktown Holdings and Highland Yorktown are sometimes referred to herein individually as an "Owner" and collectively as the "Owners." The Village and the Owners are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

WITNESSETH

WHEREAS, the Village and the Owners have entered into a "BUSINESS DISTRICT REDEVELOPMENT AGREEMENT BY, BETWEEN AND AMONG YORKTOWN HOLDINGS, LLC, a Delaware limited liability company and HIGHLAND YORKTOWN, LLC, an Illinois limited liability company and the VILLAGE OF LOMBARD, an Illinois municipal corporation," dated June 1, 2006, and recorded on July 19, 2006 as part of document number R2006-138339 (hereinafter the "Original Agreement"); and

WHEREAS, the Village and the Owners desire to amend certain provisions of the Original Agreement to more accurately reflect the actions of the Parties in furtherance of the Original Agreement;

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants contained herein, and other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged by the Parties, the Village and the Owners agree as follows:

1. That Recital G. of the Original Agreement is hereby amended by revising the references therein to, "four phases," to read, "three (3) phases."
2. That Article 3, Section (F) of the Original Agreement is hereby amended to read in its entirety as follows:

“(F) Maximum Reimbursement Amount. The sum of Twelve Million Two Hundred Fifty-Eight Thousand Four Hundred Twenty-Five and No/100 Dollars (\$12,258,425.00), plus interest as provided in the Redevelopment Note, up to an aggregate maximum amount of



Twenty-Two Million Four Hundred Thirty-Seven Thousand Four Hundred Seventy-Nine and 07/100 Dollars (\$22,437,479.07)."

3. That Article 5, Section (A) of the Original Agreement is hereby amended by:

- A. Revising the reference therein to, "Thirteen Million Six Hundred Fifty-Eight Thousand Four Hundred Twenty-Five and No/100 Dollars (\$13,658,425.00)," to read, "Twelve Million Two Hundred Fifty-Eight Thousand Four Hundred Twenty-Five and No/100 Dollars (\$12,258,425.00)"; and
- B. Deleting the following from the end of the fifth sentence: "be added to the principal balance of the Redevelopment Note," and replacing same with, "paid in accordance with Article 6, Section (B)(ii) below."

4. That Article 5 of the Original Agreement is amended by adding a new Section (F) thereto, which shall read in its entirety as follows:

"(F) Notwithstanding any other provisions of this Agreement to the contrary, reimbursement of Sales Taxes to the Owners shall be made pursuant to payments of Sales Taxes solely to Highland Yorktown, as provided for in the Redevelopment Note."

5. That Article 6, Sections (B)(ii)(e) through (i) of the Original Agreement are amended to read in their entirety as follows:

"(e) next, Sales Taxes shall be paid to Owners to pay any amounts of previously unpaid interest that is past due on the Redevelopment Note;

(f) next, Sales Taxes shall be paid to Owners to pay current amounts of interest then due on the Redevelopment Note;

(g) next, Sales Taxes shall be paid to Owners to pay principal on the Redevelopment Note; and

(h) next, Sales Taxes shall be paid to the Village to reimburse the Village for any redevelopment project costs the Village has incurred or will incur in accordance with the Redevelopment Plan and the Act."

6. That Page 1 of Exhibit B to the Original Agreement is amended by deleting therefrom the two (2) areas designated as "PHASE IV."

7. That Exhibit B-1 to the Original Agreement is amended by deleting the entire entry, in the chart contained therein, relative to Phase IV, including the Phase, Description and Completion Date.
8. That Exhibit C to the Original Agreement is amended as follows:
 - A. Under the "HARD COSTS," the line item relative to "Site Prep – Carson's parcels" is deleted in its entirety.
 - B. The "TOTAL HARD COSTS" dollar amounts are revised to read as follows:

"\$25,014,057	\$17,620,940	"\$10,697,614"
---------------	--------------	----------------
 - C. The "Grand Total Project Costs" dollar amounts are revised to read as follows:

"\$71,268,277	\$34,868,411	"\$12,258,425"
---------------	--------------	----------------
9. That Exhibit D to the Original Agreement is amended to read in its entirety as Exhibit D attached hereto and made part hereof.
10. That, upon the approval of this First Amendment, the original Redevelopment Note, issued on June 1, 2006, shall be tendered by the Owners to the Village, and cancelled, and a new replacement Redevelopment Note, in the format as attached hereto as Exhibit D, shall be issued by the Village to Highland Yorktown. Notwithstanding the cancellation of the original Redevelopment Note, any accrued but unpaid interest, relative to said original Redevelopment Note, shall remain due and owing to, and shall be paid to, Highland Yorktown pursuant to the terms of the Original Agreement, as amended by this First Amendment.
11. That all other provisions of the Original Agreement, not amended hereby, shall remain in full force and effect as if set forth herein.
12. This First Amendment may be executed in three (3) counterparts, each of which shall be an original and each of which shall constitute but one and the same First Amendment.
13. The Parties agree to record a copy of this First Amendment, executed by the Owners and the Village, with the DuPage County Recorder's Office, at the Owners' expense.
14. If any provision of this First Amendment, or any Section, sentence, clause, phrase or word, or the application thereof, in any circumstance, is held to be invalid, the remainder of this First Amendment shall be construed as if such invalid part were never included herein, and this First Amendment shall be and remain valid and enforceable to the fullest extent permitted by law.

15. The effective date for this First Amendment shall be the day on which this First Amendment is approved by the Village, with said date being inserted on page 1 hereof.

IN WITNESS WHEREOF, the Parties hereto have caused this First Amendment to be executed on or as of the day and year first above written.

VILLAGE OF LOMBARD,
an Illinois municipal corporation

By: _____
William J. Mueller, Village President

YORKTOWN HOLDINGS, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

ATTEST:

Brigitte O'Brien, Village Clerk

HIGHLAND YORKTOWN, LLC,
an Illinois limited liability company

By: _____
Name: _____
Title: _____

ACKNOWLEDGMENT

State of Illinois)
) SS
County of DuPage)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that William J. Mueller and Brigitte O'Brien, personally known to me to be the Village President and Village Clerk of the Village of Lombard, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Village President and Village Clerk, they signed and delivered the said instrument and caused the corporate seal of said municipal corporation to be affixed thereto, pursuant to authority given by the Village Board of Trustees of said municipal corporation, as their free and voluntary act, and as the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this _____ day of _____, 2012.

Notary Public

ACKNOWLEDGMENT

State of Illinois)
) SS
County of _____)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that _____, personally known to me to be the _____ of Highland Yorktown, LLC, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that, as such _____, he/she signed and delivered the said instrument pursuant to authority given by said company, as his/her free and voluntary act, and as the free and voluntary act and deed of said Company, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this _____ day of _____, 2012.

Notary Public

Exhibit D
(FORM OF REDEVELOPMENT NOTE)

REDEVELOPMENT NOTE

VILLAGE OF LOMBARD, DUPAGE COUNTY, ILLINOIS
INTEREST BEARING NON-RECOURSE REDEVELOPMENT NOTE
(Yorktown Center Redevelopment Project)

Date of Note: February 16, 2012

Original Principal Balance: \$12,258,425.00

FOR VALUE RECEIVED, THE VILLAGE OF LOMBARD, DUPAGE COUNTY, ILLINOIS (the "Village"), an Illinois municipal corporation, promises to pay to the order of HIGHLAND YORKTOWN, LLC, an Illinois limited liability company ("Highland Yorktown") the principal sum of TWELVE MILLION TWO HUNDRED FIFTY-EIGHT THOUSAND FOUR HUNDRED TWENTY-FIVE AND NO/100 DOLLARS (\$12,258,425.00) pursuant to the Redevelopment Agreement (as hereinafter defined), together with simple interest on the principal balance outstanding from time to time calculated at the rate of seven percent (7%) per annum.

This Redevelopment Note is made pursuant to that certain Business District Redevelopment Agreement dated as of June 1, 2006, as amended by the First Amendment to the Business District Redevelopment Agreement dated as of February 16, 2012, by and between the Village, Highland Yorktown and Yorktown Holdings, LLC, a Delaware limited liability company ("Yorktown Holdings") (the Business District Redevelopment Agreement, as amended by the First Amendment thereto, being referred to herein as the "Redevelopment Agreement"), and serves as a replacement for the Redevelopment Note issued to Highland Yorktown and Yorktown Holdings on June 1, 2006, and cancelled on February 16, 2012. All terms not defined herein shall have the same meanings given them in the Redevelopment Agreement. In the event of any conflict between the terms of this Redevelopment Note and the terms of the Redevelopment Agreement, the Redevelopment Agreement shall control. The terms and conditions of the Redevelopment Agreement are hereby incorporated into this Redevelopment Note by this reference thereto as if fully set forth herein. Amounts payable pursuant to this Redevelopment Note shall be paid in accordance with the provisions of the Redevelopment Agreement.

1. **Authority.** This Redevelopment Note is issued by the Village pursuant to: (i) the exercise of the Village's power and authority as a unit of local government; (ii) an ordinance adopted on November 17, 2005, and captioned Ordinance No. 5776, "An Ordinance Designating Lombard Business District No. 1 [Highland Avenue/Butterfield Road Business District] (Northeast Corner of Butterfield Road and Highland Avenue on the Yorktown Mall Property, Generally Consisting of the

Former Montgomery Wards Store Site and Surrounding Areas"; (iii) an ordinance adopted on June 1, 2006, and captioned Ordinance No. 5880, "An Ordinance Approving a Redevelopment Agreement Between and Among Yorktown Holdings, LLC, Highland Yorktown, LLC and the Village of Lombard in regard to Lombard Business District No. 1"; and (iv) an ordinance adopted February 16, 2012, and caption Ordinance No. _____, "An Ordinance Approving a First Amendment to the Business District Redevelopment Agreement By, Between and Among Yorktown Holdings, LLC, Highland Yorktown, LLC and the Village of Lombard (Lombard Business District No. 1)", said Ordinance Nos. 5880 and _____ authorizing the Redevelopment Agreement that provides for this Redevelopment Note.

2. **Purpose.** Payments to Highland Yorktown under this Redevelopment Note shall be in reimbursement of a portion of the Redevelopment Project Costs that Highland Yorktown and Yorktown Holdings have incurred, as approved by the Village pursuant to the Redevelopment Agreement.
3. **Payments.** Payments on account of the indebtedness represented by this Redevelopment Note shall be made to Highland Yorktown by the Village on Quarterly Payment Dates, and shall not, in the aggregate, exceed the Maximum Reimbursement Amount, all as provided for in the Redevelopment Agreement. Payments of interest under this Redevelopment Note shall be made by check of the Village mailed and addressed as follows: Highland Yorktown, LLC, 203 Yorktown Shopping Center, Lombard, Illinois 60148 (Attention: Veronica Lidral), unless the Village has been directed to make such payments in another manner by written notice given to the Village by Highland Yorktown at least fifteen (15) days prior to any Quarterly Payment Date. Payments of principal under this Redevelopment Note shall be made by check of the Village, upon presentation of this Redevelopment Note to the Village's Finance Director, at the Village Hall address, 255 East Wilson Avenue, Lombard, Illinois, so the principal payment can be so noted on this Redevelopment Note, and the dollar amount of this Redevelopment Note reduced thereby as of the date of said principal payment. In this regard, the Village shall provide Highland Yorktown with at least fifteen (15) days prior written notice of the Village's desire to make a principal payment, with the amount of said payment and the date said payment will be made being set forth in said notice (the "Payment Notice"). In the event Highland Yorktown fails to tender this Redevelopment Note to receive the principal payment on the date set forth in the Payment Notice, interest on the principal amount to be paid by the Village, as set forth in the Payment Notice, shall cease to accrue as of the payment date set forth in the Payment Notice. Notwithstanding anything to the contrary herein contained, this Redevelopment Note shall be canceled automatically on the Reimbursement Termination Date even if the sum of all payments received by Highland Yorktown on or prior to the Reimbursement Termination Date do not satisfy in full the principal balance of this Redevelopment Note and all amounts of interest then due on this Redevelopment Note.

- 4. **Non-Recourse.** THIS REDEVELOPMENT NOTE AND THE OBLIGATION TO PAY THE AMOUNTS SPECIFIED IN THIS REDEVELOPMENT NOTE ARE LIMITED OBLIGATIONS OF THE VILLAGE PAYABLE SOLELY FROM THE SALES TAXES, AS DEFINED IN THE REDEVELOPMENT AGREEMENT, COLLECTED AND REMITTED TO THE VILLAGE AS A RESULT OF SALES OCCURRING IN THE BUSINESS DISTRICT DURING THE REIMBURSEMENT PERIOD. SAID OBLIGATIONS DO NOT NOW AND SHALL NEVER CONSTITUTE A GENERAL INDEBTEDNESS OF THE VILLAGE WITHIN THE MEANING OF ANY STATE OF ILLINOIS CONSTITUTIONAL OR STATUTORY PROVISION AND SHALL NOT CONSTITUTE OR GIVE RISE TO A PECUNIARY LIABILITY OF THE VILLAGE OR A CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWER.

- 5. **Default.** In the event of a default by the Village under this Redevelopment Note, the holder of this Redevelopment Note may proceed to secure the specific performance of the covenants and agreements contained herein upon giving the Village a thirty (30) day written notice specifying the default unless, within such thirty (30) day period, the Village cures such default.

- 6. **Governing Law, Waiver and Notices.** This Redevelopment Note shall be governed by the laws of the State of Illinois and the sole and exclusive venue for any disputes arising out of this Redevelopment Note shall be the Circuit Court of the 18th Judicial Circuit, DuPage County, Illinois. A waiver of any part of this Redevelopment Note shall be limited to that specific event and shall not be a waiver of the entire Redevelopment Note. No delay on the part of the holder of this Redevelopment Note in exercising any option to demand payment shall operate as a waiver thereof or preclude the exercise thereof at any time during the continuance of a default. Any notices required in this Redevelopment Note shall be effective when given as provided in the Redevelopment Agreement.

- 7. **Principal Payments.**

Amount of Principal Payment	Date of Principal Payment	Signature of Finance Director	Signature of Highland Yorktown's Representative
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

8. **Miscellaneous.**

- A. Time is of the essence of this Redevelopment Note.
- B. The Village shall not be deemed in default with respect to any of its obligations under this Redevelopment Note if the Village fails to timely perform the same and such failure is due in whole or in part to a change in governmental laws and regulations, acts caused directly or indirectly by Highland Yorktown (or its agents or employees) or any other cause beyond the reasonable control of the Village.
- C. Upon assignment or other transfer of this Redevelopment Note by Highland Yorktown, as provided in the Redevelopment Agreement, the term "Highland Yorktown" as used herein shall be deemed to mean such assignee or other transferee or successor who may become the holder of this Redevelopment Note by virtue of any assignment or transfer of this Redevelopment Note. Subject to the terms of the Redevelopment Agreement, this Redevelopment Note shall inure to the benefit of Highland Yorktown and its successors and assigns and shall be binding upon the Village and its successors and assigns.
- D. Except as set forth in Section 3 above, the Village hereby waives presentment and demand for payment, notices of nonpayment and of dishonor, protest of dishonor and notice of protest.

IN WITNESS WHEREOF, the Village of Lombard has caused this Redevelopment Note to be executed in its name and on its behalf by its President and its Village Clerk and its corporate seal to be hereunto affixed.

Dated: _____, 2012

VILLAGE OF LOMBARD,
an Illinois municipal corporation

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk