



#120077

MEMORANDUM

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

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

DATE: February 16, 2012

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

Subsequent to the Board of Trustees packets being distributed, staff received non-substantive edits from the prospective purchaser's counsel. Attached please find the revised Ordinance and First Amendment, which includes these non-substantive changes, as well as a copy of the redlined versions for your consideration. Village Counsel has reviewed these changes and find that they are acceptable.

Please disregard the previous submittal and substitute the attached in its place. Should you have any questions regarding this matter, please feel free to contact me.

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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 ~~D~~Redevelopment 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)**

Field Code Changed

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, or as directed by, 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."

**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)**

Field Code Changed

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, or as directed by, 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"
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 - C. The "Grand Total Project Costs" dollar amounts are revised to read as follows:

"\$71,268,277	\$34,868,411	"\$12,258,425"
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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: _____

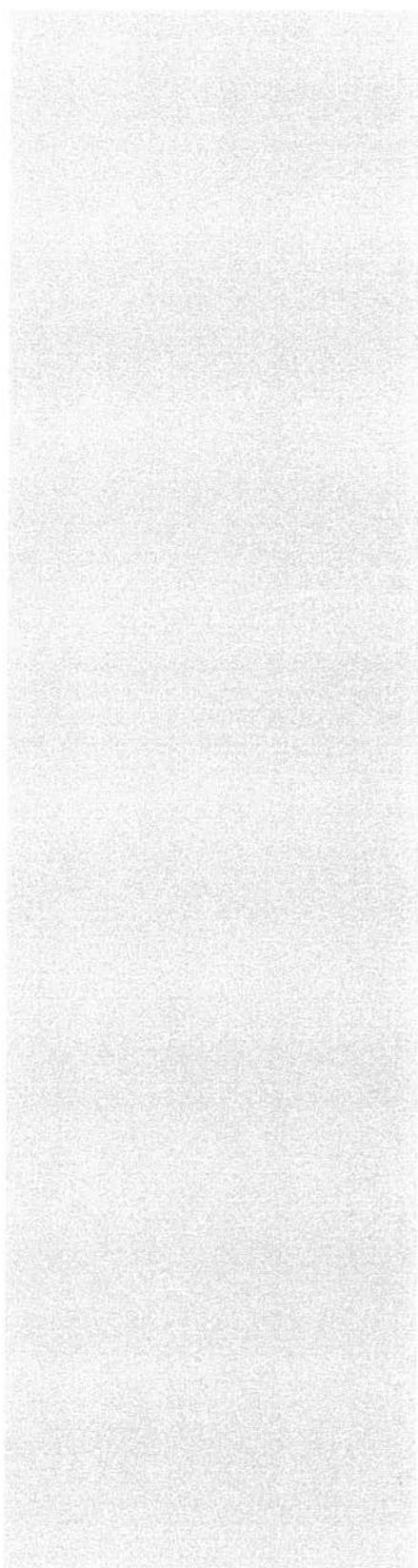
ACKNOWLEDGMENT

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

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 Redevelopment 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 shall be made pursuant to payments of Sales Taxes solely to, or as directed by, 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 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