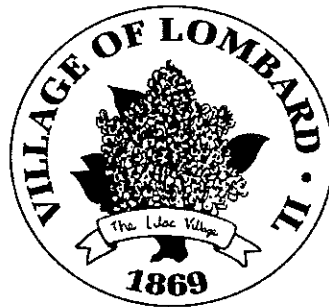


ORDINANCE 7038

PAMPHLET

**BOT 14-02: AN ORDINANCE AUTHORIZING THE EXECUTION OF AN
ANNEXATION AGREEMENT**



PUBLISHED IN PAMPHLET FORM THIS 9TH DAY OF JANUARY, 2015,
BY ORDER OF THE CORPORATE AUTHORITIES OF THE VILLAGE OF LOMBARD,
DUPAGE COUNTY, ILLINOIS.

Sharon Kuderna

Sharon Kuderna
Village Clerk

ORDINANCE 7038

**AN ORDINANCE AUTHORIZING THE
EXECUTION OF AN ANNEXATION AGREEMENT**

(BOT 14-02: 1200 and 1204 High Ridge Road)

(See also Ordinance No. (s) 7039 and 7040)

WHEREAS, it is in the best interest of the Village of Lombard, DuPage County, Illinois that a certain Annexation Agreement (hereinafter the "Agreement") pertaining to the property located at 1200 and 1204 High Ridge Road, Lombard, Illinois to be entered into; and,

WHEREAS, the Agreement has been drafted and a copy is attached hereto and incorporated herein as Exhibit "A"; and,

WHEREAS, the developer and the legal owners of the lots of record, which are the subject of said Agreement, are ready, willing and able to enter into said Agreement and to perform the obligations as required thereunder; and,

WHEREAS, the statutory procedures provided in Chapter 65 ILCS 5/11-15.1-1 through 5/11-15.1-5, as amended, for the execution of said Agreement have been complied with; a hearing on said Agreement having been held, pursuant to proper notice, by the President and Board of Trustees on January 8, 2015.

NOW, THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, as follows:

SECTION 1: That the Village President and Village Clerk be and hereby are authorized to sign and attest to the Agreement attached hereto and marked Exhibit "A", by and between the Village of Lombard; and,

SECTION 2: This ordinance is limited and restricted to the property generally located at 1200 and 1204 High Ridge Road, Lombard, Illinois containing 1.4 acres more or less and legally described as follows:

LOT 14 AND THE WEST ½ OF LOT 15 IN YORK TOWNSHIP SUPERVISOR'S ASSESSMENT PLAT NO. 2, ALSO KNOWN AS WESTMORE LANDS PART OF THE SOUTH ½ OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 23, 1943 AS DOCUMENT NO. 453576, IN DUPAGE COUNTY, ILLINOIS

Ordinance No. 7038

Re: BOT 14-02

Page 2

Parcel Identification Number: 06-16-400-001 and-002

SECTION 3: This ordinance shall be in full force and effect from and after its passage and approval as provided by law.

Passed on first reading this ___ day of _____, 2015.

First reading waived by action of the Board of Trustees this 8th day of January, 2015.


Passed on second reading this 8th day of January, 2015.

Ayes: Trustee Whittington, Fugiel, Foltyniewicz, Fitzpatrick, Ware and President Giagnorio.

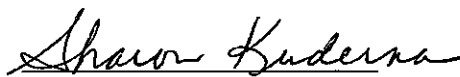
Nays: None

Absent: None

Approved this 8th day of January, 2015.


Keith T. Giagnorio
Village President

ATTEST:


Sharon Kuderna
Village Clerk

Published by me in pamphlet form on this 9th day of January, 2015.


Sharon Kuderna
Village Clerk

1200 AND 1204 HIGH RIDGE ROAD
ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT (the "Agreement") is made and entered into this 8 day of January, 2015, by and between the **VILLAGE OF LOMBARD**, a municipal corporation (hereinafter referred to as "Village"); Hamid Humayun and Shaheen Humayun, (hereinafter collectively referred to as "Owner"). The Village and the Owners are hereinafter sometimes referred to individually as a "Party" and collectively as the "Parties".

WITNESSETH:

WHEREAS, the Owner is the recorded owner of the property legally described in **EXHIBIT A**, attached hereto and made a part hereof (hereinafter referred to as the "Property"); and

WHEREAS, the Property is adjacent to and contiguous to the existing corporate boundaries of the Village; and

WHEREAS, the Village desires to annex and the Owner desires to have the Property annexed to the Village, and each of the Parties desire to obtain assurances from the other as to certain provisions of the zoning and other ordinances of the Village for the Property when same has been annexed, and to other matters covered by this Agreement, for a period of twenty (20) years from and after the execution of this Agreement; and

WHEREAS, the Property is approximate 1.4 acres in area, consisting of two (2) lots, and there are zero electors residing thereon; and

WHEREAS, all owners of record of the Property have signed a Petition for Annexation of the Property to the Village, which Petition is hereinafter referred to as the "Annexation Petition"; and

WHEREAS, an application has heretofore been filed with the Village Clerk for rezoning of the Property to the R-1 Single Family Residence District upon the annexation thereof; and

WHEREAS, said application was forwarded to the Plan Commission of the Village; and

WHEREAS, a public hearing was held on December 15, 2014, for the purpose of considering whether the Property should be rezoned, upon its annexation, from the R-0 Single Family Residence District to the R-1 Single Family Residence District under the Lombard Zoning Ordinance (Chapter 155 of the Lombard Village Code; hereinafter the "Zoning Ordinance"), and the Plan Commission has submitted to the President and Board of Trustees of the Village (hereinafter referred to as the "Corporate Authorities") its findings of fact and recommendations with respect to said application; and

WHEREAS, a public hearing in regard this Agreement was held by the Corporate

Authorities on January 8, 2015 with proper notice of said public hearing being given in accordance with State Statutes on _____, 2014; and

WHEREAS, the Parties wish to enter into a binding agreement with respect to the said annexation, zoning and development of the Property, and for other related matters, pursuant to the provisions of Division 15.1 of Article 11 of Act 5 of Chapter 65 of the Illinois Compiled Statutes, and upon the terms and conditions contained in this Agreement; and

WHEREAS, all public hearings and other actions required to be held or taken prior to the adoption and execution of this Agreement, in order to make the same effective, have been held or taken, including all hearings and actions required in connection with amendments to and classifications under the Zoning Ordinance; such public hearings and other actions having been held pursuant to public notice as required by law and in accordance with all requirements of law prior to adoption and execution of this Agreement; and

WHEREAS, the Corporate Authorities of the Village and the Owner deem it to the mutual advantage of the Parties and in the public interest that the Property be annexed to and developed as a part of the Village as hereinafter provided; and

WHEREAS, the development of the Property as provided herein will promote the sound planning and development of the Village as a balanced community and will be beneficial to the Village; and

WHEREAS, the Corporate Authorities of the Village have examined the proposed uses by the Owner and have determined that said uses and the development of the Property in accordance with this Agreement comply with the Comprehensive Plan of the Village; and

WHEREAS, the Owner desires to have the Property rezoned to the R-1 Single Family Residence District under the Zoning Ordinance;

NOW THEREFORE, in consideration of the premises and the mutual promises herein set forth, the sufficiency of which is acknowledged by both Parties, the Parties hereto agree as follows:

1. **INCORPORATION OF RECITALS.** The Village and Owner agree that the foregoing recitals are incorporated in this Agreement as if fully recited herein.

2. **DEVELOPMENT OF PROPERTY.** Village and Owner agree that the Property shall be developed in accordance with the terms of this Agreement and the exhibits attached hereto and made a part hereof. To the extent that any exhibit attached hereto and made a part of this Agreement is labeled as preliminary, the final documents shall be in substantial compliance with the preliminary documents attached hereto, and subject to final approval by the Village.

3. **ANNEXATION.** Subject to the provisions of 65 ILCS 5/7-1-1 et sequitur, the Parties agree to do all things necessary or appropriate to cause the Property to be duly and validly annexed to the Village. The Parties shall cause such annexation to be effected pursuant to the provisions of 65 ILCS 5/7-1-8.

4. **ZONING.** Upon annexation of the Property to the Village as set forth herein, the Corporate Authorities shall, without further public hearings, immediately rezone and classify the Property from the R-0 Single Family Residence District to the R-1 Single Family Residence District.

5. **RESERVED.**

6. **WATER UTILITIES.**

A. Village represents and warrants to Owner as follows:

- (1) That it owns and operates a water distribution system within the Village.
- (2) That the Village has sufficient capacity to provide and will provide potable water to the Property, such service to be substantially the same as provided to other residential areas in the Village being provided with water by the Village in terms of quantity, pressure, quality and cost.

B. Owner, at its own expense shall install water main extensions in accordance with Chapter 154 of the Lombard Village code (hereinafter, the "Subdivision and Development Ordinance") and substantially in compliance with the Plans and Specifications.

C. The Parties agree that Owner shall pay all applicable Village water connection charges Relative to the connection of the Property to the Village's water distribution system.

D. Owner shall grant or dedicate, or cause to be granted or dedicated, all easements reasonably required by the Village for the construction of the necessary water main extensions serving the Property.

7. **SANITARY AND STORM SEWER FACILITIES.**

A. Village represents and warrants to Owner as follows:

- (1) That it owns and operates a sanitary and storm sewer system within the Village.
- (2) That the Village system has sufficient capacity to provide and will provide sanitary and storm sewer service to the Property, such service to be substantially the same as provided to other residential areas in the Village being provided with sanitary and storm sewer by the Village.

- B. Owner, at its own expense, shall install sanitary and storm sewer extensions necessary to serve the Property in accordance with the Plans and Specifications.
- C. The Parties agree Owner shall pay all applicable Village sanitary and storm sewer connection charges relative to the connection of the Property to the Village's sanitary and storm sewer system.
- D. Owner shall grant or dedicate, or cause to be granted or dedicated, all easements reasonably required by the Village for the construction of the necessary sanitary and storm sewer extensions serving the Property.

8. **STORM DRAINAGE FACILITIES.** Storm drainage facilities (hereinafter, the "Storm Drainage Facilities") shall be provided, constructed, paid for and maintained (if on private property and not accepted as public improvements) by Owner substantially in accordance with the Plans and Specifications.

9. **UNDERGROUND UTILITIES.** All electrical, telephone, cable television and natural gas distribution facilities installed by Owner, except electrical transformers and meters for natural gas and electricity, shall be installed underground or located within buildings.

10. **DEVELOPMENT AGREEMENT.** The Owner agrees to enter into, simultaneously with the execution of the Agreement, a Development Agreement governing development of the Property, the form substantially in as set forth in **EXHIBIT B**, attached hereto and incorporated herein.

11. **CABLE TELEVISION.** The Owner shall provide necessary easements for cable television service.

12. **EASEMENTS.** Owner shall provide, or cause to be provided, all easements as required by final engineering including dedicating the easement of the southerly thirty-three (33) feet as public right-of-way.

13. **CONTRIBUTIONS.** There shall be no requirement for Owner to make any contributions to elementary school, middle school, high school, park, library or other service districts.

14. **PERMIT AND CONNECTION FEES.** In consideration of the impact of the development of the Property on the Village, and in consideration of water mains, sanitary and storm sewer mains and storm sewer mains previously installed by the Village to assist in the serving of the Property with water and sewers, Owner agree to pay all applicable permit (including, but not limited to building permit) and utility connection fees as required by the Lombard Village Code , or any other ordinances of the Village, at the time of application for the respective permits.

15. **REASONABLENESS OF FEES, CHARGES AND EASEMENTS.** The Owner

agrees that the connection charges, fees, contributions, dedications and easements required by this Agreement are reasonable in amount, where applicable, and are reasonably related to and made necessary by the development of the Property.

16. DEDICATION OF PUBLIC IMPROVEMENTS. When Owner has completed all required public improvements, in accordance with the Village's Subdivision and Development Ordinance regulations, and said public improvements have been inspected and approved by the Village Engineer, the Village shall accept said public improvements subject to the two (2) year maintenance guaranty provisions of the Subdivision and Development Ordinance.

17. FINAL ENGINEERING APPROVAL. All public improvements required to be constructed hereunder or under the Subdivision and Development Ordinance of the Village shall be paid for, constructed and installed by the Owner in accordance with final engineering plans approved by the Director of Community Development.

18. ANNEXATION TO LOMBARD PARK DISTRICT. The Owner agrees to petition the Lombard Park District to have the Property annexed to the Lombard Park District upon its annexation to the Village.

19. GENERAL PROVISIONS.

- A. **Notices.** Notice or other writings which either Party is required to, or may wish to, serve upon the other Party in connection with this Agreement shall be in writing and shall be delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to the Village or
Corporate Authorities:

President and Board of Trustees
Village of Lombard
255 East Wilson Avenue
Lombard, Illinois 60148

With Copies to:

Village Manager
Village of Lombard
255 East Wilson Avenue
Lombard, Illinois 60148

Director of Community Development
Village of Lombard
255 East Wilson Avenue
Lombard, Illinois 60148

Thomas P. Bayer
Klein, Thorpe and Jenkins, Ltd.
20 North Wacker Drive
Suite 1660

Chicago, Illinois 60606

If to the Owner:

Dr. Hamid Humayun
Dr. Shaheen Humayun
110 Livery Circle
Oak Brook, IL 60523

With a Copy to:

or to such other address as either Party may from time to time designate in a written notice to the other Party.

B. Continuity of Obligations.

- (1) The provisions of this Agreement, except as to various covenants running with the land and the obligation to provide such and the further exception set forth below in this subsection, obligating Owner, shall not be binding upon the successors in title to the Owner who have purchased individual dwellings or improved residential lots as the ultimate consumers thereof (namely the individuals who actually own and reside in the houses to be built on the Property). The provisions of this Agreement shall be binding, however, on any builders who purchase any of the Property for eventual resale to the ultimate consumers thereof. Notwithstanding the foregoing, the provisions relating to Storm Drainage Facilities in Section 8 shall be binding on the ultimate consumers and any builders and shall be considered and are hereby declared as covenants running with the land.

- (2) In the event of any sale or conveyance by Owner of the Property or any portion thereof, excluding any sale or conveyance by Owner of any individual dwellings or individual residential lots while Owner is acting in the regular course of its business of a developer selling or transferring such dwellings or improved residential to the ultimate consumers thereof, Owner shall notify the Village in writing, within thirty (30) days after the closing of such sale or conveyance, of any and all successors in title to all or any portion of the Property. Such written notice shall include identification of the names(s) of such successor(s), the date of such sale or conveyance, and a copy of the title opinion identifying the grantee, the real estate sold or conveyed, and such other information as is usually and customarily included in a

title opinion for the sale or conveyance or real estate. Failure to give timely notice shall not constitute a default hereunder, but shall be governed by the remaining provisions of this subsection 19B.

- (3) Upon the condition that the requirements of this subsection 19B have been met, this Agreement shall inure to the benefit of and shall be binding upon Owner's successors in any manner in title, and shall be binding upon the Village and the successor Corporate Authorities of the Village and any successor municipality. In the event that the requirements of this subsection 19B have not been met, this Agreement shall be binding upon, but shall not inure to the benefit of Owner's successors in any manner in title until such time as Owner has given the Village the notice required by this subsection.
- (4) Notwithstanding any provision of this Agreement to the contrary, including, but not limited to, the sale or conveyance of all or any part of the Property by Owner in accordance with subsections 19B (2) and (3) above, the Owner shall at all times during the term of this Agreement remain liable to Village for the faithful performance of all obligations imposed upon Owner by this Agreement until such obligations have been fully performed or until Village, in the exercise of its reasonable discretion, has otherwise released Owner from any and all such obligations.
- (5) Except as otherwise provided in this subsection 19B, all the terms and conditions of this Agreement shall constitute covenants running with the land.

C. **Court Contest.** In the event the annexation of the Property, the classification of the Property for zoning purposes or other terms of this Agreement are challenged in any court proceeding, the period of time during which such litigation is pending, including (without limitation) the appeal time therefor, shall not be included, if allowed by law, in calculating the twenty (20) year period mentioned in subsection 19T below.

D. **Remedies.** The Village and Owner, and their successors and assigns, covenant and agree that in the event of default of any of the terms, provisions or conditions of this Agreement by either Party, or said Party's successors or assigns, which default exists uncorrected for a period of thirty (30) days after written notice to the Party to such default, the Party seeking to enforce said provision shall have the right of specific performance and if said Party prevails in a court of law, it shall be entitled to specific performance. It is further expressly agreed by and between the Parties hereto that the remedy of specific performance herein given shall not be exclusive of any other remedy afforded by law to the parties, or their successor or successors in title.

E. **Dedication of Public Lands.** In no event, including (without limitation) the

exercise of the authority granted in Section 5/11-12-8 of Division 11 of Act 5 of Chapter 65 of the Illinois Compiled Statutes, shall the Corporate Authorities require that any part of the Property be designated for public purposes, except as otherwise provided in this Agreement or except as may be consented to in writing by Owner.

F. **Conveyance, Dedication and Donation of Real Estate and Certain Personal Property.** Any conveyance, dedication or donation of real estate required of Owner (hereinafter referred to as “Grantor” in this subsection 19F) to the Village or other governmental authority under this Agreement (hereinafter referred to as “Grantee” in this subsection 19F) shall be made in conformance with the following requirements and any other applicable provisions of this Agreement.

1. Fee Simple Title. The conveyance, dedication or donation shall be of a fee simple title.
2. Merchantable Title. Title shall be good and marketable.
3. Form and Contents of Deed. The conveyance, dedication or donation shall be by delivery of a good, sufficient and recordable deed, plat of dedication or appropriate dedication on a recorded plat of subdivision. The deed, conveyance or dedication may be subject only to:
 - (a) covenants, restrictions and easements of record, provided the same do not render the real estate materially unsuitable for the purpose for which it is conveyed, dedicated or donated;
 - (b) terms of this Agreement;
 - (c) general taxes for the year in which the deed, conveyance or dedication is delivered or made and for the prior year of the amount of the prior year’s taxes is not determined at the time of delivery, conveyance or dedication; and
 - (d) such other exceptions acceptable to the Grantee.
4. Title Insurance. Grantor shall provide to Grantee, not less than ten (10) days prior to the time for delivery of the deed, conveyance or dedication, a commitment for title insurance from the Chicago Title Insurance Company or such other title insurance company acceptable to the Grantee. The commitment for title insurance shall be in usual and customary form subject only to:
 - (a) the usual and customary standard exceptions contained

therein;

- (b) taxes for the year in which the deed is delivered and for the prior year if the amount of such prior year's taxes is not determinable at the time of delivery of the deed, conveyance or dedication; and
- (c) such other exceptions as are acceptable to the Grantee.

The commitment for title insurance shall be in the amount of the fair market value of the real estate and shall be dated not more than twenty (20) days prior to the time for delivery of the deed, conveyance or dedication. Grantor shall further cause to be issued within thirty (30) days after delivery of the deed, conveyance or dedication a title insurance policy in such amount from the company issuing the commitment for title insurance, subject only to the exceptions stated above.

All title insurance charges shall be borne by Owner.

- 5. Taxes, Liens, Assessments, Etc. General taxes and all other taxes, assessments, liens and charges of whatever nature affecting the real estate shall be paid and removed prior to delivery of the deed, conveyance or dedication. To the extent that any such item cannot be removed prior to delivery of the deed, conveyance or dedication because the amount of the same cannot then be determined, Grantor hereby covenants that it will promptly pay the same upon determination of such amount and that it will indemnify, hold harmless and defend the Village and Grantee, if other than the Village, against any loss or expense, including but not limited to attorney's fees and expenses of litigation, arising as a result of a breach of the foregoing covenant.
- 6. Delivery of Deed, Conveyance or Dedication. To the extent not provided in this Agreement, delivery of the deed, conveyance or dedication shall occur at a date, time and place mutually agreeable to Grantor and Grantee, otherwise at a date, time and place set by Grantee not less than thirty (30) days nor more than forty-five (45) days after notice thereof is given by Grantee to Grantor.

G. Conveyances. Nothing contained in this Agreement shall be construed to restrict or limit the right of Owner to sell or convey all or any portion of the Property, whether improved or unimproved, except as otherwise specifically set forth herein.

H. Survival of Representation. Each of the Parties agrees that the

representations, warranties and recitals set forth in the preambles to this Agreement are material to this Agreement and the Parties hereby confirm and admit their truth and validity and hereby incorporate such representations, warranties and recitals into this Agreement and the same shall continue during the period of this Agreement.

I. **Captions and Paragraph Headings.** The captions and paragraph headings used herein are for convenience only and are not part of this Agreement and shall not be used in construing it.

J. **Reimbursement to Village for Legal and Other Fees and Expenses.**

1. To the Effective Date of Agreement. The Owner concurrently with annexation and zoning of the Property or so much thereof as required, shall reimburse the Village for the following expenses incurred in the preparation and review of this Agreement, and any ordinances, letters of credit, plats, easements or other documents relating to the Property:

- (a) the costs incurred by the Village for engineering services;
- (b) all reasonable attorneys' fees incurred by the Village in connection with this Agreement and the annexation and zoning of the Properties; and
- (c) miscellaneous Village expenses, such as legal publication costs, recording fees and copying expenses.

2. From and After Effective Date of Agreement. Except as provided in this subsection, upon demand by Village made by and through its Director of Community Development, Owner, from time to time, shall promptly reimburse Village for all reasonable expenses and cost incurred by Village in the administration of this Agreement, including engineering fees, attorneys' fees and out-of-pocket expenses.

Such costs and expenses incurred by Village in the administration of the Agreement shall be evidenced to the Owner upon its request, by a sworn statement of the Village; and such mutually agreed upon costs and expenses may be further confirmed by the Owner, at Owner's option, from additional documents designated from time to time by the Owner relevant to determining such costs and expenses.

Notwithstanding the foregoing, Owner shall in no event be required to reimburse Village or pay for any expenses or costs of Village as aforesaid more than once, whether such are reimbursed or paid through special assessment proceedings, through fees established by

Village ordinances or otherwise.

3. In the event that any third party or parties institute any legal proceedings against the Owner and/or the Village, which relate to the terms of this Agreement, then, in that event, the Owner, on notice from Village shall assume, fully and vigorously, the entire defense of such lawsuit and all expenses of whatever nature relating thereto; provided, however:

- (a) Owner shall not make any settlement or compromise of the lawsuit, or fail to pursue any available avenue of appeal of any adverse judgment, without the approval of the Village.
- (b) If the Village, in its reasonable discretion, determines there is, or may probably be, a conflict of interest between Village and Owner, on an issue of importance to the Village having a potentially substantial adverse effect on the Village, then the Village shall have the option of being represented by its own legal counsel. In the event the Village exercises such option, then Owner shall reimburse the Village, from time to time on written demand from the Director of Community Development and notice of the amount due, for any expenses, including but not limited to court costs, reasonable attorneys' fees and witnesses' fees, and other expenses of litigation, incurred by the Village in connection therewith.

4. In the event the Village institutes legal proceedings against Owner for violation of this Agreement and secures a judgment in its favor, the court having jurisdiction thereof shall determine and include in its judgment against Owner all expenses of such legal proceedings incurred by Village, including but not limited to the court costs and reasonable attorneys' fees, witnesses' fees, etc., incurred by the Village in connection therewith (and any appeal thereof). Owner may, in its sole discretion, appeal any such judgment rendered in favor of the Village against Owner.

K. **No Waiver or Relinquishment of Right to Enforce Agreement.** Failure of either Party to this Agreement to insist upon the strict and prompt performance of the terms, covenants, agreements and conditions herein contained, or any of them, upon the other Party imposed, shall not constitute or be construed as a waiver or relinquishment of either Party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

L. **Village Approval or Direction.** Where Village approval or direction is required by this Agreement, such approval or direction means the approval or direction of the Corporate Authorities of the Village unless otherwise expressly provided herein or required by law, and any such approval may be required to be given only after and if all requirements for granting such

approval have been met unless such requirements are inconsistent with this Agreement.

- M. **Recording.** A copy of this Agreement and any amendment thereto shall be recorded by the Village at the expense of the Owner.
- N. **Authorization to Execute.** The Owner executing this Agreement warrants that the Owner has lawful authority to execute this Agreement. The President and Clerk of the Village hereby warrant that they have been lawfully authorized by the Corporate Authorities of the Village to execute this Agreement.
- O. **Amendment.** This Agreement sets forth all promises, inducements, agreements, conditions and understandings between the Owner and the Village relative to the subject matter thereof, and there are no promises, agreements, conditions or understandings, either oral or written, express or implied, between them other than are herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the Parties hereto unless authorized in accordance with law and reduced in writing and signed by them.
- P. **Counterparts.** This Agreement may be executed in two (2) or more counterparts, each of which taken together, shall constitute one and the same instrument.
- Q. **Conflict Between the Text and Exhibits.** In the event of a conflict in the provisions of the text of this Agreement and the Exhibits attached hereto, the text of the Agreement shall control and govern.
- R. **Definition of Village.** When the term Village is used herein it shall be construed as referring to the Corporate Authorities of the Village unless the context clearly indicates otherwise.
- S. **Execution of Agreement.** This Agreement shall be signed last by the Village and the President of the Village shall affix the date on which he/she signs this Agreement on the first page hereof, which date shall be the effective date of this Agreement.
- T. **Terms of Agreement.** This Agreement shall be in full force and effect for a term of twenty (20) years from and after date of execution of this Agreement.
- U. **Venue.** The Parties hereto agree that for purposes of any lawsuit(s) between them concerning this Agreement, its enforcement, or the subject matter thereof, venue shall be in DuPage County, Illinois, and the laws of the State of Illinois shall govern the cause of action.

20. RECAPTURE OF HIGH RIDGE ROAD UTILITY EXTENSION COSTS. The Parties recognize that the Owner is obligated to extend water main construction, storm sewer construction, and sanitary and storm sewer construction along High Ridge Road, from the current Village boundaries eastward to a point adjacent with the farthest easterly point of the Property (the “Recapture Improvements”). Pursuant to Section 154.307 of the Subdivision and Development Ordinance, the Village shall allow for a recapture agreement for public improvements in compliance with 65 ILCS 5/9-5-1 relative to the Recapture Improvements. Owner and Village will enter into a recapture agreement, under the terms of which Owner shall be entitled to recapture a portion of its costs associated with the construction of the Recapture Improvements from those parcels located between the Village’s current corporate limits and the Property, along High Ridge Road, (the “Benefits and Parcels”) with said recapture agreement to be substantially in the form attached hereto as **EXHIBIT C** and made part hereof (the “Recapture Agreement”). Once the actual costs of construction are known for the Recapture Improvements, the Village and the Owner shall allocate the costs of the Recapture Improvements between the Property and the Benefitted Parcels, and shall enter into the Recapture Agreement.

The Recapture Agreement shall be recorded at the expense of the Owner. The foregoing right of recapture shall be waived with respect to any of the Benefitted Parcels in the event the Owner, or any affiliate of the Owner, acquires title to such Property.

{THIS SPACE INTENTIONALLY LEFT BLANK—SIGNATURE PAGE TO FOLLOW}

IN WITNESS WHEREOF, the Parties hereto have set their hands and seals to this Agreement on the day and year first above written.

VILLAGE OF LOMBARD

ATTEST:

By: Sharon Kuderna
Name: Sharon Kuderna
Its: Village Clerk

By: Keith Giagnorio
Name: Keith Giagnorio
Its: President, Village of Lombard

Dated: January 8, 2015

OWNER:

By: Hamid Humayun
Hamid Humayun

By: Shaheen Humayun
Shaheen Humayun

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 **KEITH GIAGNORIO**, personally known to me to be the President of the Village of Lombard, and **SHARON KUDERNA**, personally known to me to be the Village Clerk of the Village of Lombard (the "Village"), and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this ____ day of _____, 2015 in person and severally acknowledged that as such President and Village Clerk, they signed and delivered the said instrument and caused the corporate seal of the Village to be affixed thereto, pursuant to authority given by the President and Board of Trustees of said municipal corporation, as their free and voluntary act, and as the free and voluntary act and deed of the Village, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this 8th day of JANUARY, 2015.

{SEAL}

Karen I. Ellis
Notary Public
Print Name: KAREN I. ELLIS
My Commission Expires: 3-6-18




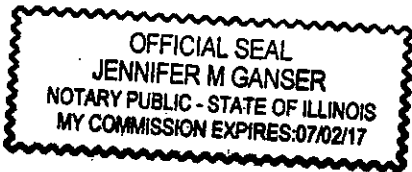
STATE OF ILLINOIS)
) SS.
COUNTY OF DUPAGE)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, **DO HEREBY CERTIFY** that **Hamid Humayun and Shaheen Humayun**, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this 31 day of December, ~~2014~~, ²⁰¹⁴, 2015 in person and acknowledged that they signed and delivered the said instrument, as their free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this 31 day of December, ²⁰¹⁴, 2015.

{SEAL}


Notary Public
Print Name: Jennifer M Ganser
My Commission Expires: 7/2/17



SCHEDULE OF EXHIBITS

- EXHIBIT A: Legal Description for the Property
- EXHIBIT B: Development Agreement
- EXHIBIT C: Recapture Agreement Form

EXHIBIT A

LEGAL DESCRIPTION

1200 and 1204 High Ridge Road

Lot 14 and the West ½ of Lot 15 in York Township Supervisor's Assessment Plat No. 2, also known as Westmore Lands, of part of the South ½ of Section 16, Township 39 North, Range 11, East of the Third Principal Meridian, according to the plat thereof recorded August 23, 1943, as document No. 453576 in DuPage County, Illinois;

PINS: 06-16-400-001 and -002

PROPERTY ADDRESS: 1200 High Ridge Road and
1204 High Ridge Road
Lombard, Illinois 60148

EXHIBIT B

DEVELOPMENT AGREEMENT

**AN AGREEMENT RELATING TO THE APPROVAL OF A
MAJOR DEVELOPMENT,
THE MAKING OF REQUIRED PUBLIC IMPROVEMENTS, AND PROVIDING FUNDS
THEREFORE FOR 1200 and 1204 HIGH RIDGE ROAD LOMBARD, IL**

This Agreement (hereinafter referred to as the "Agreement", made and entered into this 8 day of January, 2015 by and between Hamid Humayun and Shaheen Humayun (hereinafter referred to as the "Owner"), and the VILLAGE OF LOMBARD, a municipal corporation, located in DuPage County, Illinois, (hereinafter referred to as the "Village").

WITNESSETH:

Whereas, the Owner is developing real estate situated within the corporate limits of the Village, legally described in Exhibit A attached and made a part hereof (hereinafter referred to as the "Subject Property"); and,

Whereas, plans and specifications for the making of the required public improvements within the boundaries of and outside the boundaries of the aforesaid Subject Property, as prepared by _____ dated _____ to be approved by the Village, and copies thereof have been filed in the office of the Village Clerk of the said Village, which copies by reference thereto are hereby incorporated as a part hereof (hereinafter referred to as the "Public Improvements"); and,

Whereas, the Owner has entered into contracts or will enter into contracts for the work and Public Improvements required to be made within in conjunction with the development of the subject property pursuant to Lombard Village Code;

Now, therefore, for and in consideration of the premises and the mutual covenants and agreements hereinafter set forth, the Village and the Owner agree as follows:

Section 1: Commencement of construction of the Public Improvements detailed herein may begin only after the Developer has delivered one or more Irrevocable Letters of Credit in a form satisfactory to the Village and issued by a bank or financial institution approved by the Village in an amount equal to 115% of the Owner's engineer's estimate of cost of construction as approved by the Village's engineer.

Section 2: The Owner agrees to cause to be made with due dispatch and diligence, such Public Improvements as are required under Chapter 154 of the Lombard Village Code. The Owner will, when required to bring about progress in the work with due dispatch, take aggressive steps to enforce each contract connected with the construction of said Public Improvements, to the end that said Public Improvements will be duly and satisfactorily completed within the time

or times herein mentioned. The Owner agrees that all work in the construction of said Public Improvements shall be done in a good, substantial and workmanlike manner, that all manufactured materials used therein shall be new and of good quality, that same shall at all times be subject to inspection by the Village, shall all be satisfactory to the Village and shall be subject to its approval. The Owner will at its expense furnish all necessary engineering services for said Public Improvements.

Section 3: The Public Improvements subject to the Letter of Credit and engineering plans shall be completed within one year of recording the Annexation Agreement unless otherwise extended by amendment to this Agreement, consented to by the Corporate Authorities of the Village. All Letters of Credit, assurances, guarantees, acceptances, and related matters shall comply with the Lombard Village Code. The construction of the Public Improvements by the Owner and issuance of approvals by the Village for 1200 and 1204 High Ridge Road shall comply with the following schedule:

A. Sediment and Erosion Control

Sediment and Erosion control measures shall be implemented as per Chapter 154 of the Lombard Village Code prior to the issuance of building permits or authorization to proceed with mass grading or other improvements to the Subject Property. Said measures shall be maintained during the entire construction process and shall be inspected and repaired as necessary after each significant rainfall. Failure to do so may result in the issuance of a stop work order for any outstanding Public Improvements or building permits.

B. Tree preservation measures

All necessary tree preservation measures including tagging of trees to be preserved and fencing around the tree drip lines shall be implemented prior to issuance of building permits, authorization to proceed with mass grading, or any other improvements to the Subject Property.

C. Authorization to proceed with Public Improvements

Upon approval of the final engineering plans, receipt of all required fees, approval of the Letter of Credit, recording of this Agreement and the Annexation Agreement, and completion of items "A" and "B" above, authorization to begin the Public Improvements will be given by the Village.

D. Construction of Storm Water Control System

The storm water detention pond and a storm water management system for that portion of the Subject Property upon which construction activities have begun is to be operational prior to the issuance of any building permits. An operational storm water detention pond and storm water management system means that the volume of the storm water detention pond is adequate for the flow being directed to it and

the restrictor outlet is in place and that the system has been reviewed and approved by the Director of Community Development. Final grading and landscaping of the detention pond shall be completed in conjunction with final landscaping.

E. Issuance of Building Permits

1) Foundation-Only Permits

Foundation-only permits may be issued upon completion of adequate construction access to the corresponding building sites and the completion of underground utility work across the street frontage of the Subject Property. Adequate access shall mean a maintained gravel access road.

2) Building Permits

Building permits may be issued upon provision of adequate emergency access to the building site (gravel sub base) and an operational fire hydrant within 300 feet of the Subject Property.

F. Reserved

G. Certificates of Occupancy

Issuance of a Certificate of Occupancy for a dwelling unit shall be issued upon satisfactory completion of the following:

- 1) Inspection and approval by the Village's Building Division
- 2) Completion of the water distribution system including testing and chlorination; No occupancy permits for dwelling units shall be granted by the Village until the water distribution system has been looped (through the development) This requirement shall not apply to the sales office and model building;
- 3) Completion of the sanitary and storm sewer system to the dwelling unit.
- 4) Substantial completion of the public street system to the subject building and either a turnaround capability for a fire truck or a gravel base through the development in a manner to provide two means of emergency access for each building. Substantial completion shall include curbs, gutter, street lights, and the base course of asphalt.
- 5) Sidewalks must be installed across the frontage of the Subject Property.
- 6) Landscaping of the Subject Property must be substantially completed. This includes parkway trees, final grading and ground cover. This condition may be waived by the Department of Community Development if a hardship exists on

account of winter conditions provided a Letter of Credit in favor of the Village is posted by the Owner.

- 7) Record drawings (as built) of the detention pond and of the sanitary and storm sewer and domestic water facilities required to serve that building shall be submitted and approved prior to the Certificate of Occupancy.

H. Reserved

- 1) Reserved
- 2) Reserved

J. Acceptance of Public Improvements

- 1) Final Record Drawings (as built), including final grading and all utilities, shall be submitted for the review and approval of the Director of Community Development prior to acceptance of the Public Improvements.
- 2) Engineer's Certification. The Design Engineer is to certify that the detention and BMPs (if applicable) was constructed in accordance with Chapter 151 of the Lombard Village Code, and that the project was constructed substantially to plan.
- 3) All deficiencies described in the final punch list shall be satisfactorily completed and approved by the Directors of Public Works and Community Development
- 4) A maintenance guarantee in the form of a Letter of Credit shall be submitted and approved. Said guarantee and Letter of Credit shall comply with Chapter 154 of the Lombard Village Code.
- 5) The Public Improvements to be dedicated to the Village shall be accepted by the Corporate Authorities of the Village. Upon acceptance by the Corporate Authorities of the Village, the installation guarantee (Letter of Credit) shall be returned to the Owner.
- 6) The maintenance guarantee Letter of Credit, upon inspection and determination that no deficiencies exist, shall be returned at the time of its expiration.

Section 4: Construction Damage to Public Improvements:

Care shall be taken to avoid damage to public improvements, including utilities and curbs, during construction. Any public improvement damaged during construction shall be

repaired to the satisfaction of the Village and in substantial compliance with this agreement and all relevant Village codes and ordinances.

Section 5: Dedication of Public Improvements: .

Upon approval and acceptances of the aforesaid Public Improvements by the Village, said Public Improvements shall become the property of the Village and subject to its control, and if deemed necessary or desirable by the Corporate Authorities of the Village, a formal dedication or conveyance to the Village shall be made by the Owner.

Section 6: Letter of Credit:

It is expressly understood that this Agreement is conditional upon and subject to the delivery to the Village of the document provided for in Section 1 above from the Financial Institution approved by the Village, and subject to the Corporate Authorities of the Village approving same and placing same on file.

Section 7: Notices:

All notices or demands to be given hereunder shall be in writing, and served by either personal service or the mailing of such notice or demand by Certified or Registered Mail. Said notices shall be provided to the Owner at:

110 Livery Circle, Oak Brook, IL 60523
Attn: Dr. Hamid Humayun and Dr. Shaheen Humayun;

and to the Village at:

Village of Lombard
255 East Wilson Avenue
Lombard, IL 60148
Attn: Director of Community Development

or to such other place for any of them as it may in writing designate. Service of any such notice shall be deemed given on the date of personal service or three (3) days from the date of mailing.

Section 8: Site Access

Owner (and its contractors) shall keep all streets which provide access to the Subject Property reasonably clean from all mud, gravel and other debris, at all times during and after construction hours.

Section 9: Reserved

Section 10: Acceptance:

Public Improvements shall be accepted by the Corporate Authorities of the Village after certification by the Village Engineer and Director of Community Development that the Public Improvements are in compliance with previously approved plans, specifications, and relevant codes and ordinances. All required fees and procedures shall be provided prior to such acceptance. The Village shall not be liable for any damages that may occur on any dedicated road within a new subdivision that has not been accepted by the Village. The Owner shall hold the Village free and harmless and indemnify the Village, its agents, officers and, employees from any and all claims, damages, judgments, costs and settlements including, but not limited to attorneys' fees that may arise from construction, use, repair, or maintenance of said Public Improvements before they are accepted by the Village.


Section 11: Binding Effect and Term and Covenants Running with the Land:

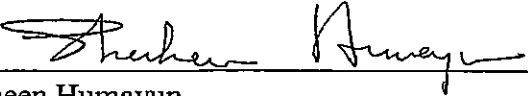
This Agreement has been executed on behalf of the Village pursuant to action adopted by the Corporate Authorities of said Village at a meeting of said Corporate Authorities duly held on January 8, 2015.

This Agreement has been executed by the Owner and shall be binding on the heirs and assigns of the Owner, but shall not be binding on a dwelling unit owner subsequent to the issuance of an occupancy permit for that dwelling unit.

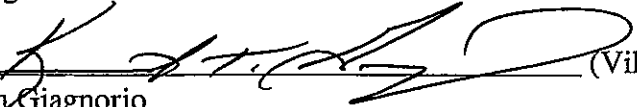
This Agreement shall automatically expire upon the expiration of the maintenance guarantee Letter of Credit required at the time of acceptance of the Public Improvements as set forth in Section 3.J.4 above.

In witness thereof, the Village and the Owner hereto have caused these presents to be duly executed on their behalf respectively, all as of the day and year first above written.

By:  12/31/14
Hamid Humayun

By: 
Shaheen Humayun

Village of Lombard:

By:  (Village President)
Keith Giagnorio


Attest:  (Village Clerk)
Sharon Kuderna

EXHIBIT A

**DEVELOPMENT AGREEMENT DATED JANUARY 8, 2015 FOR
1200 and 1204 High Ridge Road, LOMBARD, ILLINOIS**

LEGAL DESCRIPTION

Lot 14 and the West ½ of Lot 15 in York Township Supervisor's Assessment Plat No. 2, also known as Westmore Lands, of part of the South ½ of Section 16, Township 39 North, Range 11, East of the Third Principal Meridian, according to the plat thereof recorded August 23, 1943, as document No. 453576 in DuPage County, Illinois;

PERMANENT INDEX NUMBER: 06-16-400-001

PERMANENT INDEX NUMBER: 06-16-400-002

PROPERTY ADDRESS: 1200 High Ridge Road and
1204 High Ridge Road
Lombard, Illinois 60148

EXHIBIT C

RECAPTURE AGREEMENT FORM

THIS RECAPTURE AGREEMENT (hereinafter referred to as the "Agreement"), made and entered into this 8 day of January, 2015, by and between the VILLAGE OF LOMBARD, a municipal corporation of the County of DuPage, in the State of Illinois (hereinafter referred to as "VILLAGE and Hamid Humayun and Shaheen Humayun (hereinafter referred to as "OWNER");

WITNESSETH

WHEREAS, the VILLAGE owns and operates a sanitary and storm sewer collection system, storm water system, and water distribution system; and,

WHEREAS, the VILLAGE has jurisdiction over the construction, maintenance and repair of local streets and traffic control; and,

WHEREAS, the Owner/Developer is the owner of the following described property (hereinafter referred to as ("SUBJECT SITE")):

Lot 14 and the West ½ of Lot 15 in York Township Supervisor's Assessment Plat No. 2, also known as Westmore Lands, of part of the South ½ of Section 16, Township 39 North, Range 11, East of the Third Principal Meridian, according to the plat thereof recorded August 23, 1943, as document No. 453576 in DuPage County, Illinois;

P.I.N.: 0616400001

Commonly known as: 1200 High Ridge Road

and

P.I.N.: 0616400002

Commonly known as: 1204 High Ridge Road;

and

WHEREAS, the Owner has developed the SUBJECT SITE in accordance with its zoning classification under the VILLAGE'S Zoning Ordinance for single family residential uses; and,

WHEREAS, the Owner has constructed the following public utilities relative to the development of the SUBJECT SITE: water main construction, storm sewer construction, and sanitary and storm sewer construction (hereinafter referred to as the "PUBLIC UTILITY IMPROVEMENTS"); and,

WHEREAS, the construction of the PUBLIC UTILITY IMPROVEMENTS has been carried out and completed in strict compliance with all VILLAGE ordinances and codes, and

plans and specifications approved by the VILLAGE; and,

WHEREAS, the cost for the aforesaid PUBLIC UTILITY IMPROVEMENTS is estimated at \$379,587.50, which final cost has been reviewed and will be approved by the VILLAGE; and,

WHEREAS, the construction of the aforesaid PUBLIC UTILITY IMPROVEMENTS by the OWNER will, in addition to benefiting the SUBJECT SITE, also benefit the property located at 1111, 1112, 1116, 1118, 1119, 1121, 1201, 1208, and 1209 High Ridge Road, Lombard, Illinois (hereafter referred to as the "BENEFITED PROPERTY") if and when said property connects to the water and sanitary and storm sewer systems of the Village; and,

WHEREAS, the OWNER should be reimbursed by the owners of said BENEFITED PROPERTY if and when said BENEFITED PROPERTY connects to the Village's water and sanitary and storm sewer systems it is developed; and,

WHEREAS, the OWNER agrees to convey the title to all of the aforesaid PUBLIC UTILITY IMPROVEMENTS to the VILLAGE by a legally proper Bill of Sale;

NOW, THEREFORE, for and in consideration of the foregoing and the mutual promises and agreements herein contained, including, but not limited to, the construction of the aforesaid PUBLIC UTILITY IMPROVEMENTS, the adequacy and sufficiency of which is hereby acknowledged, the VILLAGE and the OWNER agree as follows:

1. That OWNER will, at its sole expense has, complete the construction of all the aforesaid PUBLIC UTILITY IMPROVEMENTS in conformance with the plans and specifications prepared by _____, dated the _____ day of _____, 2015, and to be approved by the VILLAGE.

2. Upon acceptance of all of the aforesaid PUBLIC UTILITY IMPROVEMENTS by the VILLAGE, the OWNER shall convey to the VILLAGE, by a legally proper Bill of Sale, all of said PUBLIC UTILITY IMPROVEMENTS and appurtenances incidental thereto. Such conveyance shall be free and clear of all liens or encumbrances relative to said improvements. Upon acceptance of said PUBLIC UTILITY IMPROVEMENTS by the VILLAGE, the VILLAGE shall have complete control thereof including the determination of all future use and connections thereto, and shall be responsible for the operation, maintenance, repair and replacement of said PUBLIC UTILITY IMPROVEMENTS.

3. OWNER'S actual costs for said PUBLIC UTILITY IMPROVEMENTS is made up of the following:

- 1. Water Main Construction \$ _____
- 2. Storm Sewer Construction \$ _____
- 3. Sanitary Sewer Construction \$ _____
- 4. Engineering and Inspection Fees \$ _____
- 5. Sidewalk Construction \$ _____

TOTAL \$ _____

Said \$ _____ is to be collected by the VILLAGE from the owner(s) of said BENEFITED PROPERTY if and when said owner(s) apply to the VILLAGE for a building permit to develop said BENEFITED PROPERTY, or any portion thereof, or at such time as said owner(s) seek to connect to the storm and sanitary and storm sewers and/or watermain constructed by OWNER.

4. It is further understood and agreed to that under no circumstances will the General Fund of the VILLAGE be in any way obligated for said amount to be reimbursed to OWNER, nor shall the VILLAGE be liable for its failure or neglect to collect said \$ _____ from the owner(s) of the BENEFITED PROPERTY described in Exhibit "A". The VILLAGE is only obligated to pay OWNER from those funds the VILLAGE actually collects from the owner(s) of said BENEFITED PROPERTY.

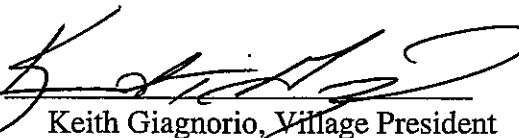
5. This Agreement shall remain in full force and effect until the 8 day of January, 2025 (Note: Said date to be 10 years from the date of the Recapture Agreement) after said date the BENEFITED PROPERTY set forth in Exhibit "A" shall no longer be liable for payment of the \$ _____.

6. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the OWNER and the VILLAGE, provided, however, that OWNER shall not assign its interests under this Agreement without the prior written consent of the VILLAGE.

7. The VILLAGE is hereby authorized to record this Agreement with the Recorder of Deeds of DuPage County, Illinois.

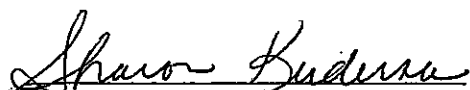
IN WITNESS WHEREOF, the OWNER and the VILLAGE have hereunto caused this Agreement to be executed in duplicate by their duly authorized representatives all on the day and year first above written.

VILLAGE OF LOMBARD

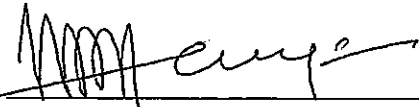
By: 
Keith Giagnorio, Village President

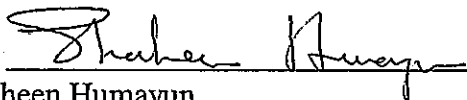
(Corporate Seal)

ATTEST:


Sharon Kuderna, Village Clerk

OWNER

By:  12/31/14.
Hamid Humayun

By: 
Shaheen Humayun