

**FIRST AMENDMENT TO
THE CROSS-ACCESS CONNECTION REIMBURSEMENT AGREEMENT
FOR 401 E. NORTH AVENUE**

THIS FIRST AMENDMENT TO THE CROSS-ACCESS CONNECTION REIMBURSEMENT AGREEMENT FOR 401 E. NORTH AVENUE (hereinafter referred to as the "First Amendment") is entered into on this 3~~rd~~ day of Apr, 2015, by and between the VILLAGE OF LOMBARD, DuPage County, Illinois, an Illinois municipal corporation (hereinafter referred to as the "Village"), and LOMBARD PLAZA, LLC, an Illinois limited liability company (hereinafter referred to as the "Substitute Developer"); (the Village and the Substitute Developer are sometimes referred to herein individually as a "Party" and collectively as the "Parties").

WITNESSETH:

WHEREAS, pursuant to the provisions of Article VII, Section 10 of the 1970 *Illinois Constitution*, and 65 ILCS 5/8-11-20, the Village entered into a Cross-Access Connection Reimbursement Agreement for 401 E. North Avenue, with MALLON III, LLC, dated September 6, 2012, and recorded with the DuPage County Recorder's Office on March 22, 2013, as document number R2013-043293 (hereinafter referred to as the "Original Agreement"); said Original Agreement being in regard to the property legally described in Exhibit 1 attached hereto and made part hereof (said property being referred to in the Original Agreement as, and being hereinafter referred to as, the "Subject Property"); and

WHEREAS, MALLON III, LLC never acquired title to the Subject Property and, therefore, did not undertake any of the obligations set forth within the Original Agreement within the time frames set forth in the Original Agreement; and

WHEREAS, the Substitute Developer is the fee title owner of record of the Subject Property; and

WHEREAS, the Substitute Developer desires to proceed with construction of the Cross-Access Connection in accordance with the Final Plans, as originally approved by the Village and as said terms are defined in the Original Agreement; and

WHEREAS, the Substitute Developer seeks an amendment to the Original Agreement to designate the Substitute Developer as the Developer under the Original Agreement, as amended by this First Amendment; and

WHEREAS, the Substitute Developer intends to meet all of the rights, responsibilities and obligations of the Developer as set forth within the Original Agreement, as amended by this First Amendment; and

WHEREAS, the Substitute Developer and the Village have determined it to be within their respective best interests to enter into this First Amendment;

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, the Parties hereto agree as follows:

1. That Sections A, B and C of Article II of the Original Agreement are hereby deleted, and the following language shall be inserted in Section II of the Original Agreement in lieu thereof:

“In that Developer has applied for and received a building permit from the Village for the Cross-Access Connection, and supplied the Village with a certified engineer’s cost estimate for the Cross-Access Connection, and in that the Developer has obtained final approval of its plans from all governmental units, which have jurisdiction or authority over any portion of the Cross-Access Connection and/or plans, with the submitted plans (hereinafter referred to as the “**Final Plans**”, with said term including any and all documents, plans and drawings submitted to the Village in order to obtain any permit required from the Village relative to the Cross-Access Connection) associated with the permit being in accordance with the regulations and ordinances of the Village, by April 2, 2016, Developer must have completed the Cross-Access Connection and delivered to the Village a certified statement in regard to the total cost of the Cross-Access Connection. Said certification shall be over the signature of the chief financial officer of Developer. Developer shall allow the Village Manager or his designee to review a breakdown of, and supporting documentation for, Developer’s costs in regard to the Cross-Access Connection.”

2. That the opening paragraph of Section B of Article III of the Original Agreement, prior to the start of subsection 1), is hereby amended to read in its entirety as follows:

“B. The Village hereby agrees to pay Developer the Quarterly Installment Payments (as defined below), beginning on the date that Developer has leased the Subject Property to its first tenant and the tenant has taken possession of the Subject Property (hereinafter referred to as the “Start Date”), and continuing until the first to occur of: (i) the passage of seven (7) years from the Start Date; or (ii) the Village having paid the Developer, pursuant to this Agreement, Seventy Thousand and No/100 Dollars (\$70,000.00) or the total cost of the Cross-Access Connection as certified pursuant to Article II above, whichever is less, with the first of the Quarterly Installment Payments to be made fifteen (15) days after the Start Date, with subsequent Quarterly Installment Payments being made at three (3) month intervals thereafter, subject to the following calculations, deductions, terms and conditions:”

3. That Section F of Article V of the Original Agreement is hereby amended by revising the reference therein to, “September 6, 2013,” to read, “August 1, 2015.”

4. That Article VII of the Original Agreement is hereby amended by revising the notification name and address for the Developer to read as follows:

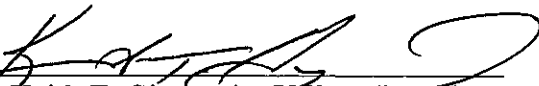
“If to Developer: Lombard Plaza, LLC
c/o Rishad Rajabali
3315 Algonquin Road, Suite 440
Rolling Meadows, Illinois 60008

With copy to: Vera Pandev
Berg, Berg & Pandev. PC
5215 Old Orchard Road, Suite 220
Skokie, Illinois 60077”

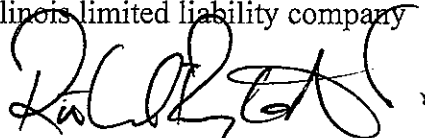
5. That the Substitute Developer is hereby substituted for MALLON III, LLC as the Developer under the Original Agreement.
6. That all other provisions of the Original Agreement, not amended by this First Amendment, shall remain in full force and effect as if set forth herein.
7. That a fully executed original signature copy of this First Amendment shall be recorded with the DuPage County Recorder’s Office.
8. That this First Amendment shall be executed in two (2) counterparts, each of which shall constitute an original, so that each Party hereto retains an original signature copy of this First Amendment.
9. This First Amendment shall be signed last by the Village and the President of the Village shall affix the date on which he signs this First Amendment on Page 1 hereof, which date shall be the effective date of this First Amendment.

IN WITNESS WHEREOF, the Parties hereto have caused this First Amendment to be executed by their respective authorized representatives.


VILLAGE OF LOMBARD,
an Illinois municipal corporation

By: 
Keith T. Giagnorio, Village President

LOMBARD PLAZA, LLC,
an Illinois limited liability company

By: 
Rishad, Rajabali, Its Member

ATTEST:

By: 
Sharon Kuderna, Village Clerk

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 Keith T. Giagnorio, personally known to me to be the President of the Village of Lombard, an Illinois municipal corporation (the "Village"), and Sharon Kuderna, personally known to me to be the Village Clerk of said Village, 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 President and Village Clerk, they signed and delivered the said instrument, pursuant to authority given by the President and Board of Trustees of said Village, as their free and voluntary act, and as the free and voluntary act and deed of said Village, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this 17th day of April, 2015.

Commission expires March 6, 2015.

Karen I. Ellis
Notary Public



EXHIBIT 1

Legal Description of the Subject Property

That part of the Northeast 1/4 of Section 5, Township 39 North, Range 11, East of the Third Principal Meridian, described as follows: Beginning at a point on the South line of North Avenue (State Route 64), which point is 90 feet East of the West line of Grace Street; thence East on the South line of North Avenue, a distance of 195 feet; thence South and parallel with the West line of Grace Street, a distance of 182 feet; thence West parallel with the South line of North Avenue, a distance of 195 feet; thence North on a line 90 feet East of and parallel to the West line of Grace Street 182 feet to the point of beginning.

Excepting therefrom that part of the Northeast 1/4 of Section 5, Township 39 North, Range 11, East of the Third Principal Meridian, described as follows:

Beginning at a point on the South line of North Avenue (Route 64), which point is 90.0 feet East of the West line of Grace Street; thence on an assumed bearing of North 88 degrees 14 minutes 45 seconds East along the South line of North Avenue, 5.00 feet; thence South 12 degrees 17 minutes 42 seconds West, 25.74 feet to the East line of Grace Street, being 90.0 feet East of and parallel to the West line of Grace Street; thence North 1 degree 06 minutes 28 seconds East along the East line of Grace Street, 25.00 feet to the point of beginning, in DuPage County, Illinois.

PIN: 06-05-200-016.

Common Address: 401 East North Avenue, Lombard, Illinois 60148.