

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

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

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott R. Niehaus, Village Manager

no

DATE: October 8, 2014 (B of T) Date: October 16, 2014

TITLE: First Amendment to a Purchase & Sale Agreement – 115 W. St. Charles Road

SUBMITTED BY: Department of Community Development *DN*

BACKGROUND/POLICY IMPLICATIONS:

The Department of Community Development transmits for your consideration a Resolution approving a First Amendment to a Purchase and Sale Agreement for the Subject Property at 115 W. St. Charles Road. (2/3<sup>rd</sup>s favorable vote required) (DISTRICT #1)

Staff recommends approval of this request.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X \_\_\_\_\_ Date \_\_\_\_\_

Finance Director X \_\_\_\_\_ Date \_\_\_\_\_

Village Manager X \_\_\_\_\_ Date \_\_\_\_\_

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



## MEMORANDUM

**TO:** Scott R. Niehaus, Village Manager

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

**DATE:** October 16, 2014

**RE:** **First Amendment to a Purchase & Sale Agreement – 115 W. St. Charles Road**

Last December, the Village Board approved the purchase and sale agreement with the Park Avenue Condominium Association pertaining to the property at 115 W. St. Charles Road (the "Subject Property). The Village acquired the real estate in late December. Through early and mid-2014, staff and Village Counsel have been working with the Park West Association to effectuate the real estate transfer of the indoor garage parking spaces on the subject property to the association, per the terms of the agreement. However, they informed the Village that the financial obligations within the agreement exceeded the funds that they had available within their accounts. However, their desire is still to meet the intent of the original agreement.

While they requested for additional consideration by the Village to assist in the covering the costs of title commitments, amending their association documents, having surveys and other administrative and closing costs, staff and counsel stated that the Village would only consider additional expenses toward those elements in which there is a defined public benefit. Through these discussions, Park West's and Village's counsel have prepared the attached First Amendment to the previous purchase and sale agreement for the Subject Property, subject to the amended terms set forth therein.

### **ACTION REQUESTED**

Please place this item on the October 16, 2014 Village Board agenda for consideration and approval of a First Amendment to the Purchase and Sale Agreement for the Subject Property at 115 West St. Charles Road.

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION APPROVING A FIRST AMENDMENT TO A CONTRACT FOR THE SALE OF SURPLUS REAL ESTATE AND THE CONVEYANCE OF AN INGRESS/EGRESS EASEMENT AND AN EASEMENT FOR ADDITIONAL PARKING (109-115 West St. Charles Road)**

**WHEREAS**, on December 5, 2013, the Village entered into a contract to sell the following-described, approximately eighty-eight (88) foot by twenty-two (22) foot piece of real estate, which is improved with a single story, nine (9) car garage building currently being utilized by the members of the Park West Condominium Association of Lombard, Illinois (hereinafter "Park West"), and is zoned B5 Central Business District, to Park West:

THAT PART OF LOT 2 IN BLOCK 19 TOWN OF "LOMBARD", BEING A SUBDIVISION IN SECTIONS 5, 6, 7, 8 AND 18, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 23, 1868 AS DOCUMENT 9483 DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 2; THENCE NORTH 09 DEGREES 21 MINUTES 40 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 2, A DISTANCE OF 22.39 FEET TO THE NORTHERLY EDGE OF AN EXISTING ROOF EAVE OVERHANG; THENCE NORTH 78 MINUTES 54 MINUTES 58 SECONDS EAST ALONG SAID NORTHERLY EDGE, A DISTANCE OF 87.66 FEET; THENCE SOUTH 11 DEGREES 05 MINUTES 02 SECONDS EAST ALONG THE EASTERLY EDGE OF SAID ROOF EAVE OVERHANG, A DISTANCE OF 21.95 FEET TO A POINT ON THE SOUTH LINE OF LOT 2; THENCE SOUTH 78 DEGREES 38 MINUTES 11 SECONDS WEST ALONG SAID SOUTH LINE OF LOT 2, A DISTANCE OF 88.33 FEET TO THE POINT OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS.

PIN: Pt. 06-07-209-009;

Common Address: A portion of 109-115 W. St. Charles Road, Lombard, Illinois; (hereinafter the "Subject Property"); and

**WHEREAS**, it is in the best interests of the Village to sell the Subject Property to Park West, for \$45,000.00, and grant Park West non-exclusive easements for

ingress/egress and additional parking, for \$12,888.00, pursuant to the Purchase Agreement approved by the Village Board on December 5, 2013 ("Purchase Agreement");

**WHEREAS**, in order to consummate the transaction involving the Subject Property, as contemplated by the Purchase Agreement, it is necessary for the Village and Park West to enter into a First Amendment to the Purchase Agreement relative to the payment of costs associated with consummation of the Purchase Agreement. A copy of the First Amendment to the Purchase Agreement is attached hereto as **Exhibit A** and made a part hereof.

**NOW, THEREFORE, BE IT RESOLVED** by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

**SECTION 1:** That the First Amendment to the Purchase Agreement, attached hereto as **Exhibit A**, is hereby approved.

**SECTION 2:** That the Village President and Village Clerk are hereby authorized and directed to execute the First Amendment to the Purchase Agreement.

**SECTION 3:** That the Village President, Village Clerk, Deputy Village Clerk, Village Manager and/or Village Finance Director are hereby authorized and directed to execute any and all necessary documents to complete the transaction contemplated by the Purchase Agreement and the First Amendment to the Purchase Agreement.

**ADOPTED** this \_\_\_ day of \_\_\_\_\_, 2014, pursuant to a two-thirds (2/3rds) roll call vote of the Corporate Authorities, as required by 65 ILCS 5/11-76-4.1, as follows:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

APPROVED by me this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Keith T. Giagnorio  
Village President

ATTEST:

\_\_\_\_\_  
Sharon Kuderna  
Village Clerk

**FIRST AMENDMENT TO THE AGREEMENT FOR THE PURCHASE OF PARKING GARAGES, AN INGRESS/EGRESS EASEMENT AND AN EASEMENT FOR ADDITIONAL PARKING SPACES AT 109-115 W. ST. CHARLES ROAD**

This First Amendment to the Agreement for the Purchase of Parking Garages, an Ingress/Egress Easement and an Easement for Additional Parking Spaces at 109-115 W. St. Charles Road, Lombard, Illinois ("First Amendment") is entered into as of the \_\_\_ day of \_\_\_\_\_, 2014, by and between the Village of Lombard (the "Village") and Park West Condominium Association of Lombard ("Park West"). (The Village and Park West are sometimes referred to herein collectively as the "Parties.")

**WTNESSETH**

**WHEREAS**, pursuant to Resolution No. 13-0605, the Village approved an "Agreement for the Purchase of Parking Garages, an Ingress/Egress Easement and an Easement for Additional Parking Spaces at 109-115 W. St. Charles Road, Lombard, Illinois," dated December 5, 2013, with Park West (the "Purchase Agreement"); and

**WHEREAS**, the Village and Park West desire to amend certain provisions of the Purchase Agreement relative to the payment of costs associated with consummation of the Purchase Agreement; and

**WHEREAS**, it is in the best interests of the Village and Park West to enter into this First Amendment in order to facilitate consummation of the Purchase Agreement;

**NOW, THEREFORE**, in consideration of the foregoing, other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the Parties, and the mutual covenants and agreements hereinafter contained, the Parties agree as follows:

1. That Section 3(A)(i) of the Purchase Agreement is hereby amended by adding a new sentence, to the end of Section 3(A)(i), to read as follows:

“The Village agrees to pay the cost of preparing the condominium plat necessary for the amendment to the Declaration required by this Agreement, in an amount not to exceed One Thousand Nine Hundred and No/100 Dollars (\$1,900.00).”

2. That Section 11 of the Purchase Agreement is hereby amended by adding a new sentence, to the end of Section 11, to read as follows:

“The cost of establishing the escrow trust under this Purchase Agreement shall be shared equally by the Parties.”

3. That the Purchase Agreement is hereby amended by adding a new Section 17, which shall read in its entirety as follows:

**“17. Recording Costs Paid by Village.** The Village agrees to pay the cost of recording the following documents, as required by this Agreement, with the DuPage County Recorder of Deeds: (1) the quit claim deed from the Village to Park West; (2) the Park West Mortgage from Park West to the Village; and (3) the nine (9) mortgages from the Units Owners to the Village. All other recording fees shall be the obligation of, and paid by Park West.

4. That the Purchase Agreement is hereby amended, by extending all deadlines for action by Park West, to allow for consummation of the transaction contemplated by the Purchase Agreement by January 15, 2015.
5. That all portions of the Purchase Agreement, not amended hereby, shall remain in full force and effect.
6. This First Amendment may be executed in two (2) counterparts, each of which shall be deemed an original, but both of which shall constitute one and the same First Amendment.

7. This First Amendment shall be deemed dated and become effective on the day and year on which the last party to approve this First Amendment has done so.

**IN WITNESS WHEREOF**, the parties hereto have caused this First Amendment to be executed on or as of the day(s) and year indicated below.

Park West Condominium Association  
of Lombard, an Illinois not-for-profit  
corporation

Village of Lombard, an Illinois  
municipal corporation

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: Keith T. Giagnorio

Title: \_\_\_\_\_

Title: Village President

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTEST:**

**ATTEST:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: Sharon Kuderna

Title: \_\_\_\_\_

Title: Village Clerk

Date: \_\_\_\_\_

Date: \_\_\_\_\_