

**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 16th day of February, 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"
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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

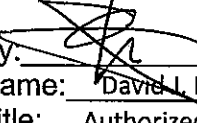
**YORKTOWN HOLDINGS, LLC,**  
a Delaware limited liability company

By:   
Name: David L. Mallen  
Title: Authorized Representative

**ATTEST:**

  
Brigitte O'Brien, Village Clerk

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

By:   
Name: David L. Mallen  
Title: Authorized Representative

**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 28<sup>th</sup> day of February, 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. 6680, "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 6680 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

## 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.

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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. 6680, "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 6680 authorizing the Redevelopment Agreement that provides for this Redevelopment Note.

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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