

ITEMS FOR SEPARATE ACTION AGENDA ITEM IX-A



MEMORANDUM

To: President Giagnorio and Board of Trustees

From: Scott Niehaus, Village Manager
Tim Sexton, Director of Finance 

Date: September 1, 2020

Subject: Revised Ordinance and Agreement for Proposed Buyout of Lombard Public Facilities Corporation (LPFC) Tax Increment Financing (TIF) Obligation

The Village Attorney has provided the attached Ordinance and Agreement which have been slightly revised from the version that was initially distributed with the September 3, 2020 agenda. There are no substantive changes to the ordinance or agreement from the original version, just some minor changes to the language in working with the LPFC to finalize the agreement.

Staff requests that the Village Board approve the ordinance, with a waiver of first reading, that would adopt this amendment to the redevelopment agreement.

ORDINANCE NO. _____

**AN ORDINANCE AUTHORIZING A FIRST AMENDMENT
TO THE REDEVELOPMENT AGREEMENT
FOR THE HOTEL AND CONFERENCE CENTER, COMPRISING
A PART OF THE BUTTERFIELD-YORKTOWN TIF DISTRICT
OF THE VILLAGE OF LOMBARD, ILLINOIS**

BE IT ORDAINED, by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

SECTION 1: The President and Board of Trustees of the Village of Lombard (hereinafter referred to as the "Village") find as follows:

- A. The Village is a non-home rule municipality pursuant to Section 7 of Article VII of the Constitution of the State of Illinois.
- B. The Village has the authority, pursuant to the laws of the State of Illinois, to promote the health, safety and welfare of the Village and its inhabitants, to prevent the presence of blight, to encourage private development in order to enhance the local tax base and increase additional tax revenues realized by the Village, to foster increased economic activity within the Village, to increase employment opportunities within the Village, and to enter into contractual agreements with third parties for the purpose of achieving the aforesaid purposes, and otherwise take action in the best interests of the Village.
- C. The Village is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1, *et seq.*, as amended (the "TIF Act"), to finance redevelopment in accordance with the conditions and requirements set forth in the TIF Act, and is authorized under the provisions of the Illinois Municipal Code, including, but not limited to, 65 ILCS 5/8-1-2.5 (the "Economic Development Statute"), to appropriate and expend funds for economic development purposes that are deemed necessary or desirable for the promotion of economic development within the Village.
- D. Pursuant to Ordinance Numbers 7437, 7438 and 7439, adopted November 2, 2017, as amended by Ordinance Number 7451, adopted December 7, 2017, Ordinance Number 7705, adopted September 5, 2019, and Ordinance Number 7758, adopted December 15, 2019, the Village approved a tax increment redevelopment plan and project (the "TIF Plan"), designated the tax increment redevelopment project area (the "Redevelopment Project Area"), and adopted tax increment financing

relative to the Village's Butterfield-Yorktown tax increment financing district (the "TIF District"); said TIF District being legally described and depicted as set forth in EXHIBIT 1 and EXHIBIT 2 attached hereto and made part hereof.

- E. Pursuant to Ordinance No. 7710, adopted September 5, 2019, the Village approved a "Redevelopment Agreement for the Hotel and Conference Center, Comprising a Part of the Butterfield-Yorktown TIF District of the Village of Lombard, Illinois," dated September 5, 2019, (the "Redevelopment Agreement") with the Lombard Public Facilities Corporation, an Illinois not-for-profit corporation (the "Developer"), with said Redevelopment Agreement relating to the property legally described on Exhibit 3 attached hereto and made part hereof.
- F. The Village and the Developer desire to amend certain provisions of the Redevelopment Agreement in regard to the reimbursement of the Developer, by the Village, for TIF Eligible Redevelopment Costs (as defined in the Redevelopment Agreement) incurred by the Developer, relative to the Project (as defined in the Redevelopment Agreement), the amount of said reimbursements, and the timing of said reimbursements, and to make certain technical revisions to other provisions of the Redevelopment Agreement as a result thereof.
- G. That, attached hereto as Exhibit 4 and made part hereof, is a first amendment to the Redevelopment Agreement, between the Developer and the Village, which sets forth the revisions necessary to facilitate the changes referenced in subsection F. above (the "First Amendment").
- H. In accordance with the TIF Act and the Economic Development Statute, it is in the best interests of the Village to approve the First Amendment, so that economic development and redevelopment within the TIF District can continue, said economic development and redevelopment, pursuant to the TIF Act and in furtherance of the Economic Development Statute, being the Village's public purpose for providing the incentive set forth in the Redevelopment Agreement, as amended by the First Amendment.

SECTION 2: Based upon the foregoing, the First Amendment is hereby approved, and the Village President and Village Clerk of the Village are hereby authorized and directed to execute and deliver said First Amendment, as well as such other instruments as may be necessary or convenient to carry out the terms of said First Amendment, and the Redevelopment Agreement as amended by the First Amendment.

SECTION 3: That the Village's Finance Director is hereby authorized and directed to make the payment to the Developer, as referenced in Section VI.B.3. of the Redevelopment Agreement, as amended by the First Amendment.

SECTION 4: That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form, as provided by law.

Passed on first reading this _____ day of _____, 2020.

First reading waived by action of the Board of Trustees this 3rd day of September, 2020.

Passed on second reading this 3rd day of September, 2020, pursuant to a roll call vote as follows.

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED by me this 3rd day of September, 2020.

Keith Giagnorio, Village President

ATTEST:

Sharon Kuderna, Village Clerk

Published by me in pamphlet form this 4th day of September, 2020.

Sharon Kuderna, Village Clerk

Exhibit 1

Redevelopment Project Area for the Butterfield-Yorktown TIF District

Legal Description

A PARCEL OF LAND IN THE NORTH HALF OF THE EAST HALF OF SECTION 29, AND THE EAST HALF OF THE WEST HALF OF SECTION 29, BOTH IN TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF LOT 1 IN FINAL PLAT OF SUBDIVISION OF 701-747 22ND STREET SUBDIVISION, RECORDED APRIL 5, 2010 AS DOCUMENT R2010-043541 AND RUNNING THENCE SOUTHEASTERLY ALONG THE EAST LINE OF SAID LOT 1 686.60 FEET TO AN ANGLE POINT; THENCE SOUTHWESTERLY ALONG THE MOST SOUTHEASTERLY LINE OF SAID LOT 1, 69.66 FEET TO THE SOUTHEAST CORNER THEREOF, ALSO BEING THE NORTHEAST CORNER OF PARCEL 1 IN NORTHERN BAPTIST THEOLOGICAL SEMINARY ASSESSMENT PLAT RECORDED AUGUST 28, 2007 AS DOCUMENT R2007-159301; CONTINUING THENCE SOUTHWESTERLY ALONG THE EASTERLY LINE OF SAID PARCEL 1 PER DOCUMENT R2007-159301, 717.65 FEET; THENCE ALONG THE SOUTHERN BOUNDARY LINES OF SAID PARCEL 1 THE FOLLOWING 7 COURSES; 1) NORTHWESTERLY 93.42 FEET, 2) SOUTHWESTERLY 173.27 FEET, 3) SOUTHEASTERLY 186.14 FEET, 4) SOUTHWESTERLY 107.62 FEET, 5) SOUTHWESTERLY 67.48 FEET, 6) NORTHWESTERLY 138.83 FEET, 7) SOUTHWESTERLY 300.00 FEET; THENCE SOUTHEASTERLY 104.26 FEET TO A POINT OF CURVATURE CONVEX TO THE SOUTHWEST, HAVING A RADIUS OF 591.66 FEET, AND AN ARC DISTANCE OF 93.90 FEET TO A POINT OF COMPOUND CURVATURE, CONVEX TO THE SOUTHWEST, HAVING A RADIUS OF 402.98 FEET, AND AN ARC DISTANCE OF 116.05 FEET TO A POINT OF COMPOUND CURVATURE CONVEX TO THE SOUTHWEST, HAVING A RADIUS OF 683.51 FEET AND AN ARC DISTANCE OF 95.44 FEET TO A POINT OF COMPOUND CURVATURE, HAVING A RADIUS OF 198.74 FEET AND AN ARC DISTANCE OF 64.17 FEET TO A POINT OF REVERSE CURVATURE, CONVEX TO THE NORTHEAST, HAVING A RADIUS OF 121.91 FEET AND AN ARC DISTANCE OF 74.06 FEET TO THE MOST SOUTHEASTERLY CORNER OF SAID PARCEL 1 PER DOCUMENT R2007-159301, ALSO BEING A POINT ON THE NORTH RIGHT OF WAY LINE OF STATE ROUTE 56, BUTTERFIELD ROAD; THENCE SOUTHEASTERLY ALONG A LINE PERPENDICULAR TO THE SOUTH LINE OF PARCEL 1 AFORESAID (ALSO BEING THE NORTH LINE OF BUTTERFIELD ROAD-F.A. RTE. 131, ST. RT. 56) 100.00 FEET TO THE CENTERLINE OF SAID BUTTERFIELD ROAD RIGHT OF WAY; THENCE SOUTHWESTERLY ALONG SAID CENTERLINE APPROXIMATELY 624.91 FEET TO A POINT OF INTERSECTION WITH THE SOUTHERLY EXTENSION OF THE WEST LINE OF PARCEL 1 PER DOCUMENT R2007-159301; THENCE NORTHWESTERLY ALONG SAID SOUTHERLY EXTENSION APPROXIMATELY 109.56 FEET TO THE SOUTHWEST CORNER OF PARCEL 1 AFORESAID; THENCE NORTHWESTERLY ALONG THE WEST LINE OF SAID PARCEL 1 560.00 FEET TO THE SOUTHEAST CORNER OF LOT 6 IN YORKTOWN PERIPHERAL/TARGET SUBDIVISION RECORDED NOVEMBER 17, 1995 AS DOCUMENT R95-162762; THENCE THE FOLLOWING 3 COURSES ALONG THE SOUTHERLY BOUNDARY LINES OF SAID LOT 6; 1) SOUTHWESTERLY 200.00 FEET, 2) NORTHWESTERLY 116.21 FEET, 3) SOUTHWESTERLY 320.91 FEET TO THE SOUTHWEST CORNER OF SAID LOT 6, ALSO BEING A POINT ON THE EAST LINE OF LOT 1 IN FINAL PLAT OF SUBDIVISION OF YORKTOWN COMMONS PHASE 1 RECORDED SEPTEMBER 1,

2016 AS DOCUMENT R2016-093310; THENCE SOUTHEASTERLY ALONG SAID EAST LINE APPROXIMATELY 902.0 FEET TO THE SOUTHEAST CORNER OF SAID LOT 1, ALSO BEING A POINT ON THE NORTH RIGHT OF WAY LINE OF, BUTTERFIELD ROAD (F.A. RTE 131, ST. RTE 56); THENCE SOUTHEASTERLY ALONG THE SOUTHERLY EXTENSION OF THE EAST LINE OF SAID LOT 1, APPROXIMATELY 106.75 FEET TO THE CENTERLINE OF SAID BUTTERFIELD ROAD; THENCE SOUTHWESTERLY ALONG SAID CENTERLINE, APPROXIMATELY 41.04 FEET TO A POINT OF INTERSECTION WITH THE SOUTHERLY EXTENSION OF THE WEST LINE OF LOT 1 PER DOCUMENT R2016-093310; THENCE NORTHWESTERLY ALONG SAID SOUTHERLY EXTENSION, APPROXIMATELY 106.75 FEET TO THE NORTH LINE OF SAID BUTTERFIELD ROAD RIGHT OF WAY AND A SOUTHERLY CORNER OF SAID LOT 1; THENCE ALONG THE FOLLOWING 4 COURSES, BEING SOUTHERLY BOUNDARY LINES OF SAID LOT 1; 1) NORTHWESTERLY 78.22 FEET, 2) NORTHWESTERLY 757.44 FEET, 3) S 27°55'03" W, 130.25 FEET, 4) NORTHWESTERLY 87.88 FEET; THENCE N 27°55'03" E, 370.54' TO THE MOST SOUTHEASTERLY CORNER OF PARCEL 2 IN HIGHLAND AVENUE ASSESSMENT PLAT RECORDED JANUARY 30, 2012 AS DOCUMENT R2012-012175; THENCE NORTHWESTERLY THE FOLLOWING 2 COURSES ALONG THE SOUTH PROPERTY LINES OF SAID PARCEL 2; 1) NORTHWESTERLY 849.86 FEET, 2) SOUTHWESTERLY 604.32 FEET (PER DOCUMENT R2012-012175, 604.69 FEET PER DOCUMENT R2000-120890) TO A SOUTHWEST CORNER THEREOF, ALSO BEING THE NORTHEAST CORNER OF LOT 2 IN CARSON'S ASSESSMENT PLAT OF YORKTOWN SHOPPING CENTER RECORDED AUGUST 8, 2000 AS DOCUMENT R2000-120890 AND RUNNING THENCE SOUTHEASTERLY ALONG THE EASTERLY LINE OF SAID LOT 2, 448.23 FEET TO A POINT OF CURVATURE; THENCE ALONG THE FOLLOWING 4 COURSES, BEING THE SOUTHERLY PROPERTY LINES OF SAID LOT 2, 1) ALONG A CURVE CONVEX TO THE SOUTHEAST HAVING A RADIUS OF 25.00 FEET AND AN ARC DISTANCE OF 39.27', 2) SOUTHWESTERLY 114.00 FEET TO A POINT OF CURVATURE CONVEX TO THE SOUTHWEST, HAVING A RADIUS OF 90.00 FEET AND AN ARC DISTANCE OF 75.72 FEET, 4) THENCE NORTHWESTERLY 12.45 FEET; THENCE WESTERLY PERPENDICULAR TO THE WEST LINE OF SAID LOT 2 PER DOCUMENT R2000-120890, 100 FEET TO THE WEST RIGHT OF WAY LINE OF HIGHLAND AVENUE; THENCE NORTHERLY ALONG THE WEST LINE OF SAID HIGHLAND AVENUE TO A POINT OF INTERSECTION WITH THE WESTERLY EXTENSION OF THE MOST SOUTHERLY NORTH PROPERTY LINE OF PARCEL 2 PER DOCUMENT R2012-012175 AFORESAID; THENCE EASTERLY ALONG SAID WESTERLY EXTENSION TO THE MOST NORTHWESTERLY CORNER OF SAID PARCEL 2; THENCE NORTHEASTERLY 558.70 FEET ALONG A NORTH PROPERTY LINE OF SAID PARCEL 2 TO A POINT OF CURVATURE CONVEX TO THE SOUTHEAST, HAVING A RADIUS OF 500.00 FEET AND ARC DISTANCE OF 152.01 FEET TO THE SOUTHWEST CORNER OF LOT 4 IN FINAL PLAT OF SUBDIVISION OF YORKTOWN COMMONS PHASE 1 (PLAT PER DOCUMENT R2016-093310 AFORESAID); THENCE THE FOLLOWING 4 COURSES ALONG THE WEST PROPERTY LINES OF SAID LOT 4; 1) NORTHWESTERLY 104.26 FEET, 2) NORTHWESTERLY 44.24 FEET, 3) WESTERLY 43.47 FEET, 4) NORTHWESTERLY 221.71 FEET TO THE NORTHWEST CORNER OF SAID LOT 4; THENCE NORTHEASTERLY 742.45 FEET TO THE NORTHEAST CORNER OF SAID LOT 4; THENCE ALONG A LINE PERPENDICULAR TO THE EAST LINE OF SAID LOT 4 67.00 FEET TO THE EAST RIGHT OF WAY LINE OF GRACE STREET; THENCE SOUTHEASTERLY PARALLEL WITH THE EAST LINE OF LOT 4 AFORESAID ALONG THE EASTERLY RIGHT OF WAY LINE OF SAID GRACE STREET RIGHT OF WAY TO A POINT ON THE NORTHEASTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 4 (ALSO BEING THE SOUTHWEST CORNER OF LOT 4 IN YORKTOWN PERIPHERAL/TARGET SUBDIVISION PER DOCUMENT R95-162762); THENCE NORTHEASTERLY ALONG SAID EASTERLY EXTENSION 102.61 FEET TO AN ANGLE POINT; THENCE SOUTHEASTERLY 11.80 FEET TO A POINT OF CURVATURE, ALSO BEING

THE MOST NORTHWESTERLY CORNER OF LOT 1 IN FINAL PLAT OF SUBDIVISION OF YORKTOWN COMMONS PHASE 1 AFORESAID; THENCE ALONG THE ARC OF CURVE CONVEX TO THE NORTHEAST (ALSO BEING A NORTH PROPERTY LINE OF SAID LOT 1) HAVING A RADIUS OF 368.00 FEET FOR AN ARC DISTANCE OF 193.99 FEET; THENCE SOUTHEASTERLY (CONTINUING ALONG THE NORTH PROPERTY LINE OF SAID LOT 1) 119.26 FEET TO A POINT OF CURVATURE; THENCE ALONG THE ARC OF A CURVE CONVEX TO THE NORTHEAST, HAVING A RADIUS OF 518.00 FEET FOR AN ARC DISTANCE OF 43.47 FEET TO THE SOUTHEAST CORNER OF OUTLOT A IN YORKTOWN PERIPHERAL/TARGET SUBDIVISION AFORESAID; THENCE NORTHEASTERLY ALONG THE WESTERLY PROPERTY LINE OF SAID OUTLOT A 337.42 FEET TO THE NORTHWEST CORNER THEREOF; THENCE SOUTHEASTERLY ALONG THE NORTH PROPERTY LINE THEREOF 84.34 FEET TO THE NORTHEAST CORNER THEREOF (ALSO BEING THE NORTHWEST CORNER OF LOT 1 IN FINAL PLAT OF LOMBARD WESTIN HOTEL AND CONVENTION CENTER RECORDED APRIL 17, 2009 AS DOCUMENT R2009-057156; THENCE SOUTHEASTERLY ALONG THE A NORTH PROPERTY LINE OF SAID LOT 1 546.67 FEET; THENCE NORTHWESTERLY 3.57 FEET TO THE MOST NORTHERLY PROPERTY LINE OF SAID LOT 1 (ALSO BEING A POINT ON THE WEST PROPERTY LINE OF PARCEL 1 IN NORTHERN BAPTIST THEOLOGICAL SEMINARY ASSESSMENT PLAT AFORESAID; THENCE NORTHWESTERLY ALONG THE WEST PROPERTY LINE OF SAID PARCEL 1, 116.51 FEET; THENCE NORTHEASTERLY 157.16 FEET TO THE MOST NORTHWESTERLY CORNER OF SAID PARCEL 1; THENCE SOUTHEASTERLY 282.40 FEET ALONG THE MOST NORTHERLY LINE OF SAID PARCEL 1 (ALSO BEING THE SOUTH PROPERTY LINE OF LOT 2 IN FINAL PLAT OF SUBDIVISION OF 701-747 22ND STREET SUBDIVISION AFORESAID); THENCE SOUTHWESTERLY ALONG THE ARC OF A CURVE CONVEX TO THE NORTHEAST, HAVING A RADIUS OF 1,661.83 FEET AND AN ARC DISTANCE OF 70.50 FEET TO A POINT OF COMPOUND CURVATURE; THENCE ALONG THE ARC OF A CURVE CONVEX TO THE NORTHEAST HAVING A RADIUS OF 767.39 FEET AND AN ARC DISTANCE OF 103.23 FEET; THENCE NORTHEASTERLY ALONG A NORTH PROPERTY LINE OF SAID PARCEL 1 (ALSO BEING THE SOUTH PROPERTY LINE OF LOT 2 IN FINAL PLAT OF SUBDIVISION OF 701-747 22ND STREET SUBDIVISION AFORESAID) 229.59 FEET TO THE SOUTHEAST CORNER THEREOF (ALSO BEING THE SOUTHWEST CORNER OF LOT 1 IN SAID FINAL PLAT OF SUBDIVISION OF 701-747 22ND STREET SUBDIVISION AFORESAID); THENCE THE FOLLOWING 10 COURSES, ALL BEING ALONG THE WESTERLY PROPERTY LINES OF SAID LOT 1; 1) NORTHWESTERLY, 326.45 FEET, 2) NORTHWESTERLY 154.85 FEET, 3) NORTHEASTERLY 3.07 FEET, 4) NORTHWESTERLY 122.51 FEET, 5) SOUTHWESTERLY 3.07 FEET, 6) NORTHWESTERLY 32.04 FEET, 7) NORTHWESTERLY 48.33 FEET, 8) NORTHEASTERLY 42.43 FEET, 9) NORTHEASTERLY 34.93 FEET, 10) NORTHEASTERLY 21.85 FEET TO THE NORTHWEST CORNER OF SAID LOT 1 (ALSO BEING ON THE SOUTH RIGHT OF WAY LINE OF 22ND STREET); THENCE NORTHWESTERLY, PERPENDICULAR TO THE NORTH LINE OF SAID LOT 1 AND THE SAID SOUTH RIGHT OF WAY LINE OF 22ND STREET 100.00 FEET TO THE NORTH RIGHT OF WAY LINE OF SAID 22ND STREET; THEN NORTHEASTERLY ALONG SAID NORTH RIGHT OF WAY LINE 817.98 FEET TO A POINT 100.00 FEET NORTH OF (AS MEASURED PERPENDICULAR TO) THE NORTHEAST CORNER OF SAID LOT 1; THENCE SOUTHERLY, ALONG A LINE PERPENDICULAR THE AFORESAID NORTH RIGHT OF WAY LINE OF 22ND STREET TO THE NORTHEAST CORNER OF LOT 1, BEING THE AFORESAID POINT OF BEGINNING, ALL IN DUPAGE COUNTY, ILLINOIS.

PINs: 06-29-101-037, 06-29-101-043, 06-29-101-044, 06-29-101-047,

06-29-101-049, 06-29-200-051, 06-29-200-052, 06-29-200-053,
06-29-200-056, 06-29-200-057 and 06-29-200-059.

Common Boundary Description: The area generally bounded by: 22nd Street on the North; the West line of the Fountain Square development on the East; Butterfield Road on the South; and Highland Avenue on the West; exclusive of: the 701 East 22nd Street office building; Target, 1, 3, 55, 80, 84 and 85 Yorktown Shopping Center; 2 and 3 Yorktown Convenience Center; the multi-family residential and vacant properties located North of the East/West portion of Yorktown Mall Drive; the 700 and 720 East Butterfield Road office buildings; the Yorktown Shopping Center property, and the parking areas and Outlots associated therewith (but inclusive of J.C. Penney's, the parking lots North, East and West of J.C. Penney's, 4 through 44 Yorktown Convenience Center, 2264 South Grace Street, and the Outlots North of 96 Yorktown Shopping Center and South of Yorktown Mall Drive at its intersection with Highland Avenue); in Lombard, Illinois.

Exhibit 2

**Depiction of the
Butterfield-Yorktown TIF District**

(see attached)



**BUTTERFIELD-YORKTOWN
TIF DISTRICT**

 TIF District

 Village Boundary

 1/2

JUNE 2017

Exhibit 3

Legal Description of the Property Covered by the Redevelopment Agreement

Legal Description: Lot 1 in Plat of Resubdivision of Lombard Westin Hotel and Convention Center, being a Resubdivision of Lot 2 in Yorktown Peripheral/Target Subdivision per document no. R95-162762, and part of Lot 1 in the Resubdivision of Northern Baptist Theological Seminary Subdivision per document no. R83-71622, all in Section 29, Township 39 North, Range 11, East of the Third Principal Meridian, in Lombard, DuPage County, Illinois, according to the plat thereof recorded April 17, 2009 as document no. R2009-057156.

PIN: 06-29-200-057

Common Address: 70 Yorktown Center, Lombard, Illinois

Exhibit 4

**First Amendment to
the Redevelopment Agreement**

(attached)

**FIRST AMENDMENT TO THE REDEVELOPMENT AGREEMENT
FOR THE HOTEL AND CONFERENCE CENTER,
COMPRISING A PART OF THE BUTTERFIELD-YORKTOWN
TIF DISTRICT OF THE VILLAGE OF LOMBARD, ILLINOIS**

This First Amendment to Redevelopment Agreement (the "First Amendment") is made and entered into as of the ____ day of September, 2020 by and between the Village of Lombard, Illinois, an Illinois non-home rule municipal corporation (the "Village") and the Lombard Public Facilities Corporation, an Illinois not-for-profit corporation (the "Developer"). (The Village and the Developer are sometimes referred to herein collectively as the "Parties.")

WITNESSETH

WHEREAS, pursuant to Ordinance No. 7710, adopted September 5, 2019, the Village approved a "Redevelopment Agreement for the Hotel and Conference Center Comprising a Part of the Butterfield-Yorktown TIF District of the Village of Lombard, Illinois," dated September 5, 2019, with the Developer, relative to the property legally described in Exhibit A attached hereto and made part hereof (the "Redevelopment Agreement"); and

WHEREAS, the Village and the Developer desire to amend certain provisions of the Redevelopment Agreement in regard to the reimbursement of the Developer, by the Village, for TIF Eligible Redevelopment Costs (as defined in the Redevelopment Agreement) incurred by the Developer, relative to the Project (as defined in the Redevelopment Agreement), the amount of said reimbursements, and the timing of said reimbursements, and to make certain technical revisions to other provisions of the Redevelopment Agreement as a result thereof; and

WHEREAS, in accordance with the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 *et seq.*, it is in the best interests of the Village and the Developer to enter into this First Amendment;

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

1. That Section I.D. of the Redevelopment Agreement is amended to read in its entirety as follows:

"D. Pursuant to Ordinance Numbers 7437, 7438 and 7439, adopted November 2, 2017, as amended by Ordinance Number 7451, adopted December 7, 2017, Ordinance Number 7705, adopted September 5, 2019, and Ordinance Number 7758, adopted December 5, 2019, the Village approved a tax increment redevelopment plan and project (the "TIF Plan"), designated the tax increment redevelopment project area (the "Redevelopment Project Area"), and adopted tax increment financing relative to the Village's Butterfield-Yorktown tax increment financing district (the "TIF District"); said TIF District being legally described and depicted as set forth in EXHIBIT A-1 and EXHIBIT A-2 attached hereto and made part hereof."

2. That Section I.M. of the Redevelopment Agreement is amended to read in its entirety as follows:

"M. Pursuant to the Loan Agreement and the New Indenture, all of the Developer's right, title and interest in and to this Agreement has been and shall be assigned and pledged to the Authority and to the New Indenture Trustee."

3. That Section II.A. of the Redevelopment Agreement is amended by revising the opening paragraph thereof, prior to the beginning of subsection (1), to read in its entirety as follows:

"A. **"Change in Law"** means the occurrence, after the Effective Date, of an event described below in this definition, provided such event materially changes the costs or ability of the Party relying thereon to carry out its obligations under this Agreement (or to satisfy conditions precedent to receiving payments hereunder) and such event is not caused by the Party relying thereon:"

4. That Section II.E. of the Redevelopment Agreement is amended to read in its entirety as follows:

"E. **"Developer TIF Increment Funds"** means twenty-five percent (25%) of the TIF Increment Funds received by the Village, in excess of Eight Million and No/100 Dollars (\$8,000,000.00), between September 30, 2020 and September 30, 2025. For the avoidance of doubt, Developer TIF Increment Funds shall not include any Tax Revenue (as that term is defined in the Tax Rebate Agreement). In calculating whether Eight Million and No/100 Dollars (\$8,000,000.00) in TIF Increment Funds have been received by the Village between September 30, 2020 and September 30, 2025, any TIF Increment Funds received after September 30, 2020, and used to pay the Current Increment Reimbursement (as defined in Section VI.B.2. below), shall be included in the calculation."

5. That Section II.O. of the Redevelopment Agreement is amended to read in its entirety as follows:

"O. **"TIF Increment Funds"** means the *ad valorem* real estate taxes, if any, arising from the taxes levied upon the property within the TIF District, which taxes are actually collected and paid to the Village, and which are attributable to the increase in the equalized assessed valuation ("EAV") of the property within the TIF District over and above the EAV of the property within the TIF District at the time of the formation of the TIF District, all as determined by the County Clerk of the County of DuPage, Illinois, pursuant to and in accordance with the TIF Act, the TIF Ordinances and this Agreement, and which have been received by the Village on and after the establishment of the TIF District by the Village, after the payment of the new student reimbursements to the elementary and high school districts impacted by the TIF District, as provided for in 65 ILCS 5/11-74.4-3(q)(7.5) and after payment of the new patrons reimbursement to the library district impacted by the TIF District, as provided for in 65 ILCS 5/11-74.4-3(q)(7.7). For the avoidance of doubt, TIF Increment Funds shall not include any Tax Revenue (as that term is defined in the Tax Rebate Agreement)."

6. That Section VI. of the Redevelopment Agreement is amended to read in its entirety as follows:

"VI. UNDERTAKINGS ON THE PART OF THE VILLAGE

A. **Village Cooperation.** The Village agrees to cooperate with the Developer in the Developer's attempts to obtain all necessary approvals from any governmental or quasi-governmental entity (including the Village) and, upon request of Developer, will promptly execute any applications or other documents (upon their approval by the Village) which the Developer intends

to file with such other governmental or quasi-governmental entities in regard to the Project.

B. **Initial TIF Incentive.** As of September 3, 2020, the Developer has documented, and the Village has approved for reimbursement to the Developer, Two Million Eight Hundred Three Thousand Eight Hundred Twenty-Five and 87/100 Dollars (\$2,803,825.87) in TIF Eligible Redevelopment Costs incurred by the Developer (the "Approved Expenses"). In regard to the Approved Expenses:

1. The Village has reimbursed the Developer, from TIF Increment Funds received by the Village, in the amount of Fifty Thousand Nine Hundred Forty-Eight and 90/100 Dollars (\$50,948.90) (the "Prior Reimbursement"), relative to the Approved Expenses.
2. The Village shall pay, to the Developer, forty percent (40%) of the actual amount of the TIF Increment Funds received by the Village from 2019 real estate taxes, as well as, if necessary, forty percent (40%) of the actual amount of TIF Increment Funds received by the Village from subsequent years' real estate taxes, until the total amount of One Hundred Forty-Nine Thousand Three Hundred Fifteen and 98/100 Dollars (\$149,315.98) has been paid to the Developer, as a partial reimbursement relative to the Approved Expenses (the "Current Increment Reimbursement").
3. On September 4, 2020, the Village shall pay the Developer Two Million Five Hundred Thousand and No/100 Dollars (\$2,500,000.00) as reimbursement for a portion of the Approved Expenses, with the Village reimbursing itself, from TIF Increment Funds previously received, and to be received during the life of the TIF District, relative to said payment (the "Initial TIF Payment").

C. **Subsequent TIF Incentive and Conditions.**

1. Subject to the terms and conditions of this Agreement, in the event that the Village receives TIF Incentive Funds in excess of Eight Million and No/100 Dollars (\$8,000,000.00), between September 30, 2020 and September 30, 2025 (the "TIF Payment Threshold"), the Village shall reimburse Developer for TIF Eligible Redevelopment Costs, in relation to the Project, that have not previously been reimbursed pursuant to Subsection VI.B. above, from Developer TIF Increment Funds on deposit in the Incentive Account, as follows:
 - a. In relation to any Village-approved Developer-incurred TIF Eligible Redevelopment Costs up to Three Million Seven Hundred Thousand and No/100 Dollars (\$3,700,000.00),

inclusive of the Approved Expenses, the Village shall reimburse Developer, from Developer TIF Increment Funds on deposit in the Incentive Account, in an amount not to exceed Three Million Seven Hundred Thousand and No/100 Dollars (\$3,700,000.00) minus the sum of the Prior Reimbursement, the Current Increment Reimbursement and the Initial TIF Payment (the "Secondary Reimbursement" – For the sake of clarity, the sum of the Secondary Reimbursement, the Prior Reimbursement, the Current Increment Reimbursement and the Initial TIF Payment shall not exceed Three Million Seven Hundred Thousand and No/100 Dollars (\$3,700,000.00));

- b. The Developer shall not receive any reimbursement from Developer TIF Increment Funds for any Village-approved Developer-incurred TIF Eligible Redevelopment Costs in excess of Three Million Seven Hundred Thousand and No/100 Dollars (\$3,700,000.00), but less than Six Million Seven Hundred Thousand and 01/100 Dollars (\$6,700,000.01).
 - c. In order to receive any further reimbursement beyond the Secondary Reimbursement, Developer must first incur Village-approved Developer-incurred TIF Eligible Redevelopment Costs equal to Six Million Seven Hundred Thousand and No/100 Dollars (\$6,700,000.00), inclusive of the Approved Expenses and Village-approved Developer-incurred TIF Eligible Redevelopment Costs used to support the Secondary Reimbursement. After meeting this threshold, the Village shall reimburse the Developer for all Village-approved Developer-incurred TIF Eligible Redevelopment Costs in excess of Six Million Seven Hundred Thousand and No/100 Dollars (\$6,700,000.00) from Developer TIF Increment Funds on deposit in the Incentive Account (the "Further Reimbursement").
2. The total amount paid by the Village to the Developer from the Incentive Account shall not exceed the amount of TIF Eligible Redevelopment Costs proved up by the Developer.
3. The Village shall track and account for the generation of the Developer TIF Increment Funds through the Incentive Account. The Village shall provide the Developer with an accounting of the Developer TIF Incentive Funds on deposit in the Incentive Fund on the last day of February, July and October, commencing on February 28, 2021, and continuing through the end of the Term of this

Agreement. The Village shall pledge and rely solely upon the Developer TIF Increment Funds for the Secondary Reimbursement and the Further Reimbursement to the Developer for TIF Eligible Redevelopment Costs.

4. The Village's obligation to reimburse the Developer in relation to the Project from the Incentive Account is subject to the condition, in addition to those conditions set forth elsewhere in this Agreement, that the Incentive Account has adequate Developer TIF Increment Funds to pay the amounts requested for reimbursement by the Developer.
5. Provided the TIF Payment Threshold has been reached, the Village shall reimburse Developer from the Developer TIF Increment Funds deposited into the Incentive Account for the Developer's actual expenditures of TIF Eligible Redevelopment Costs relative to the Project, in excess of the Approved Expenses, that have not previously been reimbursed, and, subject to the limitations as set forth in Section VI.C.1. above, (the "TIF Incentive Rebate"), whether expended prior to the Effective Date, but after the TIF District was established, or after the Effective Date. Said TIF Incentive Rebate shall be paid to the Developer as follows:
 - a. The Village shall pay the Developer TIF Increment Funds from the Incentive Account to the Developer, or as directed by the Developer, on the last day of each February, July and October after the TIF Payment Threshold has been reached, with a final payment date of October 31, 2025, (each a "Payment Date"), during the Term (as defined in Section XV.P. below) of this Agreement, provided the Village is in receipt of Developer's request for reimbursement of TIF Eligible Redevelopment Costs documented by the Developer to have been incurred by the Developer in relation to the Project (which documentation shall accompany each such request for reimbursement). In relation to said payments, the Developer hereby directs that said payments (and any other payments under this Agreement) be made to the New Indenture Trustee under the New Indenture, to be deposited and credited to the Hotel Capital Expenditure Reserve Fund as provided for under the New Indenture. Requests for reimbursement of TIF Eligible Redevelopment Costs, paid by the Developer, shall be forwarded to the Village's Finance Director, accompanied by a copy of the paid receipt therefor, and any other information reasonably requested by the Village. Unless the Village has good cause to believe that the Developer's request for reimbursement seeks reimbursement for non-TIF

Eligible Redevelopment Costs, or the documentation submitted by the Developer does not support the amount requested for reimbursement, the Village's Finance Director shall, on behalf of the Village, promptly (and in any event no later than forty-five (45) days following such submission by the Developer) approve the same for reimbursement, and the Village shall pay such request for reimbursement on the next Payment Date following said approval, provided there are sufficient Developer TIF Increment Funds within the Incentive Account to do so. If the Village elects to withhold or deny such payment, the Village's Finance Director shall, on behalf of the Village, promptly (and in any event not later than forty-five (45) days following such submission by the Developer) advise the Developer in writing as to the specific basis for the Village's position. If the Village fails to either approve a request for reimbursement as aforesaid or to advise the Developer in writing as to the specific basis for the Village's position as aforesaid within the aforementioned time periods, such request for reimbursement shall be deemed approved by the Village's Finance Director on behalf of the Village, unless said request for reimbursement relates to non-TIF Eligible Redevelopment Costs.

- b. If the Developer requests reimbursement from Developer TIF Increment Funds from the Incentive Account, and if the Village authorizes the distribution of such funds in an amount greater than the then-existing balance of Developer TIF Increment Funds in the Incentive Account, the Village shall distribute any approved but undistributed TIF Incentive Rebate to Developer on the next Payment Date, or a Payment Date thereafter, provided that the Village has received and deposited additional Developer TIF Increment Funds into the Incentive Account, in an amount sufficient to cover all or a part of said authorized but undistributed TIF Incentive Rebate.
- c. The TIF Incentive Rebate paid to the Developer shall only be paid from Developer TIF Increment Funds actually received by the Village.
- d. In the event that the Village ceases to receive Developer TIF Increment Funds, as a result of a Change in Law, and no alternate source of revenue is enacted to replace the Developer TIF Increment Funds, the Village shall not be obligated to make any further TIF Incentive Rebate payments hereunder.

- e. The TIF Incentive Rebate by the Village shall cease upon the expiration of the Term (as defined in Section XV.P. below) of this Agreement.
- f. Subject to Uncontrollable Circumstances, if at any time the Hotel and Conference Center ceases to operate during the term of this Agreement, other than for a temporary period of time to facilitate maintenance of, or repairs to, the Hotel and Conference Center (a "Temporary Closure"), the payment of Developer TIF Increment Funds to the Developer shall be suspended for the duration of such closure. In the event of a Temporary Closure, the Developer shall provide at least thirty (30) days prior written notice to the Village relative thereto, with said notice to set forth the reason for the Temporary Closure, and the time frame within which operations will resume. In the event of an emergency requiring an immediate Temporary Closure, notice thereof, as required by this subsection, shall be provided to the Village as soon as practical thereafter."

7. That Section VII.A. of the Redevelopment Agreement is amended to read in its entirety as follows:

- "A. **Use of Funds.** The Developer shall use the Prior Reimbursement, the Current Increment Reimbursement, the Initial TIF Payment and the Developer TIF Increment Funds solely for reimbursement for TIF Eligible Redevelopment Costs incurred by the Developer."

8. That Section VII.C. of the Redevelopment Agreement is amended to read in its entirety as follows:

- "C. **Developer's Expenditures Requirement.** The Developer's expenditure of an amount equal to the sum of the Prior Reimbursement, the Current Increment Reimbursement, the Initial TIF Payment and the Secondary Reimbursement, on TIF Eligible Redevelopment Costs relative to the Project, may occur prior to the Developer's expenditure of the Three Million and No/100 Dollars (\$3,000,000.00) Village Effective Date Contribution, as defined in and provided for in the RSA and the Plan, on capital expenditures in relation to the Project; however, the capital expenditures made by the Developer with the Village Effective Date Contribution shall be in relation to capital expenditure items other than those capital expenditure items covered by the TIF Eligible Redevelopment Costs approved for reimbursement under this Agreement. The intent being that Six Million Seven Hundred Thousand and No/100 Dollars (\$6,700,000.00) in capital expenditures relative to the Project shall be made by the Developer as a result of the Village Effective Date Contribution and the TIF Eligible

Redevelopment Costs approved for reimbursement, and reimbursed, under this Agreement by the Prior Reimbursement, the Current Increment Reimbursement, the Initial TIF Payment and the Secondary Reimbursement. For clarity, the Village's obligation to reimburse TIF Eligible Redevelopment Costs relative to the Project in the amount of the Prior Reimbursement, the Current Increment Reimbursement, the Initial TIF Payment and the Secondary Reimbursement shall, except as otherwise provided in this Agreement, in no way be limited by the Developer's expenditure of the Village Effective Date Contribution on capital expenditures in relation to the Project."

9. That Section X.E of the Redevelopment Agreement is amended to read in its entirety as follows:

"E. **Annual Audit.** The Developer, under the Loan Agreement, is required to have an audit performed and delivered within one hundred fifty (150) days of the close of its fiscal year ending on December 31st, and, but for audits of calendar year 2019 and 2020, shall during the term of this Agreement, file a copy of same with the Village, within thirty (30) days of the receipt thereof by the Developer.

10. That Section XIII.C.3. of the Redevelopment Agreement is amended to read in its entirety as follows:

"3. In the case of an Event of Default by the Developer that has not been cured, in addition to any other remedies at law or in equity, the Village may suspend its obligation to pay Developer TIF Increment Funds to the Developer, until such Event of Default has been cured; provided, however, the Village shall continue to be obligated to review and approve requests by the Developer for reimbursement of TIF Eligible Redevelopment Costs in accordance with Section VI.C.5.a. (but shall not be obligated to pay such approved costs pursuant to Section VI.C.5.a.)."

11. That Section XV.P. of the Redevelopment Agreement is amended to read in its entirety as follows:

"P. **Term.** This Agreement shall remain in full force and effect until November 1, 2025, or until the October 31, 2025 payment, as referenced in Section VI.C.5.a., is paid, if any such payment is due."

12. That Section XV.R. of the Redevelopment Agreement is amended to read in its entirety as follows:

"R. **Assignment.** The Developer shall have the right to assign its interests in this Agreement, and its rights and obligations hereunder, subject to the

consent in writing of the Village, such consent not to be unreasonably withheld. Notwithstanding the foregoing, the Developer shall be entitled to transfer in trust, grant a lien on and security interest in and assign to the Indenture Trustee, under the New Trust Indenture provided for in the Plan, all of the Developer's right, title and interest in (x) this Agreement and (y) any amounts at any time due or paid under this Agreement, and the New Indenture Trustee shall be entitled to enforce the rights, remedies and obligations of the Developer under this Agreement."

13. That Section XV.S. of the Redevelopment Agreement is amended to read in its entirety as follows:

"S. **Payments Hereunder.** The payments by the Village to the Developer referenced herein shall be a contractual obligation pursuant to Article VII, Section 10 of the Illinois Constitution of 1970, which authorizes the Village to contract and otherwise associate with individuals, associations and corporations in any manner not prohibited by law or ordinance, 65 ILCS 5/8-1-2.5, 65 ILCS 5/11-65-1, *et seq.*, and 65 ILCS 5/11-74.4-1 *et seq.* If the payments by the Village to the Developer hereunder are due and owing and the Village fails to timely make any one or more of such payments, the Developer, or its assignee (including the New Indenture Trustee), shall be entitled to enforce the Village's contractual obligation to pay the Developer by exercising any rights and remedies under applicable law, including, without limitation, suing the Village for such payments."

14. That Exhibit D to the Redevelopment Agreement is hereby deleted.

15. That Exhibit E to the Redevelopment Agreement is hereby deleted.

16. That all portions of the Redevelopment Agreement, not amended hereby, shall remain in full force and effect.

17. The Village acknowledges that the Developer intends to, post a copy of this First Amendment (including all Exhibits hereto) on the Electronic Municipal Market Access system operated by the Municipal Securities Rulemaking Board ("EMMA").

18. This First Amendment shall be executed simultaneously in two (2) counterparts, each of which shall be deemed an original, but both of which shall constitute one and the same First Amendment.

19. The Parties agree to record this First Amendment with the DuPage County Recorder's Office, with the Village and the Developer equally sharing the cost of the recording charges.

20. This First Amendment shall be deemed dated and become effective on the day on which this First Amendment is executed by the last of the signatories, as set forth below, with said date appearing 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 non-home rule municipal corporation

ATTEST:

By: _____
Keith Giagnorio, Village President

By: _____
Sharon Kuderna, Village Clerk

Date: September 3, 2020

Date: September 3, 2020

LOMBARD PUBLIC FACILITIES CORPORATION,
an Illinois not-for-profit corporation

ATTEST:

By: _____
Paul J. Powers, President

By: _____
Joseph Biewer, Secretary

Date: _____

Date: _____

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 Giagnorio and Sharon Kuderna, personally known to me to be the 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 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 Council of said Illinois corporation, as their free and voluntary act, and as the free and voluntary act and deed of said Illinois corporation, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this 3rd day of September, 2020.

Notary Public

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 Paul J. Powers and Joseph Biewer, personally known to me to be the President and Secretary of the Lombard Public Facilities Corporation, 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 Secretary, they signed and delivered the said instrument and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority given by the board of directors of said corporation, as their free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this _____ day of _____, 2020.

Notary Public

Exhibit A

Legal Description of the Property Covered by the Redevelopment Agreement

Legal Description: Lot 1 in Plat of Resubdivision of Lombard Westin Hotel and Convention Center, being a Resubdivision of Lot 2 in Yorktown Peripheral/Target Subdivision per document no. R95-162762, and part of Lot 1 in the Resubdivision of Northern Baptist Theological Seminary Subdivision per document no. R83-71622, all in Section 29, Township 39 North, Range 11, East of the Third Principal Meridian, in Lombard, DuPage County, Illinois, according to the plat thereof recorded April 17, 2009 as document no. R2009-057156.

PIN: 06-29-200-057

Common Address: 70 Yorktown Center, Lombard, Illinois