
THE VILLAGE OF BLOOMINGDALE
DUPAGE COUNTY, ILLINOIS

RESOLUTION
NUMBER 2023-R-16

**A RESOLUTION
APPROVING AND AUTHORIZING
THE EXECUTION OF AN AGREEMENT
BY AND BETWEEN
THE VILLAGE OF BLOOMINGDALE AND
BRADEN REAL ESTATE COMPANY**

FRANCO A. COLADIPIETRO, Village President
PAMELA S. HAGER, Village Clerk

VINCE ACKERMAN
WILLIAM BELMONTE
BILL BOLEN
FRANK BUCARO
PATRICK SHANNON
JUDI VON HUBEN

Village Board

Published in pamphlet form by authority of the
Mayor and the Board of Trustees of the Village of Bloomingdale
on this the 10th day of April, 2023

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**A RESOLUTION
APPROVING AND AUTHORIZING
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BY AND BETWEEN
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WHEREAS, the Village of Bloomingdale is a home rule unit of local government with authority granted pursuant to the Illinois Constitution of 1970, to exercise certain powers and perform certain functions pertaining to its local government and affairs;

WHEREAS, the Village of Bloomingdale (hereinafter referred to as "Village") upon approval of the corporate authorities may enter into an agreement with another party pursuant to Illinois Statute;

WHEREAS, Braden Real Estate Company (hereinafter referred to as "Broker") provides an array of real estate services to its client base including but not limited to assisting communities with their redevelopment efforts by securing certain tenants or purchasers for identified properties;

WHEREAS, the Village is interested in contracting with Broker to assist the Village with identifying and contacting potential buyers and tenants for the Stratford Mall Redevelopment Project; and

WHEREAS, the Village of Bloomingdale Corporate Authorities are of the opinion that it is in the best interests of the health, welfare and safety of the residents of the Village to enter into the attached agreement with Braden Real Estate Company for the purposes referenced herein.

NOW, THEREFORE, BE IT RESOLVED, in open meeting assembled, by the Village President and Board of Trustees of the Village of Bloomingdale, DuPage County, Illinois, pursuant to its "Home Rule Powers" as follows:

Section One – Recitals

The Corporate Authorities hereby find that all of the recitals hereinbefore stated as contained in the preamble to the resolution are full, true and correct and do hereby, by reference, incorporate and make them part of this resolution as legislative findings.

Section Two – Approval of Agreement

The Corporate Authorities of the Village of Bloomingdale hereby approves the agreement attached hereto and made a part hereof as Exhibit A (hereinafter referred to as the “Agreement”).

Section Three – Authorization and Direction

The Village President is hereby authorized to execute, and the Village Clerk is hereby authorized to attest to the Agreement, substantially in the form of such Agreement which is attached hereto as Exhibit A, with such changes therein as shall be approved by the Village Attorney and the officials of the Village executing the same, their execution thereof to constitute exclusive evidence of their approval to any and all changes or revisions therein from and after the execution and delivery of such Agreement.

Section Four - Other Actions Authorized

The officers, employees and/or agents of the Village shall take all actions necessary or reasonably required to carry out and give effect to the intent of this resolution otherwise to consummate the transactions contemplated herein and shall take all actions necessary in conformity therewith including, without limitation, the execution and delivery of all documents required to be delivered in connection with the transaction contemplated herein.

Section Five - Acts of Village Officials

That all past, present and future acts and doings of the officials of the Village that are in conformity with the purpose and intent of this resolution are hereby, in all respects, ratified, approved, authorized and confirmed.

Section Six – Authorization of Expenditures

The Corporate Authorities hereby authorize and direct the expenditure of all costs related to the execution of the Agreement, additionally, the Village is authorized and directed to allocate and spend all necessary funds to fulfill the requirements of the Agreement and of this Resolution.

Section Seven – Waiver of Bidding Process

To the extent that any requirement of bidding would be applicable to any of the transactions contemplated hereunder, the same is hereby waived.

Section Eight – Exercise of Home Rule Powers

This resolution represents an exercise of the home rule powers conferred upon the Village of Bloomingdale by the Constitution of the State of Illinois. This resolution is specifically intended to preempt any conflicting law, regulation, rule or other code provision to the extent permitted under the Constitution of the State of Illinois.

Section Nine – Effective Date

This resolution shall be in full force and effect from and after its passage, approval and publication as provided by law.

Section Ten - Publication

This resolution shall be published in book or pamphlet form as provided by the Illinois Municipal Code.

Section Eleven – Conflict Clause

All resolutions, parts of resolutions and/or board actions in conflict herewith are hereby repealed to the extent of such conflict.

Section Twelve – Saving Clause

If any section, paragraph, clause or provision of this resolution is declared by a court of law to be invalid or unconstitutional, the invalidity or unconstitutionality thereof shall not affect the validity of any other provisions of this resolution which are hereby declared to be separable.

Section Thirteen – Recording

This resolution shall be entered into the minutes and upon the journals of the Board of Trustees of the Village of Bloomingdale.

The Remainder of this Page has been Intentionally Left Blank / Roll Call Vote to follow:

DECIDED pursuant to a roll call vote as follows:

	YES	NO	ABSENT	PRESENT
Vince Ackerman	X			
William Belmonte	X			
Bill Bolen			X	
Frank Bucaro	X			
Patrick Shannon	X			
Judi Von Huben	X			
Franco A. Coladipietro (only if necessary)				
TOTAL	5		1	

PASSED AND APPROVED by the Village of Bloomingdale Board of Trustees on the 10th day of April, 2023.



Franco A. Coladipietro
Village President

ATTEST:



Pamela S. Hager
Village Clerk

Exhibit A
Agreement



Exclusive Leasing Agreement

This Agreement (the "Agreement") is made effective the ____ of _____ 2023 (the "Effective Date"), by and between Village of Bloomingdale ("Owner") and Braden Real Estate, LLC ("Braden").

Witnesseth

WHEREAS, Owner is redeveloping Stratford Square Mall in the Village of Bloomingdale at 152 Stratford Dr (the "Project"). Owner includes any affiliate, successor, assign or any other entity formed principally for the purpose of developing the Project.

WHEREAS, Owner desires to designate and retain Braden (the "Broker") to lease the retail, restaurant and entertainment portion of the Project on the terms and conditions herein provided.

NOW, THEREFORE, in consideration of the premises set forth above, the mutual agreements, covenants, representations and warranties set forth below and other good and valuable consideration, the sufficiency of which is hereby acknowledged, it is mutually agreed as follows:

1. EXCLUSIVE RIGHT:

Owner hereby grants the Broker the exclusive right to represent Owner for the purpose of securing tenants for the retail, restaurant and entertainment areas of the Project as shown on Exhibit A during the term of this Agreement. Throughout the term of this Agreement, Owner will refer all past or future retail, restaurant and entertainment inquiries to the Broker.

2. TERM:

The term of this Agreement shall commence as of the effective date hereof and, unless terminated earlier in accordance with Paragraph 10, shall expire two (2) years from commencement.

3. THE BROKER'S DUTIES:

PHASE 1 – DESIGN AND PRE-MARKETING:

During Phase 1 of the Term, the Broker has and will continue to assist Owner and its project team, to the extent requested by Owner, with the following:

- a. Design development and merchandising plan for the Project

- b. Creation of a sales and leasing development pro forma
- c. Developing letter of intent form documents
- d. Creation of work letters and tenant store design criteria
- e. Creation of a marketing strategy and budget

PHASE 2 – LEASING AND SALES

During Phase 2 of the Term, the Broker have been and shall be responsible, to the extent requested by Owner, for identifying and contacting all appropriate potential buyers and tenants for the Project, securing letters of intent from qualified tenants subject to Owner’s approval, and assisting and expediting the final negotiated of purchase and sale documents and lease documents to full execution.

In addition to the above, the Broker shall perform the following duties:

- a. Representing the Project at regional and national shopping center trade shows.
- b. Distributing all marketing brochures to prospective tenants.
- c. Working with Owner and the prospective tenant coordinator in the design and construction phases.

4. TEAM MEMBERS:

The Broker agrees to appoint Marc Offit and Courtney Waldon as the persons who will be primarily responsible for fulfilling the Broker’s duties and obligations under this Agreement and they shall devote a sufficient amount of time to ensuring the duties and obligations hereunder.

5. BROKER COOPERATION:

The Broker agrees to fully cooperate with other real estate brokerage companies to obtain qualified tenants and to use reasonable efforts to minimize the third-party brokerage fees. Owner is directly responsible for the payment of all third party and co-brokerage fees which shall be due pursuant to separate agreements. To the extent the Broker represents tenants exclusively in the Chicago market, those deals shall be treated as third party or co-brokerage fees as intended herein.

6. FEES:

In consideration for the services to be provided by the Broker pursuant to this Agreement, Owner agrees to pay the Broker the following fees and commissions:

- a. Retainer – Waived.
- b. Leasing - With respect to each lease entered into at the Project, a commission equal to: 4% fee of the Initial Term Base Rent as further defined in the lease. If a cooperating broker is involved in a transaction, Owner shall pay a 6% total commission per a separate agreement as approved by Owner to be split equally between the brokers (each individually and collectively, the “Leasing or

Sales Commission”).

Sales – A commission of 3% of the Purchase Price for the sale of any property to a retail, restaurant or entertainment user or a developer for such use. If the Purchase Price is 0, a commission will be determined but shall be no less than \$50,000 per transaction. If a cooperating broker is involved, in a transaction, Owner shall pay 5% total commission per a separate agreement as approved by the Owner.

7. TIMING OF PAYMENTS:

The Leasing Commission payable pursuant to Paragraph 6 hereof shall be payable as follows: fifty percent (50%) within 30 days of lease execution and fifty percent (50%) within 30 days of the earlier of (i) date on which rent first becomes payable under the lease (other than any rent payable at the time of the execution of the lease) or (ii) the date on which the tenant is first open for business to the general public. The Sales Commission will be paid at Closing.

If payments of the Commissions are not received when and as stated above, Owner shall pay interest on the unpaid amounts accruing at 1.5% per month. Furthermore, if Owner fails to pay the Commissions in the amount and at the time described above and the Broker initiates legal action to collect such part of the Commission, Owner will be responsible for all reasonable attorney's fees for the Broker in any such action.

8. EXPENSES:

The Broker shall be responsible for their own expenses incurred relating to this listing agreement.

9. MARKETING MATERIALS AND RELATED PROMOTIONAL COSTS:

Owner shall pay for the cost of all marketing related expenses, including, but not limited to: design, development, production and printing of all advertising, print and electronic collateral material, brochures, architectural renderings, leasing plans, and promotional items.

10. TERMINATION:

A. At any time after the ninth (9th) month anniversary of the Effective Date of this Agreement, Owner shall have the right to terminate this Agreement due to insufficient lease progress as determined by Owner in its reasonable discretion by providing the Broker with sixty (60) days prior written notice of such termination (the “Early Termination Date”). If, within twelve (12) months following the Early Termination Date or the expiration of this Agreement, Owner enters into a leasing contract with any tenant included in a *Prospective Tenant List* to be furnished by the Broker to Owner within thirty (30) days after the Early Termination Date or the

expiration of this Agreement, Owner agrees to pay the Broker a commission as outlined herein and in accordance with the terms hereof. The *Prospective Tenant List* shall consist of tenants that the Broker has had discussions with prior to the earlier of the Early Termination Date or the expiration of this Agreement. Notwithstanding the foregoing, if as of the last day of such twelve (12) month period, Owner and a prospective tenant included in the *Prospective Tenant List* are actively negotiating in good faith, then such twelve (12) month period shall be extended with respect to such tenant for an additional six (6) months.

11. REPORTING:

The Broker shall provide Owner with a written summary report outlining the lease status on a monthly basis, which shall detail contacts made and negotiations in progress. The Broker shall also update Owner as to the lease status via conference calls or meetings as needed.

12. AMENDMENTS:

Except as otherwise provided herein or as otherwise provided by law, this Agreement may only be amended in writing signed by both parties hereto.

13. ASSIGNMENT:

In the event of an assignment of Owner's interest in the Project, the obligations of Owner under this Agreement shall be assumed by the assignee as a condition of such assignment except that the Assignee shall have the right to terminate the listing upon 30 days notice to the Broker under the terms provided in Paragraph 11 herein.

14. ENTIRE AGREEMENT:

This Agreement contains the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, whether written, oral or otherwise among the parties hereto with respect to such subject matters.

15. PREVAILING PARTY:

In the event there is litigation concerning any provision of the Agreement, then the prevailing party shall be entitled to all costs and fees associated with said litigation and said amount shall be paid by the non-prevailing party.

16. AUTHORIZATION:

The signatories hereto expressly represent and warrant that they are authorized to execute this Agreement and that they possess the legal rights, powers, capacity and authority to enter into and perform each of their obligations under this Agreement.

17. HEIRS, SUCCESSORS & ASSIGNS:

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and to their respective heirs, successors, assigns and legal representatives.

18. NOTICES:

Notices to be given pursuant to this Agreement shall be in writing, shall be given in person by reputable overnight courier or first class mail, which provides evidence of delivery, or by certified or registered mail and shall be addressed to the parties at the following addresses:

To Owner:

**c/o Village of Bloomingdale
201 S Bloomingdale Rd
Bloomingdale, IL 60108
Att: Peter Scalera**

To The Broker:

**Braden Real Estate, LLC
222 Northfield Road
Suite 104
Northfield, IL 60093
Att: Marc Offit**

Notice shall be deemed to be effective when delivered in person or by overnight carrier, or three (3) days after mailing by first class mail, postage prepaid. Either party may change its notice address by giving the other party notice in accordance with the foregoing provision.

19. JURISIDICIION:

This Agreement and all issues related thereto shall be governed by and construed in accordance with the laws of the State of Illinois pertaining to contracts made therein, without regard to choice of law or conflict of law principles. If one or more provisions of this Agreement shall be found invalid, illegal, or unenforceable, enforcement of the remaining provisions of this Agreement shall not be affected in any way thereby.

20. RELATIONSHIP:

The Broker agrees and understands that by signing this Agreement, the Broker shall be an independent contractor and not an employee of Owner. As such, the Broker agree and understands that the Broker or any affiliated entity shall not be entitled to benefits available to employees of Owner or any of its affiliated entities.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

BROKER:

BRADEN REAL ESTATE, LLC

By: _____
Marc Offit, CEO

OWNER:

VILLAGE OF BLOOMINGDALE

By:  _____
Peter Scalera, Village Administrator

Exhibit A

Concept plan subject to change

