

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: William T. Lichter, Village Manager

DATE: APRIL 28, 2004 (COW) (B of T) **Date:** 05/06/2004

TITLE: Intergovernmental Agreement with DuPage County
For Installation of Ornamental Lighting

SUBMITTED BY: David A. Dratnol, P.E., Village Engineer *DA*

BACKGROUND/POLICY IMPLICATIONS:

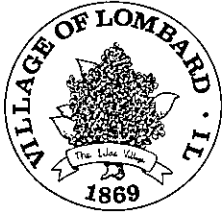
See attached Memo.

FISCAL IMPACT/FUNDING SOURCE:

Review (as necessary):

Village Attorney X _____ Date _____
Finance Director *XX* *Ronald J Flood* Date *4/28/04*
Village Manager X *William T. Lichter* Date *4/28/04*

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.



InterOffice Memo

To: William T. Lichter, Village Manager
From: David A. Dratnol, P.E., Village Engineer *DAE*
Date: April 28, 2004
Subject: Intergovernmental Agreement with DuPage County

Attached is a resolution authorizing signature of the Village President and Clerk on an "Intergovernmental Agreement Between the County of DuPage and The Village of Lombard for Installation of Ornamental Lighting along CH47 / Illinois Prairie Path – Main Stem (I-355 to Addison Road)". The IGA was requested by the Illinois Department of Natural Resources (IDNR) to satisfy certain requirements of the grant funding for the project.

The agreement formalizes the previous agreement and approvals by the County for the installation of the ornamental lighting along the Prairie Path. After the project was under way, the IDNR contacted the Village and requested the agreement. The County had previously provided a letter to the Village, which was included in the grant application, and which the Village and the County thought satisfied the IDNR's requirements. The IDNR has reviewed the draft of the agreement and has confirmed that it now satisfies their requirements.

Please present this IGA to the Board of Trustees at their meeting on May 6, 2004 for approval in substantially the form attached hereto. We have forwarded the Village Attorney's comments to the County for incorporation (copy attached hereto for Board information). The County will include this item on next meeting agenda for approval.

c: File: M-03-03

RESOLUTION
R _____ 04

A RESOLUTION AUTHORIZING SIGNATURE OF
PRESIDENT AND CLERK ON AN AGREEMENT

WHEREAS, the Corporate Authorities of the Village of Lombard have received an Intergovernmental Agreement For Installation of Ornamental Lighting along CH47 / Illinois Prairie Path between the Village of Lombard and the COUNTY OF DUPAGE, as attached hereto and marked Exhibit "A"; and

WHEREAS, the Corporate Authorities deem it to be in the best interest of the Village of Lombard to approve such agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS as follows:

SECTION 1: That the Village President be and hereby is authorized to sign on behalf of the Village of Lombard said agreement in substantially the form attached hereto.

SECTION 2: That the Deputy Village Clerk be and hereby is authorized to attest said agreement in substantially the form attached hereto.

Adopted this 6th day of May, 2004.

Ayes; _____

Nays: _____

Absent: _____

Approved this 6th day of May, 2004.

William J. Mueller
Village President

ATTEST:

Barbara Johnson
Deputy Village Clerk

APPROVAL AS TO FORM:

Thomas P. Bayer
Village Attorney

INTERGOVERNMENTAL AGREEMENT
BETWEEN THE COUNTY OF DU PAGE AND THE VILLAGE OF LOMBARD
FOR INSTALLATION OF ORNAMENTAL LIGHTING
ALONG CH47/ILLINOIS PRAIRIE PATH - MAIN STEM
(I-355 TO ADDISON ROAD)

This AGREEMENT entered into by and between the County of DuPage, a body corporate and politic of the State of Illinois (hereinafter "COUNTY"), and the Village of Lombard, a municipal corporation in the State of Illinois (hereinafter "VILLAGE").

W I T N E S S E T H:

WHEREAS, the COUNTY and the VILLAGE in order to enhance the safety and enjoyment of users of the Illinois Prairie Path - Main Stem (hereinafter "PATH") by the installation of ornamental lighting along the PATH from I-355 to Addison Road (hereinafter "IMPROVEMENT"); and

WHEREAS, the COUNTY and the VILLAGE desire to cooperate in constructing and maintaining the IMPROVEMENT because of the immediate benefit of the IMPROVEMENT to the residents of the VILLAGE and to PATH users throughout the COUNTY; and

WHEREAS, the VILLAGE has previously secured permit number B030079 from the COUNTY to make the IMPROVEMENT to the PATH; and

WHEREAS, the VILLAGE has also secured a Bicycle Path Enhancement Grant from the Illinois Department of Natural Resources (hereinafter "IDNR") to pay for a portion of the cost of the IMPROVEMENT; and

WHEREAS, the IDNR has requested that the VILLAGE and the COUNTY enter into an Intergovernmental Agreement as a prerequisite for the VILLAGE to obtain the Bicycle Path Grant Funds; and

WHEREAS, the 1970 Illinois Constitution Article VII, Section 10 and the Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1 et seq. authorize the COUNTY and the VILLAGE to cooperate in the performance of their responsibilities by contract and other agreements.

NOW, THEREFORE, in consideration of the above stated preambles which are hereby incorporated herein and the mutual covenants and promises hereinafter contained, the COUNTY and the VILLAGE formally covenant, agree and bind themselves as follows to wit:

1. The COUNTY and the VILLAGE agree to cooperate and proceed with all possible diligence to cause construction of the IMPROVEMENT. The COUNTY and the VILLAGE agree that the provisions of Permit Number B030079 previously issued for the IMPROVEMENT, are incorporated herein. A copy of said permit is attached as Exhibit "A" hereto.
2. The COUNTY and the VILLAGE agree that all costs related to construction and maintenance of the IMPROVEMENT that are not paid by the IDNR Bicycle Path Enhancement Grant will be paid by and are the sole responsibility of the VILLAGE.
3. The COUNTY and the VILLAGE agree that all costs associated with electrical energy for the IMPROVEMENT will be paid by and are the sole responsibility of the VILLAGE. The VILLAGE shall cause the electrical power connections to be separately metered and billed to the VILLAGE.
4. The COUNTY hereby grants the VILLAGE, its employees, contractors and agents a non-exclusive license for purposes of constructing, operating and maintaining the IMPROVEMENT on the PATH.
5. The IMPROVEMENT shall be considered public property owned by the VILLAGE but in joint possession with the COUNTY so long as the IMPROVEMENT remains on the PATH. The COUNTY shall have and retain all rights to own, use, enjoy and occupy the PATH. In the event the VILLAGE fails to properly maintain, repair or operate the IMPROVEMENTS, the COUNTY shall have the right, but not the duty, to perform, or have performed on its behalf, at the VILLAGE'S expense, any maintenance, repairs or other work to the IMPROVEMENT. Before commencing such work, the COUNTY shall first give thirty (30) days written notice to the VILLAGE. If VILLAGE fails to remedy the deficiencies identified in the written notice within the thirty (30) day notice period, the COUNTY may correct such deficiencies and be reimbursed by the VILLAGE for its remedial costs and expenses.
6. The VILLAGE shall indemnify, hold harmless and defend the COUNTY, its officials, officers, employees, and agents from and against all liability, claims, suits, demands, proceedings and action, including costs, fees and expense of defense, arising from, growing out of, or related to, any loss, damage, injury, death, or loss or damage to property resulting from, or connected with, the VILLAGE'S

performance under this AGREEMENT, to the extent permitted by law. The VILLAGE does not hereby waive any defenses or immunities available to it with respect to third parties. This indemnification will survive the expiration or termination of this AGREEMENT.

7. This document shall be a final embodiment of the Agreement by and between the COUNTY and the VILLAGE. No oral changes or modifications of this Agreement shall be permitted or allowed. Changes or modifications to this Agreement shall be made only in writing and upon the necessary and proper signature of the COUNTY and the VILLAGE.
8. In the event that any provisions of this Agreement shall be invalid or unenforceable by court of competent jurisdiction such holdings shall not invalidate or render unenforceable any other provisions hereto.
9. This Agreement shall not be assigned by either party without the written consent of the other party, whose consent shall not be unreasonably withheld.
10. Any notices required hereunder shall be deemed properly given to the party to be notified at the time it is personally delivered or mailed by certified mail, return receipt requested to the party's address. The address of each party is as specified below. Either party may change its address for receiving notices by giving notice thereof in compliance with the terms of this subsection.

FOR THE COUNTY

Charles F. Tokarski, P.E.
County Engineer
DuPage County Division of Transportation
421 North County Farm Road
Wheaton, Illinois 60187

FOR THE VILLAGE

Village of Lombard,
255 East Wilson Avenue
Lombard, Illinois 60148

11. Neither party shall be liable for any delay or nonperformance of their obligations caused by any contingency beyond their control including but not limited to Acts of God, war, civil unrest, strikes, walkouts, fires or natural disasters.

12. This AGREEMENT shall be executed for and on behalf of the COUNTY and the VILLAGE pursuant to Resolutions or Ordinances approved by the legislative body of each of the parties.
13. This AGREEMENT may be executed in multiple counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instruments.
14. Upon termination of this license, the VILLAGE shall remove the IMPROVEMENTS from the PATH and restore the PATH to substantially the same condition existing immediately prior to installation of the IMPROVEMENTS.

THE PARTIES TO THIS AGREEMENT by their signatures acknowledge that they have read and understand this AGREEMENT and intend to be bound by its terms.

Dated at Lombard, Illinois this _____ day of _____ 2004 .

 William Mueller, President
 Village of Lombard

Attest:

 Barbara Johnson, Deputy Village Clerk

Dated at Wheaton, Illinois this _____ day of _____, 2004.

 Robert J. Schillerstrom, Chairman
 DuPage County Board

Attest:

 Gary A. King, County Clerk

INTERGOVERNMENTAL AGREEMENT
BETWEEN THE COUNTY OF DU PAGE AND THE VILLAGE OF LOMBARD
FOR INSTALLATION OF ORNAMENTAL LIGHTING
ALONG CH47/ILLINOIS PRAIRIE PATH - MAIN STEM
(I-355 TO ADDISON ROAD)

This AGREEMENT entered into by and between the County of DuPage, a body corporate and politic of the State of Illinois (hereinafter "COUNTY"), and the Village of Lombard, a municipal corporation in the State of Illinois (hereinafter "VILLAGE").

W I T N E S S E T H:

WHEREAS, the COUNTY and the VILLAGE ~~in order~~ ^{desire} to enhance the safety and enjoyment of users of the Illinois Prairie Path - Main Stem (hereinafter "PATH") by the installation of ornamental lighting along the PATH from I-355 to Addison Road (hereinafter "IMPROVEMENT"); and

WHEREAS, the COUNTY and the VILLAGE desire to cooperate in constructing and maintaining the IMPROVEMENT because of the immediate benefit of the IMPROVEMENT to the residents of the VILLAGE and to PATH users throughout the COUNTY; and

WHEREAS, the VILLAGE has previously secured permit number B030079 from the COUNTY to make the IMPROVEMENT to the PATH; and

WHEREAS, the VILLAGE has also secured a Bicycle Path Enhancement Grant from the Illinois Department of Natural Resources (hereinafter "IDNR") to pay for a portion of the cost of the IMPROVEMENT; and

WHEREAS, the IDNR has requested that the VILLAGE and the COUNTY enter into an Intergovernmental Agreement as a prerequisite for the VILLAGE to obtain the Bicycle Path Grant Funds; and

WHEREAS, the 1970 Illinois Constitution, Article VII, Section 10, and the Illinois Intergovernmental Cooperation Act, 5 ILCS 229/1 et seq., authorize the COUNTY and the VILLAGE to cooperate in the performance of their responsibilities by contract and other agreements;

NOW, THEREFORE, in consideration of the above stated preambles, which are hereby incorporated herein, and the mutual covenants and promises hereinafter contained, the COUNTY and the VILLAGE formally covenant, agree and bind themselves as follows, to wit:

1. The COUNTY and the VILLAGE agree to cooperate and proceed with all possible diligence to cause construction of the IMPROVEMENT. The COUNTY and the VILLAGE agree that the provisions of Permit Number B030079 previously issued for the IMPROVEMENT, are incorporated herein. A copy of said permit is attached as Exhibit "A" hereto, *and made part hereof.*
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4. The COUNTY hereby grants the VILLAGE, its *officers,* employees, contractors and agents a non-exclusive license for purposes of constructing, operating and maintaining the IMPROVEMENT on the PATH.
5. The IMPROVEMENT shall be considered public property owned by the VILLAGE but in joint possession with the COUNTY so long as the IMPROVEMENT remains on the PATH. The COUNTY shall have and retain all rights to own, use, enjoy and occupy the PATH. In the event the VILLAGE fails to properly maintain, repair or operate the IMPROVEMENTS, the COUNTY shall have the right, but not the duty, to perform, or have performed on its behalf, at the VILLAGE'S expense, any maintenance, repairs or other work to the IMPROVEMENT. Before commencing such work, the COUNTY shall first give thirty (30) days written notice to the VILLAGE. If VILLAGE fails to remedy the deficiencies identified in the written notice within the thirty (30) day notice period, *the* COUNTY may correct such deficiencies and be reimbursed by the VILLAGE for its remedial costs and expenses.
6. The VILLAGE shall indemnify, hold harmless and defend the COUNTY, its officials, officers, employees, and agents from and against all liability, claims, suits, demands, proceedings and actions, including costs, fees and expense of defense, arising from, growing out of, or related to, any loss, damage, injury, death, or loss or damage to property resulting from, or connected with, the VILLAGE'S

Said thirty (30) day period, practically be remedied within such other longer period of time as is contained in the event

performance under this AGREEMENT, to the extent permitted by law. The VILLAGE does not hereby waive any defenses or immunities available to it with respect to third parties. This indemnification will survive the expiration or termination of this AGREEMENT.

7. This document shall be a final embodiment of the Agreement by and between the COUNTY and the VILLAGE. No oral changes or modifications of this Agreement shall be permitted or allowed. Changes or modifications to this Agreement shall be made only in writing and upon the necessary and proper signature of the COUNTY and the VILLAGE.
8. In the event that any provisions of this Agreement shall be ^{held} invalid or unenforceable by court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereto.
9. This Agreement shall not be assigned by either party without the written consent of the other party, whose consent shall not be unreasonably withheld.
10. Any notices required hereunder shall be deemed properly given to the party to be notified at the time it is personally delivered or mailed by certified mail, return receipt requested to the party's address. The address of each party is as specified below. Either party may change its address for receiving notices by giving notice thereof in compliance with the terms of this subsection.

FOR THE COUNTY

Charles F. Tokarski, P.E.
County Engineer
DuPage County Division of Transportation
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FOR THE VILLAGE

Director of Public Works
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- 12. This AGREEMENT shall be executed for and on behalf of the COUNTY and the VILLAGE pursuant to Resolutions or Ordinances approved by the legislative body of each of he parties.
- 13. This AGREEMENT may be executed in multiple counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument ~~X~~.
- 14. Upon termination of ~~this~~ ^{the} license ^{provided for in this AGREEMENT,} the VILLAGE shall remove the IMPROVEMENTS from the PATH and restore the PATH to substantially the same condition existing immediately prior to installation of the IMPROVEMENTS.

THE PARTIES TO THIS AGREEMENT by their signatures acknowledge that they have read and understand this AGREEMENT and intend to be bound by its terms.

Dated at Lombard, Illinois this _____ day of _____ 2004

 William Mueller, President
 Village of Lombard

Attest: _____
 Barbara Johnson, Deputy Village Clerk

Dated at Wheaton, Illinois this _____ day of _____, 2004.

 Robert J. Schillerstrom, Chairman
 DuPage County Board

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 Gary A. King, County Clerk