

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

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

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: David A. Hulseberg, Village Manager

DATE: November 15, 2012 (COW)(B of T) December 6, 2012

TITLE: A Motion to Approve an Intergovernmental Agreement in Regard to Claims
Adjuster and Safety Consultant Services

SUBMITTED BY: Timothy Sexton, Director of Finance

BACKGROUND/POLICY IMPLICATIONS:

A staff report on this matter is attached.

The attached IGA was prepared by Lombard's Village Attorney Tom Bayer. All three of the municipal members of the group use Klein, Thorpe & Jenkins; therefore, Lombard's Village Attorney prepared the IGA, and the costs were split between the Lombard, Wheeling, and Mt. Prospect. Metro Risk Management Agency's (MRMA) attorney has reviewed the IGA also. Staff recommends approval of the attached IGA for the proposed Risk Management Cooperative.

Review (as necessary):

Village Attorney X _____ Date _____
Finance Director X Timothy Sexton _____ Date 11/27/12
Village Manager X _____ Date _____

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



To: Village Board of Trustees

From: Timothy Sexton
Director of Finance

Date: November 15, 2012

Subject: Risk Management Cooperative Intergovernmental Agreement (IGA)

In December 2010, as part of the Finance Department budget presentation at the Village Board budget workshop, staff presented information regarding the need for additional assistance in the area of risk management. One of the most significant issues discussed during this meeting related to the Public Safety Employee Benefits Act (PSEBA) benefits. Any police officer or firefighter who receives a line of duty disability as a result of an injury occurring while responding to an emergency is not only entitled to the disability pension, but also PSEBA benefits. PSEBA benefits include Village-paid health insurance for the former employee and his/her dependents for the rest of their lives. Based on the six PSEBA cases that existed when we last had an actuarial calculation done as of May 31, 2011, the average liability for these PSEBA cases is \$733,000 each, for a cumulative total current liability of \$4.4 million for the existing six cases. This is over and above the cost of the disability pensions. We also have several pending disability cases that may wind up as PSEBA cases.

During the budget workshop, staff discussed the importance of a risk manager for the Village. The Village Board supported this concept, and asked staff to move forward with exploring options. Since that time, staff has been working with the Village's risk management consultant, Mike Nugent, to research the options available. Mr. Nugent saw this as a need across multiple municipalities. Based on this, he began working with several municipalities on a concept of pooling both a claims adjuster and a safety consultant among several municipalities.

Currently, we have a separate third party administrator (TPA) that does the claims adjusting, with an annual cost of approximately \$37,000 per year. This amount does vary slightly based on the number of cases that are opened in a year. Generally, a claims adjuster at a TPA handles a case load of between 150-175 cases at a time. Under the proposed concept of pooling the claims adjuster, this caseload would be lowered to around 100 cases. This allows for more attention to be paid to each case, which generally reduces the amount of lost time for an injured employee, resulting in lower claims costs.

In addition, a safety consultant would be included in this proposed concept. There are several areas that this person would focus on. The first would be safety prevention. Programs would be designed to reduce the likelihood of accidents occurring in the first place, and this person would work with all of the departments in assessing their risks and designing appropriate programs. Second, this person would handle accident investigations, whether that was in a workers compensation claim where an employee claimed to be injured, or in a liability case where there is an accident involving Village-owned property.

Mr. Nugent has implemented this pooled concept with several school districts, and has seen significant improvements in both the amount and the cost of claims. As for the two people that would be pooled within the group, these would not be employees of any of the municipalities. Rather, we would contract with one of the TPA's to hire the people that we select, and these employees would have full use of the TPA's software systems. However, these employees would be solely dedicated to working with the members of this pool. Mr. Nugent strongly believes that we should see at least a 20% decline in our claims costs with this additional focus on risk management.

The other members of this pool are Wheeling, Mt. Prospect and the Metro Risk Management Agency (MRMA-which is a pool consisting of the Schaumburg Park District, the Mount Prospect Park District and the Palatine Park District).

Staff from all of these agencies, with the assistance of Mike Nugent, have already done a request for proposals (RFP) for the contracted TPA services, and have met with each of the TPA's that submitted a proposal. After the attached IGA is approved by each of the participating organizations, staff will bring back to the Village Board the contract with the selected TPA.

The attached IGA was prepared by Lombard's Village Attorney Tom Bayer. All three of the municipal members of the group use Klein, Thorpe & Jenkins; therefore, we just had Lombard's Village Attorney prepare the IGA, and the costs were split between the three of us. MRMA's attorney has reviewed the IGA also. Staff recommends approval of the attached IGA for the proposed Risk Management Cooperative.

**AN INTERGOVERNMENTAL AGREEMENT
IN REGARD TO CLAIMS ADJUSTER AND SAFETY CONSULTANT SERVICES**

This Intergovernmental Agreement in Regard to Claims Adjuster and Safety Consultant Services (the "Agreement") is made this ____ day of _____, 2012, by and between the Village of Lombard, an Illinois municipal corporation ("Lombard"), the Village of Mount Prospect, an Illinois municipal corporation ("Mt. Prospect"), the Village of Wheeling, an Illinois municipal corporation ("Wheeling"), and the Metro Risk Management Agency, a joint self-insured intergovernmental risk pool, whose current membership consists of the Schaumburg Park District, the Mount Prospect Park District and the Palatine Park District, (the "MRMA"). Lombard, Mt. Prospect, Wheeling and MRMA are sometimes referred to hereinafter individually as a "Member" and collectively as the "Members."

WITNESSETH

WHEREAS, Article VII, Section 10 of the 1970 Constitution of the State of Illinois and the Illinois Intergovernmental Cooperation Act (5 ILCS Section 220/1 *et seq.*) (the "Act") provide that public agencies, including, but not limited to, units of local government, may jointly perform any activity which may, by law, be exercised by such local governments individually; and

WHEREAS, pursuant to this Agreement, the Members desire to establish an intergovernmental cooperative body to administer the safety training for, and the claims processing of the various types of liability claims (automobile, general liability, public officials liability, law enforcement liability and employment practices liability) of, the Members; and

WHEREAS, the Members have determined that it is in their individual and collective best interests to enter into this Agreement;

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

1. Establishment and Purpose of the Intergovernmental Cooperative

- A. The Members hereby establish an intergovernmental claims adjuster and safety consultant services cooperative, consistent with the scope of authority granted by the Act (the "Cooperative").
- B. The purpose of the Cooperative is to hire a third party administrator (the "Administrator") that will provide claims adjuster and safety consultant services to the Members (the "Services").
- C. The creation of the Account (as defined below), as established by this Agreement, is not intended by the Members to constitute the transaction of an insurance business within the State of Illinois but, rather, is intended to reduce the cost of the Services for the Members.

2. Definitions

In addition to the terms defined elsewhere in this Agreement, each of the following terms shall have the meaning set forth below:

- A. "Account" – An account of moneys established by the Members to pay the administrative expenses of the Cooperative, and the cost of the Services.
- B. "Fiscal Year" – The twelve (12) month period commencing January 1st and concluding December 31st of any respective year.
- C. "Board" – The Board established pursuant to Section 5. of this Agreement.
- D. "Chairperson" – The Chairperson of the Board.
- E. "Claim or Claims" – A liability incident in relation to which a claims adjuster has opened a claim file and assigned a claim number. In the case of Mt. Prospect and MRMA, Mt. Prospect's and MRMA's claims shall be limited to only those relating to workers' compensation actions.

3. Authority and Duties of the Cooperative

The Cooperative shall have the authority and duty to accomplish the purposes set forth in Section 1. above and, in furtherance of such authority and duty, shall, through its Board:

- A. Select the Administrator to accomplish the purposes of the Cooperative;
- B. Direct the collection and payment of funds to be used for the administration of the Cooperative and the approved expenditures of the Cooperative, including the cost of the Services;
- C. Prepare and approve an annual budget for the Cooperative, and a quarterly report of the financial affairs of the Cooperative;
- D. Comply with all local, state and federal laws, rules and regulations; and
- E. Carry out such other activities as are necessarily implied or required to carry out the purposes of the Cooperative, as set forth herein.

4. Commencement and Term of the Cooperative

- A. The Cooperative shall be established as of the date the last of the Members approves and executes this Agreement, with the Services to be provided to the Members over a term of three (3) years, beginning on January 1, 2013 and terminating on December 31, 2015, subject to the "true-up" referenced in Section 8.A.v. below.
- B. The Fiscal Year of the Cooperative shall be from January 1st to December 31st of each year.

- C. The Members may, prior to the end of the original term of the Cooperative, as set forth in subsection A. above, agree, in writing, to extend the term of the Cooperative.
- D. Notwithstanding A. above, in the event that MRMA does not renew its status as a joint self-insured intergovernmental risk pool prior to June 30, 2013, and so notifies the other Members in writing by July 15, 2013, then MRMA shall be permitted to terminate its participation in the Cooperative as of March 31, 2014; provided, however, MRMA shall be responsible for its proportionate share of the Account Amount, as referenced in Section 8. below, through March 31, 2014. In the event that MRMA so notifies the other Members, the other Members shall either:
 - i. Amend this Agreement, effective April 1, 2014, to only be an Agreement between Lombard, Wheeling and Mt. Prospect;
 - ii. Amend this Agreement, effective April 1, 2014, to add one or more additional parties; or
 - iii. Terminate this Agreement, effective March 31, 2014, subject to the "true-up" referenced in Section 8.A.v. below, for both the 2013 Fiscal Year and the January 1, 2014 through March 31, 2014 period.

In the event that Lombard, Wheeling and Mt. Prospect cannot unanimously agree upon one of the foregoing options, this Agreement shall terminate on March 31, 2014, subject to the "true-up" referenced in Section 8.A.v. below, for both the 2013 Fiscal Year and the January 1, 2014 through March 31, 2014 period.

5. Cooperative Board of Directors

- A. The Cooperative shall be managed by a Board of Directors ("Board") pursuant to the terms of this Agreement. The Board shall consist of one representative from each Member ("Representative"), to be designated by each Member. Each Member shall also designate an alternate representative ("Alternate Representative") to serve on behalf of the Member when the designated Representative is unable to carry out the designated Representative's duties, with each Member's Alternate Representative to be considered as a Representative whenever in attendance at a meeting of the Board, at which the Representative of the Member is absent. The Representative and Alternate Representative of each Member shall serve until a new Representative and/or Alternate Representative is selected by the Member, and the Board is so notified, in writing, of such new appointment.
- B. The Board shall carry out the purposes and duties of the Cooperative including, but not limited to, the following:
 - i. Selecting the Administrator.
 - ii. Reviewing the Services as provided by the Administrator.

- iii. Preparing and approving an annual budget for the Cooperative and any amendments to that budget.
 - iv. Establishing the annual fee to be paid by each Member into the Account.
 - v. Obtaining and submitting to the Members the financial reports and other reports as deemed relevant and necessary by the Board.
 - vi. Such other activities as are necessarily implied or required to carry out the purposes of the Cooperative.
- C. The Board shall elect, from among the Representatives, the Chairperson, Secretary and Treasurer of the Board to each serve for a term of one (1) year, except that the first Chairperson, Secretary and Treasurer shall serve from establishment of the Cooperative, as provided for in Section 4.A. above, through the end of the first Fiscal Year, and the last Chairperson, Secretary and Treasurer shall serve through the final "true-up" as provided for in Section 8.A.v. below. The election of the Chairperson, Secretary and Treasurer for each subsequent Fiscal Year shall occur at the last Board meeting of the previous Fiscal Year, except that the initial election shall occur as soon as practicable following the execution of this Agreement. The persons initially elected Chairperson, Secretary and Treasurer shall serve to the end of the first Fiscal Year. Every Chairperson, Secretary and Treasurer shall continue to serve in office until the beginning of the next Fiscal Year or until their respective successors have been elected, whichever occurs later.

6. Meetings of the Cooperative

- A. Regular meetings of the Board shall be held as often as necessary to carry out the purposes of the Cooperative, but no less than two (2) times during each Fiscal Year.
- B. Special meetings of the Board may be called by its Chairperson or by any two (2) Representatives.
- C. At least seven (7) days prior written notice of regular or special meetings of the Board shall be given to each Representative, and an agenda specifying the time, date, location and subject matters to be considered at any regular or special meeting shall accompany such notice. Business conducted at special meetings shall be limited to those items specified in the agenda.
- D. The time, date and location of regular meetings of the Board shall be determined by the Board.
- E. Each Member shall be entitled to one (1) vote on the Board through its Representative/Alternate Representative. No proxy votes or absentee votes shall be permitted. The failure of a Member to select a Representative and/or Alternate Representative, or the failure of that person to participate at a meeting, shall not affect the responsibilities or duties of a Member under this Agreement.

- F. A quorum shall consist of three (3) of the four (4) Representatives (or Alternate Representative, in the absence of a Representative).
- G. All matters coming before the Board must be approved by three (3) of the four (4) Representatives (or Alternate Representative, in the absence of a Representative).
- H. The Board may establish rules governing its own conduct and procedure, consistent with this Agreement. Voting shall be conducted by voice vote, except that all questions pertaining to monetary matters shall require a roll call vote, and one (1) or more of the Representatives/Alternate Representatives may request a roll call vote on any matter. Any disputes as to procedure shall be resolved pursuant to *Robert's Rules of Order*, latest edition.
- I. Minutes of all regular and special meetings of the Board shall be taken by the Secretary, or the Secretary's designee, and shall be sent to all Representatives and to each Member after approval by the Board.
- J. All meetings of the Board shall be conducted in accordance with the Illinois Open Meetings Act (5 ILCS 120/.01 *et seq.*). In the event of any conflict between any provision of this Agreement and any provision of any applicable law, this Agreement shall be deemed modified to the extent necessary to comply with such law.

7. Cooperative Officers

- A. Officers of the Cooperative shall consist of the Chairperson, Secretary and Treasurer.
- B. The Chairperson shall be the principal operating officer of the Cooperative, shall oversee the day-to-day operations of the Cooperative, and shall carry out the purposes of the Cooperative as directed by the Board. Among the duties and authority of the Chairperson shall be the following:
 - i. To sign, on behalf of the Cooperative, any instrument which the Board or the Members have authorized to be executed and, in general, to perform all duties incident to the office of Chairperson and such other duties as may be prescribed by the Board consistent with this Agreement from time to time.
 - ii. To prepare a proposed annual budget for the Cooperative, and, for each Member, a proposed quarterly payment into the Account, and to submit such proposals to the Board.
 - iii. To make recommendations regarding policy decisions.

The Chairperson shall preside at all meetings of the Board at which the Chairperson is present. The Chairperson may request information from any officer of the Board. The Chairperson shall vote on all matters that come before the Board. The Chairperson shall have such other powers as are set forth in this

Agreement and such other powers as he/she may be given from time to time by action of the Board.

C. The Secretary shall:

- i. Record all proceedings of the Board and supply minutes to all Representatives and Members.
- ii. Keep and maintain all permanent records of the Cooperative.
- iii. In general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned.
- iv. In the absence of the Chairperson or the Alternate Representative for the Chairperson, or in the event of the inability or refusal of the Chairperson or the Alternate Representative of the Chairperson to act, the Representative who is not holding any office on the Board shall perform the duties of the Chairperson and, when so acting, shall have all of the powers and be subject to all the restrictions upon the Chairperson.

D. The Treasurer shall:

- i. Have charge and custody of and be responsible for all funds of the Cooperative; receive and give all receipts for moneys due and payable to the Cooperative from any source whatsoever; deposit all such moneys in the name of the Cooperative in such banks, savings and loan associations, or other depositories as shall be selected by the Board; keep the financial records of the Cooperative and invest the funds of the Cooperative as are not immediately required in such investments as the Board shall specifically or generally select from time to time; provided, however, that all investments of Cooperative funds shall be made only in those securities which may be allowed by the Illinois Compiled Statutes, applicable to the Members.
- ii. At each regular meeting of the Board, and at such other times, as requested to do so by the Board, to present a full report of the fiscal condition of the Cooperative, and the status of the Account.
- iii. In the absence of the Treasurer, or in the event of the inability or refusal of the Treasurer to act, the Chairperson shall perform the duties of the Treasurer, and, when so acting, shall have all of the powers of and be subject to all of the restrictions upon the Treasurer.
- iv. The Treasurer will have check signing authority up to an amount approved by the Board. Dual signatures will be required above this amount. In this regard, the Board shall appoint check signers and co-signers.

E. Except as provided elsewhere in this Agreement, the Board shall fill any vacancies which may occur in the aforementioned offices for the remainder of

each Fiscal Year. The Board may remove the Chairperson, Secretary or Treasurer for failure or refusal to comply with this Agreement or the lawful directions of the Board, or for any action detrimental to the interests of the Cooperative, by a majority vote of the Board in favor of removal.

- F. The Cooperative may purchase a blanket fidelity bond in an amount to be established by the Board, to assure the fidelity of all officers and employees of the Cooperative, who shall have the authority to receive, or authorize by their signature or order, the payment, transfer or investment of Cooperative funds. Additional fidelity and similar coverages, including, but not limited to, errors and omissions coverage, may be procured by the Cooperative from time to time, if necessary.

8. Account

- A. The Cost of administering the Cooperative and paying for the Services through the Administrator shall be borne by all the Members. Payments into the Account shall be made as follows:

The Board, at least thirty (30) days prior to the start of each Fiscal Year, will approve the total anticipated costs and expenses of administering the Cooperative and providing the Services through the Administrator (the "Account Amount"). Each Member shall, thereafter, pay its share of the Account Amount, as follows:

- i. One-half (1/2) of the Account Amount shall be paid by the Members, with each Member paying twenty-five percent (25%) of said one-half (1/2) of the Account Amount.
- ii. One-half (1/2) of the Account Amount shall be paid by the Members, based on each Member's Claims history during the preceding Fiscal Year, based on the following formula:

$$\frac{\text{Number of the Member's Claims reported during the prior Fiscal Year}}{\text{Total Number of All Members' Claims reported during the prior Fiscal Year}} \times \text{One-half (1/2) of the Account Amount} = \text{The Individual Member's payment}$$

- iii. For the first Fiscal Year, the number of Claims used for each Member shall be the average number of Claims per year that each Member has had over their respective previous three (3) fiscal year periods.
- iv. As Mt. Prospect and MRMA are only participating in regard to the claims adjuster portion of the Services relative to workers' compensation claims, only Mt. Prospect's and MRMA's workers' compensation claims shall be used relative to calculating the number of Mt. Prospect Claims and MRMA Claims under this Section 8.

- v. Within ninety (90) days of the end of each Fiscal Year, there shall be a recalculation of each Member's share of the Account Amount for said Fiscal Year, based on the actual amount spent for the Services and the actual number of Claims of each Member during the Fiscal Year, with additional Account Amount payments being made by the Members, or refunds issued to the Members, as the case may be, within thirty (30) days thereafter.
 - vi. The Account Amount due from each Member, for each Fiscal Year, shall be paid to the Cooperative in four (4) equal payments, with twenty-five percent (25%) of the Account Amount due from each Member for the Fiscal Year due on or before the 15th day of January, April, July and October each Fiscal Year.
- B. **Supplementary Payments.** If, during any Fiscal Year, the funds on hand in the Account are not sufficient to pay the Cooperative's costs and expenses, the Board shall require supplementary payments. The amounts of such payments due from each Member for the Fiscal Year shall be computed utilizing the same method under which payments were made for the Account Amount for the Fiscal Year in question. Supplementary payments shall be in amounts sufficient, in the aggregate, to pay all the remaining estimated costs and expenses of the Cooperative for the year in question. Supplementary payments may be sought in more than one payment and calls for supplementary payments may be made more than once in a Fiscal Year.

9. Obligations of Members

The obligations of each Member shall be as follows:

- A. To pay promptly all payments to the Account at such times and in such amounts as are established by the Board within the scope of this Agreement. The Board may assess a penalty against any amounts not paid promptly. Such penalty shall be to charge interest on all delinquent amounts at an annual rate from the date the payment was due. The rate will be determined by the Board, but in no event shall it exceed the maximum rate permitted by law.
- B. To select promptly a Representative and Alternate Representative to serve on the Board, and any successors to such Representative/Alternate Representative.
- C. To cooperate fully with the Board and the Administrator.
- D. In the event that the Cooperative shall be required to expend funds for administrative, legal or other costs brought about by the failure of a Member to pay sums owed the Cooperative, such amounts expended shall be added to the sums due the Cooperative and shall be payable by the Member which has failed to pay said sums no less than thirty (30) days after such services/costs are incurred by the Cooperative.

10. Liability of Board and Officers

The Representatives/Alternate Representatives and the officers of the Cooperative Board shall use ordinary care and reasonable diligence in the exercise of their authority and in the performance of their duties. They shall not be liable for any mistake of judgment or other action made, taken or omitted by them in good faith; nor for any action made, taken or omitted by the Administrator; nor for loss incurred through investment of Cooperative funds, or failure to invest. No Representative, Alternate Representative or officer shall be liable for any action taken or omitted by any other Representative, Alternate Representative or officer. No Representative or Alternate Representative shall be required to give a bond or other security to guarantee the faithful performance of his/her duties hereunder except as required by this Agreement or by law. The Account shall be used to defend and hold harmless any Representative, Alternate Representative or officer of the Cooperative for actions taken by the Board or performed by the Representative, Alternate Representative or officer within the scope of his/her authority; the Cooperative may purchase insurance providing similar coverage for Representatives, Alternate Representatives and/or officers.

11. Contractual Obligation

The obligations and responsibilities of the Members set forth in this Agreement, including the obligation to take no action inconsistent with this Agreement as originally written or validly amended, shall remain a continuing obligation and responsibility of each Member. This Agreement may be enforced in law or equity either by the Cooperative itself or by any Member. If the Cooperative is ever required to pursue enforcement of this Agreement against any Member and, to any extent, is successful in said enforcement action, then the Member or Members against whom enforcement has been sought shall be liable, jointly and severally, for all fees, costs and other expenses, including, but not limited to, attorneys fees incurred by the Cooperative in said enforcement action. The consideration for the duties imposed upon the Members by this Agreement is based upon the mutual promises and agreements of the Members set forth herein and the advantages gained by the Members through participation in the Cooperative. Except to the extent of the limited financial contributions to the Cooperative each Member has agreed to make pursuant to this Agreement, no Member agrees by this Agreement to be responsible for any claims of any kind against any other Member. The Members intend in the creation of the Cooperative to establish an organization solely within the scope set forth in this Agreement and do not intend to create between the Members any relationship of partnership, surety, indemnification or liability for the debts of or Claims against another.

12. Indemnification

- A. Lombard shall indemnify and hold harmless Mt. Prospect, Wheeling and MRMA, and their respective elected officials, officers, agents and employees, with respect to any claim or loss, including, but not limited to, attorney's fees, costs and expenses of litigation, claims and judgments in connection with any and all claims for damages of any kind which may arise, either directly or indirectly, out of the acts or omissions of Lombard, or its elected officials, officers, agents, employees, consultants or contractors, pursuant to, or in furtherance of, this Agreement.

- B. Mt. Prospect shall indemnify and hold harmless Lombard, Wheeling and MRMA, and their respective elected officials, officers, agents and employees, with respect to any claim or loss, including, but not limited to, attorney's fees, costs and expenses of litigation, claims and judgments in connection with any and all claims for damages of any kind which may arise, either directly or indirectly, out of the acts or omissions of Mt. Prospect, or its elected officials, officers, agents, employees, consultants or contractors, pursuant to, or in furtherance of, this Agreement.
- C. Wheeling shall indemnify and hold harmless Lombard, Mt. Prospect and MRMA, and their respective elected officials, officers, agents and employees, with respect to any claim or loss, including, but not limited to, attorney's fees, costs and expenses of litigation, claims and judgments in connection with any and all claims for damages of any kind which may arise, either directly or indirectly, out of the acts or omissions of Wheeling, or its elected officials, officers, agents, employees, consultants or contractors, pursuant to, or in furtherance of, this Agreement.
- D. MRMA shall indemnify and hold harmless Lombard, Mt. Prospect and Wheeling, and their respective elected officials, officers, agents and employees, with respect to any claim or loss, including, but not limited to, attorney's fees, costs and expenses of litigation, claims and judgments in connection with any and all claims for damages of any kind which may arise, either directly or indirectly, out of the acts or omissions of MRMA, or its elected officials, officers, agents, employees, consultants or contractors, pursuant to, or in furtherance of, this Agreement.

13. No Waiver of Tort Immunity Defenses

Nothing contained in Section 12. above, or in any other provision of this Agreement, is intended to constitute, nor shall constitute, a waiver of the defenses available to any of the Members under the Illinois Local Governmental and Governmental Employees Tort Immunity Act (745 ILCS 10/1-101 *et seq.*) with respect to claims by third parties.

14. Miscellaneous

- A. Notice. All notices, other than notices of meetings, required by this Agreement, shall be in writing, and shall be given by personal service or by registered or certified mail, postage prepaid, return receipt requested, and addressed as follows:
 - i. If to Lombard: Village Manager
Village of Lombard
255 East Wilson Avenue
Lombard, Illinois 60148-3931
 - ii. If to Mt. Prospect: Village Manager
Village of Mount Prospect
50 South Emerson Street
Mount Prospect, Illinois 60056

- iii. If to Wheeling: Village Manager
Village of Wheeling
2 Community Boulevard
Wheeling, Illinois 60090
- iv. If to MRMA: Metro Risk Management Agency
c/o Michael D. Nugent
Nugent Consulting Group, LLC
2409 Peachtree Lane
Northbrook, Illinois 60062

or to such other address as any Member may, from time to time, designate in a written notice to the other Members. Service by certified mail shall be deemed given on the third day following the mailing of said notice, and service by personal delivery shall be deemed given upon actual delivery.

- B. Section Headings. The section headings inserted in this Agreement are for convenience only and are not intended to, and shall not be construed to limit, enlarge or affect the scope or intent of this Agreement or the meaning of any provision hereof.
- C. Validity and Savings Clause. In the event any provision of this Agreement shall be declared by a final judgment of a court of competent jurisdiction to be unlawful or unconstitutional or invalid as applied to any Member, the lawfulness, constitutionality or validity of the remainder of this Agreement shall not be deemed affected thereby.
- D. Counterparts. This Agreement, and any amendments thereto, may be executed in any number of counterparts which, taken together, shall constitute a single instrument.
- E. Governing Law. This Agreement shall be governed in accordance with the laws of the State of Illinois.
- F. Entire Agreement. This Agreement contains the entire understanding between the Members and supersedes any prior understanding or written or oral agreements between them regarding the subject matter hereof. There are no representations, agreements, arrangements or understandings, oral or written, between and among the Members hereto relating to the subject matter of this Agreement which are not fully expressed herein.
- G. Effective Date. This Agreement shall be deemed dated and become effective on the date on which the last of the Member executes this Agreement, as set forth below.

IN WITNESS WHEREOF, the Members, pursuant to authority granted by the appropriate action of each respective corporate authority/governing board, have caused this Agreement to be executed by their respective authorized representatives.

VILLAGE OF LOMBARD

By: _____
Peter Breen
Acting Village President

ATTEST:

Brigitte O'Brien,
Village Clerk

Dated: _____

VILLAGE OF MOUNT PROSPECT

By: _____
Irvana K. Wilks
Village President

ATTEST:

Lisa Angell
Village Clerk

Dated: _____

VILLAGE OF WHEELING

By: _____
Judy Abruscato
Village President

ATTEST:

Elaine Simpson
Village Clerk

Dated: _____

METRO RISK MANAGEMENT AGENCY

By: _____
Name: _____
Title: _____

ATTEST:

Name: _____
Title: _____

Dated: _____

STATE OF ILLINOIS)
) SS
COUNTY OF DuPAGE)

ACKNOWLEDGMENT

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named Peter Breen and Brigitte O'Brien, personally known to me to be the Acting Village President and Village Clerk of the Village of Lombard, and also known to me to be the same persons whose names are subscribed to the foregoing instrument as such Acting Village President and Village Clerk, respectively, appeared before me this day in person and severally acknowledged that, as such Acting Village President and Village Clerk, they signed and delivered the signed instrument, pursuant to authority given by the Village of Lombard, as their free and voluntary act, and as the free and voluntary act and deed of said Village of Lombard, for the uses and purposes therein set forth, and that said Village Clerk, as custodian of the corporate seal of said Village of Lombard, caused said seal to be affixed to said instrument as said Village Clerk's own free and voluntary act and as the free and voluntary act of said Village of Lombard, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this _____ day of _____, 2012.

Notary Public

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

ACKNOWLEDGMENT

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named Irvana K. Wilks and Lisa Angell, personally known to me to be the Village President and Village Clerk of the Village of Mount Prospect, and also known to me to be the same persons whose names are subscribed to the foregoing instrument as such Village President and Village Clerk, respectively, appeared before me this day in person and severally acknowledged that, as such Village President and Village Clerk, they signed and delivered the signed instrument, pursuant to authority given by the Village of Mount Prospect, as their free and voluntary act, and as the free and voluntary act and deed of said Village of Mount Prospect, for the uses and purposes therein set forth, and that said Village Clerk, as custodian of the corporate seal of said Village of Mount Prospect, caused said seal to be affixed to said instrument as said Village Clerk’s own free and voluntary act and as the free and voluntary act of said Village of Mount Prospect, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this _____ day of _____, 2012.

Notary Public

STATE OF ILLINOIS)
) SS
COUNTIES OF COOK AND LAKE)

ACKNOWLEDGMENT

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named Judy Abruscato and Elaine Simpson, personally known to me to be the Village President and Village Clerk of the Village of Wheeling, and also known to me to be the same persons whose names are subscribed to the foregoing instrument as such Village President and Village Clerk, respectively, appeared before me this day in person and severally acknowledged that, as such Village President and Village Clerk, they signed and delivered the signed instrument, pursuant to authority given by the Village of Wheeling, as their free and voluntary act, and as the free and voluntary act and deed of said Village of Wheeling, for the uses and purposes therein set forth, and that said Village Clerk, as custodian of the corporate seal of said Village of Wheeling, caused said seal to be affixed to said instrument as said Village Clerk's own free and voluntary act and as the free and voluntary act of said Village of Wheeling, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this ____ day of _____, 2012.

Notary Public

STATE OF ILLINOIS)
) SS
COUNTY OF _____)

ACKNOWLEDGMENT

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO
HEREBY CERTIFY that the above-named _____ and
_____, personally known to me to be the _____ and
_____ of the Metro Risk Management Agency ("MRMA"), and also
known to me to be the same persons whose names are subscribed to the foregoing instrument
as such _____ and _____, respectively, appeared
before me this day in person and severally acknowledged that, as such
_____ and _____, they signed and delivered the signed
instrument, pursuant to authority given by MRMA, as their free and voluntary act, and as the
free and voluntary act and deed of said MRMA, for the uses and purposes therein set forth, and
that said _____, as custodian of the corporate seal of said MRMA, caused said
seal to be affixed to said instrument as said _____'s own free and voluntary act and
as the free and voluntary act of said MRMA, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this _____ day of _____, 2012.

Notary Public