

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: October 26, 2006 (B of T) Date: November 2, 2006

TITLE: DuPage Theater Project Management Services Agreement

SUBMITTED BY: Department of Community Development *DH/WH*

BACKGROUND/POLICY IMPLICATIONS:

The Department of Community Development transmits for your consideration a resolution authorizing the signatures of President and Clerk on a Project Management Services Agreement between the Village of Lombard and RSC-Lombard, LLC in the amount of \$15,000 for the purposes of providing management services with respect to the partial demolition of the DuPage Theater. (DISTRICT #1)

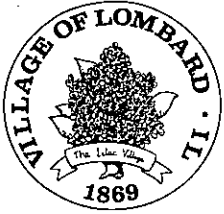
Please place this item on the November 2, 2006 Board of Trustees agenda.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X _____ Date _____
Finance Director X _____ Date _____
Village Manager X *W. T. Lichter* Date 10/26/06

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.



#060428 and #060617

MEMORANDUM

TO: William T. Lichter, Village Manager

FROM: David A. Hulseberg, AICP, Assistant Village Manager/Director of
Community Development DH|WHT

DATE: October 25, 2006

**SUBJECT: DEMOLITION SUPERVISION AGREEMENT AND
PROJECT MANAGEMENT SERVICES AGREEMENT**

Pursuant to Village Board direction at the last Board of Trustees meeting on October 19, 2006, staff has followed up with the two agreements which have been reviewed by Village Counsel. These agreements confirm Richard Curto's ability to proceed on the demolition of the DuPage Theater.

Recommendation:

Staff recommends that the Village Board authorize the Demolition Supervision and Project Management Services Agreements relative to the demolition of the DuPage Theater.

DAH:jd

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RESOLUTION
R _____ 07

**A RESOLUTION AUTHORIZING SIGNATURE OF
PRESIDENT AND CLERK ON AN AGREEMENT FOR PROJECT
MANAGEMENT SERVICES BETWEEN THE VILLAGE OF LOMBARD AND
RSC-LOMBARD, LLC**

WHEREAS, the Village of Lombard has received an Agreement between the Village of Lombard, and RSC-Lombard, LLC, as attached hereto and marked as 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 as attached hereto.

SECTION 2: That the Village Clerk be and hereby is authorized to attest said agreement as attached hereto.

Adopted this _____ day of _____, 2006.

Ayes: _____

Nayes: _____

Absent: _____

Approved this _____, day of _____, 2006.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk

AGREEMENT FOR PROJECT MANAGEMENT SERVICES

THIS AGREEMENT FOR PROJECT MANAGEMENT SERVICES
("Agreement"), effective Oct. 25, 2006 and is made by and between the Village of Lombard, an Illinois municipal corporation ("Village") and RSC-Lombard, LLC, an Illinois limited liability company ("Project Manager").

A. The Village, under the terms and conditions set forth herein, does employ the Project Manager to provide management services with respect to the partial demolition of the DuPage Theater located in the Village (the "Project");

B. The Village and the Project Manager acknowledge that the Village has employed Daniel P. Coffey & Associates, Ltd. (the "Architect") to provide professional design services on the Project and shall employ a Contractor ("Contractor") to perform the demolition work for the Project;

C. The Village has appropriated funds for the Project; and

D. The Project Manager desires, and is capable, to provide project management services for the Project described in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises herein contained, the Village and the Project Manager agree as follows:

1. **Project Manager's Services.** The Project Manager shall coordinate communication between the Village and the Contractor, shall oversee the Architect, who will review the demolition plans prepared and submitted by the Contractor, and shall review the construction draw packages prepared and submitted by the Contractor. Architect shall oversee the Contractor's work on the Project to effectuate compliance by the Contractor with the Architect's specifications for retention of portions of the structures involved in the Project and the demolition of only those portions of the structures that are specified.

2. **Limitation on Responsibility.** In providing the Project Manager's Services, Project Manager will promote a working relationship with other consultants and professionals, such as contractors, construction managers, architects and engineers (collectively, the "Other Contractors") with whom Owner contracts to provide various services on the Project. Nothing contained herein shall be construed to mean this Agreement supplants or conflicts with, or that Project Manager assumes any of such Other Contractors' respective contractual obligations or customary duties and responsibilities. Project Manager shall not be liable or responsible for: (i) the construction means, methods, techniques, sequences or procedures, or safety precautions and programs utilized by Other Contractors; (ii) Other Contractors' failure to perform under their respective contracts or the adequacy or quality of Other Contractors' work; (iii) the adequacy or accuracy of all or any part of the Project design; (iv) the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials in any form at the Project; or (v) delays in performing the Services resulting from delays caused by Other Contractors. Project Manager does not have control over and shall not be responsible for the acts or omissions of any

Other Contractors or their respective subcontractors, agents or employees, or any other persons performing work on the Project who are not employees of the Project Manager.

3. Compensation. The Project Manager shall be paid \$15,000 for its services rendered pursuant to this Agreement. Upon presentation of invoices payments shall be made, and interest on late payments shall be charged, pursuant to the provisions of the Local Government Prompt Payment Act.

4. Indemnification and Insurance. To the fullest extent permitted by law, the Project Manager shall and does agree to indemnify and hold harmless the Village and the Village Board, its members, officers, employees and agents from and against all claims, damages, losses, liens, causes of action, suits, judgments and expenses (including attorney's fees and other costs of defense), of any nature, kind or description, which (a) arise out of, are caused by or result from performance of the Project Manager's services hereunder and (b) are attributable to bodily injury, personal injury, sickness, disease or death of any person, or to damage to or destruction of property, including the loss of use and consequential damages resulting therefrom, but (c) only to the extent they are caused by any negligent acts of the Project Manager, anyone directly or indirectly employed by the Project Manager or anyone for whose acts the Project Manager is legally liable. Project Manager warrants that it carries insurance in sufficient amounts to cover its liability under this indemnification clause. Certificates of insurance evidencing Commercial General Liability coverage of \$1,000,000.00 shall be provided to the Village showing that the policy cannot be cancelled, non-renewed or modified without thirty (30) days prior written notice to the Village.

5. Termination. This Agreement may be terminated by either party upon fifteen (15) days written notice should the other party fail to perform in accordance with the terms of this Agreement; provided, however, the Project Manager shall not terminate this Agreement for non-payment if the Village makes any delinquent payment within ten (10) days of receipt of the Project Manager's written notice to terminate.

6. Miscellaneous.

A. No delay, omission or forbearance to exercise any right, power or remedy accruing to the Village or the Project Manager hereunder shall impair any such right, power or remedy or shall be construed to be a waiver of any breach hereof or default hereunder. Every such right, power or remedy may be exercised from time to time and as often as deemed expedient.

B. The Village and the Project Manager, each bind themselves, their successors, assigns and legal representatives, to the other party to this Agreement and to the successors, assigns and legal representatives of the other party with respect to all terms of this Agreement.

C. This Agreement and the Contract Documents represent the entire and integrated agreement between the Village and the Project Manager and supersede all prior negotiations, representations or agreements, either written or oral.

D. Amendments. This Agreement may be amended only by an amendment prepared by the Village and signed by both the Project Manager and the Village.

E. Multiple Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

F. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections hereof.

G. This Agreement shall be governed by the laws of the State of Illinois to the exclusion of the law of any other jurisdiction and the State of Illinois shall have jurisdiction over any action hereunder or related to the Project to the exclusion of any other forum. Venue for legal disputes shall be DuPage County, Illinois.

H. Capitalized Terms. Capitalized terms in this Agreement shall have the same meaning as those in the Standard Conditions, unless otherwise defined herein or unless another meaning is indicated by the context.

I. If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if such invalid or unenforceable provision were not contained herein. Such invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement, shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

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

VILLAGE:

The Village of Lombard, an Illinois municipal corporation

By: _____
Name: William J. Mueller
Title: Village President
Attest:
By: _____
Name: Brigitte O'Brien
Title: Village Clerk

PROJECT MANAGER:

RSC – Lombard, LLC, an Illinois limited liability company

By: RSC & Associates LLC, an Illinois limited liability company, its Manager

By: Richard S. Curto
Name: Richard S. Curto, Manager

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.