

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)  
 Other Business (Pink)

TO : PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott Niehaus, Village Manager

DATE : July 11, 2017      (BOT) Date: July 20, 2017

SUBJECT: First Amendment-Water and Sanitary Sewer Service Agreement Pin Oak  
Community Center, 1208 W. Roosevelt Rd., (Muslim Community Association of  
the Western Suburbs)

SUBMITTED BY: William J. Heniff, AICP, Director of Community Development 

**BACKGROUND/POLICY IMPLICATIONS:**

The attached First Amendment would allow for Pin Oak to connect to public water and sanitary sewer service lines owned by the Village of Glen Ellyn. The First Amendment would also terminate a 2012 Utilities Agreement upon completion of the connection.

**Fiscal Impact/Funding Source:**


Review (as necessary):

Finance Director \_\_\_\_\_ Date \_\_\_\_\_  
Village Manager \_\_\_\_\_ 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.

## MEMORANDUM

**TO:** Scott R. Niehaus, Village Manager

**FROM:** William J. Heniff, AICP, Director of Community Development 

**MEETING DATE:** July 20, 2017

**SUBJECT:** **FIRST AMENDMENT TO A WATER AND SANITARY SEWER SERVICE AGREEMENT – PIN OAK COMMUNITY CENTER**

On September 6, 2012, the Village and Muslim Community Association of the Western Suburbs (MCAWS) also referenced as Pin Oak, entered into a Water and Sanitary Service Agreement for the Pin Oak Community Center, a religious institution currently under construction in unincorporated DuPage County at 1208 W. Roosevelt Road (the southwest corner of Roosevelt Road and Lawler Avenue). The Agreement provided the opportunity for the connection of a temporary connection for sanitary sewer service from the Village of Glen Ellyn and the construction of a water main by Pin Oak, to connect to Lombard's public water system and generally in conjunction with Pin Oak development. Costs associated with the connection would be borne by Pin Oak, although recapture provisions were included within the Agreement.

Since the Agreement was approved, the Pin Oak project has only begun construction in earnest this past year. Additionally, the proposed Bucky's gas station/convenience store adjacent to the Pin Oak site is also being reviewed by the Village of Glen Ellyn for development approval and companion utility connections. Given these events, the Village of Lombard received a request from Pin Oak to consider allowing for the full connections to Glen Ellyn's utilities located on the north side of Roosevelt Road.

To effectuate this action, Village Counsel has prepared the attached First Amendment to the Water and Sanitary Sewer Service Agreement. The agreement:

1. Provides the opportunity for Pin Oak to connect to Glen Ellyn's public watermain and sanitary sewer services. The attached First Amendment will also serve as a formal notification document to the Village of Glen Ellyn that the Lombard Village Board consents to the connection, per the provisions of Section 6(G) of the current Boundary Agreement between the municipalities.
2. Sets forth provisions to make the original agreement null and void if Pin Oak completes the utility connections to Glen Ellyn within three years from the date of execution of the First Amendment. If the connection does not occur within that prescribed timeline, the Original Agreement would remain in effect.

Glen Ellyn staff is aware of this pending action and they have represented that they can provide utility services to the property, provided that Lombard authorizes the connection. Costs associated with the Glen Ellyn utility connections would be borne by Pin Oak.

Staff notes that even with this action, the property will remain unincorporated but a part of the Lombard's planning jurisdiction. Should Pin Oak and Lombard deem it to be in our mutual best interest to annex the property at some point in the future, the parties can negotiate any annexation terms at that time. As such, approval of this action does not negatively impact Lombard going forward.

**ACTION REQUESTED**

Please place this item on the July 20, 2017 Village Board for consideration and approval. Staff recommends that the Village Board approve the attached First Amendment to the Water and Sanitary Sewer Service Agreement between the Village and Pin Oak Community Center.

**FIRST AMENDMENT TO THE  
WATER AND SANITARY SEWER SERVICE AGREEMENT  
FOR PIN OAK COMMUNITY CENTER**

This FIRST AMENDMENT TO THE WATER AND SANITARY SEWER SERVICE AGREEMENT FOR PIN OAK COMMUNITY CENTER (hereinafter referred to as the "FIRST AMENDMENT") is dated the \_\_\_ day of \_\_\_\_\_, 2017, by and between the Village of Lombard, an Illinois non-home rule municipal corporation (hereinafter referred to as the "VILLAGE"), and the Muslim Community Association of the Western Suburbs, an Illinois not-for-profit corporation and religious organization (hereinafter referred to as "PIN OAK"). The VILLAGE and PIN OAK are sometimes individually referred to herein as a "Party" and collectively as the "Parties."

**WITNESSETH**

**WHEREAS**, the VILLAGE and PIN OAK entered into a Water and Sanitary Service Agreement for the Pin Oak Community Center dated September 6, 2012 (hereinafter referred to as the "ORIGINAL AGREEMENT"); and

**WHEREAS**, the ORIGINAL AGREEMENT contemplated a temporary connection for sanitary sewer service from the Village of Glen Ellyn (hereinafter referred to as "GLEN ELLYN") and the construction of a water main by PIN OAK, to connect to the VILLAGE's water system, relative to PIN OAK's development of the SUBJECT PROPERTY, as defined in the ORIGINAL AGREEMENT; and

**WHEREAS**, based on a change in circumstances, since the approval of the ORIGINAL AGREEMENT, it would appear that the development of the SUBJECT PROPERTY, as defined in the ORIGINAL AGREEMENT, as currently contemplated by PIN OAK, would best be accomplished with permanent connections to the water and sanitary sewer systems of GLEN ELLYN; and

**WHEREAS**, the VILLAGE has no objection to the SUBJECT PROPERTY, as defined in the ORIGINAL AGREEMENT, being permanently connected to GLEN ELLYN's water and sanitary sewer systems; and

**WHEREAS**, it is in the best interests of the VILLAGE and PIN OAK to enter into this FIRST AMENDMENT;

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

1. That, notwithstanding any other provision of the ORIGINAL AGREEMENT, the VILLAGE hereby consents to PIN OAK permanently connecting the SUBJECT PROPERTY, as defined in the ORIGINAL AGREEMENT, to GLEN ELLYN's water and sanitary sewer systems, provided said connections are made by PIN OAK within three (3) years of the date of this FIRST AMENDMENT, and subject to the remaining terms of this FIRST AMENDMENT.
2. In the event that the VILLAGE receives written notice from GLEN ELLYN, indicating that the SUBJECT PROPERTY, as defined in the ORIGINAL AGREEMENT, has been connected to GLEN ELLYN's water and sanitary sewer systems, within three (3) years of the date of this FIRST AMENDMENT, the ORIGINAL AGREEMENT shall become null and void.
3. In the event that the VILLAGE does not receive written notice from GLEN ELLYN, indicating that the SUBJECT PROPERTY, as defined in the ORIGINAL AGREEMENT, has been connected to GLEN ELLYN's water and sanitary sewer systems, within three (3) years of the date of this FIRST AMENDMENT, this FIRST AMENDMENT shall become null and void, and the ORIGINAL AGREEMENT shall remain in full force and effect thereafter, according to its terms, and without any of the provisions of this FIRST AMENDMENT being applicable thereto.
4. That, other than as modified by Section 1 above, until such time as the VILLAGE receives notice from GLEN ELLYN, as contemplated in Section 2 above, the ORIGINAL AGREEMENT shall remain in full force and effect.
5. The officers of PIN OAK executing this FIRST AMENDMENT warrant that they have been lawfully authorized by PIN OAK's Board of Directors to execute this FIRST AMENDMENT on behalf of PIN OAK. The President and Clerk of the VILLAGE hereby warrant that they have been lawfully authorized by the Corporate Authorities of the VILLAGE to execute this FIRST AMENDMENT. PIN OAK and the VILLAGE shall deliver to each other, upon request, copies of all bylaws, joint venture agreements, resolutions, ordinances or other documents required to legally evidence the authority to so execute this FIRST AMENDMENT on behalf of the respective Parties.
6. This FIRST AMENDMENT may be executed in two (2) or more counterparts, each of which, taken together, shall constitute one and the same instrument.
7. This FIRST AMENDMENT shall be signed last by the VILLAGE, and the President of the VILLAGE shall affix the date on which he signs this FIRST AMENDMENT on the first page hereof.

**IN WITNESS WHEREOF**, the Parties hereto have executed this **FIRST AMENDMENT** below.

**MUSLIM COMMUNITY ASSOCIATION OF THE WESTERN SUBURBS**

By: \_\_\_\_\_  
Talha Ali, President

Date: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_

**VILLAGE OF LOMBARD, DuPAGE COUNTY, ILLINOIS**

By: \_\_\_\_\_  
Keith T. Giagnorio, Village President

Date: \_\_\_\_\_

**ATTEST:**

By \_\_\_\_\_  
Sharon Kuderna, Village Clerk

Date: \_\_\_\_\_

State of Illinois     )  
                                  )  
County of DuPage    )

**Certification**

I, the undersigned, a Notary Public, in and for the County and State aforesaid, do hereby certify that Keith T. Giagnorio and Sharon Kuderna, personally know to me to be the Village President and Village Clerk, respectively, of the Village of Lombard, DuPage County, Illinois, 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 Village President and Village Clerk, they signed and delivered the said instrument as Village President and Village Clerk of said Village, and caused the corporate seal of said Village to be affixed thereto, pursuant to authority given by the Board of Trustees of said Village, as their free and voluntary act, and as the free and voluntary act and deed of said Village for the uses and purposes therein set forth.

Given under my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Notary Public

State of Illinois     )  
                                  )  
County of DuPage    )

**Certification**

I, the undersigned, a Notary Public, in and for the County and State aforesaid, do hereby certify that Talha Ali and \_\_\_\_\_, personally know to me to be the President and \_\_\_\_\_, respectively, of the Muslim Community Association of the Western Suburbs, 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 acknowledged that, as such President and \_\_\_\_\_, they signed and delivered the said instrument as their free and voluntary act and as the free and voluntary act of the Muslim Community Association of the Western Suburbs, for the uses and purposes therein set forth.

Given under my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Notary Public