

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

 X Resolution or Ordinance (Blue) X *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: February 5, 2018 BOT DATE: February 15, 2018

TITLE: AN ORDINANCE DELARING THE NECESSITY FOR THE VILLAGE OF LOMBARD TO USE AND OCCUPY CERTAIN REAL ESTATE OWNED BY THE FOREST PRESERVE DISTRICT OF DUPAGE COUNTY, FOR THE WASTEWATER TREATMENT FACILITIES OF THE GLENBARD WASTEWATER AUTHORITY, PURSUANT TO THE LOCAL GOVERNMENT PROPERTY TRANSFER ACT (50 ILCS 605/0.01 et seq.)

SUBMITTED BY: Carl Goldsmith, Director of Public Works 

BACKGROUND/POLICY IMPLICATIONS:

The ordinance sets forth the process for the Village of Lombard to obtain an easement for the use of property owned by the Forest Preserve District of DuPage County to be used in conjunction with the operation of the Glenbard Wastewater Authority sanitary treatment facility.

FISCAL IMPACT/FUNDING SOURCE

Review (as necessary):

Village Attorney X _____ Date _____
Finance Director X _____ Date _____
Village Manager X _____ Date _____

NOTE: Materials must be submitted to (approved by the Village Manager's Office by 12:00 pm, Wednesday, prior to the Agenda Distribution.



February 2, 2018

TO: Village President and Board of Trustees

THROUGH: Scott Niehaus, Village Manager

FROM: Carl Goldsmith, Director of Public Works *g*

SUBJECT: Property Transfer between the Village of Lombard and the Forest Preserve District of DuPage County – Amended Ordinance

Background

In April 2016, the Village of Lombard was notified that an easement agreement for property adjacent to the Combined Sewer Overflow (CSO) facility with the DuPage County Forest Preserve District had expired. The property was subject to an easement agreement dating back to 1966 for the property just south of the Combined Sewer Overflow facility on Hill Avenue. The Village obtained use of the property for the treatment of sanitary sewerage via a 50 year easement agreement.

Village staff has been actively working with the DuPage County Forest Preserve District on an agreement that would allow for continued use of the District's property for the Combined Sewer Overflow plant. The property is used for storage following treatment at the CSO facility and is 9.5 acres in size. The Village and District have agreed to the continued use of the property via a ninety-nine (99) year non-exclusive easement. Per District policy, the Village is responsible for paying fair-market for the acreage, which is valued at \$15,000 per acre. The total cost for the easement is \$142,500 and will be paid for by the Glenbard Wastewater Authority. The Easement Agreement will be adopted by the Village Board by a Resolution authorizing the Village President and Village Clerk to execute the agreement.

Prior to the execution of the easement agreement, that will effectuate agreement for continued use of the property, the Village Board of Lombard must first adopt an ordinance DECLARING THE NECESSITY FOR THE VILLAGE OF LOMBARD TO USE AND OCCUPY CERTAIN REAL ESTATE OWNED BY THE FOREST PRESERVE DISTRICT OF DUPAGE COUNTY, FOR THE WASTEWATER TREATMENT FACILITIES OF THE GLENBARD WASTEWATER AUTHORITY. Which would satisfy the requirements of the Local Government Property Transfer Act (50 ILCS 605/0.01 et seq.).

Recommendation

Staff recommends that the Village President and Board of Trustees adopt AN ORDINANCE DECLARING THE NECESSITY FOR THE VILLAGE OF LOMBARD TO USE AND OCCUPY CERTAIN REAL ESTATE OWNED BY THE FOREST PRESERVE DISTRICT OF DUPAGE COUNTY, FOR THE WASTEWATER TREATMENT FACILITIES OF THE

GLENBARD WASTEWATER AUTHORITY, PURSUANT TO THE LOCAL GOVERNMENT PROPERTY TRANSFER ACT (50 ILCS 605/0.01 et seq.), AND REPEALING ORDINANCE NO. 7219, ADOPTED MAY 19, 2016, AND ORDINANCE NO. 7227, ADOPTED JUNE 16, 2016, IN RELATION THERETO.

ORDINANCE NO. _____

AN ORDINANCE DECLARING THE NECESSITY FOR THE VILLAGE OF LOMBARD TO USE AND OCCUPY CERTAIN REAL ESTATE OWNED BY THE FOREST PRESERVE DISTRICT OF DUPAGE COUNTY, FOR THE WASTEWATER TREATMENT FACILITIES OF THE GLENBARD WASTEWATER AUTHORITY, PURSUANT TO THE LOCAL GOVERNMENT PROPERTY TRANSFER ACT (50 ILCS 605/0.01 *et seq.*), AND REPEALING ORDINANCE NO. 7219, ADOPTED MAY 19, 2016, AND ORDINANCE NO. 7227, ADOPTED JUNE 16, 2016, IN RELATION THERETO

WHEREAS, the Forest Preserve District of DuPage County (the "District") owns an approximately 9.5 +/- acre parcel of property within the East Branch Riverway Forest Preserve that is legally described on Exhibit "A" attached hereto and made part hereof, and depicted in Exhibit "B" attached hereto and made part hereof (the "District Property"); and

WHEREAS, the District granted an easement to the Village of Lombard (the "Village"), on March 15, 1966, for the purpose of operating a wastewater treatment facility on the District Property, which easement has now expired; and

WHEREAS, the Village of Glen Ellyn ("Glen Ellyn") and the Village jointly established, and are members of, the Glenbard Wastewater Authority ("GWA"), which is charged with the responsibility of treating and processing wastewater for Glen Ellyn, the Village and unincorporated portions of DuPage County; and

WHEREAS, the GWA operates the wastewater treatment facility on the District Property, and the GWA has determined that the wastewater treatment facility on the District Property is an integral part of the GWA's responsibilities in regard to treating and processing wastewater; and

WHEREAS, the Village has determined that it is necessary or convenient for the Village to use, occupy or improve the District Property, and to acquire a new easement over the District Property, for a period of ninety-nine (99) years, for the public use being made thereon by the GWA on behalf of the Village (the "Easement"); and

WHEREAS, per the District's rules and regulations, the District must charge the Village for the Easement, at the rate of Fifteen Thousand and No/100 Dollars (\$15,000.00) per acre, resulting in a total charge for the Easement of One Hundred Forty-Two Thousand Five Hundred and No/100 Dollars (\$142,500.00) (the "Easement Price"); and

WHEREAS, GWA has agreed to reimburse the Village for the cost of the Easement in the amount of the Easement Price; and

WHEREAS, based on GWA's agreement to reimburse the Village for the cost of the Easement, the Village is willing to pay the District the Easement Price for the Easement; and

WHEREAS, the District and the Village are "municipalities," as defined in Section 1(c) of the Local Government Property Transfer Act, 50 ILCS 605/1(c) (the "Transfer Act"); and

WHEREAS, Section 2 of the Transfer Act authorizes municipalities, pursuant to a two-thirds (2/3rds) vote of the members of its corporate authority, to convey real estate or any interest therein to another municipality for any municipal or public purpose of the transferee municipality and upon such terms and conditions as may be agreed to by the municipalities; and

WHEREAS, as a condition precedent to conveyance under Section 2 of the Transfer Act, the transferee municipality must first declare, by ordinance, "that it is necessary or convenient for it to use, occupy or improve the real estate held by the transferor municipality";

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

SECTION 1: The foregoing recitals to this Ordinance are hereby determined to be true and correct, and are hereby incorporated in and made part of this Ordinance.

SECTION 2: That it is necessary or convenient for the Village to use, occupy or improve the District Property, and to acquire a new easement over the District Property, for a period of ninety-nine (99) years, for the public use being made thereon by the GWA, for the benefit of the Village.

SECTION 3: That Village staff is authorized and directed to negotiate an easement, between the Village and the District, over the District Property, and forward same to the President and Board of Trustees of the Village for approval at a future Village Board meeting.

SECTION 4: That Ordinance No. 7219, adopted May 19, 2016, and Ordinance No. 7227, adopted June 16, 2016, are hereby repealed.

SECTION 5: That this Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

Passed on first reading this ____ day of _____, 2018.

First reading waived by action of the Board of Trustees this ____ day of _____, 2018.

Passed on second reading this ____ day of _____, 2018, pursuant to a roll call vote as follows:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED by me this ____ day of _____, 2018.

Keith Giagnorio, Village President

ATTEST:

Sharon Kuderna, Village Clerk

Exhibit "A"

The District Property

Legal Description

(attached)

LEGAL DESCRIPTION

PARCEL 1:

LOT 1 IN FOREST PRESERVE DISTRICT I-355 ASSESSMENT PLAT NO. 2 OF PART OF THE SOUTHEAST ¼ OF SECTION 12, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 28, 2008 AS DOCUMENT R2008-031313, IN DUPAGE COUNTY, ILLINOIS.

P.I.N.: 05-12-404-026

PARCEL 2:

THAT PART OF THE SOUTHEAST ¼ OF SECTION 12, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, DUPAGE COUNTY, ILLINOIS DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHEAST ¼ OF SAID SECTION 12; THENCE SOUTH ALONG THE EAST LINE OF SAID SECTION 12 FOR A DISTANCE OF 1070.8 FEET, TO A POINT ON THE SOUTHERLY LINE OF THE MEYER SHAPOTKIN PROPERTY; THENCE WESTERLY ALONG SAID PROPERTY LINE WHICH FORMS AN ANGLE OF 87 DEGREES .35 MINUTES TO THE RIGHT WITH A PROLONGATION OF LAST DESCRIBED COURSE FOR A DISTANCE OF 53.1 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE STATE BOND ISSUE ROUTE NO. 53 FOR A POINT OF BEGINNING; THENCE CONTINUING WESTERLY ON THE LAST DESCRIBED COURSE TO A POINT IN THE CENTERLINE OF THE EAST BRANCH OF THE DUPAGE RIVER IN ITS PRESENT COURSE; THENCE SOUTHERLY ALONG THE CENTERLINE OF SAID RIVER TO A POINT ON THE NORTHERLY LINE OF NICHOLAS SURGE'S ESTATE PROPERTY; THENCE EAST ALONG SAID PROPERTY LINE TO A POINT ON THE AFORESAID WESTERLY RIGHT OF WAY LINE OF STATE BOND ISSUE ROUTE 53 WHICH POINT IS 56.3 FEET WEST OF THE OF THE EAST LINE OF THE AFORESAID SECTION 12; THENCE NORTHERLY ALONG SAID WESTERLY RIGHT OF WAY LINE OF STATE BOND ISSUE ROUTE NO. 53 FOR A DISTANCE OF 1147.7 FEET MORE OR LESS TO THE POINT OF BEGINNING EXCEPT THAT PART TAKEN BY ILLINOIS STATE TOLL HIGHWAY AUTHORITY FOR INTERSTATE I-355 PER QUITCLAIM DEED RECORDED AUGUST 19, 2005 AS DOCUMENT R2005-180812, IN DUPAGE COUNTY, ILLINOIS.

P.I.N.: 05-12-404-027

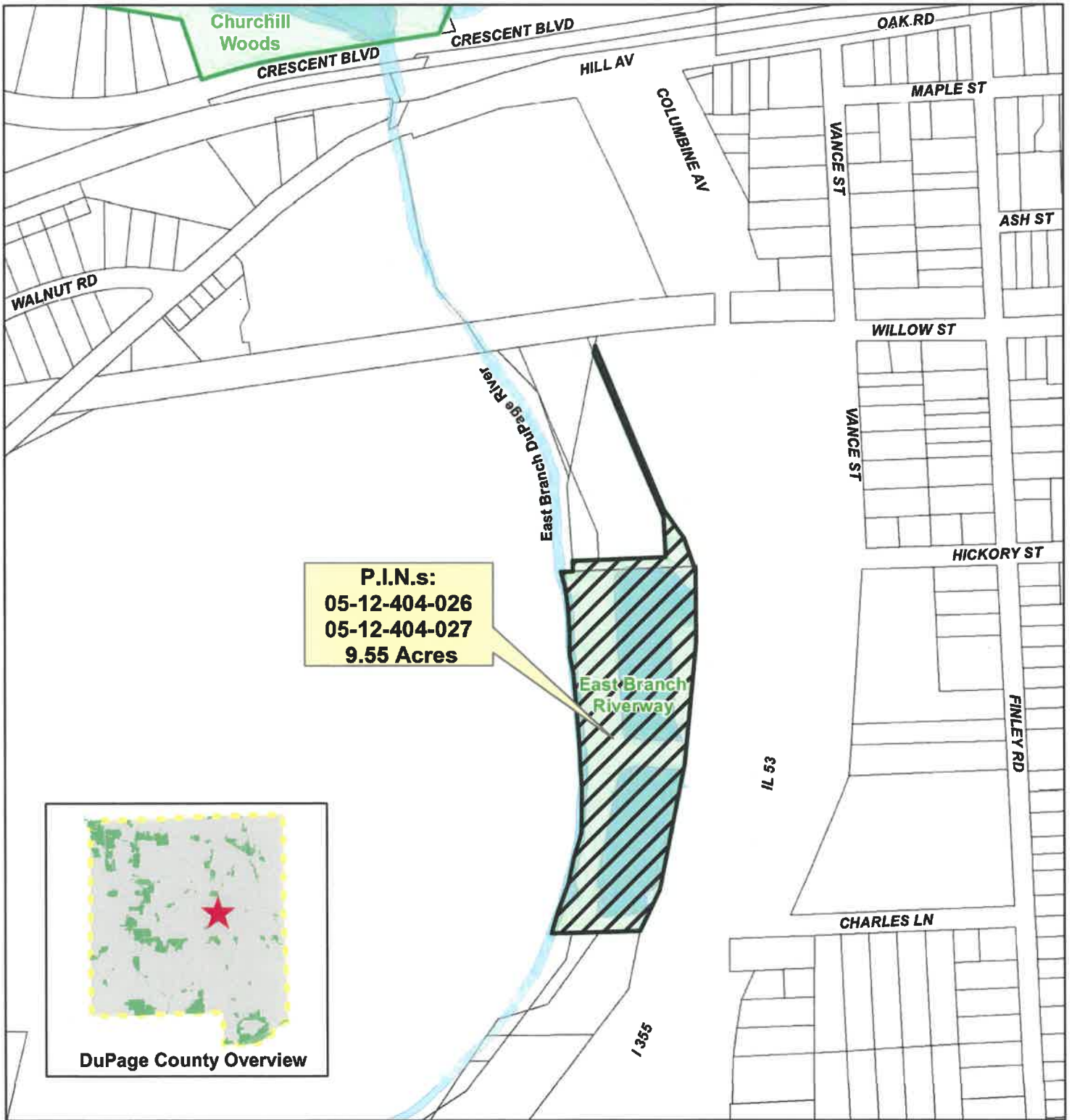
Exhibit “B”



The District Property

Depiction

(attached)

East Branch Riverway - Easement Agreement Depiction



-  FPD Bounds
-  Easement Premises

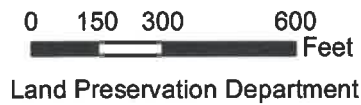


EXHIBIT "B"