

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: David A. Hulseberg, Village Manager

DATE: March 13, 2013 (B of T) Date: March 21, 2013

TITLE: PC 12-19: 300 W. 22nd Street

SUBMITTED BY: Department of Community Development *WA*

BACKGROUND/POLICY IMPLICATIONS:

The Department of Community Development transmits for your consideration a resolution authorizing the signature of the Village President on an Agreement to Reimburse Costs allowing Village Counsel to begin crafting a Special Service Agreement relative to the project's impact on EMS services.

Staff recommends approval of this request.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X _____ Date _____
Finance Director X _____ Date _____
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.



MEMORANDUM

TO: David A. Hulseberg, Village Manager

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

DATE: March 21, 2013

SUBJECT: **PC 12-19: 300 W. 22nd Street– Reimbursement Agreement**

At the March 7, 2013 Village Board meeting, the Village Board approved a first reading of an Ordinance amending the Covington Cove landing planned development and granting conditional use approval to allow for the construction of an 80 unit assisted living facility at 300 W. 22nd Street (the “Subject Property”). Condition 4 of the Ordinance of approval states:

4. *That prior to or concurrent with the final Ordinances of approval for the proposed project, the petitioner shall enter into an agreement to offset the additional costs of the facility on Village services. Said agreement, which shall be mutually agreeable to the Village and the petitioner, shall satisfactorily address the long term and ongoing service impacts of the proposed use on Village EMS services.*

The Subject Property has been purchased by Spectrum Development (the “Petitioner”) who will construct and operate the facility, if the project is ultimately approved. The Petitioner and staff have been discussing the concerns related to the proposed project’s impact on the Village services, primarily the Fire Department and Emergency Medical Services (EMS). To address this issue, the Petitioner has conceptually consented to enter into an agreement to compensate the Village for costs associated with the project’s impact on EMS services through the creation of a Special Service Area (SSA).

In an effort to cover the Village’s legal expenses for the creation of the SSA, staff is requesting that the Village Board authorize the execution of the attached reimbursement agreement. The agreement provides for Spectrum to make a \$5,000 prepayment and pay up to \$10,000 for the review of this document. This process is similar to how the Village has previously addressed Highway Authority Agreements and is consistent with the reimbursement provisions set forth within Section 16 et. seq. of Village Code. Entering into this agreement does not bind the Village to ultimately grant the SSA or its companion zoning approvals. Rather, it is only intended to cover the Village’s legal fees for drafting the SSA. The final approval action will be brought to the Village Board upon completion of the SSA drafting process and requisite public hearings are completed.

RECOMMENDATION

Staff recommends that the Village Board authorize the execution of the attached reimbursement agreement to allow Village Counsel to draft the proposed SSA document.

RESOLUTION
R _____ 13

**A RESOLUTION AUTHORIZING THE SIGNATURE OF THE VILLAGE
PRESIDENT ON AN AGREEMENT TO REIMBURSE COSTS**

WHEREAS, the Corporate Authorities of the Village of Lombard have received an Agreement to Reimburse Costs from Spectrum Acquisition Lombard, LLC for the purpose of reimbursing the Village for costs associated with the establishment of a Special Service Area for the property located at 300 W. 22nd Street, Lombard, IL, 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 this Agreement to Reimburse Costs.

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DUPAGE 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.

Adopted this ____ day of _____, 2013.

Ayes: _____

Nayes: _____

Absent: _____

Approved this _____ day of _____, 2013.

William Ware
Acting Village President

ATTEST:

Brigitte O'Brien
Village Clerk

AGREEMENT TO REIMBURSE COSTS

Date: 9/19/12

Requestor: **SPECTRUM DEVELOPMENT** *ACQUISITION LOMBARD, LLC*

Affected Property: **300 West 22nd Street
Lombard, Illinois 60148
P.I.N.: 06-19-400-026**

Prepayment: **\$5,000.00**

Maximum: **\$10,000.00**

Recitals

WHEREAS, Requestor has requested the Village of Lombard, Illinois (the "Village") to establish a special service area to provide for the cost of the additional paramedic and ambulance services (the "Services") that will be required to be provided by the Village relative to the Requestor's development and operation of an assisted living facility (the "Facility") on the Affected Property; and

WHEREAS, it is in the best interests of the Village and its citizens that the Village be reimbursed for the cost of the Services; and

WHEREAS, in order to set up the requested special service area, particularized legal expertise is required; and

WHEREAS, recognizing the unavailability of Village staff to provide the requested assistance, Requestor has offered to reimburse the Village for its costs incurred in providing the requested assistance;

NOW, THEREFORE, IT IS AGREED BETWEEN THE REQUESTOR AND THE VILLAGE AS FOLLOWS:

- 1. Requested Assistance.** Requestor asks the Village to establish a special service area, to pay for the cost of the Services, covering the Affected Property.
- 2. Village to Provide Requested Assistance.** The Village agrees to establish a special service area, to pay for the cost of the Services, with levy amounts and the number of levy years to be as agreed to by the Requestor and the Village.
- 3. Requestor Promise to Reimburse.** Requestor agrees to reimburse the Village for all of the costs of legal consultants retained by the Village, and costs incurred by the Village, in connection with the Village's establishment of the special service area. While the Village agrees to exercise reasonable control over its incurrence of costs, it does not commit that its costs will be less than a particular sum; provided, however, it is understood Requestor does not agree to pay an amount greater than the Maximum stated above, except upon Requestor's express written supplemental direction to the Village. Reimbursement of legal consultant costs and other costs incurred by the Village relative to the special service area shall be made to the Village not later than thirty (30) days following the Requestor's receipt of a copy of the



consultant's statement and/or proof of the other costs incurred by the Village relative to the special service area.

4. **Prepayment of Costs.** This Agreement shall be null and void unless Requestor, within three (3) days after the date of this Agreement, pays to the Village the Prepayment stated above. This is to guarantee reimbursement to the Village, but does not replace the obligations of Section 3. above.

5. **Termination.** This Agreement to Reimburse Costs shall terminate upon the establishment of the special service area, and the filing of the tax levy ordinance relative thereto with the DuPage County Clerk. Otherwise, this Agreement may be terminated by either party upon three (3) days written notice to the other. All costs incurred by the Village prior to its sending or receipt of such notice are reimbursable hereunder.

On the date shown above, the Requestor and the Village, through their authorized representatives, have entered into this Agreement.

Requestor:

ACQUISITION LOMBARD, LLC
SPECTRUM DEVELOPMENT

VILLAGE OF LOMBARD

By:  _____

By: _____

Name: Jeffrey D. Kraus

Name: _____

Title: Manager

Title: _____