

RESOLUTION
R _____ 07

**CORNERSTONE SITE 700/800 MGZ DUPAGE DISPATCH
COMMUNICATIONS**

A Resolution authorizing application for a Grant under the Infrastructure Maintenance Fee Litigation Cy Pres Committee's general authority to make such Grants.

WHEREAS, in 1997, the State of Illinois enacted the Telecommunications Infrastructure Maintenance Fee (IMF) Act, which authorized the imposition of a fee of 1% of the gross charges on wireless retailers. Municipalities throughout the state imposed the IMF on telecommunications bills from January 1, 1998 through February 7, 2002; and

WHEREAS, in 1998, a lawsuit was filed challenging the fee, which the court ruled unconstitutional and, upon appeal, the Illinois Supreme Court affirmed the unconstitutionality of the Municipal IMF only as it applied to wireless retailers; and

WHEREAS, in 2000, municipalities that imposed the IMF were joined as defendants in a class action lawsuit that asserted the unconstitutionality of the Infrastructure Maintenance Fee and sought refunds of the IMF; and

WHEREAS, as of October 18, 2005, a settlement was approved that required defendant class members to pay into the settlement fund 70% of the amounts collected through the Municipal IMF for wireless telecommunications services; and

WHEREAS, the court will distribute the settlement fund in accordance with cy pres principles, or for its "next best" use. The settlement fund will be distributed as follows:

- 60% (sixty percent) for municipal emergency 9-1-1 telecommunications programs located anywhere within the State of Illinois; and
- 40% (forty percent) for medical facilities providing emergency care to indigent patients located in areas outside the six-county northeastern Illinois region; and

WHEREAS, the court has established a three person committee (Cy Pres Committee) to make recommendations as to how the cy pres grants will be distributed.

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 Village of Lombard hereby requests use of the telecommunications infrastructure maintenance fee cy pres funds for the described purposes in this application.

SECTION 2: That David A. Hulseberg, Assistant Village Manager of the Village of Lombard, is authorized to file an application on behalf of the Village of Lombard with the Cy Pres Committee for a grant for Cornerstone Site 700/800 MHZ DuPage Dispatch Communications.

SECTION 3: That the funds applied for will be expended consistent with the recitals in the application.

SECTION 4: That David A. Hulseberg Assistant Village Manager of the Village of Lombard, is authorized to furnish such additional information, assurances, certifications and amendments as the Cy Pres Committee may require in connection with this grant application.

SECTION 5: That David A. Hulseberg, Assistant Village Manager of the Village of Lombard, is authorized and directed on behalf of the Village of Lombard to execute and deliver a grant application and all subsequent amendments thereto between the Village of Lombard and the Cy Pres Committee and the Clerk of the Village of Lombard is authorized and directed on behalf of the Village of Lombard to attest said application and all subsequent amendments thereto.

SECTION 6: That David A. Hulseberg, Assistant Village Manager of the Village of Lombard, is authorized and directed to take such action as is necessary or appropriate to implement, administer and enforce said applications and all subsequent amendments thereto on behalf of the Village of Lombard.

SECTION 7: That the Village of Lombard will provide the Cy Pres Committee with a certification of a certified public accountant certifying that the grant funds were expended in conformity with the formal application of the use of the funds to ensure compliance with the grant program. Certification will be provided within 90 days of a request by the Cy Pres Committee

PRESENTED and **ADOPTED** this ____ day of _____, 2006.

VILLAGE OF LOMBARD

By: _____
William J. Mueller
Village President

ATTEST: _____
Brigitte O'Brien
Village Clerk