

**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:** Scott Niehaus, Village Manager

**DATE:** June 2, 2017 (BOT) Date: June 15, 2017

**SUBJECT:** Fifth Amendment to the Intergovernmental Agreement with York Township regarding Route 53 and Madison Street

**SUBMITTED BY:** Carl S. Goldsmith, Director of Public Works *g*

**BACKGROUND/POLICY IMPLICATIONS:**

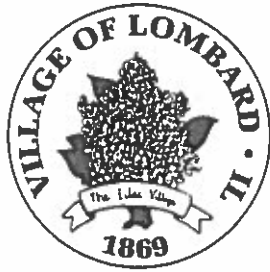
A Resolution authorizing the signature of the President and Clerk on the Fifth Amendment to the Intergovernmental Agreement with York Township regarding Route 53 and Madison Street.

**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.



June 2, 2017

TO: Village President and Board of Trustees

THROUGH: Scott Niehaus, Village Manager

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

SUBJECT: Fifth Amendment to the Intergovernmental Agreement with York Township regarding Route 53 and Madison Street

### **Background**

In June 2010, the Village Board of Trustees approved the execution of an intergovernmental agreement (IGA) with the York Township Highway Commissioner relative to improvements to the intersection of IL Route 53 and Madison Street. The agreement provided for the Village to make improvements to the unincorporated portions of Madison Street as part of the project. The estimated cost of the improvements in the unincorporated segment of the project was \$402,049, which will be paid for by the York Township Highway Commissioner.

In June 2012, the Village and the York Township Highway Commissioner executed the First Amendment to the IGA. The First Amendment to the IGA provided that the Commissioner would pave portions of School Street and 14<sup>th</sup> Street within Lombard's corporate limits as part of the Township's grind and overlay of the asphalt roadways in the former York Co-op. Under the First Amendment, the York Township Highway Commissioner paved 14<sup>th</sup> Street from Meyers Road to a point 750 feet west of the western right-of-way line of Westmore and a portion of School Street from Roosevelt Road to 14<sup>th</sup> Street. These roadways were annexed by the Village of Lombard in 2008 during the construction of the South Booster Station.

The portion of the improvement within the Village's right-of-way was estimated at \$208,935.75. As no funding source for the Village's contribution towards the York Co-op grind & overlay project was available at the time, the Village discussed the possibility of the York Township Highway Commissioner paying the full cost of the York Co-op improvements and have that amount deducted from the York Township Highway Commissioner's contribution towards the Route 53 and Madison Project. The First Amendment was approved by the Village Board on June 21, 2012.

In January 2014 the Village and the York Township Highway Commissioner executed the Second Amendment to the IGA. The Second Amendment sought to reduce the scope of the project due to the elimination of water and sanitary sewer through the unincorporated areas of

the project. This was done as a result of a survey that was conducted of the property owners. As a result of the project revisions, the following changes were made under the Second Amendment:

- Total Project cost was reduced from \$3,577,893 to \$3,314,503.
- The York Township Highway Commissioner's portion of the project costs were reduced from \$402,049 to \$307,497.

In June 2015 the Village and the Village and the York Township Highway Commissioner have executed the Third Amendment to the IGA, which provided that the Township resurface 20<sup>th</sup> Street between Main Street and Highland Avenue. Portions of the roadway are within the corporate limits of Lombard, while other sections are unincorporated territory. The work along 20<sup>th</sup> Street was estimated at \$90,124.40. Based upon the First, Second and Third Amendments to the IGA, the balance due from the York Township Highway Commissioner to the Village was reduced from \$98,652 to \$8,527.60.

In August 2016, the Village and Township Roadway Commissioner executed the 4<sup>th</sup> Amendment to the IGA that addressed an issue relative to the installation of street lighting on Madison Street. That amendment provided that the Village exclude the installation of the lighting along Madison Street until 24 months of IDOT completing the Route 53 reconstruction and widening.

The Village has completed the project and based upon the later than expected start of the project, due to the review and approvals by the Illinois Department of Transportation, the project deadlines, including those provisions of the IGA dealing with involuntary annexation are nearing expiration. The Township has requested consideration of a Fifth Amendment to the IGA, which would provide the following:

1. Amending the term of the Village agreeing not to seek forcible annexation of the properties along Madison. The original IGA stated that the Village agreed not to seek annexation prior to January 1, 2018 and included a sliding scale for the Township's contribution to the project. The Village is agreeable to extending the date for the "forcible annexation moratorium" through January 1, 2023 and extending the provision for reimbursement through the revised date.
2. The Village and Township Commissioner agree to include a provision that should 50% or more of the unincorporated residents petition the Village for utility services, the provision of the forcible annexation is terminated and the Village could seek to annex the properties.
3. Amending the provision contained in the 4<sup>th</sup> Amendment to the IGA that provides that the Village will install street lighting along Madison Street within twenty-four (24) months of IDOT completing the RT. 53 reconstruction and widening project to a term of sixty (60) month from the date that IDOT completes the reconstruction and widening project.

The Village Attorney has reviewed the agreement and the York Township Highway Commissioner has executed the agreement. I would request that this matter be placed on the

Village Board agenda for the June 15, 2017 meeting. Should you have any questions, please feel free to contact me. I thank you for your time and consideration of this matter.

**Recommendation**

Staff recommends that the Village Board of Trustees approve the Fifth Amendment to the Intergovernmental Agreement with York Township regarding Route 53 and Madison Street.

**RESOLUTION**

**R \_\_\_\_-17**

**A RESOLUTION AUTHORIZING SIGNATURE OF  
PRESIDENT AND CLERK ON AN AGREEMENT**

**WHEREAS**, the Corporate Authorities of the Village of Lombard have received The Fifth Amendment to an Agreement between the Village of Lombard and the York Township Highway Commissioner regarding the reconstruction of Madison Street between IL Route 53 and Finley Road.

**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 June, 2017.

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

Approved this \_\_\_\_\_ day of June, 2017.

\_\_\_\_\_  
**Keith Giagnorio**  
**Village President**

ATTEST:

\_\_\_\_\_  
**Sharon Kuderna**  
**Village Clerk**

APPROVAL AS TO FORM:

\_\_\_\_\_  
**Thomas P. Bayer**  
**Village Attorney**

**FIFTH AMENDMENT TO  
AN INTERGOVERNMENTAL AGREEMENT  
BETWEEN THE VILLAGE OF LOMBARD AND  
THE YORK TOWNSHIP HIGHWAY COMMISSIONER  
REGARDING IMPROVEMENTS TO MADISON STREET**

This FIFTH AMENDMENT TO INTERGOVERNMENTAL AGREEMENT (the "FIFTH AMENDMENT") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by and between the VILLAGE OF LOMBARD (the "VILLAGE") and the YORK TOWNSHIP HIGHWAY COMMISSIONER (the "COMMISSIONER"). The VILLAGE and the COMMISSIONER are hereinafter sometimes referred to collectively as the "Parties."

**WITNESSETH**

**WHEREAS**, the VILLAGE and the COMMISSIONER entered into AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE VILLAGE OF LOMBARD AND THE YORK TOWNSHIP HIGHWAY COMMISSIONER REGARDING IMPROVEMENTS TO MADISON STREET, dated June 17, 2010 (the "ORIGINAL AGREEMENT"); and

**WHEREAS**, the VILLAGE and the COMMISSIONER entered into a FIRST AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE VILLAGE OF LOMBARD AND THE YORK TOWNSHIP HIGHWAY COMMISSIONER REGARDING IMPROVEMENTS TO MADISON STREET, dated June 21, 2012 (the "FIRST AMENDMENT"); and

**WHEREAS**, the VILLAGE and the COMMISSIONER entered into a SECOND AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE VILLAGE OF LOMBARD AND THE YORK TOWNSHIP HIGHWAY COMMISSIONER REGARDING IMPROVEMENTS TO MADISON STREET, dated January 16, 2014 (the "SECOND AMENDMENT"); and

**WHEREAS**, the VILLAGE and the COMMISSIONER entered into a THIRD AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE VILLAGE OF

LOMBARD AND THE YORK TOWNSHIP HIGHWAY COMMISSIONER REGARDING IMPROVEMENTS TO MADISON STREET, dated July 16, 2015 (the "THIRD AMENDMENT"); and

**WHEREAS**, the VILLAGE and the COMMISSIONER entered into a FOURTH AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE VILLAGE OF LOMBARD AND THE YORK TOWNSHIP HIGHWAY COMMISSIONER REGARDING IMPROVEMENTS TO MADISON STREET, dated August 18, 2016 (the "FOURTH AMENDMENT" – the ORIGINAL AGREEMENT as amended by the FIRST AMENDMENT, the SECOND AMENDMENT, the THIRD AMENDMENT and the FOURTH AMENDMENT being hereinafter referred to as the "AMENDED AGREEMENT"); and

**WHEREAS**, the VILLAGE and the COMMISSIONER desire to amend certain provisions of the AMENDED AGREEMENT, relative to annexation of the properties abutting the ROADWAY (as defined in the AMENDED AGREEMENT), and street lighting relative to the PROJECT (as defined in the AMENDED AGREEMENT); and

**WHEREAS**, Article VII, Section 10 of the 1970 Illinois Constitution and 5 ILCS 220/1 through 220/9 provide authority for intergovernmental cooperation; and

**WHEREAS**, it is in the best interests of the VILLAGE and the COMMISSIONER to enter into this FIFTH AMENDMENT;

**NOW, THEREFORE**, in consideration of the foregoing, and the mutual covenants and agreements hereinafter contained, the Parties hereto agree as follows:

1. That Section 7 of the AMENDED AGREEMENT is hereby revised as follows:
  - A. The reference to "January 1, 2018," as contained therein, is revised to read, "January 1, 2023."
  - B. The following language shall be added to the end thereof: "Notwithstanding the foregoing, in the event that the owners of fifty percent (50%) or more of the lineal feet of unincorporated frontage abutting upon the ROADWAY petition the

VILLAGE for utility service (water and sanitary sewer service), the VILLAGE shall not be precluded from annexing properties within the limits of the PROJECT, and, upon any such annexation by the VILLAGE, no monetary refund shall be due the COMMISSIONER under this Section and Exhibit "C" attached hereto."

2. That Section 15 of the AMENDED AGREEMENT is hereby amended by revising the reference therein to "twenty-four (24) months," to read, "sixty (60) months."
3. That the AMENDED AGREEMENT is hereby amended by adding the following to the end of Exhibit "C":

"If the VILLAGE annexes the property between January 1, 2018 and December 31, 2018, the VILLAGE shall reimburse to the COMMISSIONER ten percent (10%) of the COMMISSIONER'S PROJECT costs, as calculated pursuant to Section 6 of this AGREEMENT.

If the VILLAGE annexes the property between January 1, 2019 and December 31, 2019, the VILLAGE shall reimburse to the COMMISSIONER seven and one-half percent (7.5%) of the COMMISSIONER'S PROJECT costs, as calculated pursuant to Section 6 of this AGREEMENT.

If the VILLAGE annexes the property between January 1, 2020 and December 31, 2020, the VILLAGE shall reimburse to the COMMISSIONER five percent (5%) of the COMMISSIONER'S PROJECT costs, as calculated pursuant to Section 6 of this AGREEMENT.

If the VILLAGE annexes the property between January 1, 2021 and December 31, 2021, the VILLAGE shall reimburse to the COMMISSIONER two and one-half percent (2.5%) of the COMMISSIONER'S PROJECT costs, as calculated pursuant to Section 6 of this AGREEMENT.

If the VILLAGE annexes the property between January 1, 2022 and December 31, 2022, the VILLAGE shall reimburse to the COMMISSIONER one percent (1%) of the COMMISSIONER'S PROJECT costs, as calculated pursuant to Section 6 of this AGREEMENT."

4. That all portions of the AMENDED AGREEMENT, not amended hereby, shall remain in full force and effect.
5. This FIFTH AMENDMENT shall be executed simultaneously in two (2) counterparts, each of which shall be deemed an original, but both of which shall constitute one and the same FIFTH AMENDMENT.




6. This FIFTH AMENDMENT shall be deemed dated and become effective on the date the last of the Parties executes this FIFTH AMENDMENT, as set forth below.

IN WITNESS WHEREOF, the VILLAGE and the COMMISSIONER, pursuant to the authority duly granted, have caused this FIFTH AMENDMENT to be signed by their respective authorized corporate authorities.

VILLAGE OF LOMBARD

\_\_\_\_\_  
Keith Giagnorio, Village President

YORK TOWNSHIP  
HIGHWAY COMMISSIONER  
  
\_\_\_\_\_  
Dick Schroeder, Highway Commissioner

ATTEST:

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

Dated: 5/22/17

Dated: \_\_\_\_\_

**ACKNOWLEDGMENT**

State of Illinois     )  
                                  ) SS  
County of DuPage    )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that Keith Giagnorio and Sharon Kuderna, personally known to me to be the Village President and Village Clerk of the Village of Lombard, 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 and caused the corporate seal of said municipal corporation to be affixed thereto, pursuant to authority given by the Village Board of Trustees of said municipal corporation, as their free and voluntary act, and as the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein set forth.

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

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

**ACKNOWLEDGMENT**

State of Illinois        )  
                                  ) SS  
County of DuPage     )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that Dick Schroeder, personally known to me to be the York Township Highway Commissioner, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that, as such York Township Highway Commissioner, he signed and delivered the said instrument as his free and voluntary act, and as the free and voluntary act and deed of said York Township Highway Commissioner, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this 22<sup>nd</sup> day of May, 2017.



Pamela T Sarno  
Notary Public