

LEGISTAR #150358  
DISTRICT: ALL

**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 16, 2015                      **(BOT) Date:** August 13, 2015  
**SUBJECT:** Intergovernmental Agreement With School District 45  
**SUBMITTED BY:** Paul DiRienzo, Fire Chief

**BACKGROUND/POLICY IMPLICATIONS:**

The purpose of this Agreement is to establish the relationship with School District 45 and the cooperative responsibilities of each party as they relate to the placement, operation, and maintenance, on the site of Westmore Elementary School, an outdoor warning siren. The agreement establishes the actions and responsibilities of each party during the period of this agreement terminating June 1, 2040.

**Fiscal Impact/Funding Source:** None

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.



To: Scott Niehaus, Village Manager

From: Paul DiRienzo, Fire Chief

Date: July 16, 2015

**Subject: Intergovernmental Agreement**

For your review and Village President approval;

The attached Intergovernmental License Agreement to be entered into with The Board of Education of DuPage County School District 45. The purpose of this Agreement is to establish the relationship with School District 45 and the cooperative responsibilities of each party as they relate to the placement, operation, and maintenance, on the site of Westmore Elementary School, an outdoor warning siren. The agreement establishes the actions and responsibilities of each party during the period of this agreement terminating June 1, 2040

**RESOLUTION**

**R\_\_\_\_\_**

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

**WHEREAS**, the Corporate Authorities of the Village of Lombard have received a Intergovernmental License Agreement between the Village of Lombard and The Board of Education of DuPage County School District 45, as attached hereto and marked Exhibit "A"; and

**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 13<sup>th</sup> day of August, 2015.

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

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

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

Approved this 13th day of August, 2015.

\_\_\_\_\_  
**Kieth Giagnorio  
Village President**

ATTEST:

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

APPROVAL AS TO FORM:

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

**INTERGOVERNMENTAL LICENSE AGREEMENT BETWEEN  
DUPAGE COUNTY SCHOOL DISTRICT 45 AND THE VILLAGE OF LOMBARD  
FOR THE LOCATION OF A SEVERE WEATHER WARNING SIREN**

THIS INTERGOVERNMENTAL LICENSE AGREEMENT (the "Agreement") is made and entered into this \_\_\_ day of August, 2015, by and between THE BOARD OF EDUCATION OF DUPAGE COUNTY SCHOOL DISTRICT 45 (the "District") and the VILLAGE OF LOMBARD, an Illinois municipal corporation (the "Village"). (The Village and the District are sometimes referred to herein individually as a "Party" and collectively as the "Parties.")

WHEREAS, District and Village are public agencies within the meaning of the Illinois Intergovernmental Cooperation Act (5 ILCS 220/1 *et seq.*) (the "Act") and are authorized by the Act and by Article VII, Section 10 of the 1970 Constitution of the State of Illinois to enter into intergovernmental agreements of cooperation; and

WHEREAS, District is the owner of property on which is located its Westmore Elementary School at 340 S. School Street in the Village of Lombard ("Westmore Elementary School"), and on which Village desires to install an outside warning siren; and

WHEREAS, District, through its Board of Education (the "Board"), has the authority to grant the use of school grounds under such provisions and control as the Board sees fit to impose, pursuant to Section 10-22.10 of the School Code (105 ILCS 5/10-22.10); and

WHEREAS, District and Village desire to cooperate in the installation, maintenance and operation of a severe weather warning system pursuant to the terms and conditions in this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, District and Village agree as follows:

1. Incorporation of Preamble Recitals. The above preamble recitals are incorporated herein by reference as through fully set forth.

2. Purpose. The purpose of this Agreement is to provide a location on the site of Westmore Elementary School on which Village's Fire Department may construct and maintain an outside warning siren for severe and dangerous weather. The outside warning siren and accompanying structures, utility services, and associated parts or devices necessary for its operation will be referred to herein as the "Outside Warning System."

3. Location: Grant of License to Location to Effect Purpose of Agreement. The Parties mutually agree that the Outside Warning System shall be located on the Westmore Elementary School site as indicated on the site plan attached as Exhibit A to and made a part of this Agreement (the “Location”). District hereby grants to Village a license to access and use the Location for the purpose set forth in Section 2 above, subject to the terms and conditions specified in this Agreement.

4. Construction. The Parties agree that the Outside Warning System shall be placed on its own utility pole, which Village shall install at the Location. Village agrees to construct the Outside Warning System in compliance with all applicable building codes, ordinances, and regulations. All design and construction plans must be submitted for District’s review and approval before the start of any construction.

5. Outside Warning System Components. The Parties shall mutually agree upon the type of siren and other components required for the Outside Warning System.

6. Access. District agrees to provide access to the Location for Village’s employees and contractors from the nearest public road, walk way, driveway, or District parking lot, to enable them to install and maintain the Outside Warning System. District also agrees to allow the installation of an underground electrical service line to provide electrical service to the Outside Warning System. District shall inform Village of the permitted access route prior to the commencement of any work on the Outside Warning System. With advance notice to Village, District may change the access route at any time, as long as similar access is provided to the Outside Warning System.

7. Cost. Village agrees to pay for all costs of the construction, maintenance, operation, and removal of the Outside Warning System, including the removal of any utilities

installed to operate the Outside Warning System. Village also agrees to pay for all electrical and other utility service charges for the Outside Warning System's operation, and agrees to have separate utility meters and accounts as needed to operate and allow for separate utility service charges for the Outside Warning System. In the event that District incurs any expenses in connection with the construction, maintenance, operation, and removal of the Outside Warning System, Village agrees that it will promptly reimburse District for said expenses.

8. Term. This Agreement shall be effective upon execution and shall remain in effect until July 1, 2040, unless terminated earlier by either Party.

9. Termination. Either Party may terminate this Agreement for any reason by providing six (6) months' advance written notice to the other Party. In the event that either Party has materially breached this Agreement, the non-breaching Party may terminate this Agreement by providing written notice to the other Party of the breach and allowing the Party in breach fourteen (14) days to cure. If the Party in breach has not cured after fourteen (14) days, the non-breaching Party may terminate this Agreement immediately.

10. Relocation. If for any reason District desires to have the Outside Warning System relocated to another location on its property, it shall so notify Village in writing, upon the receipt of which Village shall have one hundred eighty (180) days in which to relocate the Outside Warning System to a mutually agreed substitute location. Village shall be responsible for all costs associated with relocating the Outside Warning System.

11. Restoration. Village agrees to restore District's property to the same condition the property was in prior to the construction, maintenance, operation, or removal of the Outside Warning System, including associated utility services. Village agrees to perform such restoration

and repairs within thirty (30) days of written notice from District of damage to the property or of other conditions requiring restoration of the property.

**12. Indemnification.** Village agrees to indemnify and hold harmless District, its Board, individual Board members, and its affiliates, officers, agents, volunteers, and employees (the "Indemnified Parties") from any and all liabilities, damages (regardless of type or amount), claims, causes of action, demands, actions, costs, penalties, suits or matters, including attorneys' fees and court costs, to the extent arising from a breach of this Agreement by Village, and to the extent arising from any negligent act or omission of Village, its employees, or its contractors.

**13. Insurance.** Village shall procure and maintain, through an insurance company or companies licensed to conduct business in Illinois, insurance with coverage and limits as specified below, and shall cause District, its Board, individual Board members, officers, employees, agents, representatives, and volunteers, to be named as additional insureds on these policies by endorsement. All such insurers shall carry a Best Key Guide Rating of A / XV. The commercial general liability and automobile liability policies shall be endorsed to reflect that coverage is primary to and noncontributory with any other insurance available to District. The commercial general liability policy shall, by endorsement, provide contractual liability coverage, including the indemnity obligations provided in this Agreement. Each such policy shall include, by endorsement, a requirement of at least thirty (30) days' written notice to District prior to any termination or cancellation of or material amendment to that policy. Upon execution of this Agreement, and on an annual basis thereafter during the term of this Agreement or any extension thereof, the Village shall furnish to District certificate(s) of insurance, policies, and endorsements reflecting the required coverages. The type and minimum limits of insurance required are as follows:

<u>Type</u>	<u>Limits</u>
Commercial General Liability	
Per Occurrence:	\$1,000,000
Aggregate:	\$2,000,000
Automobile Liability:	\$1,000,000 (combined single limit)
Workers' Compensation:	Statutory Minimum
Umbrella / Excess:	\$3,000,000

Notwithstanding the foregoing, Village shall be entitled to self-insure for all or a portion of the required insurance provided that the Village give advance written notice to the District of its intent to do so, and specifying the amount that the Village will self-insure.

**14. Amendment.** Any term or condition of this Agreement may be amended, deleted or altered only by written agreement approved by and duly executed by District and Village, specifically referring to this Agreement.

**15. Notice.** Any and all notices required under this Agreement shall be served personally or sent registered or certified mail and shall be considered served to the other Party when placed with the United States mail as follows:

To Village:

Scott Niehaus  
Village Manager  
Village of Lombard  
255 East Wilson Avenue  
Lombard, Illinois 60148  
(630) 620-5705  
[nichauss@villageoflombard.org](mailto:nichauss@villageoflombard.org)

With copies to:

Chuck Riforgiate  
Fire Marshal



Village of Lombard  
255 East Wilson Avenue  
Lombard, Illinois 60148  
(630) 873-4576  
[riforgiatec@villageoflombard.org](mailto:riforgiatec@villageoflombard.org)

Thomas P. Bayer  
Klein, Thorpe and Jenkins, Ltd.  
20 North Wacker Drive, Suite 1660  
Chicago, Illinois 60606  
(312) 984-6422  
[tpbayer@ktjlaw.com](mailto:tpbayer@ktjlaw.com)

To District:

Patricia Volling  
Assistant Superintendent of Finance  
School District 45  
255 West Vermont Street  
Villa Park, Illinois 60181  
(630) 516-7330  
[pvolling@d45.org](mailto:pvolling@d45.org)

With copy to:

Heidi A. Katz  
Matthew J. Gardner  
Robbins Schwartz  
55 West Monroe Street, Suite 800  
Chicago, Illinois 60603  
(312) 332-7760  
[hkatz@robbins-schwartz.com](mailto:hkatz@robbins-schwartz.com)  
[mgardner@robbins-schwartz.com](mailto:mgardner@robbins-schwartz.com)

**16. Severability.** If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, then the remainder of this Agreement shall not be affected by such determination, and each and every other provision of this Agreement shall remain valid and enforceable to the fullest extent permitted by law.

**17. Limitation on Assignment; Binding Effect.** Village may assign this Agreement only with the consent of District provided in writing prior to the assignment. This Agreement shall be

binding on and shall inure to the benefit of the respective Parties' successors and permitted assignees.

**18. Governing Law.** This Agreement shall be construed by the laws of the State of Illinois. The Parties consent to the venue and jurisdiction of the Circuit Court of DuPage County, Illinois.

**19. Entire Agreement.** The Parties intend this Agreement as the entire and complete expression of their understandings, and this Agreement supersedes any and all prior and contemporaneous agreements or understandings relating to its subject matter.

**IN WITNESS WHEREOF**, the Parties hereto, by their duly authorized representatives, have executed this Agreement, effective as of the date first above written, which date shall be the date of the last signatory below.

**President and Board of Trustees  
Village of Lombard**

**Board of Education  
DuPage County School District 45**

By: \_\_\_\_\_  
Keith Giagnorio  
Village President

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

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

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

Attest: \_\_\_\_\_  
Sharon Kuderna  
Village Clerk

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

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

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

**Exhibit A**

**Depiction of the  
Location of the Outside Warning System  
on the Westmore Elementary School Site**

(attached)

