

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: William T. Lichter, Village Manager

DATE: February 26, 2008 (B of T) Date: March 6, 2008

TITLE: 23 W. Maple Street (Lombard Historical Museum)

SUBMITTED BY: Department of Community Development 

BACKGROUND/POLICY IMPLICATIONS:

The Department of Community Development transmits for your consideration a resolution authorizing signatures of Village President and Clerk on a Third Amendment to the Use Agreement for the Lombard Historical Museum. This Agreement will further extend the time period of the agreement for an additional five years. (DISTRICT #1)

Please place this item on the March 6, 2008 Board of Trustees agenda.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X

Finance Director X

Village Manager X

William T. Lichter

Date

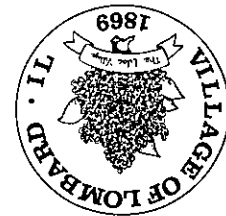
Date

Date

2/27/08

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: William T. Lichter, Village Manager

FROM: David A. Hulseberg, AICP
Assistant Village Manager/Director of Community Development
D. Hulseberg

DATE: March 6, 2008

SUBJECT: Third Amendment to the Use Agreement – Historical Museum (23 W. Maple Street)

Attached for the Village Board consideration is a Third Amendment to the Historical Museum Use Agreement. The Second Amendment to the Agreement will expire on April 14, 2008. The Third Amendment with further extend the time period of the agreement for an additional five year period from the date of approval. All other provisions of the Original Agreement and First Amendment will remain in full force and effect.

ACTION REQUESTED

Please place this item on the March 6, 2008 Village Board agenda with a request to approve the attached resolution authorizing the signature of the President and Village Clerk on the Third Amendment.

H:\CD\WORD\USER\Historical Commission\Historical Museum\WTL memo Third Amendment.doc

SECOND AMENDMENT TO HISTORICAL SOCIETY USE AGREEMENT

This Second Amendment to Historical Society Use Agreement (the "Second Amendment") between the Village of Lombard (the "Village") and the Lombard Historical Society (the "Society") is made and entered into this _____ day of November, 1998.

W I T N E S S E T H

WHEREAS, the Village and the Society, on April 15, 1993, entered into a ten-year agreement for the use of 23 West Maple Street, Lombard, Illinois, by the Society, as a Historical Museum (the "Original Agreement"); and

WHEREAS, the Village and the Society, on June 3, 1993, entered into an amendment to the Original Agreement (the "First Amendment"), (the Original Agreement and the First Amendment being collectively referred to as the "Amended Agreement"); and

WHEREAS, the Society has requested that the term of the Amended Agreement be extended for an additional five (5) year period; and

WHEREAS, the Village is willing to extend the Amended Agreement for an additional five (5) year period.

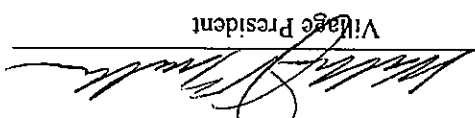
NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. That Section E1 of said Amended Agreement be and hereby is amended to read in its entirety as follows:

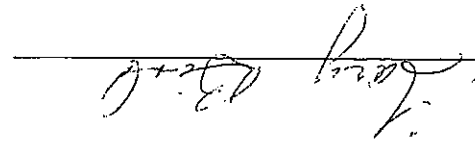
"1. The term of this Agreement shall be from the date hereof through and including April 14, 2008."

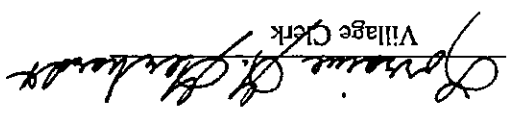
2. That all other terms and conditions of the Amended Agreement shall remain in full force and effect as if set forth herein.

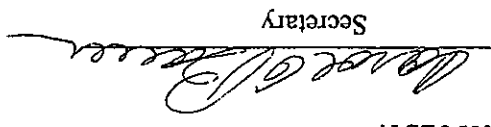
IN WITNESS THEREOF, the parties have executed this Second Amendment as of the day and year first written above.

BY 
VILLAGE OF LOMBARD
Village President

LOMBARD HISTORICAL SOCIETY

BY 

ATTEST:

Village Clerk

ATTEST:

Secretary

ORDINANCE NO. 3700

AN ORDINANCE AUTHORIZING AN AMENDMENT TO
AN AGREEMENT WITH THE LOMBARD HISTORICAL SOCIETY

WHEREAS, the Village of Lombard and the Lombard Historical Society desire to amend a Use Agreement entered into on April 15, 1993 for the lease of 23 West Maple Street, Lombard, Illinois to correct a term in said Agreement to allow the Society to provide aggregate comprehensive general liability insurance in the amount of \$2,000,000; and

WHEREAS, said Agreement may only be amended by a written document signed by both parties.

NOW, THEREFORE, be it ordained by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, that:

Section 1: An Agreement to Amend a Use Agreement in substantially the form attached hereto as Exhibit "A" and made a part hereof is hereby approved.

Section 2: The Village President and the Village Clerk are hereby authorized and directed to execute said Agreement to Amend a Use Agreement on behalf of the Village.

Section 3: This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided in law.

Passed on first reading this _____ day of _____, 1993.

First reading waived by action of the Board of Trustees this 3rd day of _____, June _____, 1993.

and amended Agreement dated the 13th day of September, 1971, is superseded by this Agreement and in consideration of the Premises (to be herein after defined), the exchange of mutual promises and

NOW, THEREFORE, the parties agree that certain restated Agreement to supersede that certain restated and amended Agreement dated the 13th day of September, 1971;

WHEREAS, the Village and the Society wish to enter into a new Agreement to supersede that certain restated and amended Agreement dated the 13th day of September, 1971, and subsequently amended to extend the expiration date of such Agreement to the 13th day of June, 1993; and

WHEREAS, such Agreement dated the 13th day of September, 1971, was restated on September 3, 1981, and subsequently amended to extend the expiration date of such Agreement to the 13th day of June, 1993; and

WHEREAS, the Village and the Society heretofore entered into a ten-year Agreement on the 13th day of September, 1971, regarding the acquisition, maintenance and operation of the premises located at 23 West Maple Street, Lombard, Illinois, as a Historical Museum;

W I T N E S S E T H :

THIS AGREEMENT is made and entered into this 15th day of April, 1993, by and between the Village of Lombard, a municipal corporation ("Village") and the Lombard Historical Society, an Illinois not-for-profit corporation ("Society").

USE AGREEMENT

Authorized by
Ordinance 3680

other good and valuable consideration, the parties hereby covenant and agree as follows:

A. Definitions. When used in this Agreement, the following terms shall have the following meanings:

1. "premises" means the real property located at LOT 1 IN THE RESUBDIVISION OF LOT 6 IN BLOCK 27 OF THE ORIGINAL TOWN OF LOMBARD, A SUBDIVISION OF PART OF THE NORTHEAST 1/4 OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, DUPAGE COUNTY, ILLINOIS, commonly known as 23 West Maple Street, Lombard, Illinois.
2. "Structures" means the house, coach-house, privy and all other structures which exist, now or during the duration of this Agreement, upon the Premises.
3. "Lombard Historical Commission", means a committee appointed by the Village which shall be a liaison between the Society and the Village in the performance of this Agreement.

B. The Village shall:

1. Pay certain expenses based on an annual budget prepared by the Lombard Historical Commission and submitted for approval to the Village Board of Trustees. The following budget items, upon approval by the Village Board, shall be paid for directly by the Village or reimbursement for the payment thereof shall be made by the Village to the Society: (i) exterior maintenance or interior structural repair to the structures located on the Premises in keeping with the historical era of the first years of the experience of the Village of Lombard, (ii) repair and/or

replacement of the hot water heater and the source of heat for the structures, (iii) electrical services to the structures located upon the Premises, including the display lights located thereon, and security alarm and monitoring services, (iv) publicity expenses; and (v) the following expenses associated with employment of a museum director: payroll accounting fees, state, federal and local payroll taxes where applicable, independent insurance, benefits, workers' compensation and employers' liability insurance, individual professional memberships, work related transportation costs, tuition and conference fees and individual operating expenses. Such reimbursements to the Society shall be made by the Village semi-annually pursuant to the Village's fiscal year, every June and November except that payment for the expenses associated with employment of the museum director shall be made monthly. All financial records of the Society pertaining to the disbursement of Village funding shall be subject to an annual audit at the Village's expense. Notwithstanding any other provision in this Agreement should the Village Board of Trustees vote to reduce or eliminate the funds allocated for the position of museum director in any Village fiscal year, monies shall be set aside to fund the position for an additional 90 days from the date such written notice is received by the Society. Emergency expenditures not contained in the Lombard Historical Commission Annual Budget shall be reviewed by the Village on an individual basis and, if approved, paid in timely fashion;

Notwithstanding any other provision to the contrary in this Agreement, the Society shall employ a museum director if the director shall also comply with the stated purpose of the Society and the written policies and procedures as set forth by its board of management as well as the provisions of this Agreement. The museum programs including management of the museum volunteers. The museum director shall report to the Society and shall be responsible for the daily operation of the museum and its community service expenses for employment of a museum director, employ a museum director who shall report to the Society and shall be responsible for the daily operation of the museum and its community service expenses for employment of a museum director, employ a museum director upon receipt of full funding of its budgeted

5. The Society shall:

1. Contingent upon receipt of full funding of its budgeted structures.
2. Maintain a fire insurance policy in applicable amounts for the structures. The Village shall be responsible for all deductibles should a loss occur, and such policy shall name the Society as an additional insured;
3. Provide water and sewer service without charge;
4. Provide telephone service without charge; and
5. Maintain the Premises and its Structures in compliance with any and all federal, state or local laws, including but not limited to the Americans with Disabilities Act of 1990, and provide any governmental license or permit required for the proper and lawful existence of the Premises and its Structures. In complying with any and all federal, state or local laws, including but not limited to the Americans with Disabilities Act of 1990, the Village shall make every effort to protect the historical integrity of the structures.

claims, lawsuits, actions or liabilities, the Village, its other law, ordinance, order or decree. In connection with any such arising or recovered under the Worker's Compensation Act or any patent, trademark or copyright; or from any claims or amounts including any claims or amounts recovered for any infringements of in performance of any of the provisions of this Agreement, Society, its officers, agents and/or employees arising out of, or account of any act or omission, neglect or misconduct of the received or sustained by any person, persons, or property on of any character brought because of any injuries or damages actions, costs (including attorney's fees), claims or liabilities, agents, employees, representatives and assigns, from lawsuits, 4. Indemnify and save harmless the Village, its officers,

permits, the fees for which shall be waived by the Village; corporate authorities of the Village and the necessary Village against the Premises, without first obtaining the approval of the any action(s) which may result in a mechanic's lien being placed Premises, nor shall the Society enter into any contract(s) or take 3. Not make any structural changes to the structures on the

of the first years of the existence of the Village of Lombard; period suggested by the age of the Premises and the historical era 2. Maintain the interior of the Premises in keeping with the

for such employment. director if the Village does not fully fund the budgeted expenses shall have the option of employing or not employing a museum Village fully funds the budgeted expenses for such employment and

EXHIBIT A;

a copy of which is attached hereto and made a part hereof as
7. Maintain in effect the "Dissolution Clause" now in force,

property within the Structures;

Arts coverage on "art objects", et cetera, for all personal
insurance and the appropriate type of Inland-Marine Museum Fine
6. Procure at the Society's own expense, contents fire

\$500,000;

(b) Workers' Compensation - Statutory; Employers' Liability -

occurrence.

(a) Comprehensive general liability - \$2,000,000 per

carrier before change or cancellation of the policy:

days written notice shall be given to the Village by the insurance
naming the Village as an additional insured and stating that thirty
following specific amounts evidenced by certificates of insurance.
provide the following types of insurance in not less than the
representatives is covered by such insurance, the Society shall
omissions of the Society, its agents, officers, employees and
its buildings and the use thereof and liability for the acts or
5. Except where the Village provides insurance coverage for

the Society was found to be negligent;

arising out of such claims, lawsuits, actions or liabilities where
for all expenses, fees, judgments settlements and all other costs
Society shall be solely liable for all costs of such defense and
shall have the right to defense counsel of their choice. The
officers, agents, employees, representatives and their assigns

Premises.

1. The Village is the sole owner of all structures upon the

hereto that:

~~D. It is mutually agreed and understood by the parties~~

operation of the Society's business.

11. Conduct business on the premises in compliance with any and all federal, state or local laws, including but not limited to, the Americans with Disabilities Act of 1990, and obtain any governmental license or permit required for the proper and lawful

reasonable intervals;

10. Devote its best efforts to fund raising for continued restoration, interior maintenance, displays, programming and operations. Any income or receipts from the use and operation of the premises shall be the property of the Society, but shall be expended by the Society for the use and operation of the premises and no other use. The Village shall have the right of audit at

the structures, grounds and landscaping;

9. Arrange for the maintenance of the premises, including

in the form attached hereto as Exhibit B and made part hereof;

waiver as to the Village by the owner of such Non-Owned Property, placed on the premises without execution of a Release and Liability the "Non-Owned Property"). Such Non-Owned Property shall not be

Society and those objects which are loaned artifacts (hereinafter

premises identifying those objects owned by the Village or the

8. Maintain at all times a list of all artifacts on the

5. The Society will consult with the Lombard Historical Commission and obtain its approval before entering into preparations for special displays, exhibits, et cetera, where feasible. The Chairman of the Lombard Historical Commission shall serve as an ex officio member of the Society's board of management.

4. The Society shall provide staffing for its programs, tours, special events, et cetera.

(c) An office for the conduct of Society business.

- (a) A municipal display of Village history;
- (b) A changing display to correlate special historic dates, early crafts, photographs, special collections, et cetera; and

follows:

3. Three rooms on the Premises shall be maintained, as

upon by the Village and the Society.

and such other personal property not designated as belonging to the Village within and around the Structures and upon the Premises which is not that property described in Section C number 8 as Non-owned Property, including but not limited to, any and all rights pertaining to the video tapes of and about such premises, except that any video tape produced by the Village or produced with Village funds shall be the exclusive property of the Village which retains all rights thereto. The use of any video tape produced by the Village or produced with Village funds shall be mutually agreed upon by the Village and the Society.

2. The Society is the sole owner of all the "art objects"

be determined according to the laws of the state of Illinois. specifically provided for herein, the rights of the parties shall the date herein and above. In the event a contingency arises not such license shall be in effect for a period of ten (10) years from Village to the Society to use the Premises and its Structures; and 4. This Agreement constitutes a license granted by the

written approval of the Society and the Village. but this Agreement may not be modified or amended without the this Agreement upon consultation with the Society and the Village, recommendations from time to time hereafter for the modification of 3. The Lombard Historical Commission may make

fit. disposed of as the corporate authorities of the Village shall deem owners, and shall become the personal property of the Village to be property shall be deemed abandoned by the Society and/or its removed from the Premises within sixty (60) days, such personal Clause set forth in EXHIBIT A. If such personal property is not extent that such removal does not conflict with the Dissolution Society to remove all personal property from the Premises to the the Village shall give thirty (30) days prior written notice to the dissolution of the Society, whether voluntary or involuntary, that 2. In the event of a breach of this Agreement or the

the date of its execution as entered on the first page herein. 1. The term of this Agreement shall be ten (10) years from

~~It is further expressly agreed and understood that:~~

Illinois.

Agreement as of the day and year first written above at Lombard,
IN WITNESS WHEREOF, the parties hereto have executed this

retains an original signature copy.

each of which shall constitute an original, so that each party
8. This Agreement shall be executed in two (2) counterparts

Director
Lombard Historical Society
23 West Maple Street
Lombard, IL 60148

If to the Society:

Village Manager
Village of Lombard
255 East Wilson Avenue
Lombard, IL 60148

If to the Village:

requested, or upon its personal service, addressed as follows:
be deemed given upon its mailing by certified mail, return receipt
7. Any notice required or given under this Agreement shall

Agreement without the express written consent of the Village.
6. The Society shall not assign its rights under this

circumstances.

clause, phrase, provision, or portion hereof to other persons or
or portion hereof, nor shall it affect the application of any
remainder of this Agreement nor any other clause, phrase, provision
shall not affect, impair, or render invalid or unenforceable the
shall be invalid, or unenforceable under applicable law, such event
Agreement or the application thereof to any person or circumstance
5. If any clause, phrase, provision, or portion of this

CHAIRMAN LOMBARD HISTORICAL COMMISSION
cb/ombard [2]/agreements/historic

[Handwritten signature]

ATTEST:

PRESIDENT LOMBARD HISTORICAL SOCIETY

[Handwritten signature]

BY

LOMBARD HISTORICAL SOCIETY,
A NOT-FOR-PROFIT CORPORATION

VILLAGE CLERK

[Handwritten signature]

ATTEST:

VILLAGE PRESIDENT

[Handwritten signature]

BY

VILLAGE OF LOMBARD,
A MUNICIPAL CORPORATION

EXHIBIT A

DISSOLUTION CLAUSE

In the event of the dissolution of the LOMBARD HISTORICAL SOCIETY, the monetary assets of the LOMBARD HISTORICAL SOCIETY are to be given to the HELEN M. PLUM LIBRARY OF LOMBARD, with the stipulation that the funds be used for materials relating to local history and genealogy. Artifacts and personal property are to be made available to the following entities in the following order:

1. THE OWNER, IF ONLY ON LOAN TO THE SOCIETY
2. VILLAGE BOARD OF LOMBARD
3. LIBRARY BOARD
4. DUPAGE COUNTY HISTORICAL MUSEUM
5. ILLINOIS STATE HISTORICAL SOCIETY

The Board of Management of the Lombard Historical Society wishes to express how important it is for the individual(s) responsible for implementing this provision to realize that these relics are the result of over twenty years devoted to the collection of items relevant to the history of Lombard. That collectors, businesses and residents in many instances have entrusted these artifacts to the Society to instill future generations of Lombardians with a sense of pride that ordinary people, like themselves, have contributed to and participated in historical events, to share in the awareness of the past both nationally and locally, and to provide a focal point for our community and its people.

Therefore, every effort should be made to preserve, intact, those things directly connected to the history of Lombard (known as the Historians Collection) and make them available to the public either on display or upon request for research.

DATED: _____

DATED: _____

LIABILITY WAIVER.

I/WE HAVE READ AND FULLY UNDERSTAND THE FOREGOING RELEASE AND
Society.

the possession or under the control of the Lombard Historical
destruction or loss of said item(s) of personal property while in
claims or liability of any kind whatsoever in regard to the damage,
Lombard, and its officers, agents, and employees from any and all
Society's Museum, I/WE hereby release and discharge the Village of
aforementioned items of personal property at the Lombard Historical
In consideration of being allowed to display the

Maple Street, Lombard, Illinois:
for display at the Society's Historical Museum located at 23 West
property which I/WE have tendered to the Lombard Historical Society
I/WE am/are the owner(s) of the following item(s) of personal
I/WE _____, hereby represent that

RELEASE AND LIABILITY WAIVER

EXHIBIT B

R E S O L U T I O N

R _____ - 08

A RESOLUTION AUTHORIZING THE SIGNATURE OF THE PRESIDENT AND VILLAGE CLERK ON AN AGREEMENT

WHEREAS, the President and Board of Trustees of the Village of Lombard have received an agreement between the Village of Lombard and the Lombard Historical Society in regard to the Third Amendment to the Historical Society Use Agreement for the Lombard Historical Museum as attached hereto; and

WHEREAS, the Corporate Authorities deem it in their 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 President be and hereby is authorized to approve on behalf of the Village of Lombard said Agreement as attached hereto.

SECTION 2: That the Village Clerk be and hereby is authorized to approve said agreement as attached hereto.

Adopted this _____ day of _____, 2008.

Ayes: _____

Nays: _____

Absent: _____

Approved this _____ day of _____, 2008.

William J. Mueller, Village President

Resolution No. _____
Re: Historical Society/Historical Museum Third Amendment
Page 2

ATTEST:

Brigitte O'Brien, Village Clerk

Published by me in pamphlet from this _____ day of _____, 2008

Brigitte O'Brien, Village Clerk

THIRD AMENDMENT TO HISTORICAL SOCIETY USE AGREEMENT

This Third Amendment to Historical Society Use Agreement ("the Third Amendment") between the Village of Lombard (the "Village") and the Lombard Historical Society (the "Society") is made and entered into this _____ day of February, 2008. (The Village and the Society being sometimes collectively referred to herein as the "Parties").

W I T N E S S E T H

WHEREAS, the Village and the Society, on April 15, 1993 entered into a ten-year agreement for the use of 23 West Maple Street, Lombard, Illinois, by the Society as a Historical Museum (the "Original Agreement"); and

WHEREAS, the Village and the Society, on June 3, 1993, entered into an amendment to the Original Agreement (the "First Amendment"); and

WHEREAS, the Village and the Society, on November 5, 1998, entered into a Second Amendment to the Original Agreement (the "Second Amendment"), and (the Original Agreement, as amended by the First Amendment and the Second Amendment being collectively referred to as the "Amended Agreement"); and

WHEREAS, the Society has requested that the term of the Amended Agreement be extended for an additional five (5) year period; and

WHEREAS, the Village is willing to extend the Amended Agreement for an additional five (5) year period.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. That Section E1 of said Amended Agreement be and hereby is further amended to read in its entirety as follows:

"1. The term of this Agreement shall be from the date hereof through and including April 14, 2013."

Secretary

ATTEST:

President

LOMBARD HISTORICAL SOCIETY

Brigitte O'Brien
Village Clerk

ATTEST:

William J. Mueller
Village President

VILLAGE OF LOMBARD

IN WITNESS THEREOF, the Parties have executed this Third Amendment as of the day and year first written above.

2. That all other terms and conditions of the Amended Agreement shall remain in full force and effect as if set forth herein.