

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)
 X Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: William T. Lichter, Village Manager

DATE: July 28, 2005 (B of T) Date: August 18, 2005

TITLE: Private Water Service Line Easement for Hidden Valley Condos

SUBMITTED BY: Department of Community Development *[Signature]*

BACKGROUND/POLICY IMPLICATIONS:

Please find attached staff's recommendation relative to accepting an easement for a private water service line at the Hidden Valley Condominiums (1400, 1402, 1404, 1406, 1408, 1500, 1504, 1508, 1512, 1516 & 1520 S. Fairfield Avenue). (DISTRICT #3)

Please place this item on the August 18, 2005 Board of Trustees agenda.

Staff recommends approval of this request.

Fiscal Impact/Funding Source:

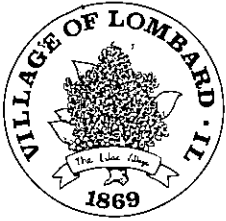
Review (as necessary):

Village Attorney X _____ (Reviewed by Tom Bayer on 7/18/05) Date _____

Finance Director X _____ Date _____

Village Manager X W. T. Lichter Date 8/2/05

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, Director of Community Development *DAH*

DATE: July 28, 2005

SUBJECT: **A Motion to Accept a Grant of Easement for a Private Water Service Line at the Hidden Valley Condos**

Per an agreement between the Mitroff Group (developer of the Fairfield Townhomes) and the Hidden Valley Condominiums Association, the private water service line for the condominiums is to be replaced. This work requires an Illinois EPA permit since the line serves over 25 residents. The EPA will only issue such a permit to an approved public water supply. Therefore, the Village has been asked to sign the permit application as owner. The attached Grant of Easement would give the Village the right but not the responsibility to repair and maintain the line. Any such work would be at the Association's cost. Please request the Board of Trustees to accept the easement by motion at their August 18, 2005 meeting.

The Grant of Easement has been reviewed by the Village Attorney, Public Works Director and Utilities Superintendent. In addition, the EPA permit official has indicated that such an easement meets their requirements. Please call either Dave Gorman or myself if you have any questions.

DAH/DG:dg

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GRANT OF EASEMENT

THIS GRANT OF EASEMENT made this 18th day of August, 2005, by the Hidden Valley Condominium Owners Association (hereinafter referred to as "Grantor") to the Village of Lombard, DuPage County, Illinois, a municipal corporation (hereinafter sometimes referred to as "Village").

WITNESSETH:

For and in consideration of One and No/100 Dollars (\$1.00) and other good and valuable consideration in hand paid, receipt of which is hereby acknowledged, the conditions herein and the benefits to be derived from this Grant of Easement:

1. Grantor hereby grants, releases, conveys, assigns and quits claims to the Village a perpetual easement and right-of way for the full and free right, privilege and authority to clear, trench for, construct, install, reconstruct, replace, remove, repair, alter, inspect, maintain and operate a water service line, and all facilities incidental thereto, in, on, upon, over, through, across and under the entire parcel of land as described in Exhibit "A" attached hereto and made a part hereof (hereinafter the "Subject Property"), subject to the terms and conditions of this Grant of Easement.
2. Grantor hereby agrees to and with the Village that the officers, agents or employees of the Village, whenever elected, appointed or hired, may at any and all time designated herein when necessary or convenient to do so, go in, on, upon, over and across the Subject Property, and do and perform and all acts necessary or convenient to the carrying into effect the purposes for which this Grant of Easement and the easements created hereby are made, and that the Grantor shall not disturb, molest, injure or in any manner interfere with the actions of the Village in regard to the aforesaid water service line, and all facilities and activities incidental thereto.

The Grantor reserves the right to make any use of the land, whether on, above or below its surface for any lawful purpose except that any structure or use shall not interfere in any manner with the easement and uses by the Village hereby granted and authorized.

3. Subject to the reimbursement obligations of the Grantor, as set forth in Section 4 below, the Village, its agents and employees, successors, grantees, lessees and assigns shall, as soon as practicable after any maintenance or repairs to said water service line, restore to its former condition any portion of the Grantor's property which is disturbed or altered in any manner by such maintaining or repairing of the water service line.
4. It is recognized by the parties hereto that the water service line in question is a private water service line and, but for the requirements of the Illinois Environmental Protection Agency, the Grantor would be responsible for said water service line and there would be no need for this Grant of Easement. As such, the primary

responsibility for the construction, maintenance and repair of said water service line shall remain with the Grantor. In the event that the Grantor fails to properly maintain or repair the water service line after having been given notice by the Village to do so, the Village shall have the right, but not the duty, to perform, or have performed on its behalf, any work as may reasonably be necessary to ensure that the condition of said water service line is functional and complies with all applicable Village Codes.

In the event that the Village shall be required to perform, or have performed on its behalf, any work on the water service line, the cost of such work shall be paid by the Grantor. In the event the Grantor fails to reimburse the Village for any costs incurred by the Village, relative to the maintenance or repair of said water service line, within fifteen (15) days of the issuance of a bill therefor from the Village to the Grantor, then upon recordation of Notice of Lien with the Recorder of Deeds of DuPage County, Illinois, the amount due the Village shall constitute a lien against the assets of the Grantor as well as a lien against each and every parcel of property as set forth on Exhibit "B" attached hereto and made part hereof; said parcels of property set forth on Exhibit "B" each being a member of and represented by the Grantor.

5. Such perpetual easement as is herein granted shall run with the land and that the covenants, agreements, terms, condition, obligations, rights and interest herein contained or provided for shall be likewise binding upon and shall inure to the benefit of the parties hereto, their heirs, executors, successors, grantees, lessees and assignees.

IN WITNESS WHEREOF, the Grantor, as aforesaid, has caused its name to be signed to these presents by Hubert J. Myszkowski, duly elected president of the Hidden Valley Condominium Owners Association, and attested by the duly elected secretary of the Hidden Valley Condominium Owners Association the day and year first above written.

GRANTOR:

By: Hubert Myszkowski

Attest: Dorothy Kania

VILLAGE:

By: _____
William J. Mueller, Village President

Attest: _____
Brigitte O'Brien, Village Clerk

Prepared by and Return to:

Village of Lombard
255 East Wilson Avenue
Lombard, IL 60148

Exhibit A

Legal Description of the Grant of Easement on the Hidden Valley Condominiums Property

THAT PART, EXCEPT FOR THOSE AREAS ON WHICH BUILDINGS HAVE BEEN CONSTRUCTED, OF LOTS 42-A, 42-B AND 42-C OF YORK TOWNSHIP SUPERVISORS' ASSESSMENT PLAT NO.1 (ALSO KNOWN AS HIGHLAND ROAD FARMS) OF THE EAST 1/2 OF THE SOUTHWEST 1/4, THE WEST 1/2 OF THE SOUTHEAST 1/4 AND THE SOUTH 1332 FEET OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 23, 1943 AS DOCUMENT 452575, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 42-A; THENCE EASTERLY ALONG THE NORTH LINE OF SAID LOT 42-A, 33.00 FEET TO THE EAST LINE OF GRACE STREET, HERETOFORE DEDICATED PER DOCUMENT NUMBER R75-61511, RECORDED NOVEMBER 6, 1975 TO THE POINT OF BEGINNING; THENCE SOUTHERLY ALONG SAID EAST LINE OF GRACE STREET, BEING A LINE 33.00 FEET EAST OF, AS MEASURED PERPENDICULAR TO, AND PARALLEL WITH THE WEST LINE OF AFOREMENTIONED LOTS 42-A, 42-B AND 42-C, A DISTANCE OF 499.30 FEET TO THE SOUTH LINE OF LOT 42-C AFORESAID; THENCE EASTERLY ALONG THE SOUTH LINE OF SAID LOT 42-C, 603.43 FEET TO THE WEST LINE OF FAIRFIELD AVENUE, HERETOFORE DEDICATED PER DOCUMENT NUMBER R75-61511, RECORDED NOVEMBER 6, 1975; THENCE NORTHERLY ALONG THE WEST LINE OF SAID FAIRFIELD AVENUE, BEING A LINE 33.00 FEET WEST OF, AS MEASURED PERPENDICULAR TO, AND PARALLEL WITH THE EAST LINE OF AFOREMENTIONED LOTS 42-B AND 42-C, 187.50 FEET; THENCE WESTERLY ALONG A LINE PARALLEL WITH AND 187.50 NORTH OF, AS MEASURED PERPENDICULAR TO, THE SOUTH LINE OF SAID LOT 42-C, A DISTANCE OF 349.04 FEET; THENCE NORTHERLY ALONG A LINE PERPENDICULAR TO THE LAST DESCRIBED COURSE, A DISTANCE OF 94.56 FEET; THENCE WESTERLY ALONG A LINE PERPENDICULAR TO THE LAST DESCRIBED COURSE, A DISTANCE OF 88.92 FEET; THENCE NORTHERLY ALONG A LINE PERPENDICULAR TO THE LAST DESCRIBED COURSE, A DISTANCE OF 134.58 FEET; THENCE EASTERLY ALONG A LINE PERPENDICULAR TO THE LAST DESCRIBED COURSE, A DISTANCE OF 82.67 FEET TO THE NORTH LINE OF AFOREMENTIONED LOT 42-A AT A POINT 255.09 FEET EASTERLY OF, AS MEASURED ALONG THE NORTH LINE THEREOF, THE NORTHWEST CORNER OF LOT 42-A; THENCE WESTERLY ALONG SAID NORTH LINE, 222.09 FEET TO THE POINT OF BEGINNING; ALSO ALL THAT PART OF AFOREMENTIONED FAIRFIELD AVENUE LYING NORTHERLY OF THE SOUTH LINE OF AFOREMENTIONED LOT 42-C AND LYING SOUTHERLY OF A LINE 187.50 FEET NORTH OF (AS MEASURED PERPENDICULAR TO) AND PARALLEL WITH SAID SOUTH LINE OF LOT 42-C; ALSO, ALL OF AFOREMENTIONED GRACE STREET, ALL IN DU PAGE COUNTY, ILLINOIS;

P.I.N.'s: 06-20-207-001 through -066

Exhibit B
Legal Description of the Hidden Valley Condominiums

THAT PART OF LOTS 42-A, 42-B AND 42-C OF YORK TOWNSHIP SUPERVISORS' ASSESSMENT PLAT NO.1 (ALSO KNOWN AS HIGHLAND ROAD FARMS) OF THE EAST 1/2 OF THE SOUTHWEST 1/4, THE WEST 1/2 OF THE SOUTHEAST 1/4 AND THE SOUTH 1332 FEET OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 23, 1943 AS DOCUMENT 452575, DESCRIBED AS FOLLOWS:

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P.I.N.'s: 06-20-207-001 through -066