

**VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION**

 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: August 8, 2017 B of T: August 17, 2017

TITLE: Extension of Temporary Fire Marshal Agreement

SUBMITTED BY: Kathleen Dunne, Director of Human Resources

BACKGROUND/POLICY IMPLICATIONS:

Please find the attached Temporary Fire Marshal Agreement. The Resolution authorizes the signatures of the Village President and Clerk on the extension of the Agreement between the Village of Lombard and James French to provide Temporary Fire Marshal services. The Agreement is for two months.

FISCAL IMPACT/FUNDING SOURCE: Funded through employee contributions.

Village Attorney _____ Date _____
Finance Director _____ Date _____
Village Manager _____ Date _____



MEMO TO: The Honorable President
And Board of Trustees

FROM: Scott Nieshaus
Village Manager

DATE: August 8, 2017

SUBJECT: **Extension of Temporary Fire Marshal Agreement**

Attached is the Temporary Fire Marshal Agreement and Resolution Authorizing the Village President and Clerk to sign the extension of the Agreement. The Resolution authorizes the signatures of the Village President and Clerk on the extension of the Agreement between the Village of Lombard and James French to provide Temporary Fire Marshal services. The Agreement is for two months.

If you have any questions, please feel free to contact me.

RESOLUTION
R_____

**A RESOLUTION AUTHORIZING SIGNATURE OF
THE VILLAGE PRESIDENT ON AN AGREEMENT**

WHEREAS, the Corporate Authorities of the Village of Lombard have received an Agreement between the Village of Lombard and James FRench as attached as 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 _____ day of _____, 2017.

Ayes: _____

Nays: _____

Absent: _____

Approved this _____ day of _____, 2017.

Keith Giagnorio
Village President

ATTEST:

Sharon Kuderna
Village Clerk

APPROVAL AS TO FORM:

Thomas P. Bayer
Village Attorney

TEMPORARY FIRE MARSHAL AGREEMENT

This extension of the Temporary Fire Marshal Agreement (hereinafter referred to as the "Agreement") is made this ____ day of August, 2017, by and between the VILLAGE OF LOMBARD (hereinafter referred to as the "VILLAGE") and James French (hereinafter referred to as the "TEMPORARY FIRE MARSHAL"). (The VILLAGE and the TEMPORARY FIRE MARSHAL are sometimes referred to herein individually as "Party" or collectively as the "Parties.")

1. **SERVICES.** The TEMPORARY FIRE MARSHAL agrees to provide the following services to the VILLAGE during the term of this Agreement, as more fully detailed below: (1) Serve as Temporary Fire Marshal.
 - A. **Services as Temporary Fire Marshal.** The TEMPORARY FIRE MARSHAL agrees to provide management services as Temporary Fire Marshal of the VILLAGE for the term of this Agreement to ensure that the performance, accountability, legal compliance and morale of the Village of Lombard Fire Prevention Bureau (hereinafter referred to as The "Bureau") and its operations remain consistent and acceptable to the VILLAGE. The interim management services shall be provided to the Department by the TEMPORARY FIRE MARSHAL, as follows:
 - i. Stabilize the Fire Prevention Bureau during the management vacancy of a permanent Fire Marshal;
 - ii. Administer and manage Fire Prevention Bureau operations and programs; create, direct, manage, coordinate and evaluate programs and activities; develop long and short term goals and objectives; prepare and monitor Department budget;
 - iii. Identify and implement Fire Prevention Bureau initiatives and projects;
 - iv. Maintain and improve effective and responsive personnel management;
 - v. Manage, on a daily basis, compliance with Department and Village policy, standards and regulations, compliance with deadlines, and identifying and implementing new and creative solutions to problems;
 - vi. Provide the VILLAGE, through the Assistant Fire Chief, with bi-weekly work reports to monitor progress and measure the performance of the TEMPORARY FIRE MARSHAL under this Agreement;
 - vii. Enforce Village fire protection codes and ordinances ; direct the inspection of new and existing property; and
 - viii. Perform other such duties as directed by the Assistant Fire Chief.

2. **TERM.** The term of this extension of Agreement shall be for a period not to exceed two (2) months. The term of this Agreement shall begin on August __ , 2017. However, at the VILLAGE's request, this Agreement may be extended after expiration of its term on a monthly basis should the Village Manager determine it to be necessary. Moreover, the TEMPORARY FIRE MARSHAL shall be available after the term of this Agreement, at a mutually agreed hourly rate, to assist and advise the Department and the VILLAGE should the Village Manager determine it to be necessary. If the TEMPORARY FIRE MARSHAL gains employment, he will be required to give the VILLAGE two weeks notice.
3. **COMPENSATION.** The TEMPORARY FIRE MARSHAL shall be compensated by the VILLAGE for his services under this Agreement in the amount of \$40.00/hour. .
 - A. **No Insurance or Employee Benefits Provided by VILLAGE.** The VILLAGE will not provide any form of insurance coverage, including but not limited to health, professional liability insurance or other employee benefits for or on behalf of the TEMPORARY FIRE MARSHAL. The TEMPORARY FIRE MARSHAL also shall not be entitled to any sick leave or vacation time during the term of this Agreement.
4. **HOURS OF WORK AND TIMEKEEPING REQUIREMENTS.**
 - A. The TEMPORARY FIRE MARSHAL is generally expected to be at work during the VILLAGE'S normal office hours (8:30 am to 4:30 pm) for 40 hours per week. However, it is recognized that the TEMPORARY FIRE MARSHAL must devote time outside normal office hours to the business of the VILLAGE.
 - B. The TEMPORARY FIRE MARSHAL shall maintain a record of his work time and report his hours worked in a manner acceptable to the Assistant Fire Chief. The TEMPORARY FIRE MARSHAL shall keep the VILLAGE informed of how he can be reached when off duty and shall carry a cell phone at all times provided by the VILLAGE.
5. **CONFIDENTIALITY.** The TEMPORARY FIRE MARSHAL agrees to maintain the confidentiality of all VILLAGE information and documents received or obtained or learned as part of attending VILLAGE meetings and/or executive sessions or in performing its duties under this Agreement, unless specifically directed to release such information or documents by the VILLAGE or a court order or government regulatory agency order. The TEMPORARY FIRE MARSHAL agrees that all conversations by attendees of and any information or documents reviewed or discussed in any executive session are confidential and shall not be disclosed or released by the TEMPORARY FIRE MARSHAL, unless specifically directed to release such information or documents by the VILLAGE, a court order or government regulatory agency order. The TEMPORARY FIRE MARSHAL shall faithfully adhere to the requirements of this Agreement and the professional ethical principles applicable hereto, including, but

limited to, the ICMA Code of Ethics, and shall avoid all personal acts that might injure the reputation of the VILLAGE or undermine the business transactions and other operations of the VILLAGE.

6. **INDEMNIFICATION.** The VILLAGE agrees to defend, indemnify and hold harmless the TEMPORARY FIRE MARSHAL from and against any and all claims, actions, suits, damages, costs, expenses and liabilities, including the reasonable fees and expenses of attorneys selected by the VILLAGE to defend the TEMPORARY FIRE MARSHAL, expert witnesses and consultants, court costs and fines, asserted against him or sought to be imposed upon him and which arise directly or indirectly out of or in connection in any way with his performance of the terms of this Agreement, provided that the TEMPORARY FIRE MARSHAL's actions or conduct giving rise to any litigation or dispute are within the scope of the duties of Fire Marshal, but excepting from the indemnification those claims, actions, suits, damages, costs, expenses and liabilities arising from any criminal conduct, intentional conduct or willful or wanton conduct of the TEMPORARY FIRE MARSHAL. The Parties further acknowledge that the VILLAGE is legally precluded from paying any punitive damages imposed on the TEMPORARY FIRE MARSHAL.
7. **COMPLETE AGREEMENT.** This Agreement contains the entire understanding between the Parties and supersedes any prior understanding or written or oral agreements between them with respect to the subject matter of this Agreement. There are no representations, agreements, arrangements or understandings, oral or written, between and among the Parties hereto relating to the subject matter of this Agreement which are not fully expressed herein. No oral modification, amendment or change shall be allowed to this Agreement. Any modification, amendment or change is subject to the mutual agreement of the Parties and must be reduced to writing and executed by both Parties to be effective.
8. **APPLICABLE LAW.** The statutes and common law of the State of Illinois shall govern the interpretation, validity, enforcement and performance of the terms of this Agreement. The Parties agree that, for the purpose of any litigation or proceeding brought with respect to this Agreement and its enforcement, venue shall be in the Circuit Court of DuPage County, Illinois, and the Parties agree to voluntarily submit to the jurisdiction of such court for the purpose of any such litigation or proceeding.
9. **ASSIGNMENT.** This Agreement may not be assigned, transferred or conveyed by the TEMPORARY FIRE MARSHAL without the prior written consent of the VILLAGE.
10. **NOTICES.** All written notices of any kind to be given or delivered under this Agreement shall be deemed to have been properly given if (a) delivered by hand, (b) delivered by a nationally recognized overnight courier service, or (c) sent by registered or certified United States Mail, return receipt requested and first class postage prepaid. Such notices shall be sent to the Parties at their respective addresses as follows:

If to VILLAGE:

Scott Niehaus
Village Manager
255 East Wilson Avenue
Lombard, Illinois 60148

If to TEMPORARY FIRE MARSHAL:

James French
328 Morgan Valley Drive
Oswego, Il 60543

- 11. **AUTHORITY**. This Agreement shall be in full force and effect, and legally binding, after it is signed by the duly authorized officer of each party. Each of the signatories to this Agreement are the duly authorized representatives of their respective entity and each such person has signed this Agreement pursuant to the authority duly granted to him or her by the authorities of said entity, who have acted by motion or approved a resolution (in the VILLAGE's case, at an open public meeting) that authorized and directed the representatives to sign this Agreement. This Agreement shall be binding upon and shall inure to the benefit of the parties agreeing hereto and to their successor corporations, officers, officials, trustees, successors in office, heirs, representatives, and assigns.
- 12. **EFFECTIVE DATE**. This Agreement shall become effective on May , 2017 and is subject to approval by the Village of Lombard Board of Trustees.

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SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the Parties hereto have signed this Agreement as set forth below.

VILLAGE OF LOMBARD, an
Illinois Municipal Corporation

JAMES FRENCH

By: _____
Scott Niehaus
Village Manager

DATE: _____

DATE: _____

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 the above named Scott Niehaus, being the Village Manager of the Village of Lombard, respectively, 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 acknowledged that they signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of the Village of Lombard, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this ____ day of August, 2017.

Notary Public

My Commission Expires: _____

STATE OF ILLINOIS)
) SS
COUNTY OF _____)

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY, that the above named JAMES FRENCH, 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 he signed and delivered the said instrument as his own free and voluntary act for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this ____ day of August, 2017.

Notary Public

My Commission Expires: _____