

Memorandum

TO: William T. Lichter, Village Manager
FROM: David A. Hulseberg, AICP, Assistant Village Manager
DATE: November 29, 2006

**SUBJECT: TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE
FEE SETTLEMENT**

This memorandum suggests that the Village of Lombard partner in an application with the Villages of Hanover Park and Bartlett on a grant application under the Infrastructure Maintenance Fee Litigation Cy Pres Committee. Said application will fund necessary improvements to the Cornerstone Site 700/800 MHZ DuPage Dispatch Communications System.

Background:

In 1997 the State of Illinois enacted the Telecommunications Infrastructure Maintenance Fee (IMF) Act, which authorized the imposition of a fee of 1% of the gross charges on wireless retailers. Municipalities throughout the state imposed the IMF on telecommunications bills from January 1, 1998 through February 7, 2002. In 1998, a lawsuit was filed challenging the fee, which the court ruled unconstitutional. Upon appeal the Illinois Supreme Court affirmed the unconstitutionality of the Municipal IMF only as it applied to wireless retailers. In the year 2000, municipalities that imposed the IMF were joined as defendants in a class action lawsuit that asserted the unconstitutionality of the IMF and such refunds from the IMF. In 2005, a settlement was approved that required the defendant municipalities to pay into the settlement fund 70% of the amount collected through the municipal IMF not for wireless telecommunications services.

Under the court approved settlement agreement the Village of Lombard can make application individually or jointly with one or more grant eligible municipalities. Joint applications are encouraged. The grant must be municipal emergency 9-1-1 telecommunication programs and the application must be completed and received by January 31, 2007.

Proposal:

The Village of Lombard has approached Du-Comm's Executive Committee to consider having Du-Comm serve as a conduit for Bartlett, Hanover Park and Lombard in expending our grant funds on a Du-Comm project and then reimbursing the three municipalities over time for those grant funds when our share is due for the Cornerstone Site 700/800 MHZ DuPage Dispatch Communications System.

While the mechanics of this reimbursement have not been worked out the concept would provide a conduit for each of the communities to get credit for funds that they contributed to the settlement fund. Albeit without this approach, none of the communities are likely to have a project themselves.

DuPage County Public Safety Project Contemplated:

The DuPage Emergency Telephone System Board (DuPage 9-1-1) has entered into a contract with Motorola to commence an engineering study for the placement of nine (9) antennae towers to be placed throughout DuPage County to benefit DuPage County public safety agencies, including Du-COMM member agencies, as part of the 700 MHz radio interoperability system. The Village of Lombard agreed to host one of these antennae locations as part of its hotel-conference center project at Yorktown Mall. The grant application would specify this project and funds would be used to complete the antennae room support which would serve as one of the main hub antennae locations. The Motorola engineering team has been instructed to utilize the Lombard location as the first antennae location and plan from there. Du-Comm would attempt to utilize the full allotment that the three communities are eligible to apply for. Those amounts are as follows:

Bartlett -	\$150,296.52
Hanover Park -	\$217,744.73
Lombard -	<u>\$160,440.48</u>
Combined Total -	\$528,481.73

Recommendation:

It is recommended that the three municipalities work collaboratively with Du-Comm to facilitate an eligible project in accordance with the IMF settlement guidelines. In this manner, if the grant is approved all communities will be credited through Du-Comm for their share of the awarded grant against future 700/800 HZ Du-Comm project expenses. Staff recommends that the Village Board authorize the Village President and the Village Clerk to sign a Resolution Authorizing Application for a Grant under the Infrastructure Maintenance Fee Litigation Cy Pres Committee's General Authority to Make Such Grants for the Cornerstone Site 700/800 MHZ DuPage Dispatch Communications System.