

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
 For Inclusion on Board Agenda

 X Resolution or Ordinance (Blue) X *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: May 24, 2005 (B of T) Date: June 2, 2005
 TITLE: 211 West St. Charles Road - Intergovernmental Agreement
 SUBMITTED BY: Department of Community Development *W. T. Lichter*

BACKGROUND/POLICY IMPLICATIONS:

The Department of Community Development transmits for your consideration an ordinance authorizing an Intergovernmental Agreement between the Village of Lombard and the Lombard Park District, addressing the development, operation and maintenance of the proposed sprinkler park at 211 West St. Charles Road. (DISTRICT 1)

Staff recommends approval of this request.

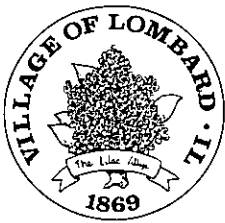
Staff is requesting waiver of first reading.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X	_____	Date	_____
Finance Director X	_____	Date	_____
Village Manager X	<i>W. T. Lichter</i>	Date	<i>5/25/05</i>

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 *Delt*

DATE: June 2, 2005

SUBJECT: Intergovernmental Agreement Between the Village of Lombard and the Lombard Park District

Attached please find an Intergovernmental Agreement between the Village of Lombard and the Lombard Park District. This Agreement addresses the development, operation, and maintenance of the proposed sprinkler park at 211 W. St. Charles Road.

BACKGROUND

This Agreement would allow the property at 211 W. St. Charles Road to be used by the Park District for period of twenty (20) years. The property will be developed as a sprinkler park pursuant to the plans detailed in PC 05-14, which was approved by the Board of Trustees at its May 5, 2005 meeting.

This agreement will allow the Village to assume ownership of a parcel of land valued at \$350,000. The existing parking improvements have an additional value of over \$50,000, and the utilities are valued at approximately \$15,000. Once the Park District has completed its estimated \$160,000, this project will have an estimated worth of at least \$575,000.

RECOMMENDATION

That the Village Board of Trustees authorize the Village President and Clerk to sign the Intergovernmental Agreement between the Village of Lombard and the Lombard Park District.

ORDINANCE NO. _____

**AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL
AGREEMENT BETWEEN THE VILLAGE OF LOMBARD AND THE
LOMBARD PARK DISTRICT IN REGARD TO THE DEVELOPMENT, OPERATION,
AND MAINTENANCE OF A SPRINKLER PARK AT 211 WEST ST. CHARLES ROAD**

WHEREAS, the Village is, or will in the very near future become, the record owner of certain real property, commonly known as 211 West St. Charles Road; said property being legally described as follows:

Lot 2 in Fifth Third Bank Plat of Resubdivision, being a resubdivision in the Northeast 1/4 of Section 7, Township 39 North, Range 11, East of the Third Principal Meridian, DuPage County, Illinois;

P.I.N.: Pt. 06-07-209-019;

(the "Subject Property"); and

WHEREAS, the Lombard Park District desires to use the Subject Property for the development, operation and maintenance of a sprinkler park and associated public parking and accessory facilities, all as more fully set forth in the site plan and associated descriptive subsections A through I attached as Exhibit "A" to the Intergovernmental Agreement attached hereto as EXHIBIT 1 and made part hereof ; and

WHEREAS, the Village has determined it to be in the best interest of the public that the Subject Property be used to provide open space and recreational opportunities for the residents of the Village; and

WHEREAS, Article VII, Section 10 of the 1970 Illinois Constitution and 5 ILCS 220/1 through 220/9 provide authority for intergovernmental cooperation; and

WHEREAS, it is in the best interests of the Village and the Lombard Park District to enter into the Intergovernmental Agreement attached hereto as EXHIBIT 1;

NOW, THEREFORE, BE IT ORDAINED, by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

SECTION 1: Based upon the foregoing, the INTERGOVERNMENTAL AGREEMENT BETWEEN THE VILLAGE OF LOMBARD AND THE LOMBARD PARK DISTRICT IN REGARD TO THE DEVELOPMENT, OPERATION AND MAINTENANCE OF A SPRINKLER PARK AT 211 WEST ST.

CHARLES ROAD attached hereto as EXHIBIT 1 is hereby approved, and the President and Clerk of the Village be and they are hereby authorized and directed to execute and deliver said INTERGOVERNMENTAL AGREEMENT BETWEEN THE VILLAGE OF LOMBARD AND THE LOMBARD PARK DISTRICT IN REGARD TO THE DEVELOPMENT, OPERATION AND MAINTENANCE OF A SPRINKLER PARK AT 211 WEST ST. CHARLES ROAD attached hereto as EXHIBIT 1.

SECTION 2: That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

Passed on first reading this ____ day of _____, 2005, pursuant to a roll call vote as follows:

First reading waived by action of the Board of Trustees this ____ day of _____, 2005.

Passed on second reading this ____ day of _____, 2005.

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED by me this ____ day of _____, 2005.

William J. Mueller
Village President

ATTEST:

Brigitte O'Brien
Village Clerk

Published by me in pamphlet form this ____ day of _____, 2005.

Brigitte O'Brien
Deputy Village Clerk

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**AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE VILLAGE OF
LOMBARD AND THE LOMBARD PARK DISTRICT IN REGARD TO THE
DEVELOPMENT, OPERATION AND MAINTENANCE OF A
SPRINKLER PARK AT 211 WEST ST. CHARLES ROAD**

THIS AGREEMENT, entered into this ____ day of _____, 2005, by and between the VILLAGE OF LOMBARD (the "VILLAGE") and the LOMBARD PARK DISTRICT (the "PARK DISTRICT"). The VILLAGE and the PARK DISTRICT are hereinafter sometimes individually referred to as a "Party" and together referred to as the "Parties".

WITNESSETH

WHEREAS, the VILLAGE is, or will in the very near future become, the record owner of certain real property, commonly known as 211 West St. Charles Road; said property being legally described as follows:

Lot 2 in Fifth Third Bank Plat of Resubdivision, being a resubdivision in the Northeast 1/4 of Section 7, Township 39 North, Range 11, East of the Third Principal Meridian, DuPage County, Illinois;

P.I.N.: Pt. 06-07-209-019;

(the "Subject Property"); and

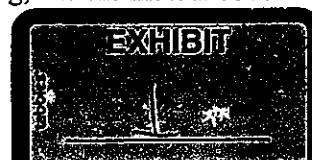
WHEREAS, the PARK DISTRICT desires to use the Subject Property for the development, operation and maintenance of a sprinkler park and associated public parking and accessory facilities, all as more fully set forth in the site plan and associated descriptive subsections A through I attached hereto as Exhibit "A" and made part hereof (the "Sprinkler Park"); and

WHEREAS, the VILLAGE has determined it to be in the best interest of the public that the Subject Property be used to provide open space and recreational opportunities for the residents of the VILLAGE; and

WHEREAS, Article VII, Section 10 of the 1970 Illinois Constitution and 5 ILCS 220/1 through 220/9 provide authority for intergovernmental cooperation; and

WHEREAS, it is in the best interests of the VILLAGE and the PARK DISTRICT to enter into this Agreement;

NOW, THEREFORE, in consideration of the foregoing, and the mutual covenants and agreements hereinafter contained, the Parties hereto agree as follows:



1. The VILLAGE hereby authorizes and permits the PARK DISTRICT to use the Subject Property for the development, operation and maintenance of the Sprinkler Park for a period of twenty (20) years from the date of this Agreement or from the date the VILLAGE acquires title to the Subject Property, whichever date occurs last.

2. The PARK DISTRICT shall, at no cost to the VILLAGE, engineer, design, bid, and award a contract(s) for and construct the Sprinkler Park.

3. Upon completion of the Sprinkler Park, the PARK DISTRICT shall provide the VILLAGE with a set of "as-built" drawings.

4. The PARK DISTRICT agrees to pay the contractor(s) and the engineer pursuant to its contracts with same, and agrees to administer and oversee both the engineering and construction contracts relative to the Sprinkler Park.

5. After construction is complete, the PARK DISTRICT shall operate and maintain the Sprinkler Park and all equipment, fixtures and appurtenances in relation thereto, in a clean, safe and sanitary condition, at no cost or expense to the VILLAGE.

6. The Sprinkler Park shall be open and available for use by all VILLAGE residents without charge or fee, except wherein charges or fees are required for special events held at the Sprinkler Park.

7. The PARK DISTRICT shall indemnify and hold harmless the VILLAGE, and its officers, agents and employees, with respect to any claim or loss, including but not limited to, attorney's fees, costs and expenses of litigation, claims and judgments in connection with any and all claims for damages of any kind which may arise, either directly or indirectly, from the construction, engineering or design of the aforesaid Sprinkler Park, or out of the acts or omissions of the PARK DISTRICT, or its officers, agents, employees or contractors, in the exercise of its rights or the performance of its obligations under this Agreement. The PARK DISTRICT agrees to require its contractor(s) to include the VILLAGE, and its officers, agents and employees, as additional insured on the insurance policies required of the contractor(s) relative to the Sprinkler Park.

8. The VILLAGE shall indemnify and hold harmless the PARK DISTRICT, and its officers, agents and employees, with respect to any claim or loss, including but not limited to, attorney's fees, costs and expenses of litigation, claims and judgments in connection with any and all claims for damages of any kind which may arise, either directly or indirectly, out of the acts or omissions of the VILLAGE, or its officers, agents or employees, in the exercise of its rights or the performance of its obligations under this Agreement.

9. This Agreement is entered into for the benefit of each of the Parties, solely, and not for the benefit of any third party. Nothing contained in this Agreement shall constitute a waiver of any privileges, defenses or immunities which either Party may have under the Local Governmental and Governmental Employees Tort Immunity Act with respect to any claim brought by a third party.

10. The PARK DISTRICT and the VILLAGE shall review the operation of the Sprinkler Park every five (5) years during the term of this Agreement, to make sure that the Subject Property remains an appropriate location for the Sprinkler Park. Components of this review shall include, but shall not be limited to, usage of the Sprinkler Park, maintenance of the Sprinkler Park and public safety incident reports and responses in relation to the Sprinkler Park. In the event the VILLAGE determines, after the completion of any five (5) year review, in its sole discretion, that the Subject Property is no longer an appropriate location for the Sprinkler Park, the VILLAGE may terminate this Agreement by providing written notice of said termination to the PARK DISTRICT.

11. Failure on the part of the PARK DISTRICT to comply with any term, representation, warranty, obligation, provision or condition of this Agreement, within thirty (30) days after the date of the VILLAGE'S giving of written notice thereof, shall constitute an event of default, unless the parties mutually agree to extend said period. Notwithstanding the foregoing, in the event that such non-compliance cannot be corrected within said thirty (30) day period because of matters not within the reasonable control of the PARK DISTRICT or because compliance cannot reasonably be fully accomplished within said thirty (30) day period, the PARK DISTRICT shall have a reasonable additional period of time to correct said non-compliance; provided, however, that the PARK DISTRICT diligently pursues the correction of said non-

compliance within said reasonable additional period of time and that said reasonable additional period of time does not exceed sixty (60) days beyond said initial thirty (30) day period; with non-compliance after said ninetieth (90th) day being deemed to constitute an event of default. Upon an occurrence of an event of default by the PARK DISTRICT (after notice and expiration of all cure periods) the VILLAGE may elect to be relieved of any and all of its obligations arising pursuant to this Agreement, by delivering notice of its election to terminate this Agreement to the PARK DISTRICT and, thereupon, this Agreement shall terminate.

12. The PARK DISTRICT shall have the right to terminate this Agreement upon thirty (30) days prior written notice to the VILLAGE.

13. In the event of the termination of this Agreement, whether at the end of the twenty (20) year term or earlier as a result of a termination pursuant to either Sections 10, 11, or 12 hereof, the PARK DISTRICT shall, within sixty (60) days of any such termination, remove the entry gate, fence, sprinkler park equipment, restrooms/storage structure and shaded picnic tables, as referenced in subsections E, F, G, H and I of Exhibit "A", from the Subject Property. In the event the PARK DISTRICT fails to remove the aforementioned items within said sixty (60) day period, and the VILLAGE is required to remove them, the VILLAGE shall be entitled to receive reimbursement from the PARK DISTRICT for the costs incurred by the VILLAGE relative to said removal.

14. Notice or other writings which either party is required to, or may wish to, serve upon the other party in connection with this Agreement shall be in writing and shall be delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

A. If to the VILLAGE:

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

B. If to the PARK DISTRICT:

Executive Director
Lombard Park District
150 South Park
Lombard, IL 60148

or to such other address, or additional parties, as either Party may from time to time designate in a written notice to the other Party.

15. This Agreement shall be executed simultaneously in two (2) counterparts, each of which shall be deemed an original, but both of which shall constitute one and the same Agreement.

16. This Agreement contains the entire understanding between the Parties and supersedes any prior understanding or written or oral agreements between them respecting the within subject matter. There are no representations, agreements, arrangement 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.

17. This Agreement shall be deemed dated and become effective on the date the last of the Parties execute this Agreement as set forth below.

IN WITNESS WHEREOF, the VILLAGE, pursuant to authority granted by the adoption of an Ordinance by its Board of Trustees, has caused this Agreement to be executed by its Village President and attested by its Village Clerk, and the PARK DISTRICT, pursuant to the authority duly granted by the adoption of a Resolution by its Board of Park Commissioners, has cause this instrument to be signed by its President and attested by its Secretary.

VILLAGE OF LOMBARD

LOMBARD PARK DISTRICT

Village President

BY: _____
President

ATTEST:

ATTEST:

Village Clerk

Secretary

DATED: _____

DATED: _____