

LEGISTAR: 120211
DISTRICT #: 1

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

 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: David A. Hulseberg, Village Manager

DATE: April 10, 2012 (BOT) Date: May 3, 2012

SUBJECT: Intergovernmental Agreement between the Village of Lombard and the Lombard Park District regarding Modifications to Terrace View Pond

SUBMITTED BY: Carl S. Goldsmith, Director of Public Works *Cjg*

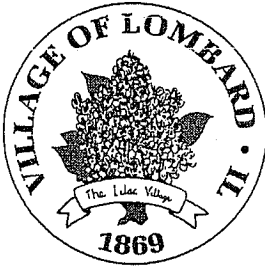
BACKGROUND/POLICY IMPLICATIONS:

A Resolution authorizing the signature of the President and Clerk on an Intergovernmental Agreement with the Lombard Park District regarding Modifications to Terrace View Pond.

Fiscal Impact/Funding Source:

Review (as necessary):
Finance Director _____ Date _____
Village Manager _____ Date _____

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.



April 9, 2012

TO: Village President and Board of Trustees

THROUGH: David A. Hulseberg, Village Manager

FROM: Carl Goldsmith, Director of Public Works *CG*

SUBJECT: Intergovernmental Agreement between the Village of Lombard and the Lombard Park District regarding Modifications to the Terrace View Pond

Background

Following the July 23-24, 2010 storm events, the Village of Lombard undertook a significant effort to address flooding and stormwater management throughout the Village. Staff developed a number of projects designed to minimize the effect of storms on properties. These projects were incorporated into the Capital Improvement Plan and the budget, as well as serving as a primary item in the Village Board's Strategic Plan.

An area of concern to the Village was the area surrounding Terrace View Pond, which is generally located on the North side of Greenfield Avenue, between Elizabeth Street and Park. The property is owned by the Lombard Park District, but was developed jointly by the Village, the Park District and Elementary School District No. 44 for the purpose of controlling stormwater run-off in 1972. A concept plan was developed by the Department of Public Works that sought to construct a stormwater pumping station at the Pond, for the purpose of lowering the normal water level of the Pond by one foot (1'), in order to reduce flooding in the area tributary to the Pond (approximately 425 acres).

As the pond is owned by the Park District, with the Village retaining no easement for stormwater, the Village presented the concept to the Park District staff in fall 2010. The District representatives were receptive, but wanted the Village to develop a more detailed analysis of the effect of lowering the pond. The District's concerns are related to the fish population and recreational aspects of the pond lowering. The Village, along with the Park District selected Christopher B. Burke Engineering Ltd. (CBBEL) to prepare a Phase I engineering report. The TERRACE VIEW POND STORMWATER IMPROVEMENTS FEASIBILITY STUDY was presented to the Village and Park District in October 2010 for review and comment.

The Report examined existing conditions of the area(s) tributary to the Terrace View Pond, as well as options that were identified by Village staff and CBBEL. Among the options reviewed were the following:

- a. Option A - Lower water level +/- 1' with new pump station and vegetate newly exposed mudflat habitat
- b. Option B - Excavate the area to the southeast and create a 'detention' facility adjoining the pond.
- c. Option C - Lower water level +/- 1' with new gravity sewer and re-grade/re-vegetate banks

- d. Option D - Lower water level +/- 1' with new pump station, re-grade/re-vegetate banks and dredge pond in order to maintain or increase depth of water
- e. Option E – Remove all normal water and create a wetland bottom detention facility
- f. Option F - Install relief sewers from Crystal Avenue into Terrace View Pond without lowering the normal water level of the pond.
- g. Lower water level \pm 1' and install relief sewers from Crystal Avenue into pond

Based upon a review of the most cost effective and most significant impact on the area, CBBEL recommended Option G. This recommendation was supported by the Public Works Committee and staff. On October 25, 2011, the Village presented the findings of the CBBEL Report to the Park District Commissioners and sought their preliminary approval to move forward with Option G. Such concurrence was granted and the attached intergovernmental agreement has been developed to codify the obligations of the Village and the Park District.

Option G identifies the installation of two 24” relief sewers along Crystal Avenue to assist the upstream sewers in conveying water during high intensity storms. This option combined with the lowering of the pond provides both additional storage and increased sewer capacity. The relief sewers would be installed between Crystal Avenue and the north lobe of the pond (the photo below identifies the general location of proposed the sewers). In order to construct the sewers, the Village will need to acquire property to allow for the installation. The Village has an agreement in principal with a property owner and will be bringing a real estate contract to the Village Board for approval in the next month.



The IGA provides for the following:

DISTRICT OBLIGATIONS

- Grant the Village the authority to construct the improvements (relief sewers and pump station) including any and all necessary improvements to the pond on the Park Property
- Grant to the Village a permanent stormwater management easement over the Park Property

- Reimburse the Village for the cost of any improvements to the pond on the Park Property that are not required, as a condition of the engineering study conducted by the Village, to construct the relief sewers and/or pump station
- Accept title to the property acquired by the Village, along West Crystal Avenue, subject to the Village retaining a permanent stormwater management easement over the property
- Assume all costs of maintenance and repairs to the West Crystal Parcel upon conveyance from the Village

VILLAGE OBLIGATIONS

- Present final plans and specifications to the District, for review and consideration, prior to the construction of the relief sewers and the pump station;
- Pay for all costs of the improvements
- Provide the Park District with all engineering reports during the construction
- Convey title to the West Crystal Parcel to the District
- Construct an eight (8) foot wide path from the sidewalk in the right-of-way immediately adjacent to the West Crystal Parcel, to the walking path surrounding the pond on the park property.

The Village Board has approved funding for the Terrace View Pond Projects in the FY2012B, and subsequent Capital Improvement Plans. The staff looks forward to the construction of these improvements designed to more effectively manage stormwater in the areas tributary to the Terrace View Pond.

The IGA has been reviewed by the Village Attorney and is consistent with past IGAs executed by the Village. The Park District has placed this item on their agenda for their April 24, 2012 meeting. I respectfully request that this item be placed on the Village Board's agenda for the May 3, 2012 meeting.

Recommendation

Staff recommends that the Village Board of Trustees approve an Intergovernmental Agreement between the Village of Lombard and the Lombard Park District regarding Modifications to Terrace View Pond.

RESOLUTION
R ____-12

**RESOLUTION AUTHORIZING THE SIGNATURE OF PRESIDENT AND CLERK ON
AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE VILLAGE OF
LOMBARD AND THE LOMBARD PARK DISTRICT**

WHEREAS, it is the best interest of the Village of Lombard, DuPage County, Illinois to enter into an Intergovernmental Agreement (hereinafter the "Agreement") with the Lombard Park District regarding Modifications to Terrace View Pond; and,

WHEREAS, the Agreement has been drafted and a copy is attached hereto and incorporated herein as Exhibit "A".

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 Agreement attached hereto as Exhibit "A" is hereby approved.

SECTION 2: That the Village President be and hereby is authorized and directed to sign, on behalf of the Village of Lombard, the Agreement attached hereto as Exhibit "A".

SECTION 3: That the Village Clerk be and hereby is authorized and directed to sign, on the behalf of the Village of Lombard, the Agreement attached hereto as Exhibit "A" and made part hereof.

Adopted this ____ day of _____, 2012.

Ayes: _____

Nayes: _____

Absent: _____

Approved this ____ day of _____, 2012.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk

**AN INTERGOVERNMENTAL AGREEMENT BETWEEN
THE VILLAGE OF LOMBARD AND THE LOMBARD PARK DISTRICT
IN REGARD TO MODIFICATIONS TO TERRACE VIEW POND**

THIS AGREEMENT (hereinafter referred to as the "Agreement"), is entered into this _____ day of _____, 2012, by and between the VILLAGE OF LOMBARD (hereinafter referred to as the "VILLAGE") and the LOMBARD PARK DISTRICT (hereinafter referred to as the "DISTRICT"). The VILLAGE and the DISTRICT are hereinafter sometimes individually referred to as a "Party" and collectively referred to as the "Parties."

WITNESSETH

WHEREAS, the DISTRICT is the record owner of certain real property, commonly known as Terrace View Pond, generally located on the North side of Greenfield Avenue, between Elizabeth Street and Park Avenue; said property comprised of the following parcels:

P.I.N.:	06-06-401-004
	06-06-404-003
	06-06-410-004
	06-06-416-009
	06-06-416-032
	06-06-416-033
	06-06-416-055
	06-06-420-001
	06-06-420-002
	06-06-420-003;

(hereinafter referred to as the "Park Property"); and

WHEREAS, the Parties adopted a Resolution in support of jointly addressing stormwater management issues, on March 6, 1972, with said Resolution stating in pertinent part as follows:

"[t]he Village and Park District recognize the desirability of joint use of land for park and surface water run off control for the mutual benefit of the citizens of the Village of Lombard"; and

"[t]he joint use of land for park and regulation of storm water discharge to the sewer system of the municipality results in a reduction of flooding conditions and a reduction in a cost of waste water treatment"; and

"[t]hat the policy of the Village of Lombard and the Lombard Park District whenever and wherever possible cooperate in efforts to utilize the land to the best possible advantage and to divide multi purpose uses to the public property"; and

WHEREAS, the Parties, along with School District #44, constructed the Terrace View Pond for the purpose of controlling stormwater run-off in 1972; and

WHEREAS, The VILLAGE has proposed a concept plan (hereinafter referred to as the "PLAN"), to the DISTRICT, for a stormwater pumping station to be installed at the Park Property, for the purpose of lowering the normal water level of the pond located on the Park Property by one (1) foot in order to reduce flood damages.; and

WHEREAS, at the October 25, 2011 DISTRICT Board meeting, the DISTRICT Board unanimously voted to support Alternative G in the PLAN, a copy of which is attached hereto as Exhibit "A" and made part hereof, subject to the following conditions:

- A. The VILLAGE fund the full cost of the improvement(s) as provided in the PLAN;
- B. The DISTRICT's legal fees related to the review of this Agreement shall not exceed \$2,500.00;
- C. The VILLAGE shall seek to construct the improvements contained in the PLAN in two (2) phases, as described below:
 - i. Phase One shall include the construction of two (2) twenty-four (24) inch relief sewers from Crystal Avenue to the pond located on the Park Property; and
 - ii. Phase Two shall include the installation of a pump station on the Park Property, to lower the normal water level of the pond on Park Property by one (1) foot; and
- D. The VILLAGE shall provide all subsequent engineering studies and reports in relation to the PLAN and its implementation to the DISTRICT;

(hereinafter referred to as the "PROJECT"); and

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

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

NOW, THEREFORE, in consideration of the foregoing, and the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the Parties, the Parties hereto agree as follows:

1. INCORPORATION OF PREAMBLES. The preambles hereto, as set forth above, are incorporated herein by reference and are made part hereof.

2. **DISTRICT OBLIGATIONS.** In relation to the PLAN and the PROJECT, the DISTRICT agrees to:

- A. Grant the VILLAGE the authority to construct the PROJECT, including any and all necessary improvements to the pond on the Park Property as identified in the PLAN;
- B. Grant a permanent stormwater management easement to the VILLAGE over the Park Property;
- C. Reimburse the VILLAGE for the cost of any improvements to the pond on the Park Property that are not required, as a condition of the engineering study conducted by the VILLAGE, to implement the PROJECT;
- D. Accept title to the property acquired by the Village, along West Crystal Avenue, for the purposes of constructing the PROJECT upon completion of the PROJECT, subject to the VILLAGE's retention of a permanent stormwater management easement over said property; said property being legally described on Exhibit "B" attached hereto and made part hereof (hereinafter referred to as the "West Crystal Parcel");
- E. Assume all costs of maintenance and repairs to the West Crystal Parcel upon conveyance of title thereto to the DISTRICT.

3. **VILLAGE OBLIGATIONS.** In relation to the PLAN and the PROJECT, the VILLAGE agrees to

- A. Present final plans and specifications to the DISTRICT, for review and consideration, prior to the construction of the PROJECT;
- B. Pay for all costs of the PROJECT related to construction, easements, restoration, associated landscaping and maintenance of any additional landscaping until established;
- C. Provide the DISTRICT, through the use of the VILLAGE's engineering staff, with all design and resident engineering reports during the construction of the PROJECT;
- D. Convey title to the West Crystal Parcel to the DISTRICT, subject to the VILLAGE's retention of a permanent stormwater management easement over said West Crystal Parcel, upon completion of the PROJECT; and
- E. Construct an eight (8) foot wide asphalt path from the sidewalk in the right-of-way immediately adjacent to the West Crystal Parcel, to the walking path surrounding the pond on the park property.

4. **SURVEY, DESIGN AND CONSTRUCTION OF THE PROJECT.** The VILLAGE shall proceed with the design, bidding, contract award, and construction of the PROJECT, in accordance with the PLAN. The VILLAGE shall make reasonable efforts to complete the PROJECT prior to December 31, 2014.

5. **VILLAGE INDEMNIFICATION OF THE DISTRICT.** The VILLAGE shall indemnify and hold harmless the DISTRICT and, and its elected officials, 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 elected officials, officers, agents, employees, consultants or contractors, arising from the design or construction of the PROJECT. The VILLAGE further agrees to require any contractor to include the DISTRICT, and its elected officials, officers, agents and employees, as additional insureds on the insurance policies required of the contractor relative to the PROJECT, which insurance policies shall be written with insurers and in amounts reasonably satisfactory to the DISTRICT.

6. **DISTRICT INDEMNIFICATION OF THE VILLAGE.** The DISTRICT shall indemnify and hold harmless the VILLAGE, and its elected officials, 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 DISTRICT, or its elected officials, officers, agents, employees, consultants or contractors, pursuant to this Agreement.

7. **NO WAIVER OF TORT IMMUNITY DEFENSES.** Nothing contained in Sections 5 or 6 above, or in any other provision of this Agreement, is intended to constitute, nor shall constitute, a waiver of the defenses available to any of the Parties under the Illinois Local Governmental and Governmental Employees Tort Immunity Act (745 ILCS 10/1-101 *et seq.*) with respect to claims by third parties.

8. **NOTICES.** 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, Illinois 60148

B. If to the PARK DISTRICT:

Executive Director
Lombard Park District
227 West Parkside Avenue
Lombard, Illinois 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. Service by certified mail shall be deemed given on the third day following the mailing of said notice, and service by personal delivery shall be deemed given upon actual delivery.

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

10. **ENTIRE AGREEMENT.** This Agreement contains the entire understanding between the Parties and supersedes any prior understanding or written or oral agreements between them regarding the within subject matter. 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.

11. **EFFECTIVE DATE.** This Agreement shall be deemed dated and become effective on the date on which the last of the Parties executes this Agreement as set forth below.

IN WITNESS WHEREOF, the VILLAGE, pursuant to authority granted by the adoption of a [Motion/Resolution] by its Board of Trustees, has caused this Agreement to be executed by its President and attested by its Clerk; and the DISTRICT, pursuant to authority granted by the adoption of a [Motion/Resolution] by its Board of Park Commissioners, has caused this Agreement to be signed by its President and attested by its Secretary.

VILLAGE OF LOMBARD

By: _____
William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk

Dated: _____

LOMBARD PARK DISTRICT

By: _____
Janice Mills, President

ATTEST:

Paul W. Friedrichs, Secretary

Dated: _____

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 William J. Mueller and Brigitte O'Brien, personally known to me to be the Village President and Village Clerk the Village of Lombard, and also known to me to be the same persons whose names are subscribed to the foregoing instrument as such Village President and Village Clerk, respectively, appeared before me this day in person and severally acknowledged that as such Village President and Village Clerk they signed and delivered the signed instrument, pursuant to authority given by the Village of Lombard, as their free and voluntary act, and as the free and voluntary act and deed of said Village of Lombard, for the uses and purposes therein set forth, and that said Village Clerk, as custodian of the corporate seal of said Village of Lombard, caused said seal to be affixed to said instrument as said Village Clerk's own free and voluntary act and as the free and voluntary act of said Village of Lombard, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this _____ day of _____, 2012.

Notary Public

My Commission Expires: _____

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 _____ and _____, personally known to me to be the President and Secretary of the Board of Park Commissioners of the Lombard Park District, and also known to me to be the same persons whose names are subscribed to the foregoing instrument as such President and Secretary, respectively, appeared before me this day in person and severally acknowledged that as such President and Secretary they signed and delivered the signed instrument, pursuant to authority given by the Board of Park Commissioners of the Lombard Park District, as their free and voluntary act, and as the free and voluntary act and deed of said Board of Park Commissioners of the Lombard Park District, for the uses and purposes therein set forth, and that said Secretary, as custodian of the corporate seal of said Lombard Park District, caused said seal to be affixed to said instrument as said Secretary's own free and voluntary act and as the free and voluntary act of said Lombard Park District, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this _____ day of _____, 2012.

Notary Public

My Commission Expires: _____

Exhibit "A"

CONCEPT PLAN FOR TERRACE VIEW POND

(see attached)