

**DISTRICT All & #4**

**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:** William T. Lichter, Village Manager

**DATE:** March 29, 2006 (COW) (B of T) **Date:** April 6, 2006

**TITLE:** Lombard Lagoons Area  
(N.E. Lombard Area Improvements, Phase I & II, Special Assessment 217A, B & C)  
Agreement between the Village of Lombard and Illinois American Water Company

**SUBMITTED BY:** Ray Schwab, Civil Engineer II *463*

**BACKGROUND/POLICY IMPLICATIONS:**

See Memo

**FISCAL IMPACT/FUNDING SOURCE:**

See Memo

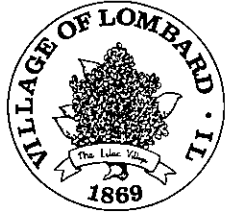
Review (as necessary):

Village Attorney X \_\_\_\_\_ Date \_\_\_\_\_

Finance Director X \_\_\_\_\_ Date \_\_\_\_\_

*Wing* Village Manager X *Leonard Flood* \_\_\_\_\_ Date *03/29/06*

**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.



## InterOffice Memo

**To:** William T. Lichter, Village Manager  
**Through:** Wes Anderson, Director of Public Works ~~WA~~  
**From:** Ray Schwab, Civil Engineer II *RS*  
**Date:** March 29, 2006  
**Subject:** Lombard Lagoons Area  
 Agreement with Illinois American Water Company

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Attached is a proposed agreement with the Illinois American Water Company (IAWC). The agreement establishes responsibilities and procedures for both parties as related to IAWC's water main in the Lombard Lagoons area. The Lombard Lagoons area is in the northeast section of the Village. It is bounded by Grace Street, Sunset Avenue, the Villa Park Border and North Avenue.

The Village of Lombard will be proceeding this spring with the first of seven projects in the Lombard Lagoons area. The first two projects (summer of 2006 & 2007) are replacement of sanitary sewer and services. In the summer of 2007 and 2008 a separate project will transfer resident's sanitary service from the rear yard sewer main to the new main in the right-of-way. Starting in 2008, and continuing for three years, three Special Assessment projects (one each construction season) will construct a full urban section (storm sewer, curb and gutter, full depth asphalt pavement, sidewalk and street lighting) in the streets within the Lombard Lagoons area.

The underground construction for each of these projects affects the water main owned by IAWC. Public Works Engineering seeks to have the agreement in place prior to the work proceeding. Highlights of the agreement include:

- As part of the sanitary sewer projects, the Village of Lombard will relocate IAWC water main (according to IAWC standards) where it is in conflict with any new utility installations.
- IAWC will reimburse the Village for the cost of relocating its water main.
- If the contractor's negligent act damages IAWC water main, the Village will have the water main repaired at no cost to IAWC.
- IAWC will repair any water main breaks not directly caused by underground construction (such as roadway base preparation and asphalt paving).
- IAWC will not replace any water main under the fully improved roadway for five years (excepting emergency work) after the roadway construction is complete.

The agreement has been reviewed and approved by the Village Attorney, IAWC's legal and administrative staff.

Please present this agreement to the President and Board of Trustees for their review and approval at their regular meeting on April 6, 2006. If approved, please have two signed copies returned to Engineering for further processing.

C: File: ST-01-10

H:PW/PW-ENG/PROJECTS/FY2001/ST-01-01/Illinois American

**RESOLUTION**  
**R \_\_\_\_\_ 06**

A RESOLUTION AUTHORIZING SIGNATURE OF  
PRESIDENT AND CLERK ON AN AGREEMENT

**WHEREAS**, the Corporate Authorities of the Village of Lombard have received an Intergovernmental Agreement in Regard to the Illinois-American Water Company relative to the North East Lombard Area Improvements, Sanitary Sewer and Water Main Improvements Phase I and II and Special Assessments 217A, 217B & 217C between the Village of Lombard and the Illinois-American Water Company, as attached hereto and marked 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 6<sup>th</sup> day of April 2006.

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

Approved this 6<sup>th</sup> day of April 2006.

\_\_\_\_\_  
**William J. Mueller**  
**Village President**

ATTEST:

\_\_\_\_\_  
**Brigitte O'Brien**  
**Village Clerk**

APPROVAL AS TO FORM:

\_\_\_\_\_  
**Thomas P. Bayer**  
**Village Attorney**

**AN AGREEMENT BETWEEN THE  
VILLAGE OF LOMBARD AND ILLINOIS-AMERICAN WATER COMPANY  
IN REGARD TO THE RELOCATION OF WATERMAINS  
AS PART OF THE CONSTRUCTION WORK RELATIVE  
TO THE LOMBARD SPECIAL ASSESSMENT NO. 217 PROJECT AREA**

THIS AGREEMENT, entered into this \_\_\_\_ day of \_\_\_\_\_, 2006, by and between the VILLAGE OF LOMBARD (hereinafter referred to as the "VILLAGE") and ILLINOIS-AMERICAN WATER COMPANY, an Illinois corporation (hereinafter referred to as the "IAWC").

**WITNESSETH**

WHEREAS, the VILLAGE is in the process of moving forward with a phased street reconstruction project, to include the watermain and sanitary sewer work in the first phase and roadway reconstruction work known as Lombard Special Assessment No. 217 in the second phase (hereinafter the "PROJECT"), which will include work on portions of Edgewood Avenue, Grace Street, Joyce Avenue, Kaplan Court, Kramer Avenue, LaLonde Avenue, LeMoyne Avenue, Marcus Drive, Parker Drive, Reskin Road and Vista Avenue (hereinafter the "PROJECT AREA"); and

WHEREAS, IAWC provides potable water service within the PROJECT AREA, through watermains and portions of service lines located within right-of-way, with said watermains and portions of service lines being under the ownership and control of IAWC (hereinafter the "WATERMAIN" or the "WATERMAINS"); and

WHEREAS, the PROJECT will necessitate the relocation of certain of the WATERMAINS; and

WHEREAS, the VILLAGE has agreed to include the relocation of the WATERMAINS as part of the PROJECT, provided IAWC reimburses the VILLAGE for the costs incurred by the VILLAGE relative to the relocation of the WATERMAINS, it being noted that these relocations

are necessary to accommodate the installation of VILLAGE owned utilities and have been agreed to with the VILLAGE; and

WHEREAS, IAWC has agreed to reimburse the VILLAGE for the cost incurred by the VILLAGE relative to relocating the WATERMANS as part of the PROJECT; and

WHEREAS, the VILLAGE and IAWC desire to enter into an agreement to memorialize their respective understandings relative to the inclusion of the relocation of the WATERMANS as part of the PROJECT; and

WHEREAS, Article VII, Section 10 of the 1970 Illinois Constitution provides authority for this Agreement; and

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

NOW, THEREFORE, in consideration of the foregoing, and the mutual covenants and agreements contained therein, 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. VILLAGE OBLIGATIONS. The VILLAGE shall include the relocation of the WATERMANS as part of the PROJECT. In relation thereto, the VILLAGE shall provide IAWC with the following:

- A. A "milestone" schedule for the PROJECT, including, but not limited to, the proposed dates for the following relative to the PROJECT:
  - i) the public information meeting;
  - ii) the bid opening;
  - iii) the bid award; and
  - iv) the issuance of the notice to proceed to the VILLAGE'S contractor.

- B. The name and phone number for a VILLAGE office point of contact (the VILLAGE'S in-house PROJECT manager).
- C. The name and phone number for an "in-the field" point of contact (the VILLAGE'S resident engineer).
- D. One (1) set of preliminary (90% complete) plans for the PROJECT.
- E. Two (2) sets of final review (99% complete) plans for the PROJECT.
- F. Three (3) full sets of construction documents after the award of the contract for the PROJECT.
- G. One (1) copy of the record drawings for the PROJECT, indicating the relative horizontal and vertical elevation of any relocated WATERMANS (including private water service lines).
- H. Weekly progress reports during the construction of the PROJECT.
- I. Monthly invoices for the reasonable expense for performing the work for any WATERMAIN relocation work performed as part of the PROJECT, including copies of all pay estimates as approved by the VILLAGE relative to the PROJECT.
- J. A notice of completion of the PROJECT.

3. IAWC OBLIGATIONS. IAWC hereby consents to the VILLAGE including the relocation of the WATERMANS as part of the PROJECT, and in furtherance thereof, IAWC shall provide the VILLAGE with the following:

- A. The name and phone number for an IAWC office point of contact (the person at IAWC's office who oversees the WATERMANS in the PROJECT AREA).
- B. The name and phone number for an IAWC "in-the-field" point of contact (the person "in-the field" who oversees the WATERMANS in the PROJECT AREA for IAWC).
- C. Timely comments relative to the proposed relocation of the WATERMANS, as depicted on the preliminary and final review plans referenced in Sections 2D and 2E above, with said comments to be provided to the VILLAGE in accordance with the PROJECT schedule referenced in Section 2A above. The VILLAGE will advise IAWC in writing, within fourteen (14) days of receipt of IAWC's comments, as to how said comments will be addressed by the VILLAGE.

- D. Within twenty-one (21) days after the issuance by the VILLAGE of the notice of completion of the PROJECT, as referenced in Section 2J above, IAWC shall inspect the PROJECT and either issue a letter of acceptance of the WATERMAIN relocation work performed by the VILLAGE as part of the PROJECT or notify the VILLAGE in writing of any deficiencies. The VILLAGE shall have twenty-one (21) working days after receipt of any such deficiency notice to cure any reasonable deficiencies. Failure to provide the VILLAGE with either of the notices shall be deemed to be an acceptance of the WATERMAIN relocation work by IAWC.

4. CONDITIONS APPLICABLE TO WATERMAIN RELOCATION WORK. The following terms and conditions shall be applicable to any work performed in relation to the WATERMAINS as part of the PROJECT:

- A. The VILLAGE shall provide full-time construction observation during the excavation and construction of all new and/or relocated underground utilities, including new or relocated WATERMAINS. IAWC shall be entitled to receive copies of any observation reports received by the VILLAGE. IAWC shall be entitled to inspect the construction and provide comments, with the cost of such IAWC inspections to be borne by IAWC.
- B. Pay items will be established by the VILLAGE and IAWC for all anticipated relocation work relative to the WATERMAINS (lowering of watermains and replacement of water services) based upon the unit prices charged the VILLAGE relative to the PROJECT. In the event of unanticipated work, if the scope of service is not within the established pay items, work will be done on a time and material basis. IAWC will be notified by the VILLAGE as soon as any time and material billing situation arises relative to the WATERMAINS.
- C. Conflicts in relation to the WATERMAINS, necessitating relocations thereof, will be resolved by constructing modifications in accordance with the standards as supplied by IAWC.
- D. The VILLAGE'S contractor on the PROJECT (or the contractor's subcontractor) will fix any WATERMAIN breaks caused by the contractor (direct hit, exposed WATERMAIN that is not properly supported or any situation that is deemed to have resulted from a negligent act of the contractor by the VILLAGE or its representative). The VILLAGE shall be responsible for the cost of these WATERMAIN breaks.
- E. WATERMAIN breaks resulting from indirect actions adjacent to the excavation or travel of vehicles or equipment within the dedicated right-of-way in which the

proposed roadway is being constructed as part of the PROJECT will not be considered the fault of the VILLAGE'S contractor, as this is work that is necessary to reconstruct the VILLAGE'S watermain and sanitary sewer systems and reconstruct the roadway as contemplated by the PROJECT. IAWC will be responsible for the cost of these WATERMAIN breaks.

- F. IAWC shall be responsible for the repair of any WATERMAIN breaks not associated with work performed by the contractor as part of the PROJECT, as well as any general watermain replacement work IAWC chooses to perform in relation to its WATERMANS. In relation to any such general watermain replacement work, IAWC agrees to perform such work prior to the roadway reconstruction phase of the PROJECT, and, in furtherance of said agreement, agrees that, except for emergency repair or replacement work, IAWC will not replace any WATERMANS located within the PROJECT AREA and underneath the roadway (roadway being defined as the area from the back of the curb on one side of the street to the back of the curb on the other side of the street) during the five (5) years following the completion of the roadway replacement phase of the PROJECT (emergency repair or replacement work being defined as work that cannot, without adversely impacting the health or safety of IAWC's customers, wait until the end of said five (5) year period). This restriction shall not apply to watermains located outside of the roadway (as defined above).

5. PAYMENTS BY IAWC TO THE VILLAGE. IAWC shall make payment to the VILLAGE for WATERMAIN relocation work, and the repair of WATERMAIN breaks as referenced in Section 4E above, performed by the VILLAGE as part of the PROJECT within sixty (60) days after receipt of a bill from the VILLAGE for said WATERMAIN relocation or repair work. Any bill not paid within said sixty (60) day period shall accrue interest at the rate of two percent (2%) per month, with the minimum late payment interest amount being for a one (1) month period.

6. INDEMNIFICATION OF IAWC. The VILLAGE shall indemnify and hold harmless IAWC, 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 performance of this Agreement.

7. INDEMNIFICATION OF THE VILLAGE. IAWC 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, out of the acts or omissions of the IAWC, or its officers, agents or employees, in the performance of this Agreement.

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:

Director of Public Works  
Village of Lombard  
255 East Wilson Avenue  
Lombard, IL 60148

B. If to IAWC:

Manager of Engineering  
Illinois-American Water Company  
1000 Internationale Parkway  
Woodridge, IL 60517

Copy to: American Water Legal Department  
727 Craig Road  
St. Louis, MO 63141

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.

9. COUNTERPARTS. 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.

10. ENTIRE AGREEMENT. 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, 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 the last of the parties execute this Agreement as set forth below.

**IN WITNESS WHEREOF**, the VILLAGE and IAWC, pursuant to property granted by authority, have caused this Agreement to be executed by their respective authorized representatives.

VILLAGE OF LOMBARD

ILLINOIS-AMERICAN WATER COMPANY

\_\_\_\_\_  
William J. Mueller, Village President

By: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

ATTEST:

\_\_\_\_\_  
Brigitte O'Brien, Village Clerk

\_\_\_\_\_  
Title: \_\_\_\_\_

DATED: \_\_\_\_\_

DATED: \_\_\_\_\_

ACKNOWLEDGMENTS

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 William J. Mueller, personally known to me to be the President of the Village of Lombard, and Brigitte O'Brien, personally known to me to be the Village Clerk of said municipal corporation, and 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 severally acknowledged that as such President and Village Clerk, they signed and delivered the said instrument and caused the corporate seal of said municipal corporation to be affixed thereto, pursuant to authority given by the Board of Trustees of said municipal corporation, as their free and voluntary act, and as the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

Commission expires \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
Notary Public

STATE OF \_\_\_\_\_ )  
 ) SS  
COUNTY OF \_\_\_\_\_ )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named \_\_\_\_\_ and \_\_\_\_\_, are personally known to me to be the \_\_\_\_\_ and \_\_\_\_\_ of Illinois-American Water Company and also personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such \_\_\_\_\_ and \_\_\_\_\_ respectively, and that they appeared before me this day in person and severally acknowledged that as such \_\_\_\_\_ and \_\_\_\_\_ they signed and delivered the said instrument, and caused the corporate seal of said company to be affixed thereto, pursuant to authority given by the Board of Directors of said company, as their free and voluntary act, and as the free and voluntary act and deed of said company, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

Commission expires \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public