

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

_____ Resolution or Ordinance (Blue) _____ *Waiver of First Requested*
_____ Recommendations of Boards, Commissions & Committees (Green)
 X Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: David A. Hulseberg, Village Manager

DATE: May 28, 2013 (COW)(B of T) June 6, 2013

TITLE: A Motion Authorizing Execution of a Legal Services Agreement for the
Collection of Unremitted Hotel/Motel Taxes

SUBMITTED BY: Timothy Sexton, Director of Finance

BACKGROUND/POLICY IMPLICATIONS:

In early April, a lawsuit was filed against several online travel companies by seven municipalities to recover unpaid taxes from the online travel companies. The following municipalities are currently involved in the lawsuit: Warrenville, Oakbrook Terrace, Rockford, Bedford Park, Oak Lawn, Orland Hills, Willowbrook, Tinley Park, Burr Ridge, Orland Park and Des Plaines. Schaumburg, Itasca and Arlington Heights are considering the lawsuit this week. Numerous other municipalities are in discussions to join the lawsuit.

The attached legal agreement is provided for Lombard to join the lawsuit. The law firms involved are representing the municipalities on a contingent fee basis, where they would fund all the costs of the litigation and then they would only collect a percentage of the recovery if there is a successful recovery.

Staff recommends that the Village join this lawsuit to pursue unremitted taxes from the online travel companies, and requests authorization to execute the legal services agreement. The Village Attorney has reviewed the agreement and sees no reason to propose any changes.

Review (as necessary):

Village Attorney X _____ Date _____
Finance Director X _____ Date _____
Village Manager X _____ 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.

LEGAL SERVICES AGREEMENT

THIS AGREEMENT (hereinafter referred to as the “Agreement”) effective this ___ day of _____ 2013, by and between the Village of Lombard, an Illinois municipal corporation (hereinafter referred to as the “Village”), and Robert K. Finnell, the Bird Law Group, P.C., the Crongeyer Law Firm, P. C., the Clifford Law Offices and the law firm of Peterson, Johnson & Murray Chicago, LLC (hereinafter referred to as the “Attorneys”).

WHEREAS, the collection of unremitted taxes due and owing to the Village under the Village’s Hotel/Motel Room Tax, as amended, and all other applicable provisions relating to the provision of hotel or lodging accommodations by corporations who offer and sell/rent such accommodations over the internet require the services of additional attorneys to represent the Village;

WHEREAS, the corporate authorities of the Village deem it desirable and in the best interest of the Village to enter into this Agreement with the Attorneys to provide for the terms and conditions of their employment;

NOW, THEREFORE, IT IS MUTUALLY AGREED between the Village and the Attorneys, as follows:

1. The Village employs the Attorneys to conduct and administer the following services:
 - A. diligently pursue unremitted taxes due and owing to the Village under the Village’s Hotel/Motel Room Tax, as amended and all other applicable provisions relating to the provision of hotel or lodging accommodations by corporations who offer and sell/rent such accommodations over the internet; and
 - B. assist the Village in pursuing non-filing, audit, assessment or other administrative processes, as needed, and in filing litigation pleadings including appeals and representing the Village as necessary and as requested and approved in connection with unpaid taxes and seeking the recovery of past, present and future taxes, interest and penalties against any parties responsible for filing, remittance or payment of such taxes, including any intermediaries, agents or clearing houses on behalf of the Village

2. The Attorneys shall perform the services with reasonable care, in a manner satisfactory to the Village and in accordance with all applicable laws and professional standards. The Attorneys shall function hereunder as independent contractors and not as employees of the Village. The Attorneys shall perform the services until such time as the services of the Attorneys are terminated as provided herein. The responsibility to be assumed by each attorney is as follows:
 - A. Robert K. Finnell, shall have primary responsibility for representation of the Village.

B. the Bird Law Group, P.C., shall have primary responsibility for representation of the Village.

C. the Crongeyer Law Firm, P .C., shall have primary responsibility for representation of the Village.

D. the Clifford Law Offices, shall have responsibility as local counsel; and

E. Peterson, Johnson & Murray Chicago, LLC, shall have responsibility as local counsel.

3. The Attorneys shall cooperate with the Village Board members of the Village, its staff and its consultants, and, subject to the general direction of the Village Board, shall communicate and/or meet with staff members and consultants during normal business hours or otherwise, as shall be mutually convenient, whenever such communication and/or meetings are necessary for the conduct of the Attorneys' services.

4. The Village shall assist and cooperate with the Attorneys and shall promptly supply such information, documentation and persons as may be requested by the Attorneys to permit the Attorneys to effectively advocate the Village's interests. The Village shall provide the Attorneys reasonable access, during the normal business hours, to all files, and other information not privileged or confidential, necessary for the Attorneys to perform the services under this Agreement; or the Village shall allow the Attorneys' personnel reasonable access, during the normal business hours, to the Village's records, files, properties for research and any other information not privileged or confidential necessary for the Attorneys to perform the services set forth in this Agreement.

5. Any documents, data, records, or other information relating to the legal representation of the Village and all information secured by the Attorneys from the Village in connection with the performance of legal services, unless in the public domain or unless disclosure is required by law, shall be considered attorney-client privileged, when applicable, and kept confidential by the Attorneys. The information shall not be made available to third parties without written consent of the Village, unless so required by valid court order. In addition, the Attorneys' Privacy Notice is attached hereto as Exhibit "A" and made a part hereof.

6. The Attorneys shall maintain all records relating to the performance of its services under this Agreement which would be subject to inspection and copying under the Freedom of Information Act (5 ILCS 140/1 *et seq.*) in compliance with the requirements of the Local Records Act (50 ILCS 205/1 *et seq.*) and the Freedom of Information Act (5 ILCS 140/1 *et seq.*) until the conclusion of the services and the payment of the fee and costs hereunder or until written approval for the disposal of such records is obtained from the Local Records Commission. The Attorneys shall make available to the Village such records and cooperate fully with the Village with any request for public records made pursuant to the Freedom of Information Act (5 ILCS 140/1 *et seq.*) by providing full access to and copying of all relevant non-exempt records within a time period which allows the Village to timely comply with the

time limits imposed by the Freedom of Information Act (5 ILCS 14011 *et seq.*). All reports, documents, data and other material constituting the work product of the Attorneys hereunder shall become the property of the Village, subject to the applicable attorney's lien. Title thereto, free of such lien, shall transfer to the Village following payment in full of any sums due to the Attorneys. The Attorneys, however, shall have the right to maintain for their own files and use copies of such reports, documents, and other materials constituting the Attorneys' work product.

7. Current communication technology, including, but not limited to, cellular telephones, electronic mail and facsimile transmission, contains certain inherent security risks that the information will be intercepted by third parties with no right to hear or see it. Unless otherwise notified by the Village, the Attorneys will use current communication technology to communicate with the Village with the understanding that by agreeing to the use of any means of communication other than in-person private meeting or two-way (as opposed to multi-party) land line telephone conversations, the Village will be giving its consent to, and accepting any risks of disclosure of, confidential information to third parties that may be attendant upon the use of those means of communication.

8. The Attorneys shall perform the legal services and the Village shall compensate the Attorneys for such legal services on a contingent fee basis as follows:

A. If the Attorneys achieve a settlement agreement within thirty (30) days of an initial demand letter, the Attorneys shall receive a contingent fee of twenty-five percent (25%) of the Gross Recovery, as defined below, plus the cash expenditures advanced and expenses incurred by the Attorneys on behalf of the Village.

B. If settlement is not achieved within thirty (30) days of an initial demand letter the Attorneys shall file suit and the Attorneys shall, upon final judgment after trial or any ensuing appeals or settlement with respect to any defendant or group of defendants obtained on behalf of and for the benefit of Village, receive a contingent fee equal to thirty-three percent (33%) of the Gross Recovery, as defined below, plus the cash expenditures advanced and expenses incurred by the Attorneys on behalf of the Village.

C. To the extent that final judgment or settlement is obtained against defendants on different dates the fee will be determined based upon the cumulative Gross Recovery from all defendants.

D. the balance of the Gross Recovery shall be paid to the Village.

E. "Gross Recovery" means damages, tax revenues, interest and penalties recovered for the Village through the date of settlement or final judgment but not indefinite prospective collections of tax revenues, interest or penalties that become due after the date of final judgment or settlement. To the extent that the defendants pay a lump sum settlement to resolve claims for both back taxes and to avoid registering and paying taxes for some number of specified years going forward, as they have done in other places, the amount of the lump sum payment shall be the Gross Recovery. If the defendants pay a lump sum for taxes, penalties and interest due as of the date of settlement and agree to

register and start paying taxes prospectively, the Gross Recovery shall be the lump sum payment and a sum equal to the annual amount of taxes actually paid by such companies for the next four (4) years as compensation for bringing about the change and leading to permanently increased revenues.

9. The Attorneys shall divide the Attorneys' fee paid by the Village in proportion to the services performed and the responsibility assumed by each lawyer on the following basis:

- A. Robert K. Finnell, shall receive Twenty Percent (20%) of the Attorneys' fee;
- B. the Bird Law Group, P.C., shall receive Twenty Percent (20%) of the Attorneys' fee;
- C. the Crongeyer Law Firm, P.C., shall receive Twenty Percent (20%) of the Attorneys' fee;
- D. the Clifford Law Offices, shall receive Twenty Percent (20%) of the Attorneys' fee; and
- E. Peterson, Johnson & Murray Chicago, LLC, shall receive Twenty Percent (20%) of the Attorneys' fee.

10. The Attorneys shall advance the expenses incurred to perform the legal services for the Village and shall receive reimbursement of the cash expenditures advanced and expenses incurred by the Attorneys on behalf of the Village from any Gross Recovery which shall be deducted after the contingent fee is calculated. If there is no Gross Recovery pursuant to a final judgment or settlement in connection with this litigation matter, then no attorneys' fee or costs shall be due to Attorneys hereunder. Upon conclusion of this matter, the Attorneys shall provide the Village with a written statement stating the outcome of the matter, and if there is a recovery, showing the Attorneys' fee, the cash expenditures advanced and expenses incurred by the Attorneys on behalf of the Village that are being reimbursed and the balance being remitted to the Village.

11. The Attorneys shall maintain professional liability insurance applicable to the services rendered to the Village.

12. The Attorneys shall submit to the Village a certification, attached hereto as Exhibit "B," that the Attorneys:

- A. are not delinquent in the payment of taxes to the Illinois Department of Revenue in accordance with 65 ILCS 5/11-42.1-1;
- B. are not barred from contracting as a result of a violation of either Section 3 E-3 (bid-rigging) or 33E-4 (bid-totaling) of the Criminal Code of 1961 (720 ILCS 5/33E-3 and 5/33E-4);

C. are in compliance with 775 ILCS 5/2-105(A)(4) requiring a written sexual harassment policy;

D. are not in default, as defined in 5ILCS 385/2, on an educational loan, as defined in 5ILCS 385/1;

E. will provide a drug-free workplace by:

(1) Publishing a statement:

(a) Notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, including cannabis, is prohibited in the Attorneys' workplace;

(b) Specifying the actions that will be taken against employees for violations of such prohibition;

(c) Notifying the employee that, as a condition of employment on such contract, the employee will:

(i) abide by the terms of the statement; and

(ii) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

(2) establishing a drug-free awareness program to inform employees about:

(i) the dangers of drug abuse in the workplace;

(ii) Attorneys' policy of maintaining a drug-free workplace;

(iii) any available drug counseling, rehabilitation, and employee assistance program; and

(iv) the penalties that may be imposed upon employees for drug violations;

(3) making it a requirement to give a copy of the statement required by subparagraph 18(E)(1) to each employee engaged in the performance of the Agreement and to post the statement in a prominent place in the workplace;

(4) notifying the Village within ten (10) days after receiving notice under subparagraph 18(E)(1)(c)(ii) from an employee or otherwise receiving actual notice of such conviction;

(5) imposing a sanction on or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted, as required by 30 ILCS 580/5;

(6) assisting employees in selecting a course of action in the event drug counseling treatment and rehabilitation is required and indicating that a trained referral team is in place; and

(7) making a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

F. provide equal employment opportunities in accordance with the Illinois Human Rights Act (775 ILCS 58011 *et seq.*) and are in compliance with 775 ILCS 5/2-105(A)(4) requiring a written sexual harassment policy;

G. certify that no officer or employee of the Village that has solicited any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to the government employment or the official position of the employee or officer from the Attorneys in violation of the Code of Lombard, Illinois, adopted by the Village pursuant to the requirements of the State Officials and Employees Ethics Act;

H. have not given to any officer or employee of the Village any gratuity, discount entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to the government employment or the official position of the employee or officer from the Attorneys in violation of the Code of Lombard, Illinois, adopted by the Village pursuant to the requirements of the State Officials and Employees Ethics Act;

I. are not a part of the immediate family of any officer or employee at or above the level of department head of the Village;

J. certify that no Village officer, spouse or dependent child of a Village officer, agent on behalf of any Village officer or trust in which a Village officer, the spouse or dependent child of a Village officer or a beneficiary is a holder of any interest in the Attorneys; or, if the Attorneys' stock is traded on a nationally recognized securities market, that no Village officer, spouse or dependent child of a Village officer, agent on behalf of any Village officer or trust in which a Village officer, the spouse or dependent child of a Village officer or a beneficiary is a holder of more than one percent (1%) of the

Attorneys, but if any Village officer, spouse or dependent child of a Village officer, agent on behalf of any Village officer or trust in which a Village officer, the spouse or dependent child of a Village officer or a beneficiary is a holder of less than one percent (1%) of such Contractor, the Attorneys have disclosed to the Village in writing the name(s) of the holder of such interest;

K. nor any of its principals, shareholders, members, partners, or affiliates, as applicable, is a person or entity named as a Specially Designated National and Blocked Person (as defined in Presidential Executive Order 13224) and that it is not acting, directly or indirectly, for or on behalf of a Specially Designated National and Blocked Person;

L. and its principals, shareholders, members, partners, or affiliates, as applicable, are not, directly or indirectly, engaged in, and are not facilitating, the transactions contemplated by the Agreement on behalf of any person or entity named as a Specially Designated National and Blocked Person;

M. are not acting, directly or indirectly, for or on behalf of any person, group, entity, or nation named by the United State Treasury Department as a Specially Designated National and Blocked Person, or for or on behalf of any person, group, entity, or nation designated in Presidential Executive Order 13224 as a person who commits, threatens to commit, or supports terrorism; and that it is not engaged in this transaction directly or indirectly on behalf of, or facilitating this transaction directly or indirectly on behalf of, any such person, group, entity, or nation.

13. In the event of the Attorneys' non-compliance with the provisions of this Equal Employment Opportunity Clause, the Illinois Human Rights Act or the Rules and Regulations of the Illinois Human Rights Commission, the Attorneys may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations; and this Agreement may be cancelled or voided in whole or in part, and other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this Agreement, the Attorneys shall:

A. not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, sexual orientation, military status or an unfavorable discharge from military service; and, further, that he or she will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any underutilization;

B. if the Attorneys hire additional employees in order to perform this Agreement or any portion of this Agreement, the Attorneys will determine the availability (in accordance with the Illinois Human Rights Commission's Rules and Regulations) of minorities and women in the areas from which the Attorneys may

reasonably recruit and the Attorneys will hire for each job classification for which employees are hired in a way that minorities and women are not underutilized;

C. in all solicitations or advertisements for employees placed by the Attorneys or on the Attorneys' behalf, the Attorneys will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, sexual orientation, military status or an unfavorable discharge from military service;

D. will send to each labor organization or representative of workers with which the Attorneys has or is bound by a collective bargaining or other agreement or understanding, a notice advising the labor organization or representative of the Attorneys' obligations under the Illinois Human Rights Act and the Illinois Human Rights Commission's Rules and Regulations. If any labor organization or representative fails or refuses to cooperate with the Attorneys in their efforts to comply with the Illinois Human Rights Act and Illinois Human Rights Commission's Rules and Regulations, the Attorneys will promptly notify the Illinois Human Rights Commission and the Village and will recruit employees from other sources when necessary to fulfill its obligations under this Agreement;

E. submit reports as required by the Illinois Human Rights Commission's Rules and Regulations, furnish all relevant information as may from time to time be requested by the Illinois Human Rights Commission or the Village and in all respects comply with the Illinois Human Rights Act and the Illinois Human Rights Commission's Rules and Regulations;

F. permit access to all relevant books, records, accounts and work sites by personnel of the Village and the Illinois Human Rights Commission for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and the Illinois Human Rights Commission's Rules and Regulations;

G. include verbatim or by reference the provisions of this clause in every subcontract awarded under which any portion of this Agreement's obligations are undertaken or assumed, so that the provisions will be binding upon the subcontractor. In the same manner as with other provisions of this Agreement, the Attorneys will be liable for compliance with applicable provisions of this clause by subcontractors; and further the Attorneys will promptly notify the Village and the Illinois Human Rights Commission in the event any subcontractor fails or refuses to comply with the provisions. In addition, the Attorneys will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations;

H. will not maintain or provide for its employees any segregated facilities at any of its establishments, and not permit its employees to perform their services at any location, under its control, where "segregated facilities" means any waiting rooms, work

areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin because of habit, local custom, or otherwise. The Attorneys (except where it has obtained identical certifications from proposed subcontractors and material suppliers for specific time periods), obtain certifications in compliance with this subparagraph from proposed subcontractors or material suppliers prior to the award of a subcontract or the consummation of material supply agreements, exceeding \$10,000.00 which are not exempt from the provisions of the Equal Employment Opportunity clause, and that the Attorneys will retain such certifications in its files.

14. The Attorneys do not know of any facts concerning the representation of the Village or the services to be provided hereunder which the Attorneys believe would adversely affect the relationship with another client, would materially limited by the Attorneys responsibilities to another client, to a third person or to the Attorneys' own interests or would otherwise constitute a conflict of interest. The Attorneys anticipate representing multiple local governmental entities in pursuing unremitted taxes. The common representation of multiple local governmental entities will benefit the Village by the sharing of the costs of litigation, the sharing of research and knowledge of the various legal subject matters involved in pursuing unremitted taxes and the sharing of information.

15. The Attorneys shall not refuse or deny employment to any person in any capaVillage on the ground of unlawful discrimination, as that term is defined in the Illinois Human Rights Act, nor shall any person be subjected to unlawful discrimination in any manner, in connection with the contracting for or the performance of any work or service of any kind, by, for, on behalf of, or for the benefit of the Village. The Attorneys, or any person on the Attorneys' behalf shall not, in any manner, discriminate against or intimidate any employee hired for the performance of work for the benefit of the Village on account of race, color, creed, sex, religion, physical or mental handicap unrelated to ability, or national origin; and there may be deducted from the amount payable to the Attorneys by the Village, under this contract, a penalty of five dollars for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of the Public Works Employment Discrimination Act (775 ILCS 10/0/01).

16. The Village's financial obligations under this Agreement are specifically contingent upon the recovery by the Attorneys of unremitted taxes. No annual appropriation of funds other than a general appropriation for legal services is required to authorize such financial obligation until such recovery is made. This Agreement shall not constitute a debt or obligation of the Village within any statutory or constitutional provision. In the fiscal year during which the Village is to pay to the Attorneys the Attorneys' fee and reimbursement of expenses advanced to which the Attorneys are entitled under this Agreement, if any, the Village shall include in the budget presented to the Village Council a proposed appropriation for the payment of the Attorneys' fee and reimbursement of the expenses advanced.

17. This Agreement contains all of the terms, provisions, agreements, conditions, and covenants between the parties, represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations or understandings, whether written or oral. Changes and amendments to this Agreement shall only be made in writing and by amendment to this Agreement. The amendment shall be in contract form and shall be approved by the Village.

18. Any notice given hereunder shall be in writing and transmitted via the United States mail, registered or certified, postage pre-paid, via overnight delivery (UPS or FedEx), or via fax with confirmed receipt, or via email, with a confirming fax or overnight delivery addressed to the proper party as follows:

A. If to the Village:

Village of Lombard
Attention: David Hulseburg, Village Manager
255 East Wilson Avenue
Lombard, Illinois 60148

B. If to the Attorneys:

Robert K. Finnell
The Finnell Firm
1 West Fourth Avenue
Suite 200
Rome, GA 30161

Mr. William Q. Bird
Bird Law Group, P.C.
2170 Defoor Hills Road
Atlanta, GA 30318

Mr. John W. Crongeyer
Crongeyer Law Firm, P.C.,
2170 Defoor Hills Road
Atlanta, GA 30318

Mr. Thomas K. Prindable
Clifford Law Offices
120 North LaSalle Street
Chicago, IL 60602

Mr. Paul O'Grady
Peterson, Johnson & Murray Chicago, LLC
223 South Wacker Drive, 84th Floor
Chicago, IL 60606

Either party may change its mailing address or other contact information by giving written notice to the other party as provided above. Whenever this Agreement requires one party to give the other notice, such notice shall be given only in the form and to the addresses described in this paragraph.

19. When this Agreement becomes effective, it will relate back to the day the appointment of the Attorneys for the Village became effective. This Agreement shall terminate upon a final judicial determination or a final settlement. This Agreement may also be terminated by the Village upon the expiration of the term of the mayor or upon written notice to the Attorneys, subject to the payment of the reasonable value of the services rendered prior to the date of termination. The Attorneys shall have the right, if in their sole judgment they believe such action is necessary or appropriate, to withdraw as attorneys representing the Village, without terminating this Agreement or may elect to terminate this Agreement, if the Village fails to meet its obligations under this Agreement, refuses to cooperate with the Attorneys, refuses to follow the legal advice provided by the Attorneys on a material matter or under any other circumstances in which the Attorneys' professional or legal responsibilities or obligations mandate or permit termination. The Attorneys shall give thirty (30) days' written notice to the Village. The Village shall cooperate and facilitate the withdrawal by retaining a substitute attorney. Provided that the Attorneys are ethically able to do so, at the sole option of the Village Council, all obligations under this Agreement shall continue until a successor attorney is retained but in no event more than sixty (60) days after the effective termination date as set forth in the notice. If this Agreement is terminated for any reason, the termination shall be effective only to terminate the Attorneys' services prospectively, and all other terms of this Agreement, including the Village's obligation to compensate the Attorneys for legal services rendered and expenses incurred prior to the termination shall survive the termination. Provided that the Agreement has not been terminated upon a final judicial determination or a final settlement or otherwise terminated by the Attorneys, this Agreement maybe renewed by the Village following the expiration of the term of the mayor upon written notice to the Attorneys.

20. This Agreement shall be deemed to be exclusive between the Village and the Attorneys. This Agreement shall not be assigned by either party without first obtaining permission in writing from the other party.

21. This Agreement shall be governed by the laws of the State of Illinois.

22. The illegality or invalidity of any term or clause of this Agreement shall not affect the validity of the remainder of this Agreement, and the Agreement shall remain in full force and effect as if such illegal or invalid term or clause were not contained herein.

23. The waiver by either party of any breach of this Agreement shall not constitute a waiver as to any other breach.

24. The Attorneys are not advising the Village with respect to this Agreement because the Attorneys would have a conflict of interest in doing so. If the Village desires advice regarding this Agreement, it should seek independent counsel of its choice to do so.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF the parties have executed this Agreement in Lombard, Illinois, the date and year first above written.

**ATTORNEYS:
ROBERT K. FINNELL**

**VILLAGE:
VILLAGE OF LOMBARD**

By: _____
Robert K. Finnell

Keith T. Giagnorio, Village President

BIRD LAW GROUP, P.C.

Attest:

By: _____
William Q. Bird, Managing Partner

Sharon Kuderna, Village Clerk

CRONGEYER LAW FIRM, P.C.

By: _____
John W. Crongeyer, President

CLIFFORD LAW OFFICES

By: _____
Thomas Prindable, Managing Partner

PETERSON, JOHNSON & MURRAY CHICAGO, LLC

By: _____
Paul O'Grady, Managing Partner

EXHIBIT “A”

ATTORNEYS PRIVACY NOTICE

Attorneys, like other professionals who advise on financial matters, are required by federal law to inform their clients of their policies regarding the privacy of client information. Attorneys have been and continue to be bound by professional standards of confidentiality that are even more stringent than those required by federal law.

In the course of providing our clients with certain advice, the Attorneys may receive nonpublic financial information from our clients, their accountants and other representatives. All nonpublic information we receive regarding our clients or former clients is held in strict confidence in accordance with our professional obligations and is not released to people outside of our law firm, except with the client’s consent or as required by law. We may share certain information with third parties who assist us in providing our services to our clients, as permitted by law, subject to the obligation that these third parties not use or disclose such information for any other purpose.

We retain records relating to professional services that we provide so that we are better able to assist you with your professional needs and, in some cases, to comply with professional guidelines. In order to guard our client’s nonpublic information from unauthorized disclosure, we maintain physical, electronic and procedural safeguards that comply with our professional standards.

EXHIBIT "B"

ATTORNEYS' CERTIFICATION

The certifications hereinafter made by Robert K. Finnell, the Bird Law Group, P.C., the Crongeyer Law Firm, P.C., the Clifford Law Offices and Peterson, Johnson & Murray Chicago, LLC (the "Attorneys") are each a material representation of fact upon which reliance is placed by the Village of Lombard (the "Village") in entering into the Legal Services Agreement with the Attorneys. The Village may terminate the Legal Services Agreement if it is later determined that the Attorneys rendered a false or erroneous certification.

The undersigned hereby certify that the Attorneys hereby represent and warrant to the Village that the Attorneys, and their shareholders or partners holding more than five percent (5%) of the outstanding partnership interests and its associate attorneys are:

(A) not delinquent in the payment of taxes to the Illinois Department of Revenue in accordance with 65 ILCS 5111-42.1-1;

(B) not barred from contracting as a result of a violation of either Section 33E-3 (bid rigging) or 33E-4 (bid-rotating) of the Criminal Code of 1961 (720 ILCS 5/33E-3 and 5/33E-4);

(C) in compliance with 775 ILCS 5/2-105(A)(4) requiring a written sexual harassment policy; and

(D) not in default, as defined in 5ILCS 385/2, on an educational loan, as defined in 5ILCS 38511.

In addition, the Attorneys hereby represent and warrant to the Village, that the Attorneys:

(A) will provide a drug-free workplace by:

(1) publishing a statement:

(a) notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, including cannabis, is prohibited in the Attorneys' workplace;

(b) specifying the actions that will be taken against employees for violations of such prohibition;

(c) notifying the employee that, as a condition of employment on such contract, the employee will:

(i) abide by the terms of the statement; and

- (ii) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- (2) establishing a drug-free awareness program to inform employees about:
 - (i) the dangers of drug abuse in the workplace;
 - (ii) Attorneys' policy of maintaining a drug-free workplace;
 - (iii) any available drug counseling, rehabilitation, and employee assistance program; and
 - (iv) the penalties that may be imposed upon employees for drug violations;
- (3) making it a requirement to give a copy of the statement required by subparagraph (A)(1) to each employee engaged in the performance of the Agreement and to post the statement in a prominent place in the workplace;
- (4) notifying the Village within ten (10) days after receiving notice under subparagraph (A)(1)(c)(ii) from an employee or otherwise receiving actual notice of such conviction;
- (5) imposing a sanction on or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted, as required by 30 ILCS 580/5;
- (6) assisting employees in selecting a course of action in the event drug counseling treatment and rehabilitation is required and indicating that a trained referral team is in place;
- (7) making a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

(B) provide equal employment opportunities in accordance with the Illinois Human Rights Act (775 ILCS 580/1 *et seq.*) and are in compliance with 775 ILCS 5/2-105(A)(4) requiring a written sexual harassment policy.

(C) certify that no officer or employee of the Village that has solicited any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to the government employment or the official position of the employee or officer from the Attorneys in violation of Sections 30.21 and 30.33 of the Code

of Lombard, Illinois adopted by the Village pursuant to the requirements of the State Officials and Employees Ethics Act.

(D) have not given to any officer or employee of the Village any gratuity, discount entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to the government employment or the official position of the employee or officer from the Attorneys in violation of the Code of Lombard, Illinois adopted by the Village pursuant to the requirements of the State Officials and Employees Ethics Act.

(E) are not a part of the immediate family of any officer or employee at or above the level of department head of the Village.

(F) certify that no Village officer, spouse or dependent child of a Village officer, agent on behalf of any Village officer or trust in which a Village officer, the spouse or dependent child of a Village officer or a beneficiary is a holder of any interest in the Attorneys; or, if the Attorneys' stock is traded on a nationally recognized securities market, that no Village officer, spouse or dependent child of a Village officer, agent on behalf of any Village officer or trust in which a Village officer, the spouse or dependent child of a Village officer or a beneficiary is a holder of more than one percent (1%) of the Attorneys, but if any Village officer, spouse or dependent child of a Village officer, agent on behalf of any Village officer or trust in which a Village officer, the spouse or dependent child of a Village officer or a beneficiary is a holder of less than one percent (1%) of such Contractor, the Attorneys have disclosed to the Village in writing the name(s) of the holder of such interest.

(G) nor any of its principals, shareholders, members, partners, or affiliates, as applicable, is a person or entity named as a Specially Designated National and Blocked Person (as defined in Presidential Executive Order 13224) and that it is not acting, directly or indirectly, for or on behalf of a Specially Designated National and Blocked Person.

(H) and its principals, shareholders, members, partners, or affiliates, as applicable, are not, directly or indirectly, engaged in, and are not facilitating, the transactions contemplated by the Agreement on behalf of any person or entity named as a Specially Designated National and Blocked Person.

(I) are not acting, directly or indirectly, for or on behalf of any person, group, entity, or nation named by the United State Treasury Department as a Specially Designated National and Blocked Person, or for or on behalf of any person, group, entity, or nation designated in Presidential Executive Order 13224 as a person who commits, threatens to commit, or supports terrorism; and that it is not engaged in this transaction directly or indirectly on behalf of, or facilitating this transaction directly or indirectly on behalf of, any such person, group, entity, or nation.

If any certification made by the Attorneys or term or condition in this contract changes, the Attorneys shall notify the Village in writing within seven (7) days.

Dated: _____, 2013

ROBERT K. FINNELL

By: _____
Robert K. Finnell

BIRD LAW GROUP, P.C.

By: _____
William Q. Bird, Managing Partner

CRONGEYER LAW FIRM, P.C.

By: _____
John W. Crongeyer, President

CLIFFORD LAW OFFICES

By: _____
Thomas Prindable, Managing Partner

PETERSON, JOHNSON & MURRAY, LLC

By: _____
Paul O'Grady, Managing Partner