

AGENDA
GENERAL VILLAGE COMMITTEE MEETING
The Village of East Dundee
August 5, 2013
5:45 pm
Village Hall Annex
120 Barrington Ave.
East Dundee, IL 60118

- I. Roll Call**

- II. Items for Discussion**
 - A. William C. Bartels Park Lease*
 - B. Block Party/Road Closure Requests*

- III. Other Business**

- IV. Adjournment**

Draft 7/29/13

**AN INTERGOVERNMENTAL AGREEMENT AUTHORIZING THE LEASING
OF THE VILLAGE OF EAST DUNDEE'S BARTELS PARK
TO THE DUNDEE TOWNSHIP PARK DISTRICT**

THIS AGREEMENT is entered into this ____ day of _____, 2013 between the Village of East Dundee, an Illinois home rule municipal corporation (hereinafter referred to as the "Village") and the Dundee Township Park District, a body corporate and politic organized pursuant to the Park District Code (70 ILCS 1205/1-1 et seq.) (hereinafter referred to as the "District").

RECITALS

WHEREAS, the Village and the District have previously entered into the *Triangle Park Lease Agreement* dated May 17, 1995 that leased Village property to the District for the District to operate, control and maintain as a public park and recreational area; and,

WHEREAS, the *Triangle Park Lease Agreement* will expire on May 17, 2015 and the Village and District mutually desire to renew the lease by adoption of this Agreement; and,

WHEREAS, it is the desire of the Village and District to terminate the *Triangle Park Lease Agreement* and enter into this Agreement for the District's continued use of the Village's property currently known as Bartels Park for the operation and maintenance of a public park; and,

WHEREAS, the District and the Village are public agencies which are within the meaning of the Illinois Intergovernmental Cooperation Act as specified in the Illinois Compiled Statutes (5 ILCS 220/1 et seq.) and are authorized by Article VII, Section 10 of the 1970 Constitution of the State of Illinois to enter into such agreements of cooperation; and,

WHEREAS, the purpose of the Intergovernmental Cooperation Act and Article VII, Section 10 of the 1970 Constitution of the State of Illinois include fostering cooperation among units of local government in planning and providing services to their citizens; and,

WHEREAS, the District desires to lease the Village's Bartels Park and the Village agrees to lease to the District Bartels Park pursuant to the terms and conditions of this Intergovernmental Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, conditions, and agreements contained herein, the Village and District agree as follows:

1. The above recitals are incorporated herein by reference as though fully set forth.

2. Lease of Village Property to the District

The Village, for and in consideration of ten dollars (\$10.00) per year, receipt of which is hereby acknowledged, and the covenants and conditions contained in this Agreement, agrees to lease to the District the property commonly known as Bartels Park with Property Index Number _____ and legally described on Exhibit A attached hereto and made a part hereof by reference.

3. Purpose

It is mutually agreed that Bartels Park shall be used by the District for a public park and recreational area and no other use of Bartels Park shall be permitted, unless otherwise specifically addressed herein or authorized by the Village in writing. Such use shall include but not be limited to; mowing, trimming and fertilization of the turf; landscape bed maintenance, annual bed preparation and planting and annual bed maintenance; tree planting and maintenance; and liter control.

4. Use

The District shall have sole and exclusive use, control and jurisdiction over Bartels Park except as hereinafter provided. Any activity, program or event which is not a regularly sponsored District program shall also require the written approval of the Village.

5. Term

The term of the lease for Bartels Park shall begin on the date of this Agreement for twenty (20) years unless otherwise terminated pursuant to this Agreement.

6. Improvements

A. The District acknowledges that neither the Village or any agent or employee of the Village has made any representation or warranty concerning Bartels Park with respect to the suitability, condition or repair thereof, and accepts possession of Bartels Park in its "as is" condition.

B. The District has developed plans to improve the appearance and playground structures of Bartels Park. That plan of the District which is attached hereto and made a part hereof as Exhibit B is hereby approve by the Village.

C. The District shall make no structural improvements, changes or alterations to Bartels Park costing more than five hundred dollars (\$500.00) without the written consent of the Village.

- D. If this Agreement is terminated, the District shall have the option to remove any playground equipment it has installed and grade level the ground disturbed by its removal. All permanent equipment or structures not removed shall become the property of the Village at the expiration of this Agreement.

7. Maintenance

- A. The District agrees to maintain existing or future improvements to Bartels Park at its expense to the same standards it maintains similar improvements in its other parks but not less than in compliance with the ordinances of the Village.
- B. If the District's operation, control or maintenance of Bartels Park is unsatisfactory to Village at any time during the term of this lease, the Village may provide the District with written notice of the unsatisfactory operation, control or maintenance. Within 30 days representatives of the Village and District shall meet to discuss and come to an agreement to resolve the issue(s) contained in the notice. The Village and district shall cooperate and negotiate in good faith to resolve any disputes concerning the interpretation or enforcement of this Agreement. If an agreement cannot be obtained within 30 days of the first meeting, this Agreement shall terminate.
- C. If during any period of this lease, the District determines it can no longer operate, control or maintain Bartels Park under the conditions of this lease, then upon at least thirty (30) days written notice being given to the Village this lease shall be terminated.
- D. Upon termination of this lease, the Village shall refund to the District that pro-rata portion of the remaining amortized cost of the structures or fixtures which the District has constructed in Bartels Park and which are not removed by the District without damage to the property or equipment. The period of amortization shall be that pro-rata portion of the life of said improvement remaining at the time of termination, as evidenced by the records of the District or ten (10) years, which ever period is less.

8. Village Right to Enter

The Village reserves for itself and its agents the right, at any time, to enter Bartels Park for the purpose of constructing, maintaining, installing, or repairing any public utility facility, line, equipment, or extension thereof in any location deemed necessary or appropriate by the Village with the understanding that such work will be performed in such a manner as to cause the minimum interference with the use of the property by the District.

9. Taxes

The Village shall annually file its certificate of tax exempt status for Bartels Park. Should actions or programs allowed or provided by the District result in any taxes being levied upon Bartels Park, the District shall pay those taxes.

10. Binding Agreement – Assignment

The Village and District agree that the terms and conditions of this Agreement shall be binding on their successors in office and this Agreement shall not be assigned without consent of the other party.

11. Insurance

A. The District shall provide a certificate of coverage in a form acceptable to the Village during the lease terms of Bartels Park with limits no less than:

- (1). General Liability: \$5,000,000 combined single limit for bodily injury, personal injury, and property damage.
- (2). Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
- (3). Worker's Compensation and Employee's Liability: Worker's compensation coverage with statutory limits and employee's liability limits of \$1,000,000 per accident.

B. Other insurance provisions.

The policies are to contain, or be endorsed to contain, the following provisions:

- (1). General Liability and Automobile Liability Coverages
 - (a) The Village, its officials, agents, employees, and volunteers are to be covered as insured as respects: liability arising out of activities performed by or on behalf of the District; products and completed operations of the District; premises owned, leased, or used by the District; or vehicles owned, leased, hired, or borrowed by the District, except to the extent attributable to the negligence, recklessness, or intentional wrongful conduct of the Village.
 - (b) The District's insurance coverage shall be primary as respects the Village, its officials, agents, employees, and volunteers. Any insurance or self-insurance maintained by the Village, its officials, agents, employees, and volunteers shall be in excess of District's insurance and shall not contribute with it, except to the

extent a claim(s) is attributable to the negligence, recklessness, or intentional wrongful conduct of the Village.

- (c) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Village, its officials, agents, employees, and volunteers.
- (d) The District's insurance shall contain a Severability of Interests/Cross Liability clause or language stating that District's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(2). Workers' Compensation and Employers' Liability Coverage

The insurer shall agree to waive all rights of subrogation against the Village, its officials, agents, employees, and volunteers for losses arising from work performed by the District for the Village.

(3). All Coverages

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage, or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Village.

- (4). District shall furnish the Village with certificates of insurance naming the Village, its officials, agents, employees, and volunteers as additional insured, and with original endorsements affecting coverage required by this paragraph.

- C. The Village reserves the right at any time during the term of this Agreement and upon written notice to amend the insurance requirements in this Agreement, and the District agrees to comply with those new requirements six months after receipt of the Village's notice.

12. Indemnification

To the fullest extent permitted by law, the District hereby agrees to defend all injuries, deaths, loss, damages, claims, patent claims, suits, liabilities, judgments, costs, and expenses, which may accrue against the Village, its officials, agents, and employees, arising from the negligence, recklessness, or intentional wrongful conduct of the District, its officers, agents, employees, volunteers, contractors, subcontractors, vendors, or of anyone acting on behalf of the District, or which may result therefore, except to the extent attributable to the negligence, recklessness, or intentional wrongful conduct of the Village, its officers,

employees, agents, volunteers, contractors, subcontractors, or vendors or anyone acting on behalf of the Village. The District shall, at its own expense, appear, defend, and pay all charges of attorneys and all costs and other expenses arising therefore or incurred in connections therewith, and, if any judgment shall be rendered against the Village, its officials, agents, and employees, in any such action, the District shall, at its own expense, satisfy and discharge the same.

13. Severability of provisions

The invalidity of any provisions of this Agreement shall not render invalid any other provision herein. If for any reason any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, that provision shall be deemed severed and this agreement shall remain in full force and effect with that provision severed or modified by court order.

14. Notice

Any notice required herein shall be in writing and shall be served personally or by registered or certified mail, return receipt requested, sent postage prepaid as follows:

VILLAGE: Village of East Dundee
120 Barrington Avenue
East Dundee, IL 61239
Attention: Village President

DISTRICT: Dundee Township Park District
21 N. Washington Street
Carpentersville, IL 60110
Attention: District President

15. This Agreement is entered into solely for the benefit of the contracting parties, and nothing in this Agreement is intended, either expressly or impliedly, to provide any right or benefit of any kind whatsoever to any person and entity who is not a party to this Agreement, or to acknowledge, establish, or impose any legal duty to any third party.

IN WITNESS WHEREOF, the parties have executed this Agreement effective the day and year first above written.

VILLAGE OF EAST DUNDEE

By _____
Village President

ATTEST:

Village Clerk

DUNDEE TOWNSHIP PARK DISTRICT

By _____
District President

ATTEST:

Secretary