

**ORDINANCE NO. 8-2012**

**AN ORDINANCE OF THE VILLAGE OF EVERGREEN PARK  
AUTHORIZING THE EXECUTION OF AN  
INTERGOVERNMENTAL AGREEMENT WITH THE ILLINOIS  
OFFICE OF THE COMPTROLLER REGARDING ACCESS TO  
THE COMPTROLLER'S LOCAL DEBT RECOVERY PROGRAM**

WHEREAS, the Village of Evergreen Park is a home rule unit of local government duly existing under the Constitution of the State of Illinois;

WHEREAS, the State of Illinois and the Village of Evergreen Park have a responsibility to collect debts owed to its respective bodies;

WHEREAS, the Illinois Office of the Comptroller ("IOC") operates a system, known as the Comptroller's Offset System ("System"), for the collection of debts owed the State of Illinois by persons receiving payments from the State of Illinois;

WHEREAS, the Illinois General Assembly has authorized units of local government to utilize the System under Section 10.05(d) of the State Comptroller Act, 15 ILCS 405/1, *et seq.*;

WHEREAS, the IOC and the Village of Evergreen Park are empowered under Section 10 of Article VII of the Constitution of the State of Illinois, the Intergovernmental Cooperation Act (5 ILCS 220/3), and the State Comptroller Act, 15 ILCS 405/10.05(d), to contract with each other in for the purposes provided herein; and,

WHEREAS, the Village of Evergreen Park deems it necessary and desirable to enter into an intergovernmental agreement with the IOC for access to its Local Debt Recovery Program.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Board of Trustees of the Village of Evergreen Park, Cook County, Illinois, as follows:

### **Section 1**

The recitals set forth above are incorporated herein by reference the same as if they were set forth herein verbatim and they are adopted as the findings of the Mayor and the Board of Trustees.

### **Section 2**

The Intergovernmental Agreement regarding access to the Comptroller's local debt recovery program between the Village of Evergreen Park and the Illinois Office of the Comptroller, which shall be in substantially the form attached hereto and made a part of this ordinance by reference as Exhibit "A," is hereby approved.

### **Section 3**

The Mayor is hereby authorized and directed to execute the Intergovernmental Agreement herein provided for, and to do all things necessary and essential, including the execution of any further agreements, instruments, documents and certificates incidental thereto or necessary to carry out the provisions and effectuate the purpose thereof.

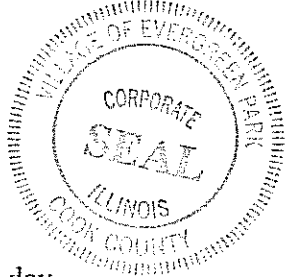
### **Section 4**

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed insofar as they conflict herewith.

### **Section 5**

This ordinance shall be immediately in full force and effect after passage and approval as provided by law.

This ordinance was passed and filed of record in the office of the Village Clerk of the Village of Evergreen Park this 16<sup>th</sup> day of April, 2012.



  
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CATHERINE T. APARO, Village Clerk

APPROVED by me the 16<sup>th</sup> day  
of April, 2012.

  
\_\_\_\_\_  
JAMES J. SEXTON, Mayor

**AN INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN THE  
ILLINOIS OFFICE OF THE COMPTROLLER AND THE VILLAGE OF  
EVERGREEN PARK REGARDING ACCESS TO THE  
COMPTROLLER'S LOCAL DEBT RECOVERY PROGRAM**

This Intergovernmental Agreement ("Agreement") is hereby made and entered into as of the date of execution by and between the Illinois Office of the Comptroller ("IOC") and the Village of Evergreen Park ("Village"), in order to provided the Village with access to the Local Debt Recovery Program for purposes of collecting both tax and nontax debts owed to the Village. Each of the parties hereto is a "public agency " as defined in Section 2 of the Intergovernmental Cooperation Act, 5 ILCS 220/2.

WHEREAS, the Village is a home rule unit of local government duly existing under the Constitution of the State of Illinois;

WHEREAS, the State of Illinois and the Village have a responsibility to collect debts owed to its respective bodies;

WHEREAS, the IOC operates a system, known as the Comptroller's Offset System ("System"), for the collection of debts owed the State of Illinois by persons receiving payments from the State of Illinois;

WHEREAS, the Illinois General Assembly has authorized municipalities to utilize the System under Section 10.05(d) of the State Comptroller Act, 15 ILCS 405/1, *et seq.*;

WHEREAS, the IOC and the Village are empowered under Section 10 of Article VII of the Constitution of the State of Illinois, the Intergovernmental Cooperation Act (5 ILCS 220/3), and the State Comptroller Act, 15 ILCS 405/10.05(d), to contract with each other for the purposes provided herein; and,

WHEREAS, in consideration of the foregoing recitals and the mutual covenants and promises contained herein, the sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:

## **Article I – Purpose**

The purpose the Agreement between the IOC and the Village is to establish the terms and conditions for the offset of the State’s tax and nontax payments in order to collect tax and nontax debts owed to the Village.

## **Article II – Authority**

The authority for State payment offset is granted under Section 10.05 of the State Comptroller Act, 15 ILCS 405/10.05, and the authority for entering into this Agreement is granted under Section 10.05(d) of the State Comptroller Act, 15 ILCS 405/10.05(d), Section 3 of the Intergovernmental Cooperation Act, 5 ILCS 220/3, and Article VII of the Illinois Constitution, Ill. Const., Art. VII, Sec. 10.

## **Article III – State Payment Offset Requirements and Operations**

A. Legal Requirements. The offset of State payments shall be conducted pursuant to the authority granted in Section 10.05 and 10.05(d) of the State Comptroller Act, 15 ILCS 405/10.05 and 15 ILCS 405/10.05(d), and the requirements set forth in this Agreement.

### 1. Due Process & Notification.

(a) Before submitting a debt to the IOC for State payment offset, the Village must comply with all of the notification requirements of this Agreement. For purposes of this Agreement, notification of an account or claim eligible to be offset shall occur when the Village submits to IOC the following information:

- (i) the name and address and/or another unique identifier of the person against whom the claim exists;
- (ii) the amount of the claim then due and payable to the Village;
- (iii) the reason why there is an amount due to the Village (*i.e.*, tax liability, overpayment, etc.);

- (iv) the time period to which the claim is attributable;
  - (v) the local entity to which the debt is owed;
  - (vi) a description of the type of notification has been given to the person against whom the claim exists and the type of opportunity to be heard afforded such person;
  - (vii) a statement as to the outcome of any hearings or other proceedings held to establish the debt, or a statement that no hearing was requested; and
  - (viii) the date of final determination of the debt.
- (b) IOC will not process a claim under the Agreement until notification has been received from the Village that the debt has been established through notice and opportunity to be heard.
  - (c) The Village is required to provide the debtor with information about a procedure to challenge the existence, amount, and current collectability of the debt prior to the submission of a claim to IOC for entry into the System. The decision resulting from the utilization of this procedure must be reviewable.

2. Certification.

- (a) The mayor must, at the time the debt is referred, certify that the debt is past due and legally enforceable in the amount stated, and that there is no legal bar to collection by State payment offset (See Appendix A).
- (b) Only debts finally determined as currently due and payable may be certified to IOC as a claim for offset.
- (c) The mayor may delegate to a responsible person or persons the authority to execute the statement of the claim required by the Agreement.
- (d) This delegation of authority shall be made on forms provided by the Comptroller and shall contain a signature sample of the person(s) to whom the delegation is made.

3. Notification of Change in Status.

- (a) The Village must notify IOC as soon as possible, but in no case later than 30 days, after receiving notice of a change in the status of an offset claim.
- (b) A change in status may include, but not limited to, payments received other than through a successful offset, the filing of a bankruptcy petition, or the death of the debtor.

B. Operational Requirements. Upon receiving a data file from the Village pursuant to this Agreement, IOC will perform a match with the Village's debt file using a debtor's social security number, taxpayer identification number, name, address, or other unique identifier. The Village will receive a weekly file from IOC indicating the matches, at which time the Village will update its debtor records.

- 1. Technical Requirements. IOC agrees to cooperate with the Village to facilitate information and data procedures as provided for in this Agreement. The Village agrees to adhere to the standards and practices of IOC when transmitting and receiving data.
- 2. Fee. A fee shall be charged to the debtor in order to recover the cost to IOC for administrating the System. The fee shall be administered on a per payment transaction basis and shall be \$15, unless the payment is for an amount less than \$30, in which case the fee shall equal to the amount offset. The fee will be deducted from the payment to be offset prior to issuance to the Village.
- 3. Offset Notices. IOC will send offset notices to the debtor upon processing a claim under the Act and this Agreement. The notice will state that a request has been made to make an offset against a payment due to the debtor, identify the Village as the entity submitting the request, provide the debtor with a phone number made available pursuant to Article III, Paragraph B, Section 6 of the Agreement, and inform the debtor that they may formally protest the offset within sixty (60) days of the written notice.
- 4. IOC Protest Process. If a protest is received, IOC will determine the amount due and payable to the Village. This determination will be made by a Hearing Officer and will be made in light of all information relating to the transaction in the possession of IOC and any other information IOC may request and obtain from the Village and the debtor subject to the offset. If IOC requests information from the Village relating to the offset, the Village will respond within sixty (60) days of IOC's request. IOC may grant the Village an additional sixty (60) day extension for time to respond.

5. IOC Hearing Officer. The Village hereby agrees to provide the Hearing Officer with any information requested in an efficient and timely manner in order to facilitate the prompt resolution to protests filed as a result of this Agreement. For purposes of this Agreement, any decision rendered by the Hearing Officer shall be binding on the Village and shall be the final determination on the matter. The Hearing Officer may continue the review of a protest at his/her discretion in order to assure an equitable resolution.
6. Village Call Center. The Village hereby agrees to provide a working phone number which IOC will furnish to persons potentially affected by an offset under this Agreement. The Village shall ensure that the phone number is properly staffed in order to provide information about the debt the Village is offsetting under this Agreement. The phone number for purposes of this Section and the Agreement is: 708/422-1551.
7. Debt Priorities. If a debtor has more than one debt, the debt with the oldest date of delinquency shall be offset first.
8. Transfer of Payment. Transfer of payment by IOC to the Village shall be made in the form of electronic funds transfer (EFT). Nothing in this section or this Agreement shall limit the ability of either party to modify this Agreement at a later date in order to provide for an alternative method(s) of payment transfer.
9. IOC Refunds. If IOC determines that a payment is erroneous or otherwise not due to the Village, IOC will process a refund of the offset, and refund the amount offset to the debtor. In the event the refund results in only a partial refund to the debtor, IOC will retain the fee referenced in Article III, Paragraph B, Section 2 above. The fee will only be refunded to the debtor in the event of a full refund of the offset amount.
10. Village Refunds. The Village is responsible for refunding monies to the debtor if an offset occurred due to inaccurate debt information or over collection, and the Village has already received payment from IOC. IOC will only refund monies in the event that a payment has not yet been made to the Village.

#### **Article IV – Permissible Use of Information**

IOC acknowledges that the Village is providing sensitive information about local debts for the purpose of conducting offsets under the Agreement. As such, IOC will use the information solely in connection with the Local Debt Recovery Program. IOC shall safeguard the local information in the same manner as it protects State debt information.



The Village acknowledges that IOC is providing sensitive information about State payments for the purpose of conducting offsets under this Agreement. As such, the Village will use the information solely in connection with the Local Debt Recovery Program. The Village shall safeguard State information in the same manner as it protects local debt information.

The parties may use information in any litigation involving the parties, when such information is relevant to the litigation. Nothing herein shall prevent the disclosure of information not otherwise exempt from disclosure under the Illinois Freedom of Information Act, 5 ILCS 140/1, *et seq.*

#### **Article V – Term of the Agreement and Modifications**

The Agreement becomes effective as of the Effective Date and shall remain in effect until it is terminated by one of the parties. Either party may terminate this Agreement by giving the other party written notice at least thirty (30) days prior to the effective date of the termination. Any modifications to the Agreement shall be in writing and signed by both parties.

#### **Article VI – No Liability to Other Parties**

Except for the fees described in Article III, Paragraph B, Section 2 above, each party shall be responsible for its own costs incurred in connection with the Agreement. Each party shall be responsible for resolving and reconciling its own errors, but shall not be liable to any other parties for damages of any kind as a result of errors. Each party shall be liable for the acts and omissions of its own employees and agents. The Agreement does not confer any rights or benefits on any third party.

#### **Article VII – Issue Resolution**

The parties acknowledge that IOC is ultimately responsible for the development, design and operation of the System. Subject to that understanding, the parties agree to cooperate to

resolve any issues that arise during the development, design and implementation of the program. If an issue cannot be resolved informally, by mutual agreement of staff personnel, then the parties agree to elevate the issue to a senior level manager for resolution of the issue. For purposes of the Agreement, the “senior level managers” are:

1. IOC: Ray Marchiori, Director –Department of Government and Community Affairs
2. Village: Catherine T. Aparo, Village Clerk, Village of Evergreen Park

### **Article VIII – Contacts**

The points of contacts for this Agreement are:

IOC: Alissa Camp, General Counsel  
Illinois Office of the Comptroller  
325 West Adams  
Springfield, Illinois 62704  
Phone: 217/782-6000  
Fax: 217/782-2112  
E-mail: [CampAJ@mail.ioc.state.il.us](mailto:CampAJ@mail.ioc.state.il.us)

Village: Catherine T. Aparo, Village Clerk  
Village of Evergreen Park  
9418 South Kedzie Avenue  
Evergreen Park, Illinois 60805  
Phone: 708/422-1551  
Fax: 708/422-7818

With a copy to:

Joseph Cainkar  
Louis F. Cainkar, Ltd.  
30 North LaSalle, Suite 3922  
Chicago, IL 60602  
Phone: 312/236-3985  
Fax: 312/236-3985