

**AGENDA**  
**Municipal Services Committee**  
**October 24, 2016**  
**6:30 P.M. – Council Chambers**

- 1. Call to Order & Roll Call**
- 2. Establishment of Quorum**
- 3. New Business**
  - a. 2224 Shannon Court – Petitioner seeks acceptance of a plat of easement for the B-Box**
  - b. Resolution – Approval of a resolution to enter into an engineering agreement with Christopher B. Burke Engineering, Ltd. for the 2017 Street Maintenance Program, in an amount not to exceed \$32,748.00**
  - c. Resolution – Approval of a resolution authorizing the Mayor to enter into an engineering agreement with Christopher B. Burke Engineering, Ltd. for pavement corings for the proposed 2017 Street Maintenance Program, in an amount not to exceed \$10,500.00**
  - d. Minutes – September 26, 2016 Municipal Services Committee**
- 4. Director's Report**
- 5. Next scheduled meeting – November 28, 2016**
- 6. Adjournment**

**AGENDA MEMO**  
**MUNICIPAL SERVICES COMMITTEE**  
**October 24, 2016**

**Case**

Plat of Easement      2224 Shannon Court

**Issue Statement**

The owner of the house at 2224 Shannon Court is seeking City acceptance of a plat of easement for the B-Box.

**Background Information**

Orchard Hill Construction, aka Gallagher and Henry, has constructed a house on Lot 28 in Tara Hill Unit 1, aka 2224 Shannon Court. They accidentally placed the B-Box valve for the water service line a few feet outside of the previously platted utility easement where the B-Box would typically be placed. City engineer did not see a problem with the location of the B-Box but recommends that city access be protected by an easement. The City gave them a choice of moving the B-Box or doing a plat of easement. Due to the cost and disruption of moving the B-Box, they chose to do a plat of easement.

A resolution and the plat of easement are attached.

**Recommended Motion**

To recommend approval to the City Council of an ordinance accepting a plat of easement for the B-Box at 2224 Shannon Court as presented.

**Decision Mode**

City Council November 7, 2016

**CITY OF DARIEN**  
**DU PAGE COUNTY, ILLINOIS**

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**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE ACCEPTING A PLAT OF EASEMENT  
FOR 2224 SHANNON COURT**

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**ADOPTED BY THE  
MAYOR AND CITY COUNCIL  
OF THE  
CITY OF DARIEN**

**THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2016**

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**Published in pamphlet form by authority  
of the Mayor and City Council of the City  
of Darien, DuPage County, Illinois, this  
\_\_\_\_ day of \_\_\_\_\_, 2016.**

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE ACCEPTING A PLAT OF EASEMENT  
FOR 2224 SHANNON COURT**

**WHEREAS**, the City of Darien is a home rule unit of local government pursuant to the provisions of Article VII, Section 6 of the Illinois Constitution of 1970; and

**WHEREAS**, as a home rule unit of local government, the City may exercise any power and perform any function pertaining to its government except as limited by Article VII, Section 6; and

**WHEREAS**, the property legally described in Section 1 (the “Subject Property”), is zoned R-2 Single-Family Residence District pursuant to the Darien Zoning Ordinance; and

**WHEREAS**, the owner of the Subject Property has requested the City of Darien accept a Plat of Easement for a B-Box water valve in the front yard of the Subject Property; and

**WHEREAS**, the City Council of the City of Darien has determined that it is in the best interests of the City to accept said Plat of Easement.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DARIEN, DU PAGE COUNTY, ILLINOIS, IN THE EXERCISE OF ITS HOME RULE POWERS**, as follows:

**SECTION 1: Subject Property.** This Ordinance is limited and restricted to the property generally located at 2224 Shannon Court, Darien, Illinois, and legally described as follows:

LOT 28 IN TARA HILL UNIT 1, A SUBDIVISION OF PART OF THE NORTHEAST QUARTER OF SECTION 5 TOWNSHIP 37 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 15, 1990 AS DOCUMENT R90-058421, DUPAGE COUNTY, ILLINOIS.

PIN: 10-05-206-010

ORDINANCE NO. \_\_\_\_\_

**SECTION 2: Plat of Easement Accepted.** The City of Darien hereby approves said Plat of Easement, a copy of which is attached hereto as Exhibit A and made a part hereof. The Mayor and City Clerk are hereby authorized and directed to execute and attest the Plat of Easement for and on behalf of the City.

**SECTION 3: Fees.** The owner of the Subject Property shall reimburse the City for all legal and engineering fees and expenses the City incurred in connection with said Plat of Easement. Reimbursement to the City of such fees and expenses shall be made prior to the City's recordation of the Plat of Easement.

**SECTION 4: Recordation.** Upon the reimbursement of legal and engineering fees and expenses as set forth above in Section 3, the City Clerk is hereby authorized and directed to cause the Plat of Easement in the Office of the DuPage County Recorder of Deeds.

**SECTION 5: Home Rule.** This Ordinance and each of its terms shall be the effective legislative act of a home rule municipality without regard to whether such Ordinance should (a) contain terms contrary to the provisions of current or subsequent non-preemptive state law, or (b) legislate in a manner or regarding a matter not delegated to municipalities by state law. It is the intent of the corporate authorities of the City of Darien that to the extent of the terms of this Ordinance should be inconsistent with any non-preemptive state law, that this ordinance shall supersede state law in that regard within its jurisdiction.

ORDINANCE NO. \_\_\_\_\_

**SECTION 6: Effective Date.** This Ordinance shall be in full force and effect from and after its passage and approval, and shall subsequently be published in pamphlet form as provided by law.

**PASSED BY THE CITY COUNCIL OF THE CITY OF DARIEN, DU PAGE COUNTY, ILLINOIS, this \_\_\_\_ day of \_\_\_\_\_, 2016.**

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

**APPROVED BY THE MAYOR OF THE CITY OF DARIEN, DU PAGE COUNTY, ILLINOIS, this \_\_\_\_ day of \_\_\_\_\_, 2016.**

\_\_\_\_\_  
KATHLEEN MOESLE WEAVER, MAYOR

ATTEST:

\_\_\_\_\_  
JOANNE E. RAGONA, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

# EXHIBIT A

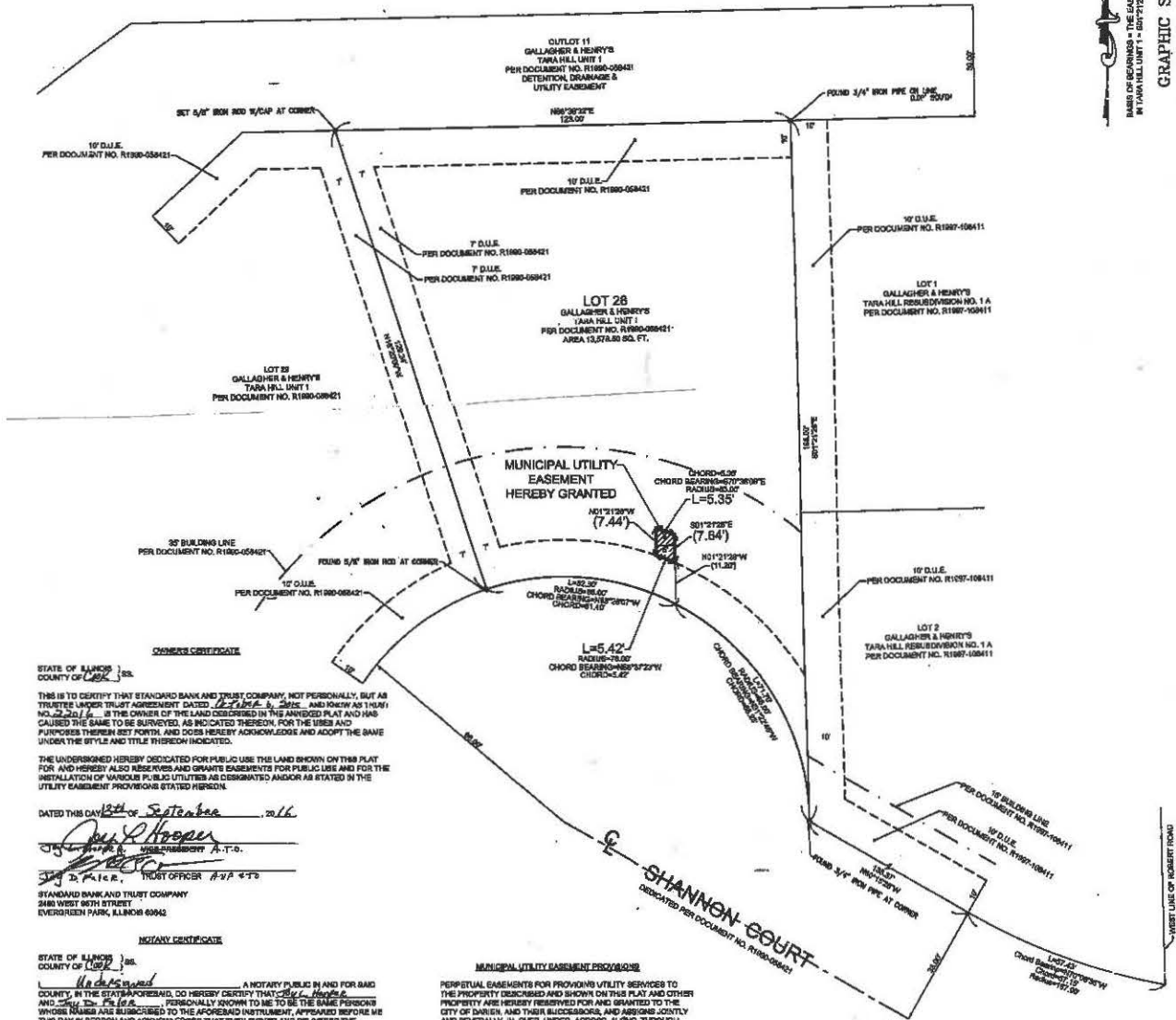
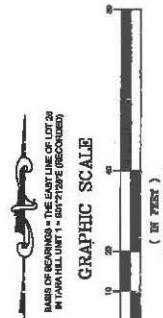
COMMON ADDRESS: 2234 SHANNON COURT, DARIEN, ILLINOIS  
 POC: 708-258-0152-0000

## PLAT OF EASEMENT GRANT TO THE CITY OF DARIEN



WOLF PACK CONSULTING, LLC  
 418 SOUTH CASS AVENUE  
 WESTMONT, ILLINOIS 60591  
 708-480-0020 OFFICE  
 M.NELSON@WOLFPACKCONS.COM

OF THAT PART OF LOT 28 IN TARA HILL UNIT 1, A SUBDIVISION OF PART OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 37 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 15, 1980 AS DOCUMENT NUMBER R00-069421, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 28; THENCE NORTHWESTERLY ALONG THE SOUTHERLY LINE OF SAID LOT 28, BEING A CURVE TO THE LEFT, HAVING AN ARC LENGTH OF 11.70 FEET, A RADIUS OF 86.00 FEET, A CHORD BEARING OF N01°22'48"W AND A CHORD LENGTH OF 86.28 FEET; THENCE N01°22'28"W FOR A DISTANCE OF 11.00 FEET TO A POINT ON A LINE BEING 10.00 FEET NORTHERLY AT RIGHT ANGLE TO THE SOUTHERLY LINE OF SAID LOT 28 FOR A POINT OF BEGINNING; THENCE NORTHWESTERLY ALONG A CURVE TO THE LEFT, BEING 10.00' NORTHERLY AT RIGHT ANGLE TO THE SOUTHERLY LINE OF SAID LOT 28, HAVING AN ARC LENGTH OF 5.42 FEET, A RADIUS OF 78.00 FEET, A CHORD BEARING OF N88°37'23"W AND A CHORD LENGTH OF 5.42 FEET; THENCE N01°21'28"W FOR A DISTANCE OF 7.44 FEET; THENCE SOUTHEASTERLY ALONG A CURVE TO THE RIGHT, BEING 17.00 FEET NORTHERLY AT RIGHT ANGLE TO THE SOUTHERLY LINE OF SAID LOT 28, HAVING AN ARC LENGTH OF 5.35 FEET, A RADIUS OF 83.00 FEET, A CHORD BEARING OF S70°38'09"E AND A CHORD LENGTH OF 5.35 FEET; THENCE S01°21'29"E FOR A DISTANCE OF 7.84 FEET TO THE POINT OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS.



**OWNER CERTIFICATE**  
 STATE OF ILLINOIS } ss.  
 COUNTY OF DUPAGE } ss.  
 THIS IS TO CERTIFY THAT STANDARD BANK AND TRUST COMPANY, NOT PERSONALLY, BUT AS TRUSTEE UNDER TRUST AGREEMENT DATED 12/18/80, AND KNOWN AS TRUST NO. 22,241, IS THE OWNER OF THE LAND DESCRIBED IN THE ANNEXED PLAT AND HAS CAUSED THE SAME TO BE SURVEYED, AS INDICATED THEREON, FOR THE USES AND PURPOSES THEREIN SET FORTH, AND DOES HEREBY ACKNOWLEDGE AND ADOPT THE SAME UNDER THE STYLE AND TITLE THEREON INDICATED.

THE UNDERSIGNED HEREBY DEDICATED FOR PUBLIC USE THE LAND SHOWN ON THIS PLAT FOR AND HEREBY ALSO RESERVES AND GRANTS EASEMENTS FOR PUBLIC USE AND FOR THE INSTALLATION OF VARIOUS PUBLIC UTILITIES AS DESIGNATED AND/OR AS STATED IN THE UTILITY EASEMENT PROVISIONS STATED HEREON.  
 DATED THIS DAY 18th of September 2016  
 [Signature] Trust Officer  
 STANDARD BANK AND TRUST COMPANY  
 2480 WEST 90TH STREET  
 EVERGREEN PARK, ILLINOIS 60824

**NOTARY CERTIFICATE**  
 STATE OF ILLINOIS } ss.  
 COUNTY OF DUPAGE } ss.  
 I, Notary Public in and for said County, in the State of Illinois, do hereby certify that [Signature] and [Signature] are 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 acknowledged that they signed and delivered the foregoing instrument as their own free and voluntary act and as the free and voluntary act of the STANDARD BANK AND TRUST COMPANY AS TRUSTEE AFORESAID, FOR THE USES AND PURPOSES THEREIN SET FORTH.  
 GIVEN UNDER MY HAND AND NOTARIAL SEAL THIS DAY 18th of September 2016.  
 [Signature] Notary Public  
 CITY COUNCIL OFFICE

**MUNICIPAL UTILITY EASEMENT PROVISIONS**  
 PERPETUAL EASEMENTS FOR PROVISIONS UTILITY SERVICES TO THE PROPERTY DESCRIBED AND SHOWN ON THIS PLAT AND OTHER PROPERTY ARE HEREBY RESERVED FOR AND GRANTED TO THE CITY OF DARIEN, AND THEIR SUCCESSORS, AND SUCCESSORS TO THE CITY OF DARIEN, IN OVER, UNDER, ACROSS, ALONG, THROUGH AND UPON THE AREAS BOUNDED BY THE LOT LINES AND DOTTED LINES ON THIS PLAT AND INDICATED AS MUNICIPAL UTILITY EASEMENT AND/OR MUNICIPAL UTILITY AND DRAINAGE EASEMENT. FOR THE PURPOSES OF THIS PLAT, PROVISIONS UTILITY SERVICES SHALL INCLUDE THE RIGHT, BUT NOT THE OBLIGATION, FROM TIME TO TIME, TO INSTALL, CONSTRUCT, RECONSTRUCT, IMPROVE, REPAIR, MAINTAIN, OPERATE, REPLACE, RELOCATE, REPAIR, RELOCATE, REMOVE AND/OR INCREASE THE SIZE, NUMBER AND/OR TYPE OF FACILITIES USED IN CONNECTION WITH TRANSMISSION AND DISTRIBUTION OF POTABLE WATER AND SEWERAGE, INCLUDING ANY AND ALL GRADING AND APPURTENANCES AS MAY BE DEEMED NECESSARY BY SAID CITY, IN OVER, UNDER, ACROSS, ALONG, THROUGH AND UPON SUCH EASEMENT AREAS, AND THE PROPERTY DESIGNATED ON THE PLAT FOR STREETS AND ALLEYS, TOGETHER WITH THE RIGHT, BUT NOT THE OBLIGATION, TO INSTALL, REPAIR, REPLACE, RELOCATE, REMOVE AND/OR INCREASE THE SIZE, NUMBER AND/OR TYPE OF FACILITIES USED IN CONNECTION WITH TRANSMISSION AND DISTRIBUTION OF POTABLE WATER AND SEWERAGE, INCLUDING ANY AND ALL GRADING AND APPURTENANCES AS MAY BE DEEMED NECESSARY BY SAID CITY, IN OVER, UNDER, ACROSS, ALONG, THROUGH AND UPON SUCH EASEMENT AREAS, AND THE PROPERTY DESIGNATED ON THE PLAT FOR STREETS AND ALLEYS, TOGETHER WITH THE RIGHT, BUT NOT THE OBLIGATION, TO ENTER UPON THE PROPERTY FOR ALL SUCH PURPOSES. OBSTRUCTIONS SHALL NOT BE PLACED OVER OR IN THE FACILITIES OR IN OVER, UNDER, ACROSS, ALONG, THROUGH OR UPON SUCH EASEMENT AREAS WITHOUT THE PRIOR WRITTEN CONSENT OF GRANTEES. AFTER INSTALLATION OF ANY SUCH FACILITIES, THE GRADE OF THE PROPERTY SHALL NOT BE ALTERED IN A MANNER THAT INTERFERES WITH THE PROPER OPERATION AND MAINTENANCE THEREOF OR THE EXERCISE OF GRANTEE'S OTHER RIGHTS PROVIDED HEREIN.

**SURVEYOR'S CERTIFICATE**  
 STATE OF ILLINOIS } ss.  
 COUNTY OF DUPAGE } ss.  
 THIS IS TO CERTIFY THAT I, MICHAEL NELSON, ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 038-3068, HAVE SURVEYED AND PREPARED THE PLAT OF EASEMENT FOR THE PROPERTY DESCRIBED ABOVE AS SHOWN BY THE ANNEXED PLAT WHICH IS A CORRECT AND TRUE REPRESENTATION OF A SURVEY AND PLAT OF EASEMENT GRANT, ALL DISTANCES AND BOUNDARIES IN FEET AND DECIMAL PARTS THEREOF.  
 I FURTHER CERTIFY THAT ALL REGULATIONS ENACTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DARIEN RELATIVE TO PLATS AND SUBDIVISIONS HAVE BEEN COMPLIED WITH IN PREPARATION OF THIS PLAT. I FURTHER CERTIFY THAT THE LAND IS WITHIN THE CITY OF DARIEN (OR WITHIN ONE AND ONE-HALF (1 1/2) MILES OF THE CORPORATE LIMITS OF THE CITY OF DARIEN) WHICH HAS ADOPTED A CITY COMPREHENSIVE PLAN AND MAP AND IS EXERCISING THE SPECIAL POWERS AUTHORIZED BY DIVISION 13 OF ARTICLE 11 OF THE ILLINOIS MUNICIPAL CODE AS HERETOFORE AND HEREAFTER AMENDED.  
 GIVEN UNDER MY HAND AND SEAL AT WESTMONT, ILLINOIS, THIS 18TH DAY OF AUGUST, 2016.  
 MICHAEL NELSON  
 ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 038-3068  
 MY LICENSE EXPIRES 11/30/2018  
 PROFESSIONAL DESIGN FIRM LICENSE NO. 164.00724-0010 EXPIRES 04/30/2017

APPROVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DARIEN, DUPAGE COUNTY, ILLINOIS.  
 THIS DAY OF \_\_\_\_\_ 20\_\_\_\_  
 \_\_\_\_\_ MAYOR  
 \_\_\_\_\_ CLERK  
**DUPAGE COUNTY RECORDER**  
 STATE OF ILLINOIS } ss.  
 COUNTY OF DUPAGE } ss.  
 THIS PLAT WAS FILED FOR RECORD IN THE RECORDER'S OFFICE OF DUPAGE COUNTY, ILLINOIS, ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D. 20\_\_\_\_ AT \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M. AS DOCUMENT NUMBER \_\_\_\_\_  
 \_\_\_\_\_ DUPAGE COUNTY RECORDER

I, MICHAEL NELSON, ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 038-3068, HEREBY AUTHORIZE AN AGENT OF THE CITY OF DARIEN AND/OR ITS DESIGNATED AGENTS TO RECORD THIS PLAT OF SUBDIVISION WITH THE OFFICE OF THE DUPAGE COUNTY RECORDER OF DEEDS.  
 GIVEN UNDER MY HAND AND SEAL AT WESTMONT, ILLINOIS, THIS 18TH DAY OF AUGUST, 2016.  
 MICHAEL NELSON  
 ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 038-3068  
 MY LICENSE EXPIRES 11/30/2018  
 PROFESSIONAL DESIGN FIRM LICENSE NO. 164.00724-0010 EXPIRES 04/30/2017





**CHRISTOPHER B. BURKE ENGINEERING, LTD.**

9575 West Higgins Road Suite 600 Rosemont, Illinois 60018 TEL (847) 823-0500 FAX (847) 823-0520

October 6, 2016

City of Darien  
1702 Plainfield Road  
Darien, Illinois 60561

Attention: Steve Manning

Subject: 2224 Shannon Court  
(CBBEL Project No. 95-323 L59)

Dear Steve:

As requested in your transmittal received on October 5, 2016, we have reviewed the Plat of Easement for the aforementioned property prepared by Wolf Pack Consulting, LLC and dated August 19, 2016. The purpose of the grant is to provide an easement over the water service B-Box, which was installed outside of the right of way and existing easement. The easement will give the City the legal right to access the B-Box, if necessary. Acceptance of the easement should be placed on the City Council Agenda and then recorded after approval.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Daniel L. Lynch', written over a horizontal line.

Daniel L. Lynch, PE, CFM  
Head, Municipal Engineering Department



# Orchard Hill Construction, L.L.C.

BUILDERS • LAND DEVELOPERS • GENERAL CONTRACTORS

6280 JOLIET ROAD • COUNTRYSIDE, ILLINOIS 60525

(708) 482-8900 FAX (708) 482-3048

September 20, 2016

To: City of Darien

Attached please find the Plat of Easement for 2224 Shannon Court, as requested by the City, which will make provision for the B-box which is located on this property, as installed. The document has been executed by Standard Bank and Trust, as Trustee on behalf of the Owner. We ask that the City of Darien execute the same; and make provision to have this document recorded. Gallagher and Henry is willing to record the document, if you prefer.

Also, we respectfully request that the Owner be given permission to proceed with the landscaping of this property; and that the bond monies that are on deposit for the grading and landscaping, be refunded. Please let us know if you need anything further.

Thank you,

  
Linda Staszak

  
Gallagher and Henry

6280 Joliet Road  
Countryside, IL 60525  
708.469.3143 Direct  
708.221.7174 Fax  
708.417.2733 Cell  
[Linda@gallagherandhenry.com](mailto:Linda@gallagherandhenry.com)



**CHRISTOPHER B. BURKE ENGINEERING, LTD.**

9575 West Higgins Road Suite 600 Rosemont, Illinois 60018 TEL (847) 823-0500 FAX (847) 823-0520

July 12, 2016

City of Darien  
1702 Plainfield Road  
Darien, Illinois 60561

Attention: Steve Manning

Subject: 2224 Shannon Court  
(CBBEL Project No. 95-323 L59)

Dear Steve:

As requested, we have reviewed the Final Grading Survey for the aforementioned property prepared by Wolf Pack Consulting, LLC and dated June 13, 2016. A site visit was conducted on July 12, 2016. Although all grading appears complete and in general compliance with the approved plans, the water service B-Box is outside of the right of way and utility easement. The approved plans showed the B-Box to be in the right of way. We suggest one of the two alternatives:

1. Install a second B-Box on the water service within the right of way.
2. The owner could grant a utility easement, approximately 5'x7' in dimension, to encompass the existing B-Box.

In the meantime, the rest of the lot should be sodded as soon as possible.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Daniel L. Lynch'.

Daniel L. Lynch, PE, CFM  
Head, Municipal Engineering Department

Cc: Dan Gombac

**AGENDA MEMO**  
**Municipal Services Committee**  
**October 24, 2016**

**Issue Statement**

Approval of a resolution to enter into an engineering agreement with Christopher B. Burke Engineering, Ltd. for the 2017 Street Maintenance Program, in an amount not to exceed \$32,748.00.

**Background/History**

Attached and labeled as Attachment A, please find an engineering agreement with Christopher B. Burke Engineering, Ltd. for the 2017 Street Maintenance Program. The following roads have been slated for the 2017 Street Maintenance Program:

**PROPOSED  
2017 ROAD  
PROGRAM**

<b>STREET</b>	<b>RATING</b>	<b>SUBDIVISION</b>	<b>LIMITS</b>	<b>ROAD LENGTH (linear ft)</b>	<b>PREVIOUS RESURFACING</b>
Timber Lane	65	Hinsbrook	Cass-Darien Lane	1050	2004
Dicosola Court	64	Darien Club	Sweetbriar-Limit	350	2004
Marco Court	67	Marco Estates	Bailey-Limit	500	2004
Woodland Drive	65	Farmingdale Terrace South	N. Frontage to Limit	1000	2000
Wilmette Ave	65	Hidden Lakes	N. Frontage to Limit	850	2000
Manning Rd	65	Farmingdale Ridge	Lyman-Plainfield	5500	2001
Peony Place	66	Marion Hills North	Brookbank-High	660	2002
Western Ave	65	North of 67 <sup>th</sup>	67 <sup>th</sup> – north limit	600	2004
72 <sup>nd</sup> Street	67	Plainfield Highland	72 <sup>nd</sup> Street	2000	2005
79 <sup>th</sup> Street	67	Brookhaven #1	Cass-Sawyer	4160	2002
Gold Grove Dr	65	Downers Fairview	71 <sup>st</sup> – Gigi	1160	2005
Carlisle Court	67	Carriage Greens #4	N. Frontage-Kimberly	1820	2005
Kimberly Court	67	Carriage Greens #4	Lake Ridge-Kentwood	360	2005
Kentwood Court	67	Carriage Greens #4	Carlisle-Kimberly	1060	2005

Willowcreek Ln	68	Carriage Greens #3	Bailey-Evergreen	990	2003
Winterberry Ln	67	Carriage Greens #3	Bailey-Evergreen	780	2003
Waterfall Glen Blvd	67	Waterfall Glen	S. Frontage-S.Frontage	2130	2000
Waverly Court	67	Waterfall Glen	Waterfall Glen-Limit	330	2000
Forest Glen Court	67	Waterfall Glen	Waterfall Glen-Limit	200	2000
Fountain Point Circ	66	Marco Smart	Bailey-Limit	800	2000
<b>LINEAR FEET</b>			<b>BASE BID</b>	<b>25,700</b>	
<b>MILES –BASE BID</b>				<b>4.867424</b>	
<b>ALTERNATES</b>					
Richmond Ave (Alternate 1)	69	Hinsbrook	67 <sup>th</sup> – Seminole	5100	2006
*Brookhaven (Alternate 2)	67	Brookhaven #1	Warwick-Janet	1320	2005
*Bentley (Alternate 3)	65	North of 67 <sup>th</sup>	67 <sup>th</sup> – N. Limit	650	2003
*Seminole Drive (Alternate 4)	67	Hinsbrook	Plainfield-Hinsbrook	3200	2005
<b>LINEAR FEET</b>			<b>ALTERNATE</b>	<b>10,270</b>	
<b>MILES - ALTERNATE BID</b>				<b>1.9450</b>	
<b>LINEAR FEET – TOTAL WITH ALT</b>				<b>35,970</b>	
<b>MILES – TOTAL WITH ALT</b>				<b>6.81</b>	

Pavement resurfacing will include the grinding 2¼ inches of the existing roadway pavement, patching poor areas, the installation of 1½ inches of roadway surface course, ¾ inches of leveling binder, and structure adjustments or grinding 4 inches of the existing roadway pavement, patching poor areas, the installation of 1 ½ inches of roadway surface course, 2 ½ inches of roadway course depending on the results of the cores being performed by Testing Service Corporation (TSC) under a separate proposal.

The total length of streets to be resurfaced for the project is approximately 35,970 feet (6.81 miles).

**Task 1 – Field Reconnaissance:** CBEL Staff will perform a Field Reconnaissance of the streets to be resurfaced with Public Works. The purpose of the Field Reconnaissance will be to determine the limits and estimate the quantity of full depth bituminous pavement patching, and drainage structure to be adjusted. The results of the Field Reconnaissance will be reviewed

with the Department of Public Works and compared to previous estimates to determine their impact on the estimated construction cost.

Engineer V	\$191/hr x 24 hrs	= \$ 4,584
Engineer I/II	\$109/hr x 24 hrs	= \$ <u>2,616</u>
<b>Total</b>		<b>= \$ 7,200</b>

**Task 2 – Preparation of Bid Booklet:** CBBEL will prepare a bid booklet in IDOT format for the proposed improvements for a local letting (local funds only). The documents will generally consist of typical sections, special provisions, pay items, working days and estimated bid quantities. Quantities will be estimated based on site visits and City staff input from the existing cores and the field reconnaissance. CBBEL will prepare a base bid and alternate bids to help give the City the most flexibility to use the available funds for the project.

Engineer V	\$191/hr x 24 hrs	=\$ 4,584
Engineer I/II	\$109/hr x 100 hrs	= \$ <u>10,900</u>
<b>Total</b>		<b>=\$15,484</b>

**Task 3 – Coordination Meetings-**CBBEL has assumed that two coordination meetings will be required with the City regarding the projects.

Engineer V	\$191/hr x 2 meetings x 3 hrs	<b>=\$1,146</b>
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**Task 4 – Bidding Assistance:** CBBEL will advertise for bidding, distribute plans and specifications to all bidders, and hold a bid opening. CBBEL will review and tabulate all of the bids and make a recommendation of award.

Engineer V	\$191/hr x 4 hrs	=\$ 764
Engineer I/II	\$109/hr x 6 hrs	= \$ <u>654</u>
<b>Total</b>		<b>=\$1,418</b>

**Task 5 - Sampling Analysis - Quality Assurance Quality Control** - The following task is associated with Quality Assurance and Quality Control through the services of an outside independent agency, Testing Services Corporation. Testing Services Corporation will perform as per the requirements the services for assuring Quality Control and Quality Assurance. These services include but are not limited to road surface compaction requirements, and materials specifications as required. Field reports will be made available to the Public Works Superintendent and a formal copy will be forwarded to Christopher B. Burke Engineering, Ltd.

**Total Engineering Cost for Task 5 - \$6,000.00**

Below, please find a summary cost for the abovementioned items:

Cost for Task 1-	\$ 7,200.00
Cost for Task 2-	\$15,484.00
Cost for Task 3-	\$ 1,146.00

2017 Road Program Engineering Agreement

October 24, 2016

Page 4

Cost for Task 4-	\$ 1,418.00
Cost for Task 5-	\$ 6,000.00
Direct Costs	<u>\$ 1,500.00</u>
Total Cost	\$32,748.00

Funding for the Engineering Services would be expended from the following line item of the FY16/17 Budget:

ACCOUNT NUMBER	PROJECT CODE	ACCOUNT DESCRIPTION	FY 16/17 BUDGET	PROPOSED EXPENDITURE	PROPOSED BALANCE
25-35-4325	FYE177003	ENGINEERING BID SPECIFICATIONS	\$33,000.00	\$ 32,748.00	\$ 52.00

**Staff Recommendation**

Staff recommends approval of this Engineering Agreement through the attached resolution with Christopher B. Burke Engineering, Ltd. in an amount not to exceed \$32,748.00.

**Alternate Consideration**

Not approving the agreement.

**Decision Mode**

This item will be placed on the November 7, 2016 City Council agenda for formal consideration.


**CHRISTOPHER B. BURKE ENGINEERING, LTD.**

9575 West Higgins Road Suite 600 Rosemont, Illinois 60018 TEL (847) 823-0500 FAX (847) 823-0520

October 4, 2016

 City of Darien  
 City Hall  
 1702 Plainfield Road  
 Darien, Illinois 60561

Attention: Dan Gombac

 Subject: Proposal for Professional Engineering Services  
 2017 Road Program

Dear Dan:

At your request, we are providing this proposal to provide professional engineering services related to the preparation of the bidding documents for the City's 2017 Road Program. Included below you will find our Understanding of the Assignment and Scope and Fee.

**UNDERSTANDING OF THE ASSIGNMENT**

Based on the information provided by the City, the 2017 Road Program will consist of resurfacing for the following streets:

STREET	LIMITS	ROAD LENGTH
Timber Ln	Cass to Darien Ln	1050
Discosola Ct	Sweetbriar to Limit	350
Marco Ct	Bailey to Limit	500
Woodland Drive	N frontage to Limit	1000
Wilmette Ave	N frontage to Limit	850
Manning Rd	Lyman to Plainfield	5500
Peony Place	Brookbank to High	660
Western Ave	67th to North Limit	600
72nd Street	72nd Street	2000
79th St	Cass to Sawyer	4160
Gold Grove Dr	71st to Gigl	1160
Carlisle Ct	N Frontage to Kimberly	1820
Kimberly Ct	Lake Ridge to Kentwood	360
Kentwood Ct	Carlisle to Kimberly	1060

Willowcreek Ln	Bailey to Evergreen	990
Winterberry Ln	Bailey to Evergreen	780
Waterfall Glen Blvd	S Frontage to S Frontage	2130
Waverly Ct	Waterfall Glen to Limit	330
Forest Glen Ct	Waterfall Glen to Limit	200
Fountain Point Cir	Waterfall Glen to Limit	200
<b>BASE BID</b>		<b>25,700</b>
Richmond Ave (Alternate)	67th to Seminole	5100
Brookhaven (Alternate)	Warwick to Janet	1320
Bentley (Alternate)	67th to N Limit	650
Seminole Drive (Alternate)	Plainfield to Hinsbrook	3200
<b>ALTERNATE BID</b>		<b>35,970</b>

Pavement resurfacing will include the grinding 2 ¼ inches of the existing hottomix pavement, patching poor areas, the installation of 1 ½ inches of hottomix surface course, ¾ inches of leveling binder, and structure adjustments or grinding 4 inches of the existing hottomix pavement, patching poor areas, the installation of 1 ½ inches of hottomix surface course, 2 ½ inches of hottomix binder course depending on the results of the cores being performed by Testing Service Corporation (TSC) under a separate proposal.

The total length of streets to be resurfaced for the project is approximately 35,970 feet (6.81 miles).

### SCOPE AND FEE

**TASK 1 – FIELD RECONNAISSANCE:** CBEL Staff will perform a Field Reconnaissance of the streets to be resurfaced with Public Works. The purpose of the Field Reconnaissance will be to determine the limits and estimate the quantity of full depth bituminous pavement patching, and drainage structure to be adjusted. The results of the Field Reconnaissance will be reviewed with the Department of Public Works and compared to previous estimates to determine their impact on the estimated construction cost.

Engineer V \$191/hr x 24 hrs	= \$ 4,584
Engineer I/II \$109/hr x 24 hrs	= \$ 2,616
<b>Total</b>	<b>\$ 7,200</b>

**TASK 2 – PREPARATION OF BID BOOKLET:** CBEL will prepare a bid booklet in IDOT format for the proposed improvements for a local letting (local funds only). The documents will generally consist of typical sections, special provisions, pay items, working days and estimated bid quantities. Quantities will be estimated based on site visits and City Staff input from the existing cores and the field reconnaissance. CBEL will prepare a base bid and alternate bids to help give the City the most flexibility to use the available fund for the project.

Engineer V \$191/hr x 24 hrs	= \$ 4,584
Engineer I/II \$109/hr x 100 hrs	= \$10,900
<b>Total</b>	<b>\$15,484</b>



**TASK 3 – COORDINATION MEETINGS:** CBBEL has assumed that two coordination meetings will be required with the City regarding the projects.

Engineer V \$191/hr x 2 meetings x 3 hrs = \$1,146

**TASK 4 – BIDDING ASSISTANCE:** CBBEL will advertise for bidding, distribute plans and specifications to all bidders, and hold a bid opening. CBBEL will review and tabulate all of the bids and make a recommendation of award.

Engineer V \$191/hr x 4 hrs = \$ 764  
Engineer I/II \$ 109/hr x 6 hrs = \$ 654  
Total \$1,418

**TASK 5 – SAMPLING ANALYSIS – QUALITY ASSURANCE QUALITY CONTROL:** Sampling Analysis to Quality Assurance Quality Control. The following task is associated with Quality Assurance and Quality Control through the services of an outside independent agency Testing Services Corporation. The Testing Services Corporation will perform as per the requirements the services for assuring Quality Control and Quality Assurance. These services include but are not limited to road surface compaction requirements, and materials specifications as required. Field reports will be made available to the Public Works Superintendent and a formal copy will be forwarded to Christopher B. Burke Engineering.

CBBEL estimates the following fees for each of the tasks described above:

Task 1	Field Reconnaissance	\$ 7,200
Task 2	Preparation of Bid Booklet	\$15,484
Task 3	Coordination Meetings	\$ 1,146
Task 4	Bidding Assistance	\$ 1,418
Task 5	Sampling Analysis – Quality Assurance/Quality Control	\$ 6,000
	Direct Costs	<u>\$ 1,500</u>
	NOT TO EXCEED	\$32,748

We will bill you at the hourly rates specified on the attached Schedule of Charges and establish our contract in accordance with the attached General Terms and Conditions. Direct costs for blueprints, photocopying, mailing, overnight delivery, messenger services and report compilation are included in the Fee Estimate. These General Terms and Conditions are expressly incorporated into and are an integral part of this contract for professional services. It should be emphasized that any requested meetings or additional services that are not included in the preceding Fee Estimate will be billed at the attached hourly rates.

Please sign and return one copy of this agreement as an indication of acceptance and notice to proceed. Please feel free to contact us anytime.

Sincerely,



Christopher B. Burke, PhD, PE, D.WRE, Dist.M.ASCE  
President

Encl. Schedule of Charges  
General Terms and Conditions

**THIS PROPOSAL, SCHEDULE OF CHARGES AND GENERAL TERMS AND  
CONDITIONS ACCEPTED FOR CITY OF DARIEN.**

BY: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
DATE: \_\_\_\_\_

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE APPROVAL TO ENTER INTO AN  
ENGINEERING AGREEMENT WITH CHRISTOPHER B. BURKE ENGINEERING  
LTD. FOR THE 2017 STREET MAINTENANCE PROGRAM IN AN AMOUNT NOT  
TO EXCEED \$32,748**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DARIEN, DU PAGE  
COUNTY, ILLINOIS, as follows:**

**SECTION 1:** The City Council of the City of Darien, hereby authorizes the Mayor to enter into an Engineering Agreement with Christopher B. Burke Engineering, Ltd. for the 2017 Street Maintenance Program in an amount not to exceed \$32,748.00, a copy of which is attached hereto as "**Exhibit A**" and is by this reference expressly incorporated herein.

**SECTION 2:** This Resolution shall be in full force and effect from and after its passage and approval as provided by law.

**PASSED BY THE CITY COUNCIL OF THE CITY OF DARIEN, DU PAGE COUNTY,  
ILLINOIS, this 7<sup>th</sup> day of November, 2016.**

**AYES:** \_\_\_\_\_

**NAYS:** \_\_\_\_\_

**ABSENT:** \_\_\_\_\_

**APPROVED BY THE MAYOR OF THE CITY OF DARIEN, DU PAGE COUNTY,  
ILLINOIS, this 7<sup>th</sup> day of November, 2016.**

\_\_\_\_\_  
**KATHLEEN MOESLE WEAVER, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**JOANNE E. RAGONA, CITY CLERK**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**CITY ATTORNEY**


**CHRISTOPHER B. BURKE ENGINEERING, LTD.**

9575 West Higgins Road Suite 800 Rosemont, Illinois 60018 TEL (847) 823-0600 FAX (847) 823-0520

October 4, 2016

 City of Darien  
 City Hall  
 1702 Plainfield Road  
 Darien, Illinois 60561

Attention: Dan Gombac

 Subject: Proposal for Professional Engineering Services  
 2017 Road Program

Dear Dan:

At your request, we are providing this proposal to provide professional engineering services related to the preparation of the bidding documents for the City's 2017 Road Program. Included below you will find our Understanding of the Assignment and Scope and Fee.

**UNDERSTANDING OF THE ASSIGNMENT**

Based on the information provided by the City, the 2017 Road Program will consist of resurfacing for the following streets:

STREET	LIMITS	ROAD LENGTH
Timber Ln	Cass to Darien Ln	1050
Discosola Ct	Sweetbriar to Limit	350
Marco Ct	Bailey to Limit	500
Woodland Drive	N frontage to Limit	1000
Wilmette Ave	N frontage to Limit	850
Manning Rd	Lyman to Plainfield	5500
Peony Place	Brookbank to High	660
Western Ave	67th to North Limit	600
72nd Street	72nd Street	2000
79th St	Cass to Sawyer	4160
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The total length of streets to be resurfaced for the project is approximately 35,970 feet (6.81 miles).

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Task 5	Sampling Analysis – Quality Assurance/Quality Control	\$ 6,000
	Direct Costs	<u>\$ 1,500</u>
	NOT TO EXCEED	\$32,748

We will bill you at the hourly rates specified on the attached Schedule of Charges and establish our contract in accordance with the attached General Terms and Conditions. Direct costs for blueprints, photocopying, mailing, overnight delivery, messenger services and report compilation are included in the Fee Estimate. These General Terms and Conditions are expressly incorporated into and are an integral part of this contract for professional services. It should be emphasized that any requested meetings or additional services that are not included in the preceding Fee Estimate will be billed at the attached hourly rates.

Please sign and return one copy of this agreement as an indication of acceptance and notice to proceed. Please feel free to contact us anytime.

Sincerely,



Christopher B. Burke, PhD, PE, D.WRE, Dist.M.ASCE  
President

Encl. Schedule of Charges  
General Terms and Conditions

**THIS PROPOSAL, SCHEDULE OF CHARGES AND GENERAL TERMS AND CONDITIONS ACCEPTED FOR CITY OF DARIEN.**

BY: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
DATE: \_\_\_\_\_

**CHRISTOPHER B. BURKE ENGINEERING, LTD.  
STANDARD CHARGES FOR PROFESSIONAL SERVICES  
JANUARY, 2016**

<u>Personnel</u>	<u>Charges*</u> <u>(\$/Hr)</u>
Principal	257
Engineer VI	232
Engineer V	191
Engineer IV	152
Engineer III	138
Engineer I/II	109
Survey V	213
Survey IV	180
Survey III	153
Survey II	111
Survey I	87
Engineering Technician V	180
Engineering Technician IV	146
Engineering Technician III	131
Engineering Technician I/II	114
CAD Manager	159
Assistant CAD Manager	139
CAD II	138
CAD I	108
GIS Specialist III	132
GIS Specialist I/II	73
Landscape Architect	152
Environmental Resource Specialist V	195
Environmental Resource Specialist IV	150
Environmental Resource Specialist III	126
Environmental Resource Specialist I/II	103
Environmental Resource Technician	99
Administrative	98
Engineering intern	59
Information Technician III	116
Information Technician I/II	107

Direct Costs

Outside Copies, Blueprints, Messenger, Delivery Services, Mileage      Cost + 12%

\*Charges include overhead and profit .

Christopher B. Burke Engineering, Ltd. reserves the right to increase these rates and costs by 5% after December 31, 2016.



**CHRISTOPHER B. BURKE ENGINEERING, LTD.  
GENERAL TERMS AND CONDITIONS**

1. **Relationship Between Engineer and Client:** Christopher B. Burke Engineering, Ltd. (Engineer) shall serve as Client's professional engineer consultant in those phases of the Project to which this Agreement applies. This relationship is that of a buyer and seller of professional services and as such the Engineer is an independent contractor in the performance of this Agreement and it is understood that the parties have not entered into any joint venture or partnership with the other. The Engineer shall not be considered to be the agent of the Client. Nothing contained in this Agreement shall create a contractual relationship with a cause of action in favor of a third party against either the Client or Engineer.

Furthermore, causes of action between the parties to this Agreement pertaining to acts of failures to act shall be deemed to have accrued and the applicable statute of limitations shall commence to run not later than the date of substantial completion.

2. **Responsibility of the Engineer:** Engineer will strive to perform services under this Agreement in accordance with generally accepted and currently recognized engineering practices and principles, and in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representation, express or implied, and no warranty or guarantee is included or intended in this Agreement, or in any report, opinion, document, or otherwise.

Notwithstanding anything to the contrary which may be contained in this Agreement or any other material incorporated herein by reference, or in any Agreement between the Client and any other party concerning the Project, the Engineer shall not have control or be in charge of and shall not be responsible for the means, methods, techniques, sequences or procedures of construction, or the safety, safety precautions or programs of the Client, the construction contractor, other contractors or subcontractors performing any of the work or providing any of the services on the Project. Nor shall the Engineer be responsible for the acts or omissions of the Client, or for the failure of the Client, any architect, engineer, consultant, contractor or subcontractor to carry out their respective responsibilities in accordance with the Project documents, this Agreement or any other agreement concerning the Project. Any provision which purports to amend this provision shall be without effect unless it contains a reference that the content of this condition is expressly amended for the purposes described in such amendment and is signed by the Engineer.

3. **Changes:** Client reserves the right by written change order or amendment to make changes in requirements, amount of work, or engineering time schedule adjustments, and Engineer and Client shall negotiate appropriate adjustments acceptable to both parties to accommodate any changes, if commercially possible.
4. **Suspension of Services:** Client may, at any time, by written order to Engineer (Suspension of Services Order) require Engineer to stop all, or any part, of the services required by this Agreement. Upon receipt of such an order, Engineer shall immediately comply with its terms and take all reasonable steps to minimize the costs associated with the services affected by such order. Client, however, shall pay all costs incurred by the suspension, including all costs necessary to maintain continuity and for the resumption

of the services upon expiration of the Suspension of Services Order. Engineer will not be obligated to provide the same personnel employed prior to suspension, when the services are resumed, in the event that the period of suspension is greater than thirty (30) days.

5. **Termination:** This Agreement may be terminated by either party upon thirty (30) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. This Agreement may be terminated by Client, under the same terms, whenever Client shall determine that termination is in its best interests. Cost of termination, including salaries, overhead and fee, incurred by Engineer either before or after the termination date shall be reimbursed by Client.
6. **Documents Delivered to Client:** Drawings, specifications, reports, and any other Project Documents prepared by Engineer in connection with any or all of the services furnished hereunder shall be delivered to the Client for the use of the Client. Engineer shall have the right to retain originals of all Project Documents and drawings for its files. Furthermore, it is understood and agreed that the Project Documents such as, but not limited to reports, calculations, drawings, and specifications prepared for the Project, whether in hard copy or machine readable form, are instruments of professional service intended for one-time use in the construction of this Project. These Project Documents are and shall remain the property of the Engineer. The Client may retain copies, including copies stored on magnetic tape or disk, for information and reference in connection with the occupancy and use of the Project.

When and if record drawings are to be provided by the Engineer, Client understands that information used in the preparation of record drawings is provided by others and Engineer is not responsible for accuracy, completeness, nor sufficiency of such information. Client also understands that the level of detail illustrated by record drawings will generally be the same as the level of detail illustrated by the design drawing used for project construction. If additional detail is requested by the Client to be included on the record drawings, then the Client understands and agrees that the Engineer will be due additional compensation for additional services.

It is also understood and agreed that because of the possibility that information and data delivered in machine readable form may be altered, whether inadvertently or otherwise, the Engineer reserves the right to retain the original tapes/disks and to remove from copies provided to the Client all identification reflecting the involvement of the Engineer in their preparation. The Engineer also reserves the right to retain hard copy originals of all Project Documentation delivered to the Client in machine readable form, which originals shall be referred to and shall govern in the event of any inconsistency between the two.

The Client understands that the automated conversion of information and data from the system and format used by the Engineer to an alternate system or format cannot be accomplished without the introduction of inexactitudes, anomalies, and errors. In the event Project Documentation provided to the Client in machine readable form is so converted, the Client agrees to assume all risks associated therewith and, to the fullest

extent permitted by law, to hold harmless and indemnify the Engineer from and against all claims, liabilities, losses, damages, and costs, including but not limited to attorney's fees, arising therefrom or in connection therewith.

The Client recognizes that changes or modifications to the Engineer's instruments of professional service introduced by anyone other than the Engineer may result in adverse consequences which the Engineer can neither predict nor control. Therefore, and in consideration of the Engineer's agreement to deliver its instruments of professional service in machine readable form, the Client agrees, to the fullest extent permitted by law, to hold harmless and indemnify the Engineer from and against all claims, liabilities, losses, damages, and costs, including but not limited to attorney's fees, arising out of or in any way connected with the modification, misinterpretation, misuse, or reuse by others of the machine readable information and data provided by the Engineer under this Agreement. The foregoing indemnification applies, without limitation, to any use of the Project Documentation on other projects, for additions to this Project, or for completion of this Project by others, excepting only such use as may be authorized, in writing, by the Engineer.

7. **Reuse of Documents:** All Project Documents including but not limited to reports, opinions of probable costs, drawings and specifications furnished by Engineer pursuant to this Agreement are intended for use on the Project only. They cannot be used by Client or others on extensions of the Project or any other project. Any reuse, without specific written verification or adaptation by Engineer, shall be at Client's sole risk, and Client shall indemnify and hold harmless Engineer from all claims, damages, losses, and expenses including attorney's fees arising out of or resulting therefrom.

The Engineer shall have the right to include representations of the design of the Project, including photographs of the exterior and interior, among the Engineer's promotional and professional materials. The Engineer's materials shall not include the Client's confidential and proprietary information if the Client has previously advised the Engineer in writing of the specific information considered by the Client to be confidential and proprietary.

8. **Standard of Practice:** The Engineer will strive to conduct services under this agreement in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions as of the date of this Agreement.
9. **Compliance With Laws:** The Engineer will strive to exercise usual and customary professional care in his/her efforts to comply with those laws, codes, ordinance and regulations which are in effect as of the date of this Agreement.

With specific respect to prescribed requirements of the Americans with Disabilities Act of 1990 or certified state or local accessibility regulations (ADA), Client understands ADA is a civil rights legislation and that interpretation of ADA is a legal issue and not a design issue and, accordingly, retention of legal counsel (by Client) for purposes of interpretation is advisable. As such and with respect to ADA, Client agrees to waive any action against Engineer, and to indemnify and defend Engineer against any claim arising from Engineer's alleged failure to meet ADA requirements prescribed.

Further to the law and code compliance, the Client understands that the Engineer will strive to provide designs in accordance with the prevailing Standards of Practice as previously set forth, but that the Engineer does not warrant that any reviewing agency having jurisdiction will not for its own purposes comment, request changes and/or additions to such designs. In the event such design requests are made by a reviewing agency, but which do not exist in the form of a written regulation, ordinance or other similar document as published by the reviewing agency, then such design changes (at substantial variance from the intended design developed by the Engineer), if effected and incorporated into the project documents by the Engineer, shall be considered as Supplementary Task(s) to the Engineer's Scope of Service and compensated for accordingly.

10. **Indemnification:** Engineer shall indemnify and hold harmless Client up to the amount of this contract fee (for services) from loss or expense, including reasonable attorney's fees for claims for personal injury (including death) or property damage to the extent caused by the sole negligent act, error or omission of Engineer.

Client shall indemnify and hold harmless Engineer under this Agreement, from loss or expense, including reasonable attorney's fees, for claims for personal injuries (including death) or property damage arising out of the sole negligent act, error omission of Client.

In the event of joint or concurrent negligence of Engineer and Client, each shall bear that portion of the loss or expense that its share of the joint or concurrent negligence bears to the total negligence (including that of third parties), which caused the personal injury or property damage.

Engineer shall not be liable for special, incidental or consequential damages, including, but not limited to loss of profits, revenue, use of capital, claims of customers, cost of purchased or replacement power, or for any other loss of any nature, whether based on contract, tort, negligence, strict liability or otherwise, by reasons of the services rendered under this Agreement.

11. **Opinions of Probable Cost:** Since Engineer has no control over the cost of labor, materials or equipment, or over the Contractor(s) method of determining process, or over competitive bidding or market conditions, his/her opinions of probable Project Construction Cost provided for herein are to be made on the basis of his/her experience and qualifications and represent his/her judgement as a design professional familiar with the construction industry, but Engineer cannot and does not guarantee that proposal, bids or the Construction Cost will not vary from opinions of probable construction cost prepared by him/her. If prior to the Bidding or Negotiating Phase, Client wishes greater accuracy as to the Construction Cost, the Client shall employ an independent cost estimator Consultant for the purpose of obtaining a second construction cost opinion independent from Engineer.
12. **Governing Law & Dispute Resolutions:** This Agreement shall be governed by and construed in accordance with Articles previously set forth by (Item 9 of) this Agreement, together with the laws of the State of Illinois.

Any claim, dispute or other matter in question arising out of or related to this Agreement, which can not be mutually resolved by the parties of this Agreement, shall be subject to mediation as a condition precedent to arbitration (if arbitration is agreed upon by the parties of this Agreement) or the institution of legal or equitable proceedings by either party. If such matter relates to or is the subject of a lien arising out of the Engineer's services, the Engineer may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by arbitration.

The Client and Engineer shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Requests for mediation shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. The request may be made concurrently with the filing of a demand for arbitration but, in such event, mediation shall proceed in advance of arbitration or legal or equitable proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

13. **Successors and Assigns:** The terms of this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns: provided, however, that neither party shall assign this Agreement in whole or in part without the prior written approval of the other.
14. **Waiver of Contract Breach:** The waiver of one party of any breach of this Agreement or the failure of one party to enforce at any time, or for any period of time, any of the provisions hereof, shall be limited to the particular instance, shall not operate or be deemed to waive any future breaches of this Agreement and shall not be construed to be a waiver of any provision, except for the particular instance.
15. **Entire Understanding of Agreement:** This Agreement represents and incorporates the entire understanding of the parties hereto, and each party acknowledges that there are no warranties, representations, covenants or understandings of any kind, matter or description whatsoever, made by either party to the other except as expressly set forth herein. Client and the Engineer hereby agree that any purchase orders, invoices, confirmations, acknowledgments or other similar documents executed or delivered with respect to the subject matter hereof that conflict with the terms of the Agreement shall be null, void and without effect to the extent they conflict with the terms of this Agreement.
16. **Amendment:** This Agreement shall not be subject to amendment unless another instrument is duly executed by duly authorized representatives of each of the parties and entitled "Amendment of Agreement".

17. **Severability of Invalid Provisions:** If any provision of the Agreement shall be held to contravene or to be invalid under the laws of any particular state, county or jurisdiction where used, such contravention shall not invalidate the entire Agreement, but it shall be construed as if not containing the particular provisions held to be invalid in the particular state, country or jurisdiction and the rights or obligations of the parties hereto shall be construed and enforced accordingly.
18. **Force Majeure:** Neither Client nor Engineer shall be liable for any fault or delay caused by any contingency beyond their control including but not limited to acts of God, wars, strikes, walkouts, fires, natural calamities, or demands or requirements of governmental agencies.
19. **Subcontracts:** Engineer may subcontract portions of the work, but each subcontractor must be approved by Client in writing.
20. **Access and Permits:** Client shall arrange for Engineer to enter upon public and private property and obtain all necessary approvals and permits required from all governmental authorities having jurisdiction over the Project. Client shall pay costs (including Engineer's employee salaries, overhead and fee) incident to any effort by Engineer toward assisting Client in such access, permits or approvals, if Engineer perform such services.
21. **Designation of Authorized Representative:** Each party (to this Agreement) shall designate one or more persons to act with authority in its behalf in respect to appropriate aspects of the Project. The persons designated shall review and respond promptly to all communications received from the other party.
22. **Notices:** Any notice or designation required to be given to either party hereto shall be in writing, and unless receipt of such notice is expressly required by the terms hereof shall be deemed to be effectively served when deposited in the mail with sufficient first class postage affixed, and addressed to the party to whom such notice is directed at such party's place of business or such other address as either party shall hereafter furnish to the other party by written notice as herein provided.
23. **Limit of Liability:** The Client and the Engineer have discussed the risks, rewards, and benefits of the project and the Engineer's total fee for services. In recognition of the relative risks and benefits of the Project to both the Client and the Engineer, the risks have been allocated such that the Client agrees that to the fullest extent permitted by law, the Engineer's total aggregate liability to the Client for any and all injuries, claims, costs, losses, expenses, damages of any nature whatsoever or claim expenses arising out of this Agreement from any cause or causes, including attorney's fees and costs, and expert witness fees and costs, shall not exceed the total Engineer's fee for professional engineering services rendered on this project as made part of this Agreement. Such causes included but are not limited to the Engineer's negligence, errors, omissions, strict liability or breach of contract. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

24. **Client's Responsibilities:** The Client agrees to provide full information regarding requirements for and about the Project, including a program which shall set forth the Client's objectives, schedule, constraints, criteria, special equipment, systems and site requirements.

The Client agrees to furnish and pay for all legal, accounting and insurance counseling services as may be necessary at any time for the Project, including auditing services which the Client may require to verify the Contractor's Application for Payment or to ascertain how or for what purpose the Contractor has used the money paid by or on behalf of the Client.

The Client agrees to require the Contractor, to the fullest extent permitted by law, to indemnify, hold harmless, and defend the Engineer, its consultants, and the employees and agents of any of them from and against any and all claims, suits, demands, liabilities, losses, damages, and costs ("Losses"), including but not limited to costs of defense, arising in whole or in part out of the negligence of the Contractor, its subcontractors, the officers, employees, agents, and subcontractors of any of them, or anyone for whose acts any of them may be liable, regardless of whether or not such Losses are caused in part by a party indemnified hereunder. Specifically excluded from the foregoing are Losses arising out of the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs, or specifications, and the giving of or failure to give directions by the Engineer, its consultants, and the agents and employees of any of them, provided such giving or failure to give is the primary cause of Loss. The Client also agrees to require the Contractor to provide to the Engineer the required certificate of insurance.

The Client further agrees to require the Contractor to name the Engineer, its agents and consultants as additional insureds on the Contractor's policy or policies of comprehensive or commercial general liability insurance. Such insurance shall include products and completed operations and contractual liability coverages, shall be primary and noncontributing with any insurance maintained by the Engineer or its agents and consultants, and shall provide that the Engineer be given thirty days, unqualified written notice prior to any cancellation thereof.

In the event the foregoing requirements, or any of them, are not established by the Client and met by the Contractor, the Client agrees to indemnify and hold harmless the Engineer, its employees, agents, and consultants from and against any and all Losses which would have been indemnified and insured against by the Contractor, but were not.

When Contract Documents prepared under the Scope of Services of this contract require insurance(s) to be provided, obtained and/or otherwise maintained by the Contractor, the Client agrees to be wholly responsible for setting forth any and all such insurance requirements. Furthermore, any document provided for Client review by the Engineer under this Contract related to such insurance(s) shall be considered as sample insurance requirements and not the recommendation of the Engineer. Client agrees to have their own risk management department review any and all insurance requirements for adequacy and to determine specific types of insurance(s) required for the project. Client further agrees that decisions concerning types and amounts of insurance are

specific to the project and shall be the product of the Client. As such, any and all insurance requirements made part of Contract Documents prepared by the Engineer are not to be considered the Engineer's recommendation, and the Client shall make the final decision regarding insurance requirements.

25. **Information Provided by Others:** The Engineer shall indicate to the Client the information needed for rendering of the services of this Agreement. The Client shall provide to the Engineer such information as is available to the Client and the Client's consultants and contractors, and the Engineer shall be entitled to rely upon the accuracy and completeness thereof. The Client recognizes that it is impossible for the Engineer to assure the accuracy, completeness and sufficiency of such information, either because it is impossible to verify, or because of errors or omissions which may have occurred in assembling the information the Client is providing. Accordingly, the Client agrees, to the fullest extent permitted by law, to indemnify and hold the Engineer and the Engineer's subconsultants harmless from any claim, liability or cost (including reasonable attorneys' fees and cost of defense) for injury or loss arising or allegedly arising from errors, omissions or inaccuracies in documents or other information provided by the Client to the Engineer.
26. **Payment:** Client shall be invoiced once each month for work performed during the preceding period. Client agrees to pay each invoice within thirty (30) days of its receipt. The client further agrees to pay interest on all amounts invoiced and not paid or objected to for valid cause within said thirty (30) day period at the rate of eighteen (18) percent per annum (or the maximum interest rate permitted under applicable law, whichever is the lesser) until paid. Client further agrees to pay Engineer's cost of collection of all amounts due and unpaid after sixty (60) days, including court costs and reasonable attorney's fees, as well as costs attributed to suspension of services accordingly and as follows:
- Collection Costs.** In the event legal action is necessary to enforce the payment provisions of this Agreement, the Engineer shall be entitled to collect from the Client any judgement or settlement sums due, reasonable attorneys' fees, court costs and expenses incurred by the Engineer in connection therewith and, in addition, the reasonable value of the Engineer's time and expenses spent in connection with such collection action, computed at the Engineer's prevailing fee schedule and expense policies.
- Suspension of Services.** If the Client fails to make payments when due or otherwise is in breach of this Agreement, the Engineer may suspend performance of services upon five (5) calendar days' notice to the Client. The Engineer shall have no liability whatsoever to the Client for any costs or damages as a result of such suspension caused by any breach of this Agreement by the Client. Client will reimburse Engineer for all associated costs as previously set forth in (Item 4 of) this Agreement.
27. When construction observation tasks are part of the service to be performed by the Engineer under this Agreement, the Client will include the following clause in the construction contract documents and Client agrees not to modify or delete it:



**Kotecki Waiver.** Contractor (and any subcontractor into whose subcontract this clause is incorporated) agrees to assume the entire liability for all personal injury claims suffered by its own employees, including without limitation claims under the Illinois Structural Work Act, asserted by persons allegedly injured on the Project; waives any limitation of liability defense based upon the Worker's Compensation Act, court interpretations of said Act or otherwise; and to the fullest extent permitted by law, agrees to indemnify and hold harmless and defend Owner and Engineer and their agents, employees and consultants (the "Indemnitees") from and against all such loss, expense, damage or injury, including reasonable attorneys' fees, that the Indemnitees may sustain as a result of such claims, except to the extent that Illinois law prohibits indemnity for the Indemnitees' own negligence. The Owner and Engineer are designated and recognized as explicit third party beneficiaries of the Kotecki Waiver within the general contract and all subcontracts entered into in furtherance of the general contract.

28. **Job Site Safety/Supervision & Construction Observation:** The Engineer shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences of procedures, or for safety precautions and programs in connection with the Work since they are solely the Contractor's rights and responsibilities. The Client agrees that the Contractor shall supervise and direct the work efficiently with his/her best skill and attention; and that the Contractor shall be solely responsible for the means, methods, techniques, sequences and procedures of construction and safety at the job site. The Client agrees and warrants that this intent shall be carried out in the Client's contract with the Contractor. The Client further agrees that the Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work; and that the Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to all employees on the subject site and all other persons who may be affected thereby. The Engineer shall have no authority to stop the work of the Contractor or the work of any subcontractor on the project.

When construction observation services are included in the Scope of Services, the Engineer shall visit the site at intervals appropriate to the stage of the Contractor's operation, or as otherwise agreed to by the Client and the Engineer to: 1) become generally familiar with and to keep the Client informed about the progress and quality of the Work; 2) to strive to bring to the Client's attention defects and deficiencies in the Work and; 3) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Engineer shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. If the Client desires more extensive project observation, the Client shall request that such services be provided by the Engineer as Additional and Supplemental Construction Observation Services in accordance with the terms of this Agreement.

The Engineer shall not be responsible for any acts or omissions of the Contractor, subcontractor, any entity performing any portions of the Work, or any agents or employees of any of them. The Engineer does not guarantee the performance of the

Contractor and shall not be responsible for the Contractor's failure to perform its Work in accordance with the Contract Documents or any applicable laws, codes, rules or regulations.

When municipal review services are included in the Scope of Services, the Engineer (acting on behalf of the municipality), when acting in good faith in the discharge of its duties, shall not thereby render itself liable personally and is, to the maximum extent permitted by law, relieved from all liability for any damage that may accrue to persons or property by reason of any act or omission in the discharge of its duties. Any suit brought against the Engineer which involve the acts or omissions performed by it in the enforcement of any provisions of the Client's rules, regulation and/or ordinance shall be defended by the Client until final termination of the proceedings. The Engineer shall be entitled to all defenses and municipal immunities that are, or would be, available to the Client.

29. **Insurance and Indemnification:** The Engineer and the Client understand and agree that the Client will contractually require the Contractor to defend and indemnify the Engineer and/or any subconsultants from any claims arising from the Work. The Engineer and the Client further understand and agree that the Client will contractually require the Contractor to procure commercial general liability insurance naming the Engineer as an additional named insured with respect to the work. The Contractor shall provide to the Client certificates of insurance evidencing that the contractually required insurance coverage has been procured. However, the Contractor's failure to provide the Client with the requisite certificates of insurance shall not constitute a waiver of this provision by the Engineer.

The Client and Engineer waive all rights against each other and against the Contractor and consultants, agents and employees of each of them for damages to the extent covered by property insurance during construction. ~~The Client and Engineer each shall~~ require similar waivers from the Contractor, consultants, agents and persons or entities awarded separate contracts administered under the Client's own forces.

30. **Hazardous Materials/Pollutants:** Unless otherwise provided by this Agreement, the Engineer and Engineer's consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials/pollutants in any form at the Project site, including but not limited to mold/mildew, asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic/hazardous/pollutant type substances.

Furthermore, Client understands that the presence of mold/mildew and the like are results of prolonged or repeated exposure to moisture and the lack of corrective action. Client also understands that corrective action is a operation, maintenance and repair activity for which the Engineer is not responsible.

**AGENDA MEMO**  
**Municipal Services Committee**  
**October 24, 2016**

**Issue Statement**

Approval of a resolution authorizing the Mayor to enter into an engineering agreement with Christopher B. Burke Engineering, Ltd. for pavement corings for the proposed 2017 Street Maintenance Program, in an amount not to exceed \$10,500.00.

**Background/History**

Attached and labeled as Attachment A, please find an engineering agreement with Christopher B. Burke Engineering for a pavement study consisting of 54 pavement corings for the tentatively proposed 2017 Street Maintenance Program. The following roads have been slated for the 2017 Street Maintenance Program:

<b>STREET</b>	<b>RATING</b>	<b>SUB DIVISION</b>	<b>LIMIT</b>	<b>ROAD LENGTH</b>	<b>CORES</b>	<b>LAST REHAB</b>
Peony Place	66	Marion Hills North	Brookbank - High	660	1	2002
Western Ave	65	North of 67th	67th - north limit	600	1	2004
72nd Street	67	Plainfield Highlands	72nd Street	2000	4	2005
79th St	67	Brookhaven#1	Cass - Sawyer	4160	8	2002
Gold Grove Dr	65	Downers Fairview	71st - Gigi	1160	2	2005
Carlisle Ct	67	Carriage Greens #4	N Frontage - Kimberly	1820	4	2005
Kimberly Ct	67	Carriage Greens #4	Lake Ridge - Kentwood	360	1	2005
Kentwood Ct	67	Carriage Greens #4	Carlisle - Kimberly	1060	2	2005
Willowcreek Ln	68	Carriage Greens #3	Bailey - evergreen	990	2	2003
Winterberry Ln	67	Carriage greens #3	Bailey - evergreen	780	2	2003
Waterfall Glen Blvd	67	Waterfall Glen	S Frontage - S Frontage	2130	4	2000
Waverly Ct	67	Waterfall Glen	Waterfall Glen to limit	330	1	2000
Forest Glen Ct	67	Waterfall Glen	Waterfall Glen to limit	200	1	2000
Fountain Point Cir	67	Waterfall Glen	Waterfall Glen to limit	200	1	2000

Richmond Ave (Alternate)	69	Hinsbrook	67th - Seminole	5100	10	2006
* Brookhaven (Alternate)	67	Brookhaven#1	Warwick - Janet	1320	3	2005
* Bentley (Alternate)	65	North of 67th	67th - N Limit	650	1	2003
*Seminole Drive (Alternate)	67	Hinsbrook	Plainfield - Hinsbrook	3200	6	2005
				<b>26720.0</b>	<b>54</b>	

The proposed Engineering Agreement includes the following scope of services:

**Task 1-Geotechnical Investigation**

A Geotechnical Investigation will be performed by CBBEL's sub-consultant, Testing Services Corporation (TSC). The Geotechnical Investigation will include soil borings (approximately 54 cores) and pavement cores at a frequency to determine the existing structure of the pavement and condition of subgrade materials. Due to concern of the depth of existing pavement thickness we would recommend TSC completing the geotechnical report to verify the existing thickness of the bituminous pavement. This will allow us to verify that the correct improvement is proposed for the roadways. This assumes no flagmen are required to take the cores.

**Task 2-Evaluation of Geotechnical Report**

CBBEL and City Staff will evaluate the geotechnical report to determine the resurfacing treatment for each street and the final list of streets to be included in the 2017 Road Program based on the City's budget.

**CBBEL will perform a Field Reconnaissance of the streets and preparation of the bid booklet under a separate proposal.**

CBBEL estimates the following fees for each of the tasks described above:

Task 1	Geotechnical Investigation	\$ 10,000
Task 2	Evaluation of Geotechnical Report	\$ . 500
	<b>TOTAL</b>	<b>\$ 10,500</b>

We will bill you at the hourly rates specified on the attached Schedule of Charges and establish our contract in accordance with the attached General Terms and Conditions.

Direct costs for blueprints, photocopying, mailing, overnight delivery, messenger services and report compilation are not included in the Fee Estimate. These General Terms and Conditions are expressly incorporated into and are an integral part of this contract for professional services. It should be emphasized that any requested meetings or additional services that are not included in the preceding Fee Estimate will be billed at the attached hourly rates.

Pavement Coring Agreement

October 24, 2016

Page 3

Funding for the Engineering Services would be expended from the following line item of the FY 16/17 Budget:

ACCOUNT NUMBER	PROJECT CODE	ACCOUNT DESCRIPTION	FY16/17 BUDGET	PROPOSED EXPENDITURE	PROPOSED BALANCE
25-35-4325	FYE177004	ROAD CORE SPECS/TESTING SERVICES	\$13,200.00	\$ 10,500.00	\$ 2,700

**Staff Recommendation**

Staff recommends approval of this Engineering Agreement through the attached resolution with Christopher B. Burke Engineering, Ltd. in an amount not to exceed \$10,500.00.

**Alternate Consideration**

Not approving the agreement.

**Decision Mode**

This item will be placed on the November 7, 2016 City Council agenda for formal consideration.


**CHRISTOPHER B. BURKE ENGINEERING, LTD.**

9575 West Higgins Road Suite 600 Rosemont, Illinois 60018 TEL (847) 823-0500 FAX (847) 823-0520

October 4, 2016

 City of Darien  
 City Hall  
 1702 Plainfield Road  
 Darien, Illinois 60561

Attention: Dan Gombac

 Subject: Proposal for Professional Engineering Services  
 2017 Road Program - Cores

Dear Dan:

At your request, we are providing this proposal to provide professional engineering services related to the preparation of the bidding documents for the City's 2017 Road Program. Included below you will find our Understanding of the Assignment and Scope and Fee.

**UNDERSTANDING OF THE ASSIGNMENT**

Based on the information provided by the City, the preliminary list for the 2017 Road Program will consist of the following streets:

PROPOSED 2017 ROAD PROGRAM			
STREET	LIMITS	ROAD LENGTH	CORES
Peony Place	Brookbank to High	660	1
Western Ave	67th to North Limit	600	1
72nd Street	72nd Street	2000	4
79th St	Cass to Sawyer	4160	8
Gold Grove Dr	71st to Gigi	1150	2
Carlisle Ct	N Frontage to Kimberly	1820	4
Kimberly Ct	Lake Ridge to Kentwood	360	1
Kentwood Ct	Carlisle to Kimberly	1060	2
Willowcreek Ln	Bailey to Evergreen	990	2
Winterberry Ln	Bailey to Evergreen	780	2
Waterfall Glen Blvd	S Frontage to S Frontage	2130	4
Waverly Ct	Waterfall Glen to Limit	330	1

Forest Glen Ct	Waterfall Glen to Limit	200	1
Fountain Point Cir	Waterfall Glen to Limit	200	1
Richmond Ave (Alternate)	67th to Seminole	5100	10
Brookhaven (Alternate)	Warwick to Janet	1320	3
Bentley (Alternate)	67th to N Limit	650	1
Seminole Drive (Alternate)	Plainfield to Hinsbrook	3200	6
<b>BASE BID</b>		<b>26,720</b>	<b>54</b>

Please note that cores have been providing taken on Timber Lane, Discosola Court, Marco Court, Woodland Drive, Wilmette Avenue and Manning Road in previous years.

### SCOPE AND FEE

#### Task 1 – Geotechnical Investigation

A Geotechnical Investigation will be performed by CBBEL's subconsultant, Testing Services Corporation (TSC). The Geotechnical Investigation will include soil borings (approximately 54 cores) and pavement cores at a frequency to determine the existing structure of the pavement and condition of subgrade materials. Due to concern of the depth of existing pavement thickness we would recommend TSC completing the geotechnical report to verify the existing thickness of the bituminous pavement. This will allow us to verify that the correct improvement is proposed for the roadways. This assumes no flagmen are required to take the cores.

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Task 2	Evaluation of Geotechnical Report	\$ 500
<b>TOTAL</b>		<b>\$ 10,500</b>

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Direct costs for blueprints, photocopying, mailing, overnight delivery, messenger services and report compilation are not included in the Fee Estimate. These General Terms and Conditions are expressly incorporated into and are an integral part of this contract for professional services. It should be emphasized that any requested meetings or additional services that are not included in the preceding Fee Estimate will be billed at the attached hourly rates.

Please sign and return one copy of this agreement as an indication of acceptance and notice to proceed. Please feel free to contact us anytime.

Sincerely,



Christopher B. Burke, PhD, PE, D.WRE, Dist.M.ASCE  
President

Encl. Schedule of Charges  
General Terms and Conditions

THIS PROPOSAL, SCHEDULE OF CHARGES AND GENERAL TERMS AND  
CONDITIONS ACCEPTED FOR CITY OF DARIEN:

BY: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
DATE: \_\_\_\_\_



**RESOLUTION NO.** \_\_\_\_\_

**A RESOLUTION AUTHORIZING THE APPROVAL TO ENTER INTO AN ENGINEERING AGREEMENT WITH CHRISTOPHER B. BURKE ENGINEERING, LTD. FOR PAVEMENT CORINGS FOR THE PROPOSED 2017 STREET MAINTENANCE PROGRAM, IN AN AMOUNT NOT TO EXCEED \$10,500.00**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DARIEN, DU PAGE COUNTY, ILLINOIS, as follows:**

**SECTION 1:** The City Council of the City of Darien, hereby authorizes the Mayor to enter into an Engineering Agreement with Christopher B. Burke Engineering, Ltd. for pavement corings for the proposed 2017 Street Maintenance Program in an amount not to exceed a total cost of \$10,500.00, a copy of which is attached hereto as "Exhibit A" and is by this reference expressly incorporated hereto.

**SECTION 2:** This Resolution shall be in full force and effect from and after its passage and approval as provided by law.

**PASSED BY THE CITY COUNCIL OF THE CITY OF DARIEN, DU PAGE COUNTY, ILLINOIS, this 7<sup>th</sup> day of November, 2016.**

**AYES:** \_\_\_\_\_

**NAYS:** \_\_\_\_\_

**ABSENT:** \_\_\_\_\_

**APPROVED BY THE MAYOR OF THE CITY OF DARIEN, DU PAGE COUNTY, ILLINOIS, this 7<sup>th</sup> day of November, 2016.**

\_\_\_\_\_  
**KATHLEEN MOESLE WEAVER, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**JOANNE E. RAGONA, CITY CLERK**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**CITY ATTORNEY**

**CHRISTOPHER B. BURKE ENGINEERING, LTD.**

9575 West Higgins Road Suite 800 Rosemont, Illinois 60018 TEL (847) 823-0500 FAX (847) 823-0520

October 4, 2016

City of Darien  
 City Hall  
 1702 Plainfield Road  
 Darien, Illinois 60561

Attention: Dan Gombac

Subject: Proposal for Professional Engineering Services  
 2017 Road Program - Cores

Dear Dan:

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**UNDERSTANDING OF THE ASSIGNMENT**

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### SCOPE AND FEE

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<b>TOTAL</b>		<b>\$ 10,500</b>

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Please sign and return one copy of this agreement as an indication of acceptance and notice to proceed. Please feel free to contact us anytime.

Sincerely,



Christopher B. Burke, PhD, PE, D.WRE, Dist.M.ASCE  
President

Encl. Schedule of Charges  
General Terms and Conditions

THIS PROPOSAL, SCHEDULE OF CHARGES AND GENERAL TERMS AND  
CONDITIONS ACCEPTED FOR CITY OF DARIEN:

BY: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
DATE: \_\_\_\_\_

**CHRISTOPHER B. BURKE ENGINEERING, LTD.**  
**STANDARD CHARGES FOR PROFESSIONAL SERVICES**  
**JANUARY, 2016**

<u>Personnel</u>	<u>Charges*</u> <u>(\$/Hr)</u>
Principal	257
Engineer VI	232
Engineer V	191
Engineer IV	152
Engineer III	138
Engineer I/II	109
Survey V	213
Survey IV	180
Survey III	153
Survey II	111
Survey I	87
Engineering Technician V	180
Engineering Technician IV	146
Engineering Technician III	131
Engineering Technician I/II	114
CAD Manager	159
Assistant CAD Manager	139
CAD II	138
CAD I	108
GIS Specialist III	132
GIS Specialist I/II	73
Landscape Architect	152
Environmental Resource Specialist V	195
Environmental Resource Specialist IV	150
Environmental Resource Specialist III	128
Environmental Resource Specialist I/II	103
Environmental Resource Technician	99
Administrative	98
Engineering Intern	59
Information Technician III	116
Information Technician I/II	107
 <u>Direct Costs</u>	
Outside Copies, Blueprints, Messenger, Delivery Services, Mileage	Cost + 12%

\*Charges include overhead and profit

Christopher B. Burke Engineering, Ltd. reserves the right to increase these rates and costs by 5% after December 31, 2016.

**CHRISTOPHER B. BURKE ENGINEERING, LTD.  
GENERAL TERMS AND CONDITIONS**

1. **Relationship Between Engineer and Client:** Christopher B. Burke Engineering, Ltd. (Engineer) shall serve as Client's professional engineer consultant in those phases of the Project to which this Agreement applies. This relationship is that of a buyer and seller of professional services and as such the Engineer is an independent contractor in the performance of this Agreement and it is understood that the parties have not entered into any joint venture or partnership with the other. The Engineer shall not be considered to be the agent of the Client. Nothing contained in this Agreement shall create a contractual relationship with a cause of action in favor of a third party against either the Client or Engineer.

Furthermore, causes of action between the parties to this Agreement pertaining to acts of failures to act shall be deemed to have accrued and the applicable statute of limitations shall commence to run not later than the date of substantial completion.

2. **Responsibility of the Engineer:** Engineer will strive to perform services under this Agreement in accordance with generally accepted and currently recognized engineering practices and principles, and in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representation, express or implied, and no warranty or guarantee is included or intended in this Agreement, or in any report, opinion, document, or otherwise.

Notwithstanding anything to the contrary which may be contained in this Agreement or any other material incorporated herein by reference, or in any Agreement between the Client and any other party concerning the Project, the Engineer shall not have control or be in charge of and shall not be responsible for the means, methods, techniques, sequences or procedures of construction, or the safety, safety precautions or programs of the Client, the construction contractor, other contractors or subcontractors performing any of the work or providing any of the services on the Project. Nor shall the Engineer be responsible for the acts or omissions of the Client, or for the failure of the Client, any architect, engineer, consultant, contractor or subcontractor to carry out their respective responsibilities in accordance with the Project documents, this Agreement or any other agreement concerning the Project. Any provision which purports to amend this provision shall be without effect unless it contains a reference that the content of this condition is expressly amended for the purposes described in such amendment and is signed by the Engineer.

3. **Changes:** Client reserves the right by written change order or amendment to make changes in requirements, amount of work, or engineering time schedule adjustments, and Engineer and Client shall negotiate appropriate adjustments acceptable to both parties to accommodate any changes, if commercially possible.
4. **Suspension of Services:** Client may, at any time, by written order to Engineer (Suspension of Services Order) require Engineer to stop all, or any part, of the services required by this Agreement. Upon receipt of such an order, Engineer shall immediately comply with its terms and take all reasonable steps to minimize the costs associated with the services affected by such order. Client, however, shall pay all costs incurred by the suspension, including all costs necessary to maintain continuity and for the resumptions

of the services upon expiration of the Suspension of Services Order. Engineer will not be obligated to provide the same personnel employed prior to suspension, when the services are resumed, in the event that the period of suspension is greater than thirty (30) days.

5. **Termination:** This Agreement may be terminated by either party upon thirty (30) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. This Agreement may be terminated by Client, under the same terms, whenever Client shall determine that termination is in its best interests. Cost of termination, including salaries, overhead and fee, incurred by Engineer either before or after the termination date shall be reimbursed by Client.
6. **Documents Delivered to Client:** Drawings, specifications, reports, and any other Project Documents prepared by Engineer in connection with any or all of the services furnished hereunder shall be delivered to the Client for the use of the Client. Engineer shall have the right to retain originals of all Project Documents and drawings for its files. Furthermore, it is understood and agreed that the Project Documents such as, but not limited to reports, calculations, drawings, and specifications prepared for the Project, whether in hard copy or machine readable form, are instruments of professional service intended for one-time use in the construction of this Project. These Project Documents are and shall remain the property of the Engineer. The Client may retain copies, including copies stored on magnetic tape or disk, for information and reference in connection with the occupancy and use of the Project.

When and if record drawings are to be provided by the Engineer, Client understands that information used in the preparation of record drawings is provided by others and Engineer is not responsible for accuracy, completeness, nor sufficiency of such information. Client also understands that the level of detail illustrated by record drawings will generally be the same as the level of detail illustrated by the design drawing used for project construction. If additional detail is requested by the Client to be included on the record drawings, then the Client understands and agrees that the Engineer will be due additional compensation for additional services.

It is also understood and agreed that because of the possibility that information and data delivered in machine readable form may be altered, whether inadvertently or otherwise, the Engineer reserves the right to retain the original tapes/disks and to remove from copies provided to the Client all identification reflecting the involvement of the Engineer in their preparation. The Engineer also reserves the right to retain hard copy originals of all Project Documentation delivered to the Client in machine readable form, which originals shall be referred to and shall govern in the event of any inconsistency between the two.

The Client understands that the automated conversion of information and data from the system and format used by the Engineer to an alternate system or format cannot be accomplished without the introduction of inexactitudes, anomalies, and errors. In the event Project Documentation provided to the Client in machine readable form is so converted, the Client agrees to assume all risks associated therewith and, to the fullest

extent permitted by law, to hold harmless and indemnify the Engineer from and against all claims, liabilities, losses, damages, and costs, including but not limited to attorney's fees, arising therefrom or in connection therewith.

The Client recognizes that changes or modifications to the Engineer's instruments of professional service introduced by anyone other than the Engineer may result in adverse consequences which the Engineer can neither predict nor control. Therefore, and in consideration of the Engineer's agreement to deliver its instruments of professional service in machine readable form, the Client agrees, to the fullest extent permitted by law, to hold harmless and indemnify the Engineer from and against all claims, liabilities, losses, damages, and costs, including but not limited to attorney's fees, arising out of or in any way connected with the modification, misinterpretation, misuse, or reuse by others of the machine readable information and data provided by the Engineer under this Agreement. The foregoing indemnification applies, without limitation, to any use of the Project Documentation on other projects, for additions to this Project, or for completion of this Project by others, excepting only such use as may be authorized, in writing, by the Engineer.

7. **Reuse of Documents:** All Project Documents including but not limited to reports, opinions of probable costs, drawings and specifications furnished by Engineer pursuant to this Agreement are intended for use on the Project only. They cannot be used by Client or others on extensions of the Project or any other project. Any reuse, without specific written verification or adaptation by Engineer, shall be at Client's sole risk, and Client shall indemnify and hold harmless Engineer from all claims, damages, losses, and expenses including attorney's fees arising out of or resulting therefrom.

The Engineer shall have the right to include representations of the design of the Project, including photographs of the exterior and interior, among the Engineer's promotional and professional materials. The Engineer's materials shall not include the Client's confidential and proprietary information if the Client has previously advised the Engineer in writing of the specific information considered by the Client to be confidential and proprietary.

8. **Standard of Practice:** The Engineer will strive to conduct services under this agreement in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions as of the date of this Agreement.
9. **Compliance With Laws:** The Engineer will strive to exercise usual and customary professional care in his/her efforts to comply with those laws, codes, ordinance and regulations which are in effect as of the date of this Agreement.

With specific respect to prescribed requirements of the Americans with Disabilities Act of 1990 or certified state or local accessibility regulations (ADA), Client understands ADA is a civil rights legislation and that interpretation of ADA is a legal issue and not a design issue and, accordingly, retention of legal counsel (by Client) for purposes of interpretation is advisable. As such and with respect to ADA, Client agrees to waive any action against Engineer, and to indemnify and defend Engineer against any claim arising from Engineer's alleged failure to meet ADA requirements prescribed.



Further to the law and code compliance, the Client understands that the Engineer will strive to provide designs in accordance with the prevailing Standards of Practice as previously set forth, but that the Engineer does not warrant that any reviewing agency having jurisdiction will not for its own purposes comment, request changes and/or additions to such designs. In the event such design requests are made by a reviewing agency, but which do not exist in the form of a written regulation, ordinance or other similar document as published by the reviewing agency, then such design changes (at substantial variance from the intended design developed by the Engineer), if effected and incorporated into the project documents by the Engineer, shall be considered as Supplementary Task(s) to the Engineer's Scope of Service and compensated for accordingly.

10. **Indemnification:** Engineer shall indemnify and hold harmless Client up to the amount of this contract fee (for services) from loss or expense, including reasonable attorney's fees for claims for personal injury (including death) or property damage to the extent caused by the sole negligent act, error or omission of Engineer.

Client shall indemnify and hold harmless Engineer under this Agreement, from loss or expense, including reasonable attorney's fees, for claims for personal injuries (including death) or property damage arising out of the sole negligent act, error omission of Client.

In the event of joint or concurrent negligence of Engineer and Client, each shall bear that portion of the loss or expense that its share of the joint or concurrent negligence bears to the total negligence (including that of third parties), which caused the personal injury or property damage.

Engineer shall not be liable for special, incidental or consequential damages, including, but not limited to loss of profits, revenue, use of capital, claims of customers, cost of purchased or replacement power, or for any other loss of any nature, whether based on contract, tort, negligence, strict liability or otherwise, by reasons of the services rendered under this Agreement.

11. **Opinions of Probable Cost:** Since Engineer has no control over the cost of labor, materials or equipment, or over the Contractor(s) method of determining process, or over competitive bidding or market conditions, his/her opinions of probable Project Construction Cost provided for herein are to be made on the basis of his/her experience and qualifications and represent his/her judgement as a design professional familiar with the construction industry, but Engineer cannot and does not guarantee that proposal, bids or the Construction Cost will not vary from opinions of probable construction cost prepared by him/her. If prior to the Bidding or Negotiating Phase, Client wishes greater accuracy as to the Construction Cost, the Client shall employ an independent cost estimator Consultant for the purpose of obtaining a second construction cost opinion independent from Engineer.

12. **Governing Law & Dispute Resolutions:** This Agreement shall be governed by and construed in accordance with Articles previously set forth by (Item 9 of) this Agreement, together with the laws of the State of Illinois.

Any claim, dispute or other matter in question arising out of or related to this Agreement, which can not be mutually resolved by the parties of this Agreement, shall be subject to mediation as a condition precedent to arbitration (if arbitration is agreed upon by the parties of this Agreement) or the institution of legal or equitable proceedings by either party. If such matter relates to or is the subject of a lien arising out of the Engineer's services, the Engineer may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by arbitration.

The Client and Engineer shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Requests for mediation shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. The request may be made concurrently with the filing of a demand for arbitration but, in such event, mediation shall proceed in advance of arbitration or legal or equitable proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

13. **Successors and Assigns:** The terms of this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns: provided, however, that neither party shall assign this Agreement in whole or in part without the prior written approval of the other.
14. **Waiver of Contract Breach:** The waiver of one party of any breach of this Agreement or the failure of one party to enforce at any time, or for any period of time, any of the provisions hereof, shall be limited to the particular instance, shall not operate or be deemed to waive any future breaches of this Agreement and shall not be construed to be a waiver of any provision, except for the particular instance.
15. **Entire Understanding of Agreement:** This Agreement represents and incorporates the entire understanding of the parties hereto, and each party acknowledges that there are no warranties, representations, covenants or understandings of any kind, matter or description whatsoever, made by either party to the other except as expressly set forth herein. Client and the Engineer hereby agree that any purchase orders, invoices, confirmations, acknowledgments or other similar documents executed or delivered with respect to the subject matter hereof that conflict with the terms of the Agreement shall be null, void and without effect to the extent they conflict with the terms of this Agreement.
16. **Amendment:** This Agreement shall not be subject to amendment unless another instrument is duly executed by duly authorized representatives of each of the parties and entitled "Amendment of Agreement".

17. **Severability of Invalid Provisions:** If any provision of the Agreement shall be held to contravene or to be invalid under the laws of any particular state, county or jurisdiction where used, such contravention shall not invalidate the entire Agreement, but it shall be construed as if not containing the particular provisions held to be invalid in the particular state, country or jurisdiction and the rights or obligations of the parties hereto shall be construed and enforced accordingly.
18. **Force Majeure:** Neither Client nor Engineer shall be liable for any fault or delay caused by any contingency beyond their control including but not limited to acts of God, wars, strikes, walkouts, fires, natural calamities, or demands or requirements of governmental agencies.
19. **Subcontracts:** Engineer may subcontract portions of the work, but each subcontractor must be approved by Client in writing.
20. **Access and Permits:** Client shall arrange for Engineer to enter upon public and private property and obtain all necessary approvals and permits required from all governmental authorities having jurisdiction over the Project. Client shall pay costs (including Engineer's employee salaries, overhead and fee) incident to any effort by Engineer toward assisting Client in such access, permits or approvals, if Engineer perform such services.
21. **Designation of Authorized Representative:** Each party (to this Agreement) shall designate one or more persons to act with authority in its behalf in respect to appropriate aspects of the Project. The persons designated shall review and respond promptly to all communications received from the other party.
22. **Notices:** Any notice or designation required to be given to either party hereto shall be in writing, and unless receipt of such notice is expressly required by the terms hereof shall be deemed to be effectively served when deposited in the mail with sufficient first class postage affixed, and addressed to the party to whom such notice is directed at such party's place of business or such other address as either party shall hereafter furnish to the other party by written notice as herein provided.
23. **Limit of Liability:** The Client and the Engineer have discussed the risks, rewards, and benefits of the project and the Engineer's total fee for services. In recognition of the relative risks and benefits of the Project to both the Client and the Engineer, the risks have been allocated such that the Client agrees that to the fullest extent permitted by law, the Engineer's total aggregate liability to the Client for any and all injuries, claims, costs, losses, expenses, damages of any nature whatsoever or claim expenses arising out of this Agreement from any cause or causes, including attorney's fees and costs, and expert witness fees and costs, shall not exceed the total Engineer's fee for professional engineering services rendered on this project as made part of this Agreement. Such causes included but are not limited to the Engineer's negligence, errors, omissions, strict liability or breach of contract. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

24. **Client's Responsibilities:** The Client agrees to provide full information regarding requirements for and about the Project, including a program which shall set forth the Client's objectives, schedule, constraints, criteria, special equipment, systems and site requirements.

The Client agrees to furnish and pay for all legal, accounting and insurance counseling services as may be necessary at any time for the Project, including auditing services which the Client may require to verify the Contractor's Application for Payment or to ascertain how or for what purpose the Contractor has used the money paid by or on behalf of the Client.

The Client agrees to require the Contractor, to the fullest extent permitted by law, to indemnify, hold harmless, and defend the Engineer, its consultants, and the employees and agents of any of them from and against any and all claims, suits, demands, liabilities, losses, damages, and costs ("Losses"), including but not limited to costs of defense, arising in whole or in part out of the negligence of the Contractor, its subcontractors, the officers, employees, agents, and subcontractors of any of them, or anyone for whose acts any of them may be liable, regardless of whether or not such Losses are caused in part by a party indemnified hereunder. Specifically excluded from the foregoing are Losses arising out of the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs, or specifications, and the giving of or failure to give directions by the Engineer, its consultants, and the agents and employees of any of them, provided such giving or failure to give is the primary cause of Loss. The Client also agrees to require the Contractor to provide to the Engineer the required certificate of insurance.

The Client further agrees to require the Contractor to name the Engineer, its agents and consultants as additional insureds on the Contractor's policy or policies of comprehensive or commercial general liability insurance. Such insurance shall include products and completed operations and contractual liability coverages, shall be primary and noncontributing with any insurance maintained by the Engineer or its agents and consultants, and shall provide that the Engineer be given thirty days, unqualified written notice prior to any cancellation thereof.

In the event the foregoing requirements, or any of them, are not established by the Client and met by the Contractor, the Client agrees to indemnify and hold harmless the Engineer, its employees, agents, and consultants from and against any and all Losses which would have been indemnified and insured against by the Contractor, but were not.

When Contract Documents prepared under the Scope of Services of this contract require insurance(s) to be provided, obtained and/or otherwise maintained by the Contractor, the Client agrees to be wholly responsible for setting forth any and all such insurance requirements. Furthermore, any document provided for Client review by the Engineer under this Contract related to such insurance(s) shall be considered as sample insurance requirements and not the recommendation of the Engineer. Client agrees to have their own risk management department review any and all insurance requirements for adequacy and to determine specific types of insurance(s) required for the project. Client further agrees that decisions concerning types and amounts of insurance are

specific to the project and shall be the product of the Client. As such, any and all insurance requirements made part of Contract Documents prepared by the Engineer are not to be considered the Engineer's recommendation, and the Client shall make the final decision regarding insurance requirements.

25. **Information Provided by Others:** The Engineer shall indicate to the Client the information needed for rendering of the services of this Agreement. The Client shall provide to the Engineer such information as is available to the Client and the Client's consultants and contractors, and the Engineer shall be entitled to rely upon the accuracy and completeness thereof. The Client recognizes that it is impossible for the Engineer to assure the accuracy, completeness and sufficiency of such information, either because it is impossible to verify, or because of errors or omissions which may have occurred in assembling the information the Client is providing. Accordingly, the Client agrees, to the fullest extent permitted by law, to indemnify and hold the Engineer and the Engineer's subconsultants harmless from any claim, liability or cost (including reasonable attorneys' fees and cost of defense) for injury or loss arising or allegedly arising from errors, omissions or inaccuracies in documents or other information provided by the Client to the Engineer.
26. **Payment:** Client shall be invoiced once each month for work performed during the preceding period. Client agrees to pay each invoice within thirty (30) days of its receipt. The client further agrees to pay interest on all amounts invoiced and not paid or objected to for valid cause within said thirty (30) day period at the rate of eighteen (18) percent per annum (or the maximum interest rate permitted under applicable law, whichever is the lesser) until paid. Client further agrees to pay Engineer's cost of collection of all amounts due and unpaid after sixty (60) days, including court costs and reasonable attorney's fees, as well as costs attributed to suspension of services accordingly and as follows:
- Collection Costs.** In the event legal action is necessary to enforce the payment provisions of this Agreement, the Engineer shall be entitled to collect from the Client any judgement or settlement sums due, reasonable attorneys' fees, court costs and expenses incurred by the Engineer in connection therewith and, in addition, the reasonable value of the Engineer's time and expenses spent in connection with such collection action, computed at the Engineer's prevailing fee schedule and expense policies.
- Suspension of Services.** If the Client fails to make payments when due or otherwise is in breach of this Agreement, the Engineer may suspend performance of services upon five (5) calendar days' notice to the Client. The Engineer shall have no liability whatsoever to the Client for any costs or damages as a result of such suspension caused by any breach of this Agreement by the Client. Client will reimburse Engineer for all associated costs as previously set forth in (Item 4 of) this Agreement.
27. When construction observation tasks are part of the service to be performed by the Engineer under this Agreement, the Client will include the following clause in the construction contract documents and Client agrees not to modify or delete it:

**Kotecki Waiver.** Contractor (and any subcontractor into whose subcontract this clause is incorporated) agrees to assume the entire liability for all personal injury claims suffered by its own employees, including without limitation claims under the Illinois Structural Work Act, asserted by persons allegedly injured on the Project; waives any limitation of liability defense based upon the Worker's Compensation Act, court interpretations of said Act or otherwise; and to the fullest extent permitted by law, agrees to indemnify and hold harmless and defend Owner and Engineer and their agents, employees and consultants (the "Indemnitees") from and against all such loss, expense, damage or injury, including reasonable attorneys' fees, that the Indemnitees may sustain as a result of such claims, except to the extent that Illinois law prohibits indemnity for the Indemnitees' own negligence. The Owner and Engineer are designated and recognized as explicit third party beneficiaries of the Kotecki Waiver within the general contract and all subcontracts entered into in furtherance of the general contract.

28. **Job Site Safety/Supervision & Construction Observation:** The Engineer shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences of procedures, or for safety precautions and programs in connection with the Work since they are solely the Contractor's rights and responsibilities. The Client agrees that the Contractor shall supervise and direct the work efficiently with his/her best skill and attention; and that the Contractor shall be solely responsible for the means, methods, techniques, sequences and procedures of construction and safety at the job site. The Client agrees and warrants that this intent shall be carried out in the Client's contract with the Contractor. The Client further agrees that the Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work; and that the Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to all employees on the subject site and all other persons who may be affected thereby. The Engineer shall have no authority to stop the work of the Contractor or the work of any subcontractor on the project.

When construction observation services are included in the Scope of Services, the Engineer shall visit the site at intervals appropriate to the stage of the Contractor's operation, or as otherwise agreed to by the Client and the Engineer to: 1) become generally familiar with and to keep the Client informed about the progress and quality of the Work; 2) to strive to bring to the Client's attention defects and deficiencies in the Work and; 3) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Engineer shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. If the Client desires more extensive project observation, the Client shall request that such services be provided by the Engineer as Additional and Supplemental Construction Observation Services in accordance with the terms of this Agreement.

The Engineer shall not be responsible for any acts or omissions of the Contractor, subcontractor, any entity performing any portions of the Work, or any agents or employees of any of them. The Engineer does not guarantee the performance of the

Contractor and shall not be responsible for the Contractor's failure to perform its Work in accordance with the Contract Documents or any applicable laws, codes, rules or regulations.

When municipal review services are included in the Scope of Services, the Engineer (acting on behalf of the municipality), when acting in good faith in the discharge of its duties, shall not thereby render itself liable personally and is, to the maximum extent permitted by law, relieved from all liability for any damage that may accrue to persons or property by reason of any act or omission in the discharge of its duties. Any suit brought against the Engineer which involve the acts or omissions performed by it in the enforcement of any provisions of the Client's rules, regulation and/or ordinance shall be defended by the Client until final termination of the proceedings. The Engineer shall be entitled to all defenses and municipal immunities that are, or would be, available to the Client.

29. Insurance and Indemnification: The Engineer and the Client understand and agree that the Client will contractually require the Contractor to defend and indemnify the Engineer and/or any subconsultants from any claims arising from the Work. The Engineer and the Client further understand and agree that the Client will contractually require the Contractor to procure commercial general liability insurance naming the Engineer as an additional named insured with respect to the work. The Contractor shall provide to the Client certificates of insurance evidencing that the contractually required insurance coverage has been procured. However, the Contractor's failure to provide the Client with the requisite certificates of insurance shall not constitute a waiver of this provision by the Engineer.

The Client and Engineer waive all rights against each other and against the Contractor and consultants, agents and employees of each of them for damages to the extent covered by property insurance during construction. ~~The Client and Engineer each shall~~ require similar waivers from the Contractor, consultants, agents and persons or entities awarded separate contracts administered under the Client's own forces.

30. Hazardous Materials/Pollutants: Unless otherwise provided by this Agreement, the Engineer and Engineer's consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials/pollutants in any form at the Project site, including but not limited to mold/mildew, asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic/hazardous/pollutant type substances.

Furthermore, Client understands that the presence of mold/mildew and the like are results of prolonged or repeated exposure to moisture and the lack of corrective action. Client also understands that corrective action is a operation, maintenance and repair activity for which the Engineer is not responsible.

**MINUTES  
CITY OF DARIEN  
MUNICIPAL SERVICES COMMITTEE  
September 26, 2016**

**PRESENT:** Alderman Thomas Belczak, Alderman Thomas Chlystek, Dan Gombac – Director, Steven Manning - City Planner, Elizabeth Lahey - Secretary

**ABSENT:** Joseph Marchese – Chairman

**ESTABLISH QUORUM**

Acting Chairman Belczak called the meeting to order at 6:36 p.m. at the City Hall – City Council Chambers, Darien, Illinois and declared a quorum present.

**NEW BUSINESS**

- a. PZC 2016-09: 1017 71st Street: Petitioner seeks approval of a variation to reduce the required setback distance from 5 feet to 1 foot in the interior side yard for the purpose of constructing a concrete paved storage pad for a recreational camper to be stored in the side yard of his house.**

Mr. Steve Manning, City Planner reported that the petitioner is proposing a 9 foot wide concrete driveway extending into the west side yard from the existing concrete driveway in the front yard. He reported that 0.5 feet of green space is proposed between the new driveway and the side lot line and the adjacent house side yard is approximately 10 feet wide.

Mr. Manning reported that the adjacent neighbor testified at the public hearing that he was concerned about the future impact of the pad and using it for something other than storing an RV.

Mr. Dan Gombac, Director reported that for several years the City has prohibited RV storage in driveways. He reported that the City has approved many requests for side pads.

Alderman Chlystek questioned if there were any drainage concerns.

Mr. Gombac reported that there were no drainage issues and that the petitioner is well within the threshold under the DuPage County Stormwater Management Ordinance.

Acting Chairperson Belczak stated that there are two houses off Seminole with the same type of pad.

Alderman Chlystek questioned if the City can enforce the pad under the Ordinance.

Mr. Gombac reported that the City can enforce what is within the Ordinance.

There was no one in the audience wishing to present public comment.

**Alderman Chlystek made a motion and it was seconded by Alderman Belczak to recommend approval to the City Council of petition PZC 2016-09 at 1017 71st Street for side yard variation for storage of a recreational vehicle as presented based on our findings of fact in regards to the Variation Authority and Standards.**



Upon voice vote, **THE MOTION CARRIED UNANIMOUSLY 2-0.**

Mr. Gombac reported that this would be forwarded to the City Council for approval on October 3, 2016.

- b. PZC 2016-10: 17W615 N. Frontage Road: Petitioners seek approval to rezone the property to B-3 (after annexation), grant a special use for motor home rental, maintenance, and sales in the B-3 zoning district, and to grant variations to reduce lot area, reduce side yard for the principal building, exceed square foot size for accessory building, reduce side yards for parking lot, reduce driveway setback, reduce driveway width, reduce driveway turning radius, reduce parking stall depth, delete parking curb, and reduce landscaping.**

Mr. Steve Manning, City Planner reported that the petitioner and engineer are present. He reported that there are a lot of variances but that the shape of the lot is extra deep but narrow and limits other uses. Mr. Manning reported that the low intensity character of RV rental will not produce much traffic.

Mr. Manning reported that the PZC recommended approval but that there was some discussion on the driveway size in order to accommodate oversized vehicles and that the petitioner agreed to the conditions.

Mr. Steve Daul, Morris Engineering stated that they are in agreement with staff recommendations and that they have received preliminary feedback from the County regarding widening the driveway to 24 feet pending a redesign of the wetland buffer.

Alderman Chlystek stated that when he saw all of the variances he was not in favor but after looking at the property it makes sense. He questioned the hours of operation, and the rental of RV's and storage.

The petitioner, Ms. Renata Zach stated that the hours will be Monday - Saturday from 9:00 am - 5:00 pm. She stated that there will be approximately 10 RV's on the site and that they are rented weekly and weekends but that it varies. Ms. Zach stated that she is going to clean up the existing home on the property and that she is planning on getting rid of the garage and build a new garage towards the rear of the lot for storage and maintenance of the RV's.

Mr. Daul stated that they looked at the Code and that the ultimate build out will be done in phases.

Acting Chairperson Belczak questioned if there are other vacant properties in the area.

Mr. Dan Gombac, Director reported that there are at least two other vacant lots next to Joanie's Dry Dock. He reported that there are a variety of small businesses.

There was no one in the audience wishing to present public comment.

**Alderman Chlystek made a motion and it was seconded by Alderman Belczak to recommend approval to the City Council of petition PZC 2016-10 for B-3 zoning, special use, and variations as presented based on findings of fact in regards to the Zoning Map**

**Amendment Standards, the Special Use Standards, and the Variation Authority and Standards subject to:**

- 1. Re-design of the site plan to widen the driveway to 24 feet**
- 2. Increase the turning radius of the driveway at the street to at least 27.6 feet pending review and approval by IDOT**
- 3. Lengthening the RV parking stalls to 38 feet**
- 4. Pending review and approval of stormwater and wetland plans by DuPage County**
- 5. Pending review and approval of the well and septic plans by DuPage County**
- 6. Pending review and approval of final engineering plans by the City**

**Upon voice vote, THE MOTION CARRIED UNANIMOUSLY 2-0.**

Mr. Gombac reported that this would be forwarded to the City Council for approval on October 3, 2016.

- c. PZC 2016-11: 8225 Bailey Road: Petitioners seek approvals to subdivide their single family home lot into three lots, with their existing house to be on Lot 2, and for variations to reduce the required front setbacks on Lot 2 for the existing house from 35 feet to 25 feet and for existing pool and deck from 35 feet to 14 feet.**

Mr. Steve Manning, City Planner reported that the proposal subdivides Lot 7 into three lots. He reported that the existing driveway is located westerly from the house to Bailey Road which would cross the backyard of the proposed Lot 1. He further reported that the existing barn and walkways to the barn would be on proposed Lot 3 and proposing demolition.

Mr. Manning reported that Mr. Jon Green, engineer for the petitioner looked at rerouting the driveway and that the petitioner is agreeable to moving the existing driveway to the north end of Lot 1. He further reported that homeowners attending the public hearing and there was much discussion regarding the enforcement of the Homeowners Association (HOA) provisions and the ownership rights to the property.

Mr. Dan Gombac, Director reported that the City Attorney reviewed the HOA bylaws and reported that the HOA and development are separate and if the HOA wishes to proceed they would have to file suit.

Mr. Jon Green, Engineer for the petitioner reported that they agreed with the City Engineer and have made changes but that they were not changed on the drawings. He stated that they are shifting the drive 25 feet to the north and leaving a buffer.

Mr. Gombac reported that the flag lot drive is allowed in Darien.

Acting Chairperson Belczak opened the meeting to anyone wishing to present public comment.

Mr. Steve Alavi, Treasurer of the Homeowners Association stated that they currently maintain Lot 3. He stated that they are concerned with exposure to the pool and that Lot 3 will be unattractive. He further stated that they are concerned with the flow on Lot 3

Mr. Gombac reported that the City does not govern aesthetics and suggested the HOA speak with the Spano's to ask for more landscaping. He stated that the Spano's have the right to subdivide.

Mr. Bill Durkin, President of the Homeowners Association stated that the community is very nice and asked if they could seek some professional opinions. He stated that it is going to be difficult to sell with a driveway in your backyard and a pool in the front yard. Mr. Durkin stated that the neighbors are concerned with the look and that an architect's opinion is needed.

Mr. Jon Green stated that it is in the Spano's best interest to screen their property. He stated that they are going to be redoing the fencing and that they will be hospitable neighbors.

There was no one else wishing to present public comment.

**Alderman Chlystek made a motion and it was seconded by Alderman Belczak to recommend approval to the City Council of petition PZC 2016-11 for final plat of subdivision of Marco Estates First Addition and front setback zoning variations for the existing house, deck and pool structures on Lot 2 as presented based on the findings of fact in regards to the Zoning Variation Authority and Standards subject to:**

- 1. Relocate existing driveway to the north end of Lot 1**
- 2. Locate new driveway serving Lot 1 to Marco Court, not Bailey Road**
- 3. Demolish barn and walkways on Lot 3 and easements prior to recording plat**
- 4. Sanitary and Drainage Certificates to be approved by DuPage Count**
- 5. Revisions to the final plat and engineering plans to be approved by City Engineer.**

**Upon voice vote, THE MOTION CARRIED UNANIMOUSLY 2-0.**

Mr. Gombac reported that this would be forwarded to the City Council for approval on October 3, 2016.

- d. PZC 2016-12: 7218 Bayberry Lane: Petitioner seeks approval for a variation to reduce the required setback distance from 5 feet to 0 feet in a side yard of his house for the purpose of constructing a concrete paved storage pad for a RV boat.**

Mr. Steve Manning, City Planner reported that the petitioner is requesting to build a concrete pad to store his boat. He reported that the petitioner has stored his boat in the driveway for several years.

Acting Chairperson Belczak questioned if the petitioner spoke with his neighbor.

Mr. Manning stated that he was not aware if the petitioner spoke with his neighbor.

Mr. Dan Gombac, Director reported that this petition is a result of a complaint a couple of blocks from Bayberry Lane.

Alderman Chlystek questioned why the 0 feet.

Mr. Manning reported that the home has an overhang and that the boat will not fit.

There was no one in the audience wishing to present public comment.

**Alderman Chlystek made a motion and it was seconded by Alderman Belczak to recommend approval to the City Council of petition PZC 2016-12 at 7218 Bayberry Lane**

for side yard variation for RV storage as presented based on our findings of fact in regards to the Variation Authority and Standards.

Upon voice vote, **THE MOTION CARRIED UNANIMOUSLY 2-0.**

Mr. Gombac reported that this would be forwarded to the City Council for approval on October 3, 2016.

- e. **Resolution -Approval of a resolution awarding a final contract extension to Homer Tree Care, Inc. in an amount not to exceed \$117,568.25 for the City's 2016/2017 Tree Trimming and Removal Program**

Mr. Dan Gombac, Director reported that this resolution is for the annual tree trimming program and private property tree trimming. He reported that this is the last of the 3 year contract. He stated that the vendor has been very responsive.

Acting Chairperson Belczak questioned if the Ash Tree issue and treatment has met staff's expectations.

Mr. Gombac reported that staff is satisfied and ready to do another treatment. He reported that the tree removals are not all Ash trees and the numbers have gone down in the last two years.

There was no one in the audience wishing to present public comment.

**Alderman Chlystek made a motion and it was seconded by Alderman Belczak to recommend approval to the City Council A RESOLUTION AUTHORIZING THE AWARDING OF A CONTRACT EXTENSION TO HOMER TREE CARE, INC. IN AN AMOUNT NOT TO EXCEED \$117,568.25 FOR THE CITY'S 2016/2017 TREE TRIMMING AND REMOVAL PROGRAM.**

Upon voice vote, **THE MOTION CARRIED UNANIMOUSLY 2-0.**

Mr. Gombac reported that this would be forwarded to the City Council for approval on October 3, 2016.

- f. **Minutes - August 22, 2016 Municipal Services Committee**

**Alderman Belczak made a motion and it was seconded by Alderman Chlystek to approve the August 22, 2016 Municipal Services Committee meeting minutes.**

Upon voice vote, **THE MOTION CARRIED UNANIMOUSLY 2-0.**

#### **DIRECTOR'S REPORT - Discussion Lions Club - space needs/storage**

Mr. Dan Gombac, Director reported that he has not received any definitive direction or specific information on space needs. He reported that this discussion can be tabled until further information is provided.

Alderman Belczak stated that it appears that this is short term and that the City can rent for a one year lease but it is just a band aid and more discussion is needed for a long term solution.

Mr. Steve Manning provided an update on the garbage can issue. Alderman Belczak requested putting the topic on for a goal setting session.

Mr. Gombac reported that Starbuck's is open and that the nail salon is scheduled to open at the end of the month.

**NEXT SCHEDULED MEETING**

Acting Chairman Belczak announced that the next regularly scheduled meeting is scheduled for Monday, October 24, 2016 at 6:30 p.m.

**ADJOURNMENT**

**With no further business before the Committee, Alderman Chlystek made a motion and it was seconded by Alderman Belczak to adjourn. Upon voice vote, THE MOTION CARRIED unanimously and the meeting adjourned at 7:42 p.m.**

**RESPECTFULLY SUBMITTED:**

\_\_\_\_\_  
**Thomas Belczak**  
**Acting Chairman**

\_\_\_\_\_  
**Thomas Chlystek**  
**Alderman**

\_\_\_\_\_  
**Joseph Marchese**  
**Chairman**