

AGENDA
Municipal Services Committee
October 22, 2018
6:30 p.m. – Council Chambers

1. Call To Order & Roll Call

2. Establishment of Quorum

3. Old Business

- a. Discussion III - Update-Refuse Container-Consideration to amend the City Code provisions on storage of refuse containers in residential areas.

4. New Business

- a. Resolution – To enter into an engineering agreement with Christopher B. Burke Engineering, Ltd. for the 2019 Street Maintenance Program, in an amount not to exceed \$32,826.00.
- b. Resolution – Authorizing the Mayor to enter into an engineering agreement with Christopher B. Burke Engineering, Ltd for pavement corings for the proposed 2019 Street Maintenance Program, in an amount not to exceed \$11,500.00.
- c. Resolution - Approval of a Resolution authorizing the Mayor to execute a three year Intergovernmental Agreement with the County of DuPage for mowing along County roads and rights of way.
- d. Resolution – Accepting the public improvements and authorizing release of the Letter of Credit upon receipt of maintenance security for the Carriage Way West Unit 6 development.
- e. Resolution – Approval of the Plat of Easement for the Carriage Way West Unit 6 development.
- f. Discussion - Staff is proposing a code amendment for nuisance trees.
- g. PZC 2018-07 – 7879 Lemont Rd: Petitioner seeks approval of a special use zoning permit to operate an indoor volleyball recreation business in a portion of the building at 7879 Lemont Road.
- h. Minutes – September 24, 2018 Municipal Services Committee

5. Director's Report

6. Next Scheduled Meeting – November 26, 2018

7. Adjournment

AGENDA MEMO
MUNICIPAL SERVICES COMMITTEE
October 22, 2018

Issue Statement

Discussion III-Update-Refuse Container-Consideration to amend the City Code provisions on storage of refuse containers in residential areas.

Update is emphasized in Italics

Background

The request is detailed in an email from Alderman Lester Vaughan dated August 7, 2018. See Attachment A. In summary, he is suggesting that an exemption be given to those houses to allow storage of refuse containers in front where side or rear locations are not 'practicable or reasonable'.

Current Code Section 7-1-5 requires single family detached houses keep refuse, recyclable, and compostable materials in containers and the containers are not to be stored between house and street except on pick-up days. Section 5A-10-7 requires multi-family to store refuse in containers in enclosures in the rear yard and setback at least 5 feet from property lines and screened by landscaping. See Attachment B - DARIEN CODES.

The following estimates were based on staff observations of single family areas.

- 80-90 % are in compliance – houses with raised side yards store their containers in side or rear yard or in garage – some have made improvements such as walkways or terraces in the side yard that make storage easier
- 5-10 % are not in compliance - but have relatively flat lots with no impediment to storing containers in side or rear yards
- 5-10 % are not in compliance - have a side yard with raised grades next to their attached garage
- <1 % are not in compliance - they have low fence screens in front – most of these screens do not completely block views of the containers from the street.

See Attachment C - PHOTOS.

This item was discussed at the 8.27.18 MSC meeting and more information on options was requested.

- See Attachment D - SURVEY of similar codes from surrounding towns. In summary, Woodridge and Willowbrook require storage in side or rear yards. Lisle requires storage in an inconspicuous place. Lisle and Westmont require storage that is not a nuisance to neighbors. Downers Grove has no storage location restrictions.

- See Attachment E - SHED INFO SHEET. Such a structure in front of a house could screen the refuse containers from view.

UPDATE MUNICIPAL SERVICES COMMITTEE 10-22-18

This item was last discussed at the 9.24.18 MSC meeting as an update. The Committee directed Staff to provide additional specifications for the enclosure.

Staff has been working with Home Depot to secure a uniform enclosure that could be utilized by properties that are identified to have a hardship of placing their trash and recycling receptacles along the side of their residence. The proposed model of the enclosure is attached and labeled as Attachment III-1. The specifications for the enclosure are attached and labeled as Attachment III-2.

The cost of the enclosure is \$368 plus tax and requires assembly. Home Depot is currently speaking with the Bid Room for additional savings on the purchase of the sheds by Darien residents. It is anticipated there may be approximately 200-250 residents that may want to participate. Additionally, the assembly service could be provided by local handyman and is estimated that the cost for assembly would be \$75-100.

Recommendation

Staff is requesting to discuss the following,

- 1. No code amendment, Staff to continue enforcement as violations are identified.*
- 2. Consideration of a code amendment as it applies to homes that have a grade variation adjacent to the side of their homes. These homes would be allowed to store trash containers within a storage shed in the front of their home.*
- 3. Consideration for approval of the proposed storage shed for trash receptacles.*

Steven Manning

From: Steven Manning
Sent: Tuesday, September 18, 2018 11:15 AM
To: Steven Manning
Subject: RE: Request for Amendment to Section 7-1-5 Code

From: Lester Vaughan <lester.vaughan@gmail.com>
Date: August 7, 2018 at 7:20:27 AM CDT
To: Dan Gombac <dgombac@darienil.gov>
Subject: Fwd: Request for Amendment to Section 7-1-5 Code

Hi Dan.

Good morning. Below is an overview of the Amendment I proposed last night. Let me know if you have any questions or concerns.

Several residents on Maple in Ward 2 are having issues with their garbage can placement. This is because they live in raised-ranch style homes which don't naturally permit for storage of cans anywhere convenient except for the front of their homes. This is in violation of section 7-1-5 of the Darien City Code which provides in Section B that "it shall be unlawful to place such [garbage] containers anywhere between the front of the main building, or the side when facing the street, and the street, except during the [24 hours before/after trash collection days]."

Some of the Maple Lane residents have voiced their frustration and complaint to me, some have been ticketed for noncompliance, and some have complied in the past week, keeping their cans in different locations. It is clear, though, that there is an ongoing issue with residents in the raised-ranch style home. I think its something we need to address as the City Council.

I would propose amending the existing statute to allow for an exemption to this provision. I am not entirely sure how it would work, and defer to the experience and expertise of others on this point, but I do feel strongly we should do something to try and accommodate the needs of these residents.

The statute is copied below for your convenience, and I suggest we amend the statute to provide a section (C) that has language to the effect of:

(C) An exemption to subsection (B) may be obtained at the discretion of [The City of Darien/Darien Municipal Services] upon a finding that it is not practicable and/or reasonably possible for a resident to store their containers anywhere but the prohibited areas outlined in subsection (B). A resident seeking an exemption shall provide a request in writing to [INSERT DEPT/PERSON]... The City of Darien shall work with the resident to determine the most reasonable and practicable location for the containers and the exemption to 7-1-5(B) is at the discretion of the City of Darien.

Obviously, this language is a starting point, but I wanted to get the conversation going and see how I can best advocate for the residents in my ward facing this dilemma. I look forward to your thoughts and to moving forward.

Please let me know if you have any questions or concerns. I look forward to hearing from you soon.

Best Regards,

Lester Vaughan, Alderman Ward 2

DARIEN CODES – REFUSE CONTAINERS

7-1-5:

Notwithstanding any other provision of this Code, garbage, refuse, recyclables, compostable materials and similar items may be placed on parkways in the City only to facilitate their removal by licensed scavengers, and only if the following provisions are observed by the person placing or causing to be placed on the parkways items of refuse or compostable materials:

(A) Any refuse, recyclables, or compostable materials placed on the parkway shall be stored in containers or otherwise appropriately secured to ensure that debris or refuse is not scattered by weather, animals, or other causes.

(B) Refuse, recyclables or compostable materials stored in approved containers such as kraft bags, may be placed on the parkway twenty four (24) hours before the scheduled scavenger service and containers used to store these items shall be removed from the parkway twenty four (24) hours after said scavenger service. It shall be unlawful to place such containers anywhere between the front of the main building, or the side when facing the street, and the street, except during the times specified hereinabove. (Ord. 0-37-90, 6-18-1990)

5A-10-7:

(B) Refuse Disposal Facilities And Required Landscaping: Suitable areas for the storage of trash shall generally be provided in the rear yard, subject to approval by the Zoning Enforcement Officer, and shall be designed and constructed as to allow no view of the trash storage from the street, to prevent waste from blowing around the site or onto adjacent properties or public rights of way, and to permit safe, easy removal of trash by truck or hand, and shall comply with the following:

1. Refuse disposal facilities landscaping shall be provided on two (2) sides of any required refuse disposal area immediately adjoining a building, and on three (3) sides of any freestanding refuse disposal area.
2. Refuse disposal facilities landscaping shall be located in a planting bed a minimum of ten feet (10') in width adjacent to any structure, except that a planting bed, five feet (5') in width, shall be allowed when a refuse disposal area is setback five feet (5') from a rear or side lot line in compliance with Section 5A-5-9 of this Title.
3. The required refuse disposal facilities landscaping shall remain open and free of all paving.
4. Refuse disposal facilities landscaping shall be comprised of a combination of shade trees, ornamental trees, evergreens, shrubs, and ground cover. (Ord. 0-03-00, 4-3-2000)





08/14/2018 22:50



08/14/2018 23:12



09/17/2018 02:52

SURVEY of REFUSE CONTAINER STORAGE CODES scm 9.5.18

Woodridge

4-2-2-1 (B): Waste containers, landscape waste units and landscape waste totes and recycling containers are to be stored at the side or rear of the residence, except from three o'clock (3:00) P.M. on the day prior to collection to eight o'clock (8:00) P.M. on the day of collection, when said waste containers, landscape waste units, landscape waste totes and recycling containers may be placed at the curb.

Willowbrook

6-6-4 (B) 2: Approved landscape waste containers, approved garbage containers, approved recyclable containers and bulk items are to be stored at the side or rear of the residence except from three o'clock (3:00) P.M. on the day prior to collection to seven o'clock (7:00) P.M. on the day of collection, when said approved landscape waste containers, approved garbage containers, approved recyclable containers and bulk items may be placed at the curb.

Downers Grove

Section 13.49 (c): Refuse, recyclables or compostable materials stored in containers or otherwise appropriately secured, may be placed on the parkway after 12:00 noon the day preceding scavenger service. Refuse, recyclables, compostable materials and containers used to store these items shall be removed from the parkway by 12:00 midnight of the day of scavenger service.

Westmont

Sec. 66-4 (f) 3: No container used for storage, collection, or removal of garbage or other refuse shall be placed so as to constitute a nuisance to adjacent owners and occupants.

Lisle

8-2-2 (B): Deposits In Streets: Except recyclables which are regulated by subsection (E) of this section, no waste of any kind shall be deposited in any street, alley or public way, excepting waste wrapped in tightly closed and tied plastic bags or placed in a tote and maintained in good order and in an inconspicuous place so as not to create a nuisance to neighbors, by the owner or occupant of residential or commercial unit in the village and placed for pick up by a scavenger service; and no such waste shall be so placed that it can be blown or scattered by the wind.

Home / Storage & Organization / Sheds, Garages & Outdoor Storage / Sheds / Plastic Sheds

Similar Options to Consider

See All

								
Model # 211166	Model # 2054300128							



Share Save to Favorites Print

Keter
4 ft. x 2 ft. Store-It-Out MIDI Horizontal Resin Shed

★★★★☆ (387) Write a Review Questions & Answers (86)

- This compact storage shed can hold two 32 gallon trash cans
- Double doors and easy access hydraulic lid
- Easily move it anywhere for indoor or outdoor storage

\$109⁹⁴ /each ~~\$137⁴⁶~~
Save \$27²² (20%)

Quantity

Not in Your Store - We'll Ship It There

We'll Deliver It to You

Add to Cart

Add to Cart

We'll send it to Darien for free pickup

Standard Delivery

Available for pickup
September 10 - September 13

Get it by
September 11

Check Nearby Stores

Delivery Options

Or buy now with

We're unable to ship this item to:
AK, GU, HI, PR, VI

Easy returns in store and online
Learn about our return policy

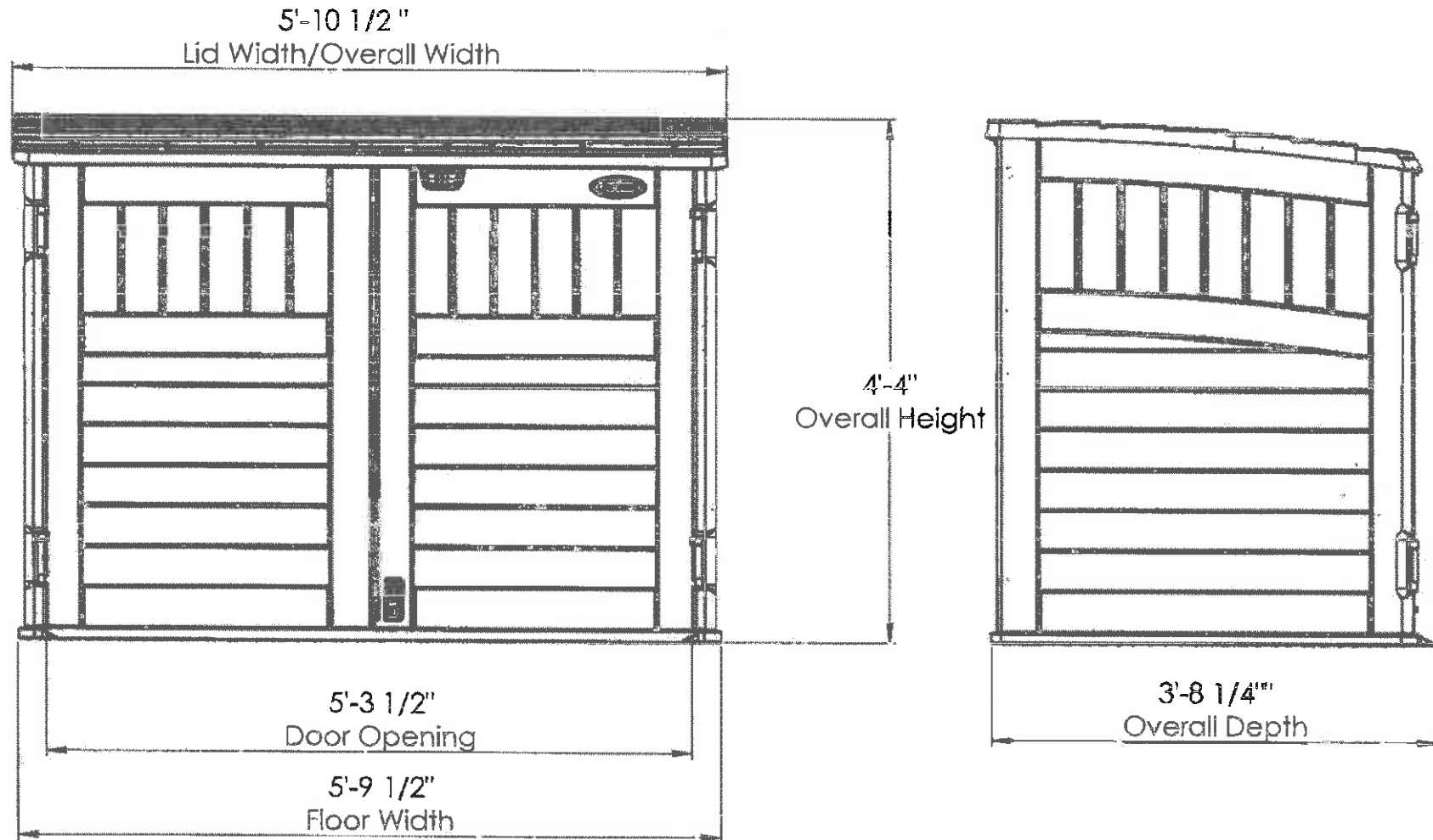
Product Overview

The Keter Store-It-Out MIDI is an attractive wooden look texture storage shed that adds a contemporary style to most back yards. It will not rust, dent or peel and requires no maintenance, unlike the wooden versions. It is ideal for all your storage needs, indoors or out and keeps the contents dry and ventilated. It is easy to assemble with common household tools. It is also lockable, though a lock is not included. So, when you're looking for the perfect storage solutions, look no further than Keter for a wide range of home and garden products to suit any space or requirement.

- Wooden look texture
- Built in support for wood shelt
- Optional metal hinges for easy-opening lid
- Floor panel included
- Can contain two 32 Gall. trash cans
- Ideal for all your storage needs, indoors or out
- Durable - all weather design
- Keeps contents dry and ventilated



BMS4700 - FRONT VIEW



Square Footage:

Interior = 17.5 Sq. ft.

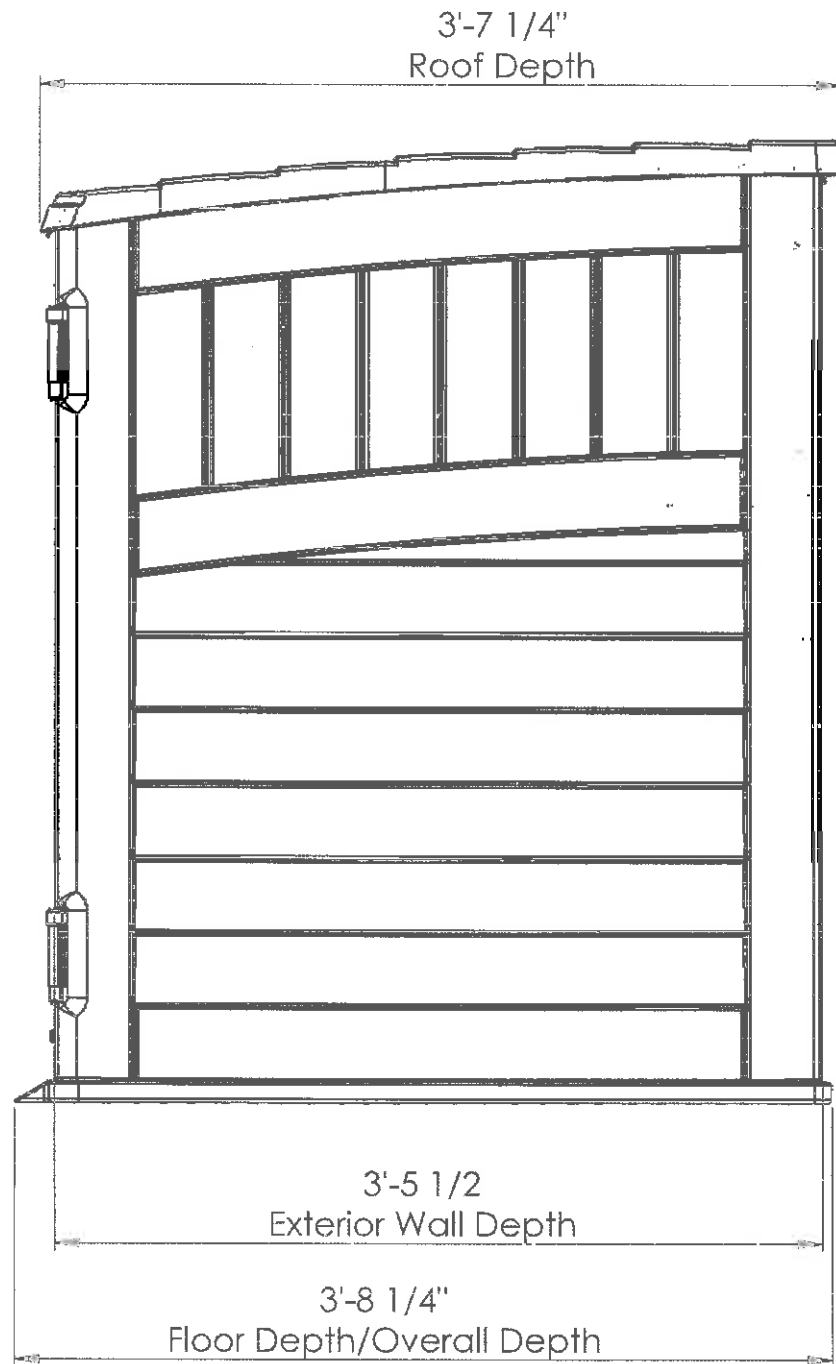
Exterior = 22.3 Sq ft.

Total Volume:

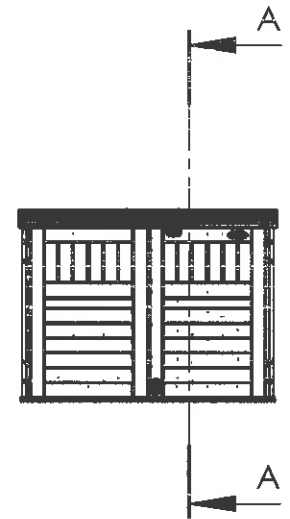
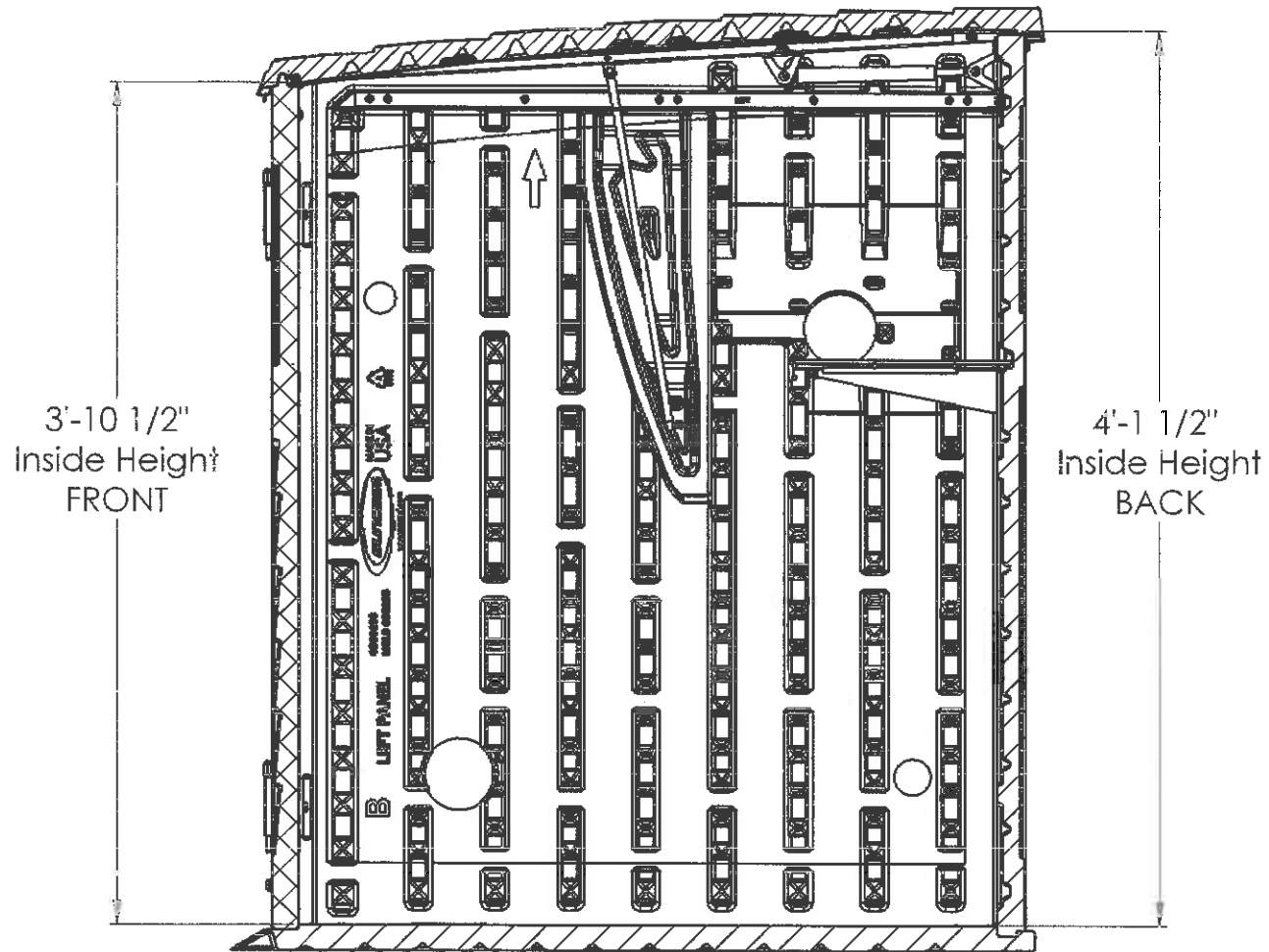
Interior = 70 cu. ft.

Exterior = 90 cu. ft.

BMS4700 - SIDE VIEW

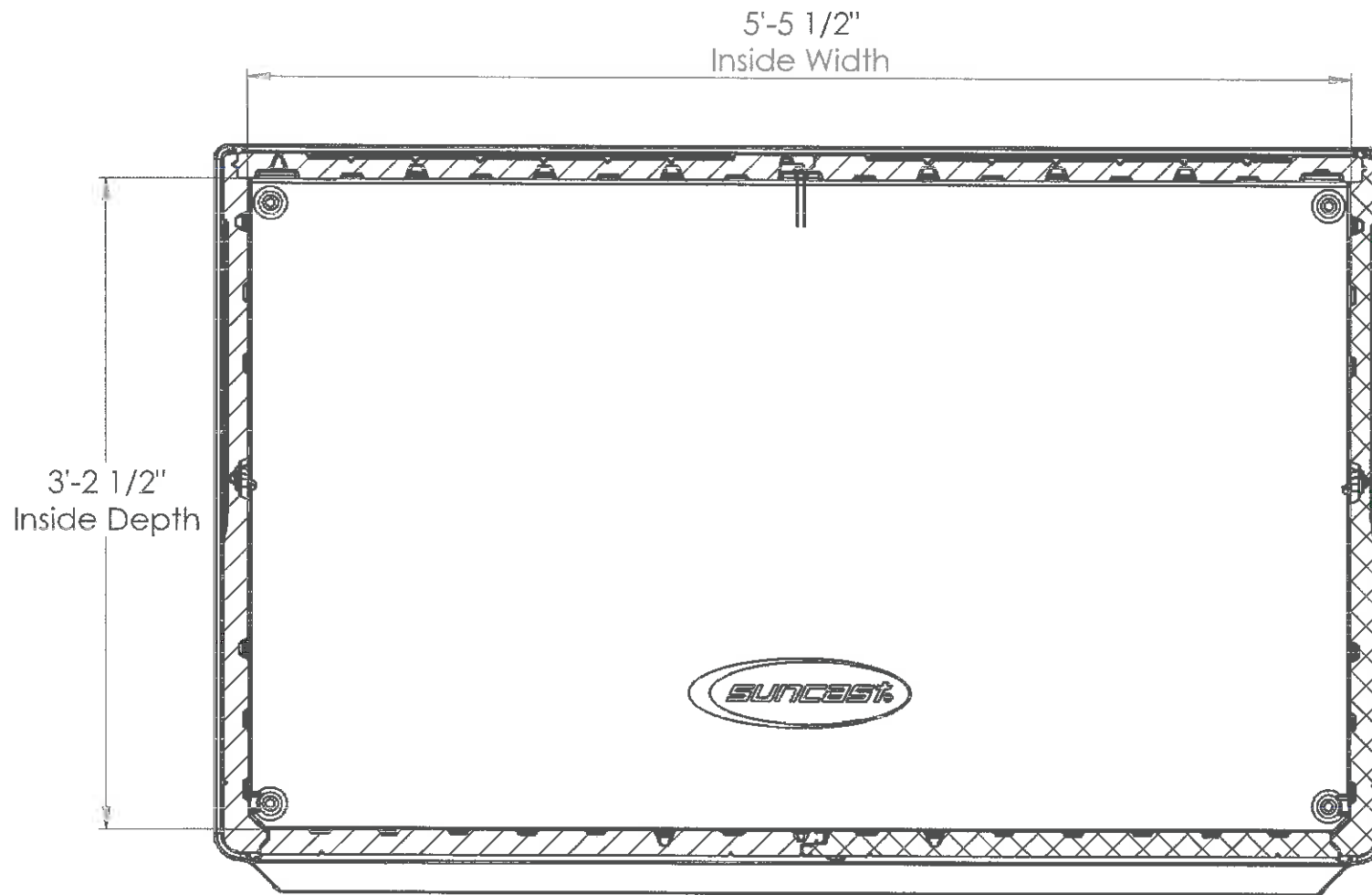


BMS4700 - SECTION VIEW



SECTION A-A
SCALE 1 : 10

BMS4700 - TOP VIEW



SECTION B-B

SCALE 1 : 10

AGENDA MEMO
Municipal Services Committee
October 22, 2018

Issue Statement

Approval of a resolution to enter into an engineering agreement with Christopher B. Burke Engineering, Ltd. for the 2019 Street Maintenance Program, in an amount not to exceed \$32,826.00.

Background/History

Attached and labeled as Attachment A, please find an engineering agreement with Christopher B. Burke Engineering, Ltd. for the 2019 Street Maintenance Program. The following roads have been slated for the 2019 Street Maintenance Program:

PROPOSED 2019 ROAD PROGRAM

STREET	RATING	SUBDIVISION	LIMITS	ROAD LENGTH (linear ft.)	PREVIOUS RESURFACING
Dale Road	66	Marion Hills North	67 th St - 68 th St	860	2003
Clarendon Hills Rd	67	67 th -75 th	67 th St - 75 th St	5300	2001
Eleanor Place	65	Marion Hills South	Janet Ave – Plainfield Rd	700	2004
71st Street	64	Hinsbrook	Clarendon Hills Rd – Cass Ave	5280	2002
Beechnut Lane	65	Hinsbrook	Hinsbrook Ave – Belair Dr	1750	2006
Tennessee Avenue	67	Plainfield Highlands	Plainfield Rd - 72 nd St	980	2007
Walnut Dr	67	Farmingdale Terrace West	Warwick Ave – Farmingdale Dr	2300	2006
Park Ave	65	Farmingdale Unit 5 - 9	75 th St – 73 rd St	1200	2005
Shelley Ct	65	Farmingdale Unit 5 - 9	Park Ave – Limit	450	2005
Carrol Ct	65	Farmingdale Unit 5 - 9	Park Ave - Limit	450	2005
77th St	65	Brookhaven #2	Knottingham Ln – Williams St	420	2000
Hawthorne Pl	65	Brookhaven #2	Plainfield Rd – Williams St	330	2005
Stevens St	65	Brookhaven #2	Plainfield Rd – Williams St	540	2005
Parkview Dr	66	Farmingdale Village	Beller Dr - 83 rd St	1310	2003
Hillside Ct	65	Farmingdale Village	Hillside Rd - Limit	300	2006
Ripple Ridge Dr CDS	65	Hidden Lakes	Ripple Ridge Dr - Limit	400	2004
Spring Ct	65	Hidden Lakes	Ripple Ridge Dr - Limit	300	2004
Pine Parkway	67	Pine Parkway	Plainfield Rd - Limit	1800	2007
Summit Rd - Alternate	67	Farmingdale Unit 5 - 9	71st St – Clemens Rd	2240	2006
LINEAR FEET				26,910.0	
MILES				5.1	

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, 2½ 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 23,870 feet (4.52 miles) for base bid and 26,110 feet (4.8 miles) for the entire project.

Task 1 – Field Reconnaissance: CBBEL 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	\$197/hr. x 6 hrs.	= \$ 1,182
Engineer I/II	\$113/hr. x 50 hrs.	= \$ <u>5,650</u>
Total		= \$ 6,832

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	\$197/hr. x 24 hrs.	= \$ 4,728
Engineer I/II	\$113/hr. x 120 hrs.	= \$ <u>13,560</u>
Total		= \$18,288

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

Engineer V	\$197/hr. x 2 meetings x 3 hrs.	= \$ <u>1,182</u>
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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	\$197/hr. x 2 hrs.	= \$ 394
Engineer I/II	\$113/hr. x 10 hrs.	= \$ <u>1,130</u>
Total		= \$1,524

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.

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

Task 1 Field Reconnaissance	\$ 6,832
Task 2 Preparation of Bid Booklet	\$18,288
Task 3 Coordination Meetings	\$ 1,182
Task 4 Bidding Assistance	\$ 1,524
Task 5 Sampling Analysis – Quality Assurance/Quality Control	\$ 4,500
Direct Costs	\$ 500
NOT TO EXCEED	\$ 32,826

Funding for the Engineering Services would be expended from the following line item of the FY18/19 Budget:

ACCOUNT NUMBER	PROJECT CODE	ACCOUNT DESCRIPTION	FY 18/19 BUDGET	PROPOSED EXPENDITURE	PROPOSED BALANCE
25-35-4325	FYE19325BIDP	ENGINEERING BID SPECIFICATIONS	\$ 33,000.00	\$ 32,826.00	\$ 174.00

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 \$32,826.00.

Alternate Consideration

Not approving the agreement.

Decision Mode

This item will be placed on the November 5, 2018 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 10, 2018
REVISED: October 12, 2018

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

Attention: Dan Gombac

Subject: Proposal for Professional Engineering Services
 2019 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 2019 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 2019 Road Program will consist of resurfacing for the following streets:

STREET	LIMITS	ROAD LENGTH
Dale Road	67 th Street – 68 th Street	860
Clarendon Hills Road	67 th Street – 75 th Street	5,300
Eleanor Place	Janet Avenue – Plainfield Road	700
71 st Street	Clarendon Hills Road – Cass Avenue	5,280
Beechnut Lane	Hinsbrook Avenue – Belair Drive	1,750
Tennessee Avenue	Plainfield Road – 72 nd Street	980
Walnut Drive	Warwick Avenue – Farmingdale Drive	2,300
Park Avenue	75 th Street – 73 rd Street	1,200
Shelley Court	Park Avenue - Limit	450
Carrol Court	Park Avenue - Limit	450
77 th Street	Knottingham Lane – Williams Street	420
Hawthorne Place	Stevens Street – Williams Street	330
Stevens Street	Plainfield Road – Hawthorne Place	540

Parkview Drive	Beller Drive – 83 rd Street	1310
Hillside Court	Hillside Lane - Limit	300
Ripple Ridge Cove	Ripple Ridge Drive - Limit	400
Spring Court	Ripple Ridge Drive - Limit	300
Pine Parkway	Plainfield Road - Limit	1800
	BASE BID	24,670
Alternative		
Summit Road	71 st Street – Clemens Road	2,240
	PROJECT TOTAL	26,910

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 23,870 feet (4.52 miles) for base bid and 26,110 feet (4.8 miles) for the entire project.

SCOPE AND FEE

TASK 1 – FIELD RECONNAISSANCE: CBBEL 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 \$197/hr x 6 hrs	= \$ 1,182
Engineer I/II \$113/hr x 50 hrs	= \$ 5,650
Total	\$ 6,832

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 fund for the project.

Engineer V \$197/hr x 24 hrs	= \$ 4,728
Engineer I/II \$113/hr x 120 hrs	= \$13,560
Total	\$18,288

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 TO ENTER INTO AN ENGINEERING AGREEMENT WITH CHRISTOPHER B. BURKE ENGINEERING, LTD. FOR THE 2019 STREET MAINTENANCE PROGRAM IN AN AMOUNT NOT TO EXCEED \$32,826.00.

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 the 2019 Street Maintenance Program in an amount not to exceed \$32,826.00, 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 5th day of November, 2018.

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED BY THE MAYOR OF THE CITY OF DARIEN, DU PAGE COUNTY, ILLINOIS, this 5th day of November, 2018.

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 600 Rosemont, Illinois 60018 TEL (847) 823-0500 FAX (847) 823-0520

October 10, 2018

REVISED: October 12, 2018

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

Attention: Dan Gombac

 Subject: Proposal for Professional Engineering Services
 2019 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 2019 Road Program. Included below you will find our Understanding of the Assignment and Scope and Fee.

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Beechnut Lane	Hinsbrook Avenue – Belair Drive	1,750
Tennessee Avenue	Plainfield Road – 72 nd Street	980
Walnut Drive	Warwick Avenue – Farmingdale Drive	2,300
Park Avenue	75 th Street – 73 rd Street	1,200
Shelley Court	Park Avenue - Limit	450
Carrol Court	Park Avenue - Limit	450
77 th Street	Knottingham Lane – Williams Street	420
Hawthorne Place	Stevens Street – Williams Street	330
Stevens Street	Plainfield Road – Hawthorne Place	540

Parkview Drive	Beller Drive – 83 rd Street	1310
Hillside Court	Hillside Lane - Limit	300
Ripple Ridge Cove	Ripple Ridge Drive - Limit	400
Spring Court	Ripple Ridge Drive - Limit	300
Pine Parkway	Plainfield Road - Limit	1800
	BASE BID	24,670
Alternative		
Summit Road	71 st Street – Clemens Road	2,240
	PROJECT TOTAL	26,910

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.

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SCOPE AND FEE

TASK 1 – FIELD RECONNAISSANCE: CBBEL 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.

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Engineer I/II \$113/hr x 50 hrs	= \$ 5,650
Total	\$ 6,832

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 fund for the project.

Engineer V \$197/hr x 24 hrs	= \$ 4,728
Engineer I/II \$113/hr x 120 hrs	= \$13,560
Total	\$18,288

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

Engineer V \$197/hr x 2 meetings x 3 hrs = \$1,182

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 \$197/hr x 2 hrs = \$ 394
Engineer I/II \$ 113/hr x 10 hrs = \$1,130
Total \$1,524

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. 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	\$ 6,832
Task 2	Preparation of Bid Booklet	\$18,288
Task 3	Coordination Meetings	\$ 1,182
Task 4	Bidding Assistance	\$ 1,524
Task 5	Sampling Analysis – Quality Assurance/Quality Control	\$ 4,500
	Direct Costs	<u>\$ 500</u>
	NOT TO EXCEED	\$32,826

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
REVISED, SEPTEMBER 2018

<u>Personnel</u>	Charges* (\$/Hr)
Principal	265
Engineer VI	239
Engineer V	197
Engineer IV	160
Engineer III	144
Engineer I/II	113
Survey V	219
Survey IV	185
Survey III	162
Survey II	118
Survey I	93
Engineering Technician V	187
Engineering Technician IV	152
Engineering Technician III	137
Engineering Technician I/II	80
CAD Manager	166
Assistant CAD Manager	144
CAD II	144
CAD I	111
GIS Specialist III	139
GIS Specialist I/II	80
Landscape Architect	160
Environmental Resource Specialist V	206
Environmental Resource Specialist IV	160
Environmental Resource Specialist III	132
Environmental Resource Specialist I/II	108
Environmental Resource Technician	108
Administrative	101
Engineering Intern	61
Information Technician III	122
Information Technician I/II	110

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, 2018.

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 & 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.

June 13, 2005
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AGENDA MEMO
Municipal Services Committee
October 22, 2018

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 2019 Street Maintenance Program, in an amount not to exceed \$ 11,500.00.

Background/History

Attached and labeled as Attachment A, please find an engineering agreement with Christopher B. Burke Engineering for a pavement study consisting of 40 pavement corings for the tentatively proposed 2019 Street Maintenance Program. The following roads have been slated for the 2019 Street Maintenance Program:

STREET	RATING	SUB DIVISION	LIMIT	ROAD LENGTH	CORES	LAST REHAB
Dale Road	66	Marion Hills North	67 th St - 68 th St	860	2	2003
Clarendon Hills Rd	67	67th -75th	67 th St - 75 th St	5300	5	2001
Eleanor Place	65	Marion Hills South	Janet Ave -- Plainfield Rd	700	1	2004
71st Street	64	Hinsbrook	Clarendon Hills – Cass Ave	5280	5	2002
Beechnut Lane	65	Hinsbrook	Hinsbrook Ave – Belair Dr	1750	3	2006
Tennessee Ave	67	Plainfield Highlands	Plainfield Rd - 72 nd St	980	2	2007
Walnut Dr	67	Farmingdale Terrace West	Warwick Ave – Farmingdale Dr	2300	5	2006
Park Ave	65	Farmingdale Unit 5 - 9	75 th St - 73 rd St	1200	2	2005
Shelley Ct	65	Farmingdale Unit 5 - 9	Park Ave - Limit	450	1	2005
Carrol Ct	65	Farmingdale Unit 5 - 9	Park Ave - Limit	450	1	2005
77th St	65	Brookhaven #2	Knottingham Cir – Williams St	420	1	2000
Hawthorne Pl	65	Brookhaven #2	Plainfield Rd – Williams St	330	1	2005
Stevens St	65	Brookhaven #2	Plainfield Rd – Williams St	540	1	2005
Parkview Dr	66	Farmingdale Village	Beller Dr - 83 rd St	1310	3	2003
Hillside Ct	65	Farmingdale Village	Hillside Rd - Limit	300	1	2006
Ripple Ridge Dr CDS	65	Hidden Lakes	Ripple Ridge - Limit	400	1	2004
Spring Ct	65	Hidden Lakes	Ripple Ridge - Limit	300	1	2004
Pine Parkway	67	Pine Parkway	Plainfield Rd - Limit	1800	4	2007
				24,670 ft. 4.52 miles	40	
Alternate-Summit Rd		Farmingdale Unit 5 - 9	71 st St – Clemens Rd	2240	4	
				26,910 ft. 5.1 miles	44	

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 44 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 2019 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	\$ 10,500
Task 2 Evaluation of Geotechnical Report	\$ 1,000
TOTAL	\$ 11,500

Funding for the Engineering Services would be expended from the following line item of the FY 18/19 Budget:

ACCOUNT NUMBER	PROJECT CODE	ACCOUNT DESCRIPTION	FY18/19 BUDGET	PROPOSED EXPENDITURE	PROPOSED BALANCE
25-35-4325	FYE19325CORE	ROAD CORE SPECS TESTING SERVICES	\$ 13,200.00	\$ 11,500.00	\$ 1,700.00

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 \$ 11,500.00.

Alternate Consideration

Not approving the agreement.

Decision Mode

This item will be placed on the November 5, 2018 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 10, 2018

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

Attention: Dan Gombac

Subject: Proposal for Professional Engineering Services
2019 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 2019 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 2019 Road Program will consist of the following streets:

PROPOSED 2019 ROAD PROGRAM			
STREET	LIMITS	ROAD LENGTH	CORES
Dale Road	67 th Street – 68 th Street	860	2
Clarendon Hills Road	67 th Street– 75 th Street	5,300	5
Eleanor Place	Janet Avenue – Plainfield Road	700	1
71 st Street	Clarendon Hills Rd – Cass Ave	5,280	5
Beechnut Lane	Hinsbrook Avenue – Belair Drive	1750	3
Tennessee Avenue	Plainfield Road – 72 nd Street	980	2
Walnut Drive	Warwick Avenue – Farmingdale Drive	2,300	5
Park Avenue	75 th Street – 73 rd Street	1,200	2
Shelley Court	Park Avenue – Limit	450	1
Carroll Court	Park Avenue – Limit	450	1
77 th Street	Knottingham Lane – Williams Street	420	1

Hawthorne Place	Stevens Street – Williams Street	330	1
Stevens Street	Plainfield Road – Hawthorne Place	540	1
Parkview Drive	Beller Drive – 83 rd Street	1,310	3
Hillside Court	Hillside Lane – Limit	300	1
Ripple Ridge Cove	Ripple Ridge Drive – Limit	400	1
Spring Court	Ripple Ridge Drive – Limit	300	1
Pine Parkway	Plainfield Road – Limit	1,800	4
	BASE BID	24,670	
Alternative			
Summit Road	71 st Street – Clemens Road	2,240	4
	ALTERNATE BID	26,910	44

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 44 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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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 2019 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	\$ 10,500
Task 2	Evaluation of Geotechnical Report	\$ 1,000
	TOTAL	\$ 11,500

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.

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 MAYOR TO ENTER INTO AN ENGINEERING AGREEMENT WITH CHRISTOPHER B. BURKE ENGINEERING, LTD. FOR PAVEMENT CORINGS FOR THE PROPOSED 2019 STREET MAINTENANCE PROGRAM, IN AN AMOUNT NOT TO EXCEED \$11,500.00.

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 2019 Street Maintenance Program in an amount not to exceed a total cost of \$11,500.00, 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 5th day of November, 2018.

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED BY THE MAYOR OF THE CITY OF DARIEN, DU PAGE COUNTY, ILLINOIS, this 5th day of November, 2018.

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 600 Rosemont, Illinois 60018 TEL (847) 823-0500 FAX (847) 823-0520

October 10, 2018

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

Attention: Dan Gombac

 Subject: Proposal for Professional Engineering Services
 2019 Road Program - Cores

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SCOPE AND FEE

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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, 2006

<u>Personnel</u>	<u>Charges*</u> <u>(\$/Hr)</u>
Principal	210
Engineer VI	184
Engineer V	150
Engineer IV	121
Engineer III	112
Engineer I/II	91
Survey V	150
Survey IV	115
Survey III	110
Survey II	86
Survey I	67
Resource Planner V	102
Resource Planner IV	97
Resource Planner III	88
Resource Planner II	80
Engineering Technician IV	115
Engineering Technician III	95
Engineering Technician I/II	87
CAD Manager	121
Assistant CAD Manager	115
CAD II	112
CAD I	87
GIS Specialist III	107
GIS Specialist I/II	60
Environmental Resource Specialist V	133
Environmental Resource Specialist IV	121
Environmental Resource Specialist III	102
Environmental Resource Specialist II	83
Environmental Resource Technician	78
Administrative	79
Engineering Intern	46
Survey Intern	46
Information Technician III	84
Information Technician I/II	54

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, 2006

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 & 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 22, 2018

Issue Statement

Approval of a resolution authorizing the Mayor to execute a three year Intergovernmental Agreement with the County of DuPage for mowing along County roads and rights of way.

Background/History

The Intergovernmental Agreement with the County of DuPage authorizes the City of Darien to perform the mowing of certain DuPage County rights of way and along certain DuPage County roads. The current agreement on file expires November 15, 2018. The City of Darien is compensated by DuPage County for performing this mowing along specified DuPage County maintenance jurisdictions. The contract reimbursable amount remains the same at \$41,060. The Agreement provides for five (5) cycles of mowing and up to an additional fifteen (15) in the DuPage County maintenance jurisdictions. While the reimbursable amount remains the same the mowing frequencies have been increased from 10 to 15, therefore reducing the per acre cost from \$100 to \$50 per acre. (20 mowing frequencies x \$50 per acre x 41.06 acres = \$41,060) The proposed agreement is a three-year agreement expiring November 30, 2021. The staff has reviewed the measurements and is in agreement. The City of Darien furnishes all equipment, materials, labor and transportation necessary to perform the required mowing. The locations where the mowing is required are as follows and is included within the attached Intergovernmental Agreement:

<u>Route Number</u>	<u>Highway Name</u>	<u>Locations</u>
15	Cass Avenue	67 th Street to North Frontage Road
31	Plainfield Road	Lakeview Drive/Sawmill Drive to Illinois Route 83
33	75 th Street	Median and R.O.W. Lemont Road to 1 lot west of Sheridan Dr

Staff Recommendation

Staff recommends signing the Intergovernmental Agreement with DuPage County.

Alternate Consideration

Not approving the Resolution.

Decision Mode

This item will be placed on the November 5, 2018 City Council agenda for formal consideration.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF DARIEN AND THE COUNTY OF DUPAGE FOR MOWING ALONG COUNTY ROAD AND RIGHT OF WAYS

WHEREAS, under the Constitution and Statues of the State of Illinois, a municipality is authorized to participate in intergovernmental cooperation; and

WHEREAS, an Intergovernmental Agreement has been prepared between the City of Darien and the County of DuPage concerning said mowing along County roads and right of ways, a copy of which is attached hereto as "Exhibit A", and is incorporated herein; and

WHEREAS, The Corporate Authorities, for record keeping, desire to authorize the execution of the Intergovernmental Agreement by Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DARIEN, DUPAGE COUNTY, as follows:

SECTION 1: That the Mayor and City Clerk are hereby authorized to execute an Intergovernmental Agreement for mowing of grass, weeds and other vegetation growing along the roads and right of ways, subject to the County of DuPage Intergovernmental Agreement paying for the equivalent of up to twenty (20) mowings.

The obligations of the City of Darien shall be limited to those specifically stated within the terms of the Intergovernmental Agreement.

RESOLUTION NO. _____

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, DUPAGE COUNTY, ILLINOIS, this 5th day of November, 2018.

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED BY THE MAYOR FOR THE CITY OF DARIEN, DUPAGE COUNTY, ILLINOIS, this 5th day of November, 2018.

KATHLEEN MOESLE WEAVER, MAYOR

ATTEST:

JOANNE E. RAGONA, CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

INTERGOVERNMENTAL AGREEMENT
 BETWEEN THE COUNTY OF DU PAGE AND
 THE CITY OF DARIEN
 FOR MOWING ALONG COUNTY ROADS AND RIGHTS OF WAY

This intergovernmental agreement (hereinafter referred to as "Agreement"), entered into as hereinafter set forth, by and between the County of DuPage, a body corporate and politic of the State of Illinois (hereinafter referred to as the "COUNTY") and the City of Darien (hereinafter referred to as the "CITY"), a municipal corporation. The COUNTY and the CITY are hereinafter individually referred to as a "party" or together as the "parties."

WITNESSETH

WHEREAS, the COUNTY and the CITY are authorized by the 1970 Illinois Constitution, Article VII, Para. 10 and the Intergovernmental Cooperation Act 5 ILCS 220/1 et seq., to contract with each other; and

WHEREAS, the CITY agrees to mow grass along certain roads and rights of way which are within the maintenance jurisdiction of the COUNTY and within the corporate limits of the CITY as follows (hereinafter referred to as "COUNTY MOWING"):

COUNTY MOWING:

Co Hwy	Hwy Name	From	To	Side of Street	AREA (ac)
33	75th Street	Lemont Road	1 Lot West of Sheridan Dr.	South	11.26
33	75th Street	Lemont Road	1 Lot West of Sheridan Dr.	North	12.70
33	75th Street	Lemont Road	1 Lot West of Sheridan Dr.	Median	6.31
	75th Street Total				30.27
15	Cass Avenue	67th Street	N Frontage Rd.	East	2.20
15	Cass Avenue	67th Street	N Frontage Rd.	West	2.14
	Cass Avenue Total				4.34
31	Plainfield Road	Sawmill Dr.	IL 83	South	3.05
31	Plainfield Road	Sawmill Dr.	IL 83	North	3.4
	Plainfield Road Total				6.45
	Grand Total				41.06

and;

WHEREAS, the COUNTY and the CITY have determined that it is in the best interest of the citizens of DuPage County and the residents of the City of Darien for the CITY to provide mowing along the above listed County Highways subject to the following GENERAL CONDITIONS AND SPECIFICATIONS:

GENERAL CONDITIONS

1. The CITY shall visit the site of the proposed work, and shall investigate, examine and familiarize itself with the premises and conditions relating to the mowing to be done in order that it may understand the difficulties and restrictions required to complete the mowing to be done under this Agreement.
2. The CITY shall furnish all labor, materials, equipment and transportation necessary to complete five (5) mowing cycles and up to fifteen (15) intermediate mowing(s) as necessary per year for three (3) years under the terms and conditions herein set forth. All materials and equipment shall be in strict compliance with the specifications hereinafter set forth; however, if no specifications are set forth for particular materials or equipment such material or equipment shall be of such specifications as are reasonably necessary and appropriate to carry out the terms and conditions of this Agreement. All labor and transportation shall be performed in accordance with the highest professional and technical standards in the field.
3. At the sole option of the COUNTY, the CITY shall furnish all labor, materials, equipment and transportation necessary to complete additional mowing cycles, on any portion or portions of said COUNTY MOWING, under the terms and conditions herein set forth. The COUNTY shall give written notice to the CITY of the portion or portions of roads and rights of way to be mowed not less than seven (7) days prior to the required starting date.
4. The safety of persons and property of the CITY, the COUNTY, and the general public is of primary concern, and shall take priority over all other terms and conditions of this Agreement.
5. All equipment and materials furnished by the CITY shall meet or exceed all safety standards for mowing prescribed by O.S.H.A. The CITY agrees, covenants, and understands that the CITY bears sole liability for any injury or damage caused by the CITY under this Agreement and that the COUNTY shall not accept any liability whatsoever from the CITY except where any injury or damage is caused by the COUNTY.
6. Indemnification
 - (a) The CITY shall indemnify, hold harmless and defend the COUNTY, its officials, officers, agents, and employees from and against all liability, claims, suits, demands, proceedings and actions, including costs, fees and expense of defense, arising from, growing out of, or related to, any loss, damage, injury, death, or loss or damage to property resulting from, or connected with, the CITY's negligent or willful acts, errors or omissions or any of the CITY contractor's or agent's negligent or

willful acts in its performance under this Agreement. The indemnification set forth herein shall not extend to any injury or damage caused by the negligent or willful acts, errors or omissions of the COUNTY or its officers, agents and employees.

- (b) (b) Nothing contained herein shall be construed as prohibiting the COUNTY, its officials, directors, officers and employees, at their sole cost and expense, from defending through the selection and use of their own agents, attorneys and experts, any claims, suits, demands, proceedings and actions brought against them. Pursuant to Illinois law, any attorney representing the COUNTY, who is not already an Assistant State's Attorney, is to be appointed a Special Assistant State's Attorney, in accordance with the applicable law. The COUNTY's participation in its defense shall not remove the CITY's duty to indemnify, defend, and hold the COUNTY harmless, as set forth above provided, however, that the CITY shall have the authority to direct the defense and to settle any claim, suit, demand, proceeding or action against the COUNTY for which the CITY would be required to indemnify the COUNTY hereunder subject to the approval of the State's Attorney to settle all claims. The State's Attorney shall not unreasonably withhold such approval.
- (c) Any indemnity as provided in this Agreement shall not be limited by reason of the enumeration of any insurance coverage herein provided. The CITY's indemnification of the COUNTY shall survive the termination, or expiration, of this Agreement.
- (d) The COUNTY does not waive, by these indemnity requirements, any defenses or protections under the Local Governmental and Governmental Employees Tort Immunity Act (745 ILCS 10/1 et seq.) or otherwise available to it, or to the CITY, under the law."

7. At all times during the period of this Agreement, the CITY and, if applicable, their contractor shall maintain the following insurance coverage(s), or be self-insured to cover the following:

- (a) **Worker's Compensation Insurance** in the statutory amounts.
- (b) **Employer's Liability Insurance** in an amount not less than one million dollars (\$1,000,000.00) each accident/injury and one million dollars (\$1,000,000.00) each employee/disease.

- (c) **Commercial (Comprehensive) General Liability**
Insurance with a limit of not less than three million dollars (\$3,000,000) total; including limits of not less than two million (\$2,000,000) dollars per occurrence and one million (\$1,000,000) dollars excess liability in the annual aggregate injury/property damage.
- (d) **Commercial (Comprehensive) Automobile Liability Insurance** with minimum limits of at least one million (\$1,000,000) dollars Combined Single Limit (Each Accident).
- (e) The coverage limits required under subparagraphs (c) and (d) above may be satisfied through a combination of primary and excess coverage. The CITY shall not allow any contractor to commence work until all the insurance coverage(s) required under this insurance section have been obtained. Satisfactory evidence of contractor's insurance including endorsements shall be provided by the CITY to the COUNTY immediately upon request. Additionally, the CITY shall include in all of its contracts a statement expressly declaring the COUNTY to be a third-party beneficiary of the insurance requirements provided for in this insurance section.
- (f) The CITY shall require all approved contractors, anyone directly or indirectly employed by them, or by anyone for whose acts any of them may be liable under this Agreement, to acquire and maintain the insurance as set forth in Paragraph 7. (a) to (d) of the Agreement. The COUNTY retains the right to obtain evidence of contractor's insurance coverage at any time. The CITY will ensure that its contractors and subcontractors name the COUNTY as an additional insured as set out in the paragraphs below. The CITY understands that it is to the CITY's benefit to diligently enforce this insurance requirement as the CITY shall indemnify the COUNTY, its officials, officers, agents, and employees from all liability, in its performance under this Agreement pursuant to the terms in Paragraph 6 herein."
- (g) The insurance required to be purchased and maintained by the CITY and if applicable, their contractor, shall be provided by an insurance company acceptable to the COUNTY, and licensed to do business in the State of Illinois; and shall include at least the specific coverage and be written for not less than the limits of the liability specified herein or required by law or regulation whichever is greater;

and shall be so endorsed that the coverage afforded will not be canceled or materially changed until at least sixty (60) days prior written notice has been given to the COUNTY except for cancellation due to non-payment of premium for which at least fifteen (15) days prior written notice (five days allowed for mailing time) has been given to the COUNTY. If the CITY is satisfying insurance required through a combination of primary and excess coverage, the CITY shall require that said excess/umbrella liability policy include in the "Who is Insured" pages of the excess/umbrella policy wording such as "Any other person or organization you have agreed in a written contract to provide additional insurance" or wording to that affect. The CITY shall provide a copy of said section of the excess/umbrella liability policy upon request by the COUNTY.

- (h) It is the duty of the CITY to immediately notify the COUNTY if any insurance required under this Agreement has been cancelled, materially changed, or renewal has been refused, and the CITY shall immediately suspend all work in progress and take the necessary steps to purchase, maintain and provide the required insurance coverage. If a suspension of work should occur due to insurance requirements, upon verification by the COUNTY of the required insurance coverage, the COUNTY shall notify the CITY that the CITY can proceed with the work that is a part of this Agreement. Failure to provide and maintain the required insurance coverage could result in the immediate cancellation of this Agreement, and the CITY shall accept and bear all costs that may result from the cancellation of this Agreement due to the CITY's or if applicable, their contractor's failure to provide and maintain the required insurance.

- (i) The CITY's and if applicable, their contractor's insurance as required by paragraphs (c) and (d) above shall name the COUNTY, its officers, and employees as additional insured parties. The Certificate of Insurance/endorsements shall state: "The County of DuPage, its officers, and employees are named as additional insured(s) as defined in the Commercial (Comprehensive) General Liability Insurance and Commercial (Comprehensive) Automobile Liability Insurance policies with respect to claims arising from the CITY's performance under this Agreement. The Endorsements must also be provided naming the County of DuPage c/o DuPage County Division of Transportation, 421 N. County Farm Road, Wheaton, IL 60187, as an additional insured. This additional

insured is to be on a primary and non-contributory basis."

- (j) If the CITY will be using their own forces for the work covered in this Agreement, the CITY shall inform the COUNTY in writing following execution of this Agreement. If, however, the CITY will be hiring a contractor for the work covered in this Agreement, the CITY shall inform the COUNTY in writing following execution of this Agreement and shall provide a copy of said contract to the COUNTY upon request.
8. The terms and conditions of this Agreement may be amended or supplemented by written statement of the parties to make such amendment or supplement. The parties agree that no oral change orders will be allowed and that no claim based upon any purported oral change order shall be made.
9. The terms and conditions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.
10. All State and Federal Laws insofar as applicable to COUNTY contracts shall be hereby specifically made a part of this Agreement as set forth herein.
11. This Agreement shall be governed by the laws of the State of Illinois. The forum for resolving any disputes concerning the parties' respective performance, or failure to perform, under this Agreement, shall be the judicial circuit court for DuPage County.
12. In the event, any provisions of this Agreement is held to be unenforceable or invalid for any reason, the enforceability thereof shall not affect the remainder of the Agreement. The remainder of this Agreement shall be construed as if not containing the particular provision and shall continue in full force, effect, and enforceability, in accordance with its terms.
13. This Agreement may be terminated at any time by submission to the other party of written thirty (30) days advance notice served by certified or registered mail, return receipt requested, properly addressed with postage prepaid and said notice shall be effective upon receipt as verified by the United States Postal Service, to the following addresses:

FOR THE CITY:

Bryon Vana
City Administrator
City of Darien
1702 Plainfield Road
Darien, Illinois 60561

FOR THE COUNTY:

Christopher C. Snyder, P.E.
Director of Transportation/County Engineer
DuPage County Division of Transportation
421 N. County Farm Road
Wheaton, IL 60187

14. This Agreement shall remain in full force and effect after execution by the parties as set forth below until November 30, 2021, unless terminated by thirty (30) days written notice to the other party as referenced above.

SPECIFICATIONS

1. All grassy areas heretofore set out in COUNTY MOWING shall be mowed from the edge of shoulder or back of curb to the right of way line. Median and island areas are also included as part of this Agreement (as referenced in table hereinabove) and shall be mowed back to back of curb.
2. Grass shall be mowed to the height of three (3) inches.
3. All mowing shall be performed in a manner to produce a finished appearance which is acceptable to the COUNTY. Such acceptability shall be based upon the reasonable application of professional standards in the mowing industry. The opinion of the DuPage County Division of Transportation Highway Operations Manager shall constitute prima facie evidence of a reasonable application of such professional standards.
4. Hand-cutting or cutting along fences and guardrails is included as part of the Agreement.
5. Hand-cutting around landscaping and other obstructions within the right of way shall be part of this contract. Grass cuttings shall not be allowed on roadways or curbs. Large grass clumps shall not remain on cut areas. Such cuttings or clumps shall be removed or blown clean.
6. Pick up of typical roadway trash (bottles, cans, paper, plastic bags, and miscellaneous small debris) will be the responsibility of the CITY and shall be included in the cost of mowing. Any areas where materials are encountered that would not be classified as "typical roadway trash" should be referred to the DuPage County Highway Operations Manager for removal.
7. Damage caused by the CITY to turf areas shall be repaired to the satisfaction of the DuPage County Highway Operations Manager prior to payment for the cycle in which damage occurred.

8. The CITY shall protect all work sites with proper traffic control as specified in the current "Manual of Uniform Traffic Control Devices" and applicable standards as included in these special provisions, and appropriate at any particular site. The safety of employees and the public shall be of primary concern.
9. Roadways shall be kept open to traffic in both directions at all times. The loading and unloading of materials and/or equipment shall be done in a protected area completely off the traveled roadway. If it is necessary for a slow moving piece of equipment to travel for a short distance along the roadway, this piece of equipment shall be accompanied by a properly equipped escort vehicle during the entire time that it occupies any portion of the traveled roadway. The escort vehicle shall be equipped with an amber-colored, rotating-type warning light mounted on or above the cab of the escort vehicle. The escort vehicle shall also be equipped with two (2) amber colored flashing lights mounted to the rear of the escort vehicle at a minimum height of six (6) feet.
10. No equipment or material shall be stored on the pavement or shoulders at any time.
11. The starting date for each year's mowing cycle shall be no later than the following:
 - First Mowing - May 1
 - Second Mowing - June 1
 - Third Mowing - July 1
 - Fourth Mowing - August 1
 - Fifth Mowing - September 15Fifteen (15) intermediate mowing cycles may be completed as weather and grass conditions warrant.
12. The COUNTY shall pay the CITY the lessor of \$2,053.00 or contractor pricing plus ten percent (10%) for construction engineering within forty-five (45) days of receipt of invoice after the completion of each mowing cycle of 41.06 acres.
13. **The CITY shall endeavor to submit a final invoice for all mowing no later than November 15th of each year for the term of this Agreement.**
14. Additions or deductions to the mowing acres may be required during the mowing season and will be done at the sole discretion of the COUNTY. Additions or deductions will be made to the payment due for a mowing cycle at a unit price of the lessor of Fifty Dollars per acre (\$50.00 per acre) or contractor pricing plus ten percent (10%) for construction engineering. The DuPage County Division of Transportation will notify the CITY in writing, of any additions or deductions made in the mowing cycle acres.

WHEREAS, the parties hereto have read and reviewed the terms of this Agreement and by their signature as affixed below represent that the signing party has the authority to execute this Agreement and that the parties intend to be bound by the terms and conditions contained herein.

WHEREAS, this Agreement shall not be deemed or construed to create an employment, joint venture, partnership or other agency relationship between the parties.

WHEREAS, this Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which shall be deemed one in the same instrument.

WHEREAS, this Agreement shall become effective on the day on which both parties hereto have executed this document.

IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be executed by their duly authorized officers and to be attested to and their corporate seals to be hereunder affixed.

COUNTY OF DU PAGE

Signed this _____ day of _____, 2018 at Wheaton, Illinois.

Daniel J. Cronin, Chairman
DuPage County Board

ATTEST:

Paul Hinds, County Clerk

CITY OF DARIEN

Signed this _____ day of _____, 2018, at Darien, Illinois.

Kathleen Moesle-Weaver, Mayor
City of Darien

ATTEST:

JoAnne E. Ragona, City Clerk
City of Darien

AGENDA MEMO
MUNICIPAL SERVICES COMMITTEE
October 22, 2018

Issue Statement

Petitioner seeks approval of a resolution accepting the public improvements and authorizing release of the Letter of Credit upon receipt of maintenance security for the Carriage Way West Unit 6 development.

AND

Approval of a resolution of the Plat of Easement for the Carriage Way West Unit 6 development.

Background

Brian Broderick of Carriage Greens is the owner and developer of the 2 single family lot subdivision known as Carriage Way West Unit 6. His contractor has completed the underground utilities and grading. The City Engineer has reviewed, inspected, and approved said improvements. Due to the relocation of the storm sewer on Lot 1, the easement had to be shifted. The City Engineer has reviewed and approved the Plat of Easement.

The developer had posted a letter of credit in the amount of \$67,455 to secure the cost of the improvements. Per City requirements, the City can authorize release of said Letter of Credit upon receipt of security for 10% of the construction costs in the amount of \$6,131 to secure any maintenance that may be needed for the improvements for a one year period.

Attachments

A – Lynch letter 10/3/18

B – Lynch letter 10/6/18

C – Plat of Easement

D – Probable Construction Costs

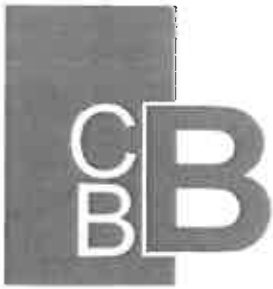
E – Letter of Credit

Recommendation

Staff recommends approval of the resolutions as presented.

Decision Mode

If recommended by Municipal Services Committee on October 22, this item will be scheduled for City Council final vote on November 5.



CHRISTOPHER B. BURKE ENGINEERING, LTD.

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

October 3, 2018

City of Darien
1702 Plainfield Road
Darien, IL 60561

Attention: Steve Manning

Subject: Carriage Way West Unit 6
Lot 1 Plat of Easement
(CBBEL Project No. 950323.H182)

Dear Steve:

As requested by email on October 2, 2018, we have reviewed the Plat of Easement for the above property prepared by Ridgeline Consultants and dated October 1, 2018. The purpose of the plat is to provide an additional easement over the storm sewer which was constructed outside of the easements granted by the plat of subdivision. Our previous comments have been addressed and, in our opinion, the Plat is now in general compliance with City Code. We recommend that the City Council accept the easement and record it.

If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Daniel Lynch', is written in dark ink.

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



CHRISTOPHER B. BURKE ENGINEERING, LTD.

9575 W Higgins Road, Suite 600 Rosemont, Illinois 60018-4920 Tel (847) 823-0500 Fax (847) 823-0520

October 6, 2018

City of Darien
1702 Plainfield Road
Darien, Illinois 60561

Attention: Dan Gombac

Subject: Carriage Way West Unit 6
(CBBEL Project No. 950323 H182)

Dear Dan:

As requested, we have prepared this updated letter regarding the Record Drawings for the above property dated September 5, 2018 and prepared by Ridgeline Consultants, LLC. With the recently prepared Plat of Easement, we can now say that the Record Drawings are in general compliance with the approved plans, subject to the easement being approved by the City Council and recorded.

Please feel free to contact me should you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Daniel L. Lynch', is written in black ink.

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

Cc: Steve Manning – City of Darien

PLAT OF EASEMENT

SUBMITTED BY/RETURN TO:
CITY OF DARIEN
1702 PLAINFIELD ROAD
DARIEN, IL 60561

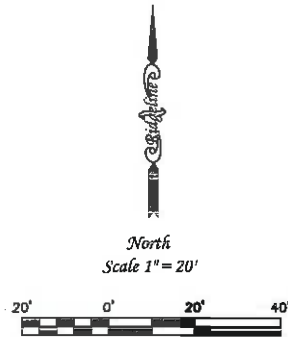
PARCEL INDEX NUMBER
09-33-400-014

ABBREVIATION LEGEND

- E = EAST
- (M) = MEASURED DISTANCE
- N = NORTH
- P.U. & D.E. = PUBLIC UTILITY AND DRAINAGE EASEMENT
- (R) = RECORD DISTANCE
- S = SOUTH
- W = WEST

LEGEND

- = BUILDING LINE
- = CENTERLINE
- = EASEMENT 1 INCH
- = PROPERTY LINE
- = RIGHT OF WAY LINE
- = PROPOSED EASEMENT = PREMISES



OWNER'S CERTIFICATE (GRANTOR) - LOT 1

STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

THIS IS TO CERTIFY THAT _____ IS THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED ON THE PLAT OF EASEMENT AND THAT THEY HAVE CAUSED THE SAME TO BE PLATTED AS INDICATED HEREON, FOR THE USES AND PURPOSES HEREON SET FORTH, AND DOES HEREBY ACKNOWLEDGE AND ADOPT THE SAME UNDER THE STYLE AND TITLE HEREON SHOWN.

DATED AT _____ ILLINOIS, THIS _____ DAY OF _____, 20__

BY _____

TITLE _____

ATTEST _____

TITLE _____

ADDRESS: _____

NOTARY'S CERTIFICATE LOT 1

STATE OF ILLINOIS)
) SS
COUNTY OF DU PAGE)

I HEREBY CERTIFY THAT THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE FOREGOING CERTIFICATE BE KNOWN TO ME AS SUCH OWNERS.
GIVEN UNDER MY HAND AND NOTARIAL SEAL THIS _____ DAY OF _____, 20__

NOTARY PUBLIC _____

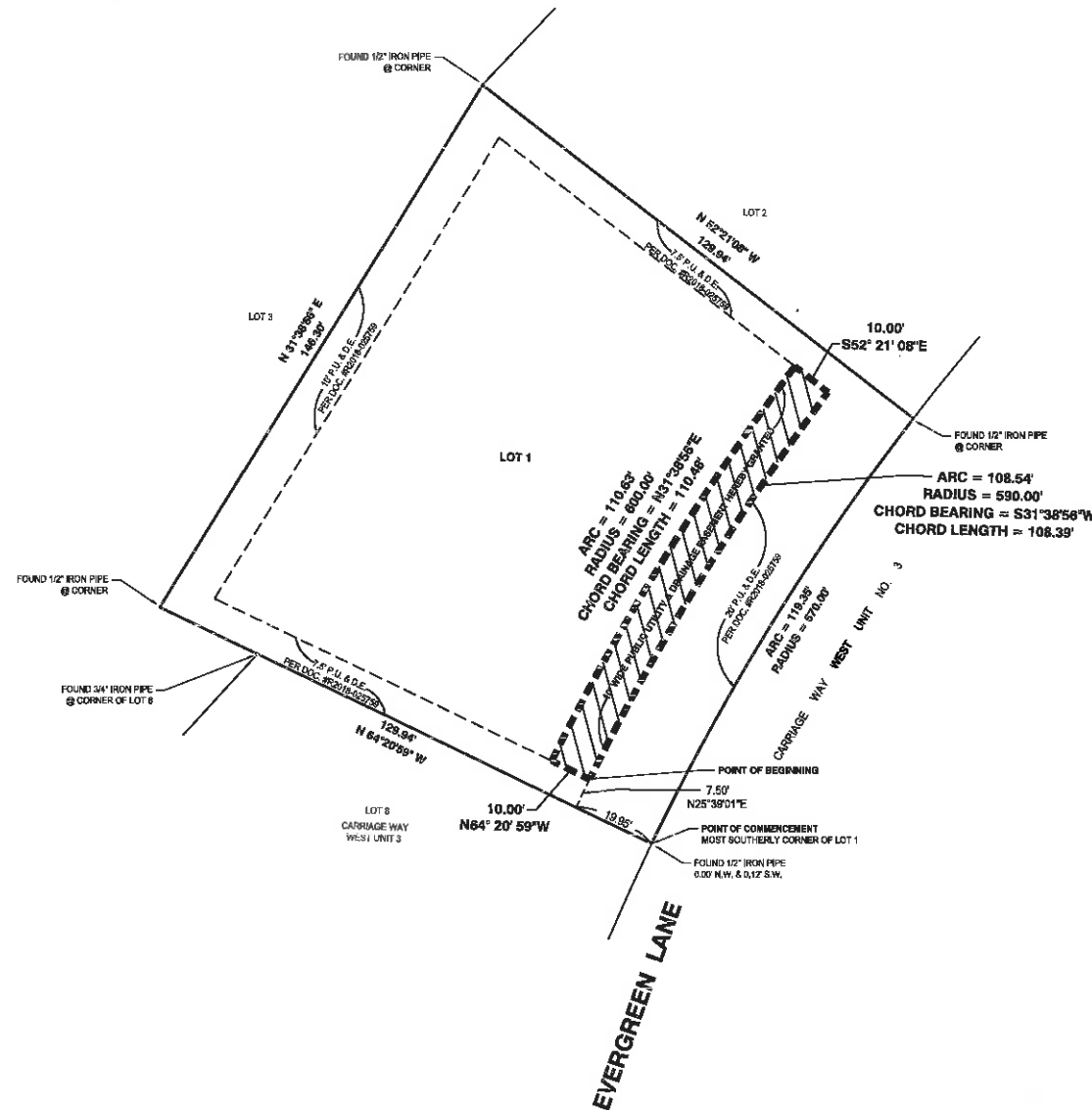
MY COMMISSION EXPIRES: _____

PUBLIC UTILITIES AND DRAINAGE EASEMENT PROVISIONS

EASEMENTS ARE HEREBY RESERVED FOR AND GRANTED TO THE CITY OF DARIEN ILLINOIS ("CITY") AND TO THOSE PUBLIC UTILITY COMPANIES OPERATING UNDER FRANCHISE OR CONTRACT WITH THE CITY, OR OTHERWISE AUTHORIZED BY THE CITY, INCLUDING BUT NOT LIMITED TO ILLINOIS BELL TELEPHONE COMPANY (B.A.T.F.), ILLINOIS INCO GAS COMPANY, AND THEIR SUCCESSORS AND ASSIGNS, OVER, UPON, UNDER AND THROUGH ALL OF THE AREAS MARKED "PUBLIC UTILITIES AND DRAINAGE EASEMENT 1 INCH OR (WIDER)" ON THE PLAT FOR THE PERPETUAL, RIGHT, PRIVILEGE AND AUTHORITY TO INSTALL, SURVEY, CONSTRUCT, RECONSTRUCT, REPAIR, IMPROVE, MAINTAIN, AND OPERATE VARIOUS UTILITY TRANSMISSION AND DISTRIBUTION SYSTEMS, COMMUNITY ANTENNAE TELEVISION SYSTEMS AND INCLUDING STORM AND/OR SANITARY SEWERS, TOGETHER WITH ANY AND ALL NECESSARY MANHOLES, CATCH BASINS, CONNECTIONS, APPLIANCES AND OTHER STRUCTURES AND APPURTENANCES AS MAY BE DEEMED NECESSARY BY SAID CITY, OVER, UPON, UNDER AND THROUGH SAID INDICATED EASEMENTS, TOGETHER WITH THE RIGHT OF ACCESS ACROSS THE PROPERTY FOR NECESSARY PERSONNEL AND EQUIPMENT TO DO ANY OF THE ABOVE WORK, THE RIGHT IS ALSO GRANTED TO TRIM OR REMOVE ANY TREES, SHRUBS OR OTHER PLANTS ON THE EASEMENT THAT INTERFERE WITH THE OPERATION OF THE SEWERS OR OTHER UTILITIES. NO PERMANENT BUILDINGS SHALL BE PLACED ON SAID EASEMENTS, BUT SAME MAY BE USED FOR GARDENS, SHRUBS, LANDSCAPING AND OTHER PURPOSES THAT DO NOT THEN OR LATER INTERFERE WITH THE AFORESAID USES OR RIGHTS. WHERE AN EASEMENT IS USED BOTH FOR SEWERS AND OTHER UTILITIES, THE OTHER UTILITY INSTALLATION SHALL BE SUBJECT TO THE ORDINANCES OF THE CITY OF DARIEN EASEMENTS ARE HEREBY RESERVED AND GRANTED TO THE CITY OF DARIEN AND OTHER GOVERNMENTAL AUTHORITIES HAVING JURISDICTION OF THE LAND SUBDIVIDED HEREBY OVER THE ENTIRE EASEMENT AREA FOR INGRESS, EGRESS AND THE PERFORMANCE OF MUNICIPAL AND OTHER GOVERNMENTAL SERVICES, INCLUDING BUT NOT LIMITED TO, WATER, STORM AND SANITARY SEWER SERVICE AND MAINTENANCE. THERE IS HEREBY RESERVED FOR AND GRANTED TO THE CITY AN EASEMENT FOR RIGHT OF ACCESS ON, OVER, ALONG AND ACROSS THE PROPERTY DESCRIBED HEREIN FOR THE LIMITED PURPOSE OF READING, EXAMINING, INSPECTING, INSTALLING, OPERATING, MAINTAINING, EXCHANGING, REMOVING, REPAIRING, TESTING, AND/OR REPLACING CITY OWNED UTILITY EQUIPMENT AND METERS WHICH SERVE SAID PROPERTY, INCLUDING NECESSARY PERSONNEL AND EQUIPMENT TO DO ANY OF THE ABOVE WORK.

LEGAL DESCRIPTION OF 30' WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT:
THAT PART OF LOT 1 IN CARRIAGE WAY WEST UNIT 6, BEING A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 38 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 26, 2016, AS DOCUMENT NUMBER 0305-025759, IN DUPAGE COUNTY, ILLINOIS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE MOST SOUTHERLY CORNER OF SAID LOT 1; THENCE NORTH 64 DEGREES 20 MINUTES 59 SECONDS WEST, ALONG THE SOUTHWESTERLY LINE OF SAID LOT 1, A DISTANCE OF 128.94 FEET; THENCE NORTH 25 DEGREES 39 MINUTES 33 SECONDS EAST, 7.50 FEET TO THE POINT OF BEGINNING; THENCE NORTH 64 DEGREES 20 MINUTES 59 SECONDS WEST ALONG A LINE THAT IS 7.50 FEET NORTHEASTERLY OF, AS MEASURED AT RIGHT ANGLES THERETO, AND PARALLEL WITH THE SOUTHWESTERLY LINE OF SAID LOT 1, A DISTANCE OF 10.00 FEET TO A POINT ON A NON-TANGENT CURVE; THENCE NORTHEASTERLY ALONG A NON-TANGENT CURVE TO THE POINT THAT IS 10.00 FEET NORTH-WESTERLY OF, AS MEASURED RADIALLY FROM, AND CONCENTRIC WITH THE SOUTHWESTERLY LINE OF SAID LOT 1, HAVING A RADIUS OF 590.00 FEET, AN ARC LENGTH OF 110.43 FEET (CHORD BEARING = NORTH 31 DEGREES 38 MINUTES 56 SECONDS EAST, CHORD LENGTH = 108.39 FEET); THENCE SOUTH 52 DEGREES 21 MINUTES 08 SECONDS EAST, ALONG A LINE THAT IS 7.50 FEET SOUTHWESTERLY OF, AS MEASURED AT RIGHT ANGLES THEREON, AND PARALLEL WITH THE NORTHWESTERLY LINE OF SAID LOT 1, A DISTANCE OF 10.00 FEET TO A POINT ON A NON-TANGENT CURVE; THENCE SOUTHWESTERLY ALONG A NON-TANGENT CURVE TO THE LEFT THAT IS 20.00 FEET NORTHWESTERLY OF, AS MEASURED RADIALLY FROM, AND CONCENTRIC WITH THE SOUTHWESTERLY LINE OF SAID LOT 1, HAVING A RADIUS OF 590.00 FEET, AN ARC LENGTH OF 108.39 FEET (CHORD BEARING = SOUTH 21 DEGREES 38 MINUTES 56 SECONDS WEST, CHORD LENGTH = 108.39 FEET) TO THE POINT OF BEGINNING.

LEGAL DESCRIPTION OF PROPERTY:
LOT 1 IN CARRIAGE WAY WEST UNIT 6, BEING A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 38 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 26, 2016, AS DOCUMENT NUMBER 0305-025759, IN DUPAGE COUNTY, ILLINOIS.



MAYOR AND CITY COUNCIL APPROVAL CERTIFICATE - GRANTEE

STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

THE MAYOR AND CITY COUNCIL OF THE CITY OF DARIEN, COUNTY OF DUPAGE, STATE OF ILLINOIS, HEREBY CERTIFY THAT THE SAID COUNCIL HAS DULY APPROVED THIS PLAT OF EASEMENT ATTACHED HERETO BY RESOLUTION NO. _____ DULY AUTHENTICATED AS PASSED THIS _____ DAY OF _____, A.D., 20__

MAYOR _____

ATTEST: CITY CLERK _____

DUPAGE COUNTY RECORDER CERTIFICATE

STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

THIS INSTRUMENT _____ WAS FILED FOR RECORD IN THE RECORDER'S OFFICE OF DUPAGE COUNTY, ILLINOIS AFORESAID, ON THE _____ DAY OF _____, A.D., 20__ AT _____ O'CLOCK _____ M.

DUPAGE COUNTY RECORDER _____

SURVEYOR'S CERTIFICATE

STATE OF ILLINOIS)
) SS
COUNTY OF KANE)

WE, RIDGELINE CONSULTANTS, LLC, ILLINOIS PROFESSIONAL DESIGN FIRM NO. 184-004756, DO HEREBY CERTIFY THAT WE HAVE PREPARED THE PLAT HEREON DRAWN FOR THE PURPOSE OF CREATING EASEMENTS AS SHOWN, AND THAT THE PLAT IS A TRUE AND CORRECT REPRESENTATION OF SAID EASEMENTS.

ALL DIMENSIONS ARE IN FEET AND DECIMALS PARTS THEREOF. NO DISTANCES OR ANGLES SHOWN HEREON MAY BE ASSUMED BY SCALING.
GIVEN UNDER MY HAND AND SEAL THIS _____ DAY OF _____, 20__ IN MONTGOMERY, ILLINOIS.

GEORGE H. SKULAVIK

IPLS NO. 035-002580

EXPIRES 11/30/2018



GEORGE H. SKULAVIK P.L.S. 035-002580 EXPIRATION DATE 11/30/2018
STACY L. STEWART P.L.S. 035-003415 EXPIRATION DATE 11/30/2018
PROFESSIONAL DESIGN FIRM NO. 184-004756
1661 ARLITT ROAD
MONTGOMERY, ILLINOIS 60538
PHONE 630-801-7937 FAX 630-781-1385

Rev. 1/1/16	Rev. 1/1/16
1/1/16	PRELIMINARY COMMENTS DATED 10-18-16
Drawn By: TJC	Check By: GHS
Date: 9/18/16	
Client: CARRIAGE GREENS COUNTRY CLUB	
Project Number: 2016-0155	

CARRIAGE WAY WEST UNIT 6, Darlen, IL
ENGINEER'S OPINION ON THE PROBABLE CONSTRUCTION COST
 Based on Site Improvement Plans dated 10/10/17
 ITEM

SCHEDULE I- DEMOLITION AND SITE CLEARING

	UNIT	QUANTITY	UNIT PRICE	AMOUNT
Site Clearing/Tree Removal	LS	1	\$1,500.00	\$1,500.00
Remove Ex. 15" RCP	LF	86	\$15.00	\$1,290.00
TOTAL SCHEDULE I - DEMO & SITE CLEARING				\$2,790.00

SCHEDULE II- EROSION CONTROL

Silt Fence	LF	900	\$2.00	\$1,800.00
Inlet Filter Baskets	EA	5	\$125.00	\$625.00
Stabilized Construction Entrance & Temp Conc. Washout Area	EA	1	\$1,500.00	\$1,500.00
Seeding	AC	1.2	\$4,000.00	\$4,800.00
TOTAL SCHEDULE II - EROSION CONTROL				\$8,725.00

SCHEDULE III - UNDERGROUND UTILITY IMPROVEMENTS

A. SANITARY SERVICE CONNECTION

6" PVC SDR26	LF	133	\$24.50	\$3,258.50
Granular Trench backfill	LF	68	\$25.00	\$1,700.00
Connection to ex. Sanitary Main	EA	2	\$400.00	\$800.00
Pavement Removal and Replacement	SF	324	\$10.00	\$3,240.00
Curb & Gutter Removal and Replacement	LF	24	\$25.00	\$600.00
SUBTOTAL A - SANITARY SERVICE CONNECTION				\$9,598.50

B. STORM SEWER IMPROVEMENTS

CB Ty A 4' Dia. w/ F&G	EA	2	\$1,600.00	\$3,200.00
15" RCP	LF	116	\$50.00	\$5,800.00
SUBTOTAL B - STORM SEWER IMPROVEMENT				\$9,000.00

C. WATER SERVICE CONNECTION

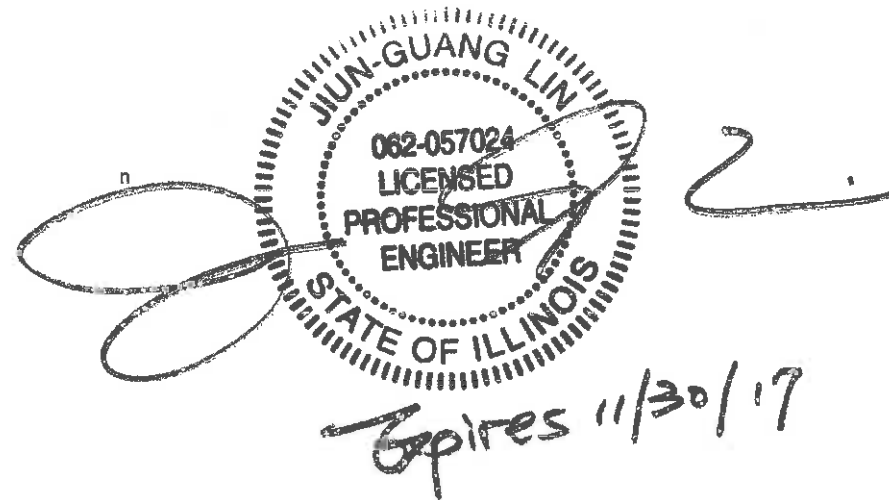
1.5" Water Service connection with B-Box (Short)	EA	2	\$1,000.00	\$2,000.00
SUBTOTAL C - WATER SERVICE CONNECTION				\$2,000.00

TOTAL SCHEDULE III-UNDERGROUND IMPROVEMENTS				\$20,598.50
--	--	--	--	--------------------

ITEM	UNIT	QUANTITY	UNIT PRICE	AMOUNT
SCHEDULE IV - MISCELLANEOUS				
Mass Grading incl. Topsoil Striping, Clay Cut/Fill/Topsoil Respread and Topsoil/Clay Haul-Off	LS	1	\$10,000.00	\$10,000.00
Cart Path Removal and replacement	SF	1,920	\$10.00	\$19,200.00
TOTAL SCHEDULE VI - MISCELLANEOUS				\$29,200.00
TOTAL PROBABLE COST				\$61,313.50

General Notes:

1. This Engineer's Opinion of Probable Cost is based on Final Engineering Plans, dated October 10th, 2017 prepared by Ridgeline Consultants, LLC. This Engineer's Opinion of Probable Cost does not include Building Build-out, Dry Utilities (Gas, Electricity and etc), Review fees, Permit fees, Engineering, Surveying or any other item not included.
2. Erosion Control quantities are based off of Site Improvement Plan and do not include items necessary due to temporary conditions. Additional erosion control devices may become necessary as construction progresses onsite. The above Engineer's Opinion of Probable Cost does not include fundings for ongoing maintenance of the erosion control devices.
3. The unit prices are based on best available data from recently bid projects of this nature.





IRREVOCABLE STANDBY LETTER OF CREDIT NO. 67066605-5125

June 27, 2018

City of Darien
1702 Plainfield Road
Darien, IL 60561

Ladies and Gentlemen:

We hereby establish our Irrevocable Standby Letter of Credit ("Letter of Credit") in your favor at the request of and for the account of Carriage Way West, Inc. for the Carriage Way West Unit 6 project, in the aggregate amount up to Sixty Seven Thousand Four Hundred Fifty Five and 00/100 Dollars (\$67,455.00 (the "Stated Amount"). This Letter of Credit shall expire on May 24, 2019 (the "Expiration Date")

The Stated Amount is available to be drawn on Busey Bank, in one or more drawings, upon presentation and delivery to us of (a) this original Letter of Credit and any amendments hereto, and (b) your drawing certificate in the form of Exhibit A (the "Drawing Certificate"); provided that our aggregate obligation to honor such demands shall not exceed the Stated Amount as reduced by prior draws hereunder or reductions pursuant to the next paragraph hereof. Each Drawing Certificate shall have all blanks appropriately filled in and shall be signed by you or your authorized officer and shall be delivered to Busey Bank at its address designated in the following paragraph.

We hereby agree that all drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored if presented, together with a Drawing Certificate, during regular business hours at our office located at 100 W. University Avenue, Champaign, IL 61820, to the attention of Commercial Support Manager, before 3:00 o'clock p.m. on or before the Expiration Date. Payments under this Letter of Credit shall be made to you by wire transfer of immediately available funds in accordance with the wire transfer instructions specified in the applicable Drawing Certificate.

Communications relative to this Letter of Credit should be addressed to us at the address specified above, to the attention of Commercial Support Manager, mentioning specifically this Letter of Credit No. 67066605-5125.

Only you may make a drawing under this Letter of Credit, which is not assignable or transferable. The Stated Amount shall be reduced by any drawings made hereunder.

Upon the payment by us to you of the Stated Amount, this Letter of Credit shall automatically terminate.

This Letter of Credit shall be governed by and construed in accordance with the International Standby Practices, ICC publication No. 590 ("ISP 98"), and, to the extent not inconsistent therewith, the laws of the State of Illinois. Any legal proceedings relating to this Letter of Credit shall be brought in the State Court in Champaign County, Illinois. This Letter of Credit sets forth in full our undertaking and our undertaking shall not in any way be modified, amended, amplified or limited by reference to any document, instrument or agreement referred to herein, other than ISP 98 and any Drawing Certificate referred to herein in the form attached hereto; and any such references shall not be deemed to incorporate herein by reference any document, instrument or agreement.

Very truly yours,

BUSEY BANK

By: 
Erin Van Kuiken
Its: Assistant Vice President

EXHIBIT A

FORM OF DRAWING CERTIFICATE

_____, 20_

Busey Bank
100 W. University Avenue
Champaign, Illinois 61820
Attention: Commercial Support Manager

Re: Drawing Certificate

Ladies and Gentlemen:

The undersigned, City of Darien ("Beneficiary"), being first duly sworn, under oath, hereby certifies to Busey Bank, with reference to Letter of Credit No. 67066605-5125 (the "Letter of Credit"); all capitalized terms used herein without definition shall have the meanings given such terms in the Letter of Credit) that:

1. This is a Drawing Certificate referred to in the Letter of Credit; the Stated Amount under such Letter of Credit (less any amounts previously drawn) is available to be drawn against presentation of this Drawing Certificate.

2. Carriage Way West, Inc. for the Carriage Way West Unit 6 project ("Applicant") has failed to perform its obligations specified in those Plans dated October 17, 2017 between Beneficiary and Applicant (the "Agreement") and the amount specified in Section 3 below is due and owing to Beneficiary under the Agreement.

3. Beneficiary is making a demand for payment under the Letter of Credit in the amount of \$ _____.

Please wire transfer the funds to the following account:

Bank: _____
Address: _____
Account name: _____
Account No.: _____

[Signature Page Follows]

RESOLUTION NO. _____

**A RESOLUTION ACCEPTING
PUBLIC IMPROVEMENTS AND
AUTHORIZING MAINTENANCE SECURITY**

(Carriage Way West Unit 6 – Evergreen Lane)

WHEREAS, Broderick Holdings LLC, developer of the property known as Carriage Way West Unit 6, at Evergreen Lane in the City of Darien, has constructed and installed certain improvements including water main, sanitary sewer, storm sewer, and grading on said property; and

WHEREAS, the said improvements have been completed in accordance with the City of Darien standards and requirements; and

WHEREAS, Broderick Holdings LLC has submitted a Plat of Easement for Lot 1 for said improvements; and

WHEREAS, said Plat of Easement has been prepared in accordance with the City of Darien standards and requirements; and

WHEREAS, Broderick Holdings LLC had previously filed with the City of Darien a Letter of Credit No. 67066605-5125 in the amount of \$67,455 securing the construction of said improvements; and

WHEREAS, in accordance with City regulations, it is now appropriate for the City of Darien to accept said public improvements and to release said Letter of Credit upon receipt of security for a one year maintenance period of said improvements in the amount of 10% of cost, which is \$6,131.

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

RESOLUTION NO. _____

SECTION 1: Public Improvements Acceptance. The City of Darien hereby accepts the final conveyance and dedication of the public improvements constructed and installed for the Carriage Way West Unit 6 development.

SECTION 2: Construction and Maintenance Security Authorization. The City of Darien hereby authorizes the release of the Letter of Credit No. 67066605-5125 for construction upon receipt of security for a one year maintenance period in the amount of \$6,131.

SECTION 3: Effective Date. This Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DARIEN,
DU PAGE COUNTY, ILLINOIS, this _____ day of _____, 2018**

AYES: _____

NAYS: _____

ABSENT: _____

**APPROVED BY THE MAYOR OF THE CITY OF DARIEN, DU PAGE COUNTY,
ILLINOIS, this _____ day of _____, 2018.**

KATHLEEN MOESLE WEAVER, MAYOR

ATTEST:

JOANNE E. RAGONA, CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

RESOLUTION NO. _____

A RESOLUTION APPROVING A PLAT OF EASEMENT

(Carriage Way West Unit 6, Lot 1 – Evergreen Lane – PIN# 09-33-400-014)

WHEREAS, Broderick Holdings LLC, developer of the property known as Carriage Way West Unit 6, at Evergreen Lane in the City of Darien, has constructed and installed certain improvements including water main, sanitary sewer, storm sewer, and grading on said property; and

WHEREAS, the said improvements have been completed in accordance with the City of Darien standards and requirements; and

WHEREAS, Broderick Holdings LLC has submitted a Plat of Easement for Lot 1 for said improvements; and

WHEREAS, said Plat of Easement has been prepared in accordance with the City of Darien standards and requirements; and

WHEREAS, in accordance with City regulations, it is now appropriate for the City of Darien to approve said Plat of Easement for Lot 1.

NOW, THEREFORE, 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 and City Clerk to approve a Plat of Easement for the following property: Lot 1 of the Carriage Way West Unit 6 development on Evergreen Lane, PIN# 09-33-400-014, a copy of which is attached hereto as Exhibit A.

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

RESOLUTION NO. _____

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DARIEN,
DU PAGE COUNTY, ILLINOIS, this _____ day of _____, 2018**

AYES: _____

NAYS: _____

ABSENT: _____

**APPROVED BY THE MAYOR OF THE CITY OF DARIEN, DU PAGE COUNTY,
ILLINOIS, this _____ day of _____, 2018.**

KATHLEEN MOESLE WEAVER, MAYOR

ATTEST:

JOANNE E. RAGONA, CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

AGENDA MEMO
MUNICIPAL SERVICES COMMITTEE
October 22, 2018

Issue Statement

Staff is proposing a code amendment for nuisance trees. This item is for discussion only.

Background

The City gets several requests a month on average to have a neighbor remove a dead or diseased tree. The concerns most often expressed are the pending damage or injury that would be caused by a fallen tree to fences, buildings, utility lines, other structures, and people. Some expect that disease from their neighbor's tree may travel and infect their healthy trees. In a suburban environment, especially with a high tree density tree population such as Darien, nuisance trees can be a significant property maintenance problem.

It has been our experience that removal of nuisance trees is a responsibility that some property owners taken on willingly. However, some owners delay, refuse, or just do not respond. Most municipal codes have provisions for the abatement of nuisances. The Darien City Code has defined 17 nuisances in Section 7-3-1 but none regarding trees. Some municipalities include nuisance trees in their Nuisance Code.

Attachment A: Nuisance Trees – Local Codes.

Proposal

To give the City the authority to require the removal of nuisance trees. Such authority would be assigned to the property maintenance code enforcement staff who would use their usual procedure of receiving complaints, informing property owners of existing conditions and City requirements, inspecting, and sending notices of violations. Such authority would need to be based on a City Code amendment that defines nuisance trees. Such a definition could be as follows:

"The property owner shall promptly remove trees that are dead or has an infectious disease as determined by the City or a certified arborist."

NUISANCE TREES – LOCAL CODES

WESTMONT

Sec. 80-13. - Nuisance trees and limbs.

(a) *[Public nuisances.]* The following are hereby declared public nuisances under this article:

- (1) Any dead tree, or near dead tree as determined by the village forester, whether located on village owned property or on private property;
- (2) Any tree located on village-owned property or on private property which harbors insect pests or plant diseases which reasonably may be expected to spread from tree to tree causing injury or harm to any other tree. Infectious disease includes, but is not limited to, Dutch Elm Disease, Elm Yellows, Oak Wilt, or Pine Wilt;
- (3) Any tree or portion thereof, whether located on village-owned property or private property which by reason of location or condition constitutes an imminent danger to the health, safety, or welfare of the general public;
- (4) Any tree or portion thereof whether located on village-owned property or on private property which obstructs the free passage of pedestrians or vehicular traffic, or which obstructs a street light or traffic control device;
- (5) Any tree or portion thereof whether located on village-owned property or on private property which dangerously obstructs the view in the "corner visibility triangle" as determined by the village.

(b) *Removal of nuisance trees and limbs.* Any owner or occupant of any real property shall remove any dead or dying trees or dead or dying limbs dangerous to life, limb or property located upon the premises of such owner of property within 14 days whenever required to do so by notice from the village served upon the owner or occupant of such property.

(c) *Allowing nuisance trees to remain prohibited; duty of owner to cut trees.* It shall be unlawful for any person owning or controlling any lot, trace or parcel of land to knowingly permit any and all trees, infected with infectious disease, insect pests or vectors that transmit infectious disease, to remain on such property. It shall be the duty of such persons to see that all such trees are properly cut down and removed from the property. The failure to remove and destroy such trees to below ground level shall constitute a violation of this section, and shall be punishable by fine or penalty in addition to such costs as may be incurred by the village in enforcing and carrying out the provisions of this chapter.

(d) *Inspection for nuisance trees.* In the event the Village of Westmont has reasonable cause to believe, either by virtue of its appearance or otherwise, that any tree located within the village is or might be infected with an infectious disease or is or might harbor vectors that transmit infectious disease, the Village of Westmont is hereby authorized and directed to enter on and upon any private or public property whereon such tree may be located for the purpose of inspecting such suspected tree, marking or identifying the tree, and removing therefrom samples or portions thereof so that same may be tested to establish whether or not such tree is in fact diseased.

(e) *Notice to remove nuisance trees.* When any infectious live or dead tree is discovered by the village, the village will give a written notice, which may be served personally or sent by certified mail, to the person to whom was sent the tax bill for general taxes for the last preceding year on the

property. Such notice shall identify the property, by common description, the tree or trees affected, and the substance of section 80-13 and the statutory provisions under which they are adopted.

(f) *Removal of nuisance trees by village; costs of removal to be lien.* In the event that any such infectious live or dead diseased tree is not removed within 14 days from the date of the discovery or sending of such notice, then the Village of Westmont shall post a notice on the front door or entrance to the property where the tree is located notifying the owner or occupant of the village's intention to enter upon such property to cut down and remove the tree and invoice the property owner for the cost thereof. No sooner than seven days after posting such notice, the Village of Westmont may enter upon such property and cut down and remove such tree and invoice the property owner(s) for the cost thereof. Within 120 days after such cost is incurred, the village shall cause to be filed a notice of lien in the Office of the Recorder of Deeds of DuPage County. Such notice shall include the following information: (a) a description of the real estate sufficient for identification thereof; (b) the amount of money representing the cost and expense incurred or payable for the removal, including any administrative costs incurred in causing the removal and in billing the owner for the cost; (c) the date or dates which such cost and expense was incurred. The village shall also provide a statement that the amount owed shall accrue interest at ten percent a year for each year the amount remains unpaid. Upon payment of the cost and expense by the owner of, or persons interested in, said real estate, after the notice of lien has been filed, the village shall issue a release of such lien, which may be filed of record in said recorder's office.

(Ord. No. 07-181, § 1, 12-3-2007)

PALOS PARK

1028.06 PUBLIC NUISANCES.

(a) **Declaration of Public Nuisance.** The Village Arborist or his/her designee, may declare the following to be a public nuisance:

(1) Any dead or dying tree, shrub or other plant, whether located on Village-owned property or on private property; that by reason of location or condition, constitutes an imminent danger to the health, safety or welfare of the general public;

(2) Any tree on private property that obstructs the free passage of pedestrian or vehicular traffic, or a Village street sign;

(3) Any tree or limb that poses an imminent risk to the public, including persons and property.

(Ord. 2015-33. Passed 11-9-15.)

(b) **Right of Entry.** The officers, agents, servants and employees of the Village have the authority to enter onto private property whereon there is located a tree, shrub, plant or plant part that is suspected to be a public nuisance.

(c) **Abatement; Notice.** The following are the prescribed means of abating public nuisances under this chapter:

(1) Any public nuisance under this chapter that is located on privately-owned property shall be pruned, removed or otherwise treated by the property owner or his or her agent in whatever fashion is required to cause the abatement of the nuisance. No property owner may be found guilty of violating this provision unless and until the following requirements of notice have been satisfied:

A. The Village Arborist shall cause a written notice to be personally served or sent by registered mail to the person to whom was sent the tax bill for the general taxes for the last preceding year.

B. Such notice shall describe the kind of tree, shrub or other plant or plant part which has been declared to be a public nuisance, its location on the property and the reason for declaring it a nuisance.

C. Such notice shall describe the premises by legal or by common description.

D. Such notice shall state the actions that the property owner may undertake to abate the nuisance.
(Ord. 1993-18. Passed 3-29-93.)

E. Such notice will require the elimination of the nuisance no more than thirty days after the notice is delivered or sent to the person to whom was sent the tax bill for the general taxes for the last preceding year. (Ord. 1994-23. Passed 7-11-94.)

(2) In the event that the nuisance is not abated by the date specified in such notice, the Village Arborist is authorized to cause the abatement of said nuisance.

(3) The Village Arborist is empowered to cause the immediate abatement of any public nuisance, provided that the nuisance is determined by the Village Arborist to be an immediate threat to any person or property.

(Ord. 1993-18. Passed 3-29-93.)

CAROL STREAM

ARTICLE 4: TREES

§ 9-4-1 PURPOSE AND INTENT.

(A) *Purpose.* It is the purpose of this article to promote the health, safety and general welfare by providing for the regulation of the maintenance and removal of trees within the village.

(B) *Intent.* This article is intended to promote:

(1) The maintenance and survival of desirable trees within the village; and

(2) The protection of village residents from personal injury and property damage, and the protection of Carol Stream from property damage, caused or threatened by the improper maintenance or removal of trees located within the village.

(Ord. 2014-02-08, passed 2-18-2014)

§ 9-4-2 PUBLIC NUISANCES PROHIBITED.

(A) *Nuisances declared.* The following are hereby declared public nuisances under this section:

(1) Any dead tree;

(2) Any tree, whether on public or private property, that harbors insects or diseases which reasonably may be expected to harm any other tree, such as Dutch elm disease, oak wilt, emerald ash borer, gypsy moth, Asian long horned beetle and any other insect or disease deemed a public nuisance by the Village Manager or his or her designee;

(3) Any tree, or portion thereof, whether on public or private property, that is substantially dead or in deteriorated or unstable condition and which presents a hazard to persons or property;

(4) Any tree, whether on public or private property, that overhangs and because of its deteriorated condition may fall onto another's private property or onto the public right-of-way and constitutes a danger to the health, safety or welfare of the public;

(5) Any tree, whether on public or private property, that obstructs or interferes with the free and safe passage of pedestrian or vehicular traffic.

(B) *Unlawful to maintain public nuisance.* It shall be unlawful for the owner of any lot or parcel of land, or a tenant upon the land, in the village to permit or maintain on any such lot or parcel of land a public nuisance as identified in division (A) of this section. It shall be the duty of such owners or tenants to promptly abate any such public nuisance in accordance with the provisions of § 9-4-4.

(C) *Boundary trees.* A **BOUNDARY TREE** is hereby defined as a tree that has any portion of its trunk column located on a property line between private property and village property or village right-of-

way. A boundary tree generally is, by operation of law, co-owned by the village and the owner of the abutting private property. It shall be the duty of the village to promptly abate any public nuisance pertaining to a boundary tree. The Village Manager, or his or her duly authorized representative, shall serve or cause to be served upon the person that is the owner or tenant of the lot or parcel of land on which any portion of such boundary tree is located, a written notice of the village's intention to abate such public nuisance in compliance with the provisions of this article.

(Ord. 2014-02-08, passed 2-18-2014; Ord. 2014-08-40, passed 8-18-14)

§ 9-4-3 INSPECTION OF PUBLIC NUISANCE.

In order to carry out the purposes of this article and to implement the enforcement thereof, the Village Manager, or his or her duly authorized representative, is hereby authorized and empowered to request permission from the owner or tenant of the lot or parcel of land at all reasonable hours to inspect any tree or deadwood situated thereon. The Village Manager, or his or her duly authorized representative, is hereby authorized and empowered to seek from any court of competent jurisdiction an order permitting a search of private property in the event that the village has a reasonable basis to believe that a public nuisance exists on the property or that the ordinances of the village are being otherwise violated. Either with permission or pursuant to a court order, the Village Manager, or his or her duly authorized representative, may remove specimens from such tree for the purpose of laboratory or other analysis, or to determine whether such tree is infested or is otherwise a nuisance because it is dead or substantially dead, and may serve as a breeding place for a fatal tree disease. It shall be unlawful for any person to hinder the Village Manager, or his or her duly authorized representative, in the performance of any of his or her duties provided for under the provisions of this article.

(Ord. 2014-02-08, passed 2-18-2014)

§ 9-4-4 ABATEMENT.

(A) If a laboratory or other analysis of specimens removed from any tree by the Village Manager, or his or her duly authorized representative, determines that such tree is a public nuisance pursuant to this article, or if the Village Manager determines that any dead or substantially dead tree, or deadwood, is a public nuisance as provided in this article, the Village Manager shall serve or cause to be served upon the person that is the owner or tenant of the lot or parcel of land on which such tree or deadwood is located, a written notice requiring such owner or tenant to comply with the provisions of this article.

(B) If the person upon whom such notice is served fails, neglects or refuses to remove and destroy such tree or deadwood, or treat for the purpose of eradication of a destructive pest within ten calendar days or within any additional reasonable time as permitted in writing by the Village Manager, or his or her duly authorized representative, after service of such notice, the Village Manager, or his or her duly authorized representative, may proceed to abate the nuisance in accordance with the non-summary abatement provisions of Chapter 14, Article 3 of the Carol Stream Municipal Code.

(C) Whenever, in the opinion of an officer of the village possessing police powers, the maintenance or continuation of a tree is determined to be a public nuisance pursuant to this article, and such nuisance creates an imminent threat of serious injury to persons or serious damage to persons or real property, such officer shall proceed with an initial summary abatement of the nuisance in accordance with § 14-3-11 of the Carol Stream Municipal Code.

(Ord. 2014-02-08, passed 2-18-2014)

§ 9-4-5 PENALTY.

If the person so served and notified does not abate the public nuisance within the specified reasonable time, the corporate authorities may proceed to abate the nuisance in any or all manner allowable by law, including, without limiting the generality thereof, the following:

(A) Seeking to impose a monetary penalty as defined by § 1-1-9 of this code by instituting an ordinance enforcement action.

(B) Seeking to enjoin the continuation of the nuisance by the filing of a lawsuit in a court of competent jurisdiction

WOODRIDGE

7-4-6: TRIMMING OR REMOVING TREES:

A. Systemic trimming and pruning shall be carried out to accomplish the following:

1. Removal of dead branches, seriously damaged branches and unbalanced branches and limbs.
2. Gradual removal of lower branches to provide a minimum overhead clearance of eight feet (8') over sidewalks and fourteen feet (14') over streets.
3. Shaping of young trees so that they will develop a single tall straight trunk, a strong central framework or branch structure and symmetrical balance crown.
4. Reasonable removal of limbs that seriously interfere with or hinder the proper development of adjacent public way and/or private trees.

B. No person shall, without written permission from the director of public works, remove, destroy, break, cut, deface, trim, injure or interfere with any tree, shrub or woody plant growing in any public way.

C. All contractors, utilities or contractors working for utilities shall not use climbing irons in trees on village public ways for any purpose other than removal of that tree or in an emergency.

D. Upon the removal of any tree located in a public way, the stump shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. The area shall then be restored by placing four inches (4") of topsoil and seeded.

E. Any tree, limb of a tree, shrub, or other planting which overhangs any public way in such a way as to impede or interfere with traffic or travel or interferes with any public or village utility or is dead, decaying or broken and likely to fall on or across any public way, shall be removed or trimmed by the owner of the property on which such tree stands or grows. Where the owner has been properly notified of such hazard, and fails to remove same within a specified time the village may remove the hazard, at the owner's expense. The failure of any owner to pay said expense when due shall constitute a violation of this code. (Ord. 2001-07, 3-22-2001)

AGENDA MEMO
MUNICIPAL SERVICES COMMITTEE
October 22, 2018

Case

PZC 2018-07 7879 Lemont Road (Club Fusion)

Issue Statement

Petitioner seeks approval of a special use zoning permit to operate an indoor volleyball recreation business in a portion of the building at 7879 Lemont Road.

General Information

Petitioner / Lessee:	William Milborn, owner, Club Fusion Inc.
Property Owner / Lessor:	Darien Real Estate LLC
Property Location / PIN#:	7879 Lemont Road / 09-29-302-065
Zoning / Land Use:	Site: ORI / warehouse (Panattoni)
	South: ORI / underground utility (NIGAS)
	West: B-2 (Woodridge) / undeveloped
	West: ORI (Woodridge) / self-storage (Cubesmart)
	North: ORI / forest preserve
	East: R-3 / forest preserve
Comprehensive Plan:	Future Land Use: Municipal Government
Size of Subject Site:	Lot = 751 feet x 676 = 11.65 acres
	Building = 580 feet x 320 feet = 185,600 square feet
Natural Features:	Parkway trees, detention pond with natural grasses
Transportation:	On-site parking, with two driveways onto Lemont Road, with left-turn and right-turn lanes on Lemont Road

Development History and Proposal

The City approved the site plans of the Panattoni Development Company for a warehouse project at 7879 Lemont Road in June 2016. The development has been built and sold to a company called Darien Real Estate LLC. There is one tenant in the building now. Bestview International, doing business as Tile & Top, wholesaling kitchen cabinets and flooring, has leased 69,800 square feet or about the south 1/3 of the building. Rest of the building is vacant.

Club Fusion has locations in Batavia, Huntley, Crystal Lake, and a practice facility in Darien. Their business model is to provide volleyball training to youth grades 4-12 and sponsor AAU teams traveling to tournaments. In the past, they have partnered with NuWave Volleyball and have temporarily used space in local schools and at Perfect Swing at 8251 Lemont Road. Club Fusion has a lease pending for 30,960 square feet. Their plan would include 2 sand volleyball courts, 4 hard surface volleyball courts, fitness training room, showers, concessions, pro shop, and offices. Their operational plan is to providing practice and training sessions after school 4:30 – 9:30 with up to 4 coaches and 4 employees. They do not anticipate tournaments on-site or large audience events.

Petitioner Documents (attached to this memo)

1. Petition
2. Floor Plan
3. Letter regarding special use criteria

Staff Documents (attached to this memo)

4. Photo - aerial of neighborhood
5. Photo – front (northwest) corner of building
6. Site Plan
7. Club Fusion website excerpts
8. Letter from Forest Preserve 9.27.18
9. PZC minutes October 3, 2018
10. Special Use Standards

Plan Review

They anticipate that most youth would be dropped off and picked up at northwest corner of building peaking at 15-25 vehicles just before 4:40 and 7:00. Turn lanes on Lemont Road and two driveways provide access to the site and two-way driving aisles surrounding the building provide circulation on site. Existing parking spaces on site total 202. Code requires 1 space per 3,000 square feet of warehouse space, which for the entire building would total 62 spaces. Code requires 1 space per 1,000 square feet of recreational space, which for Club Fusion would total 31 spaces. The Forest Preserve said they had no comment on this petition.

PZC

The Planning and Zoning Commission reviewed this petition at their public hearing on October 3. Bill Milborn and Sam Deem presented their plans and added they have been operating in Darien for 3-4 years and are planning to expand their business. The PZC made findings that the petition complied with the special use standards. They voted 6-0 to recommend approval as presented with the condition that exterior lighting be reviewed for safety.

The building has wall-mounted lights near the roof and over the doors and pole-mounted lights near the loading docks in the rear. The lighting plan was installed per the approved plan in conformance to code. The lights appear to be sufficiently bright for pedestrians and vehicles.

Decision Mode

If recommended by Municipal Services Committee on October 22, this item will be scheduled for City Council final vote on November 5.

CITY OF DARIEN, ILLINOIS, Community Development Department

Variation/Special Use/Rezoning petition to the Mayor and City Council of the City of Darien:

Stat' Uses Only
Case No.: 2018-07
Date Received: 8/31/18
Fee Paid: \$585
Check No.: 25408
Hearing Date: 10/3/18

PETITIONER INFORMATION

Club Fusion, Inc (New Wave)
 Petitioner's Name
William Milborn
 Contact Name
4008 PROKSDUR Tr. Crystal Lake IL
 Address, City, State/ Zip Code 60012
815-705-5373
 Phone #
N/A
 Fax #
bmilborn@clubfusionvb.org
 Email

Daniel Real Estate, LLC
 Owner's Name
9450 W. Bryn Mawr (Suite 550)
 Address, City, State, Zip Code Rosemont, IL, 60018
773-355-3029
 Phone #
Npatel-nistor@leeassociates.com
 Email

PROPERTY INFORMATION

7879 S. Lemont Rd. Darien, IL.
 Property address 60561
09-29-302-051
 PIN(s)

11.494
 Acreage
Office, Research & Light Industrial
 Zoning

Provide legal description on a separate sheet and attach, such as the plat of survey.

REQUEST

Brief description of the request(s):

- Variation
- Special Use
- Simple Variation
- Rezoning

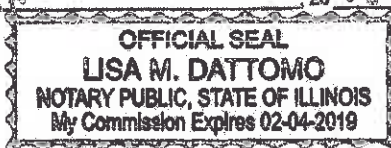
31,000 sq. ft. of building leased to my company Club Fusion / New Wave Volleyball. Use will be for the purpose of training junior volleyball players (ages 10-18) on hard court. Sand and with fitness training provided by MFC Sports Per. Players will attend and join club from community and surrounding communities.

I, Denny Liu, Manager, Daniel Real Estate, LLC do hereby certify that I am the owner of record (or one of the owners of record or the attorney for the owners of record of the aforesaid described property) and I hereby make application as such.

Signature _____

Subscribed and sworn to before this 31 day of August, 2018

[Signature]
 Notary Public



- Library District _____
- School District _____
- Fire District _____
- Park District _____

Steve Manning
City Planner, AICP
City of Darien
1702 Plainfield Rd.
Darien, IL 60561

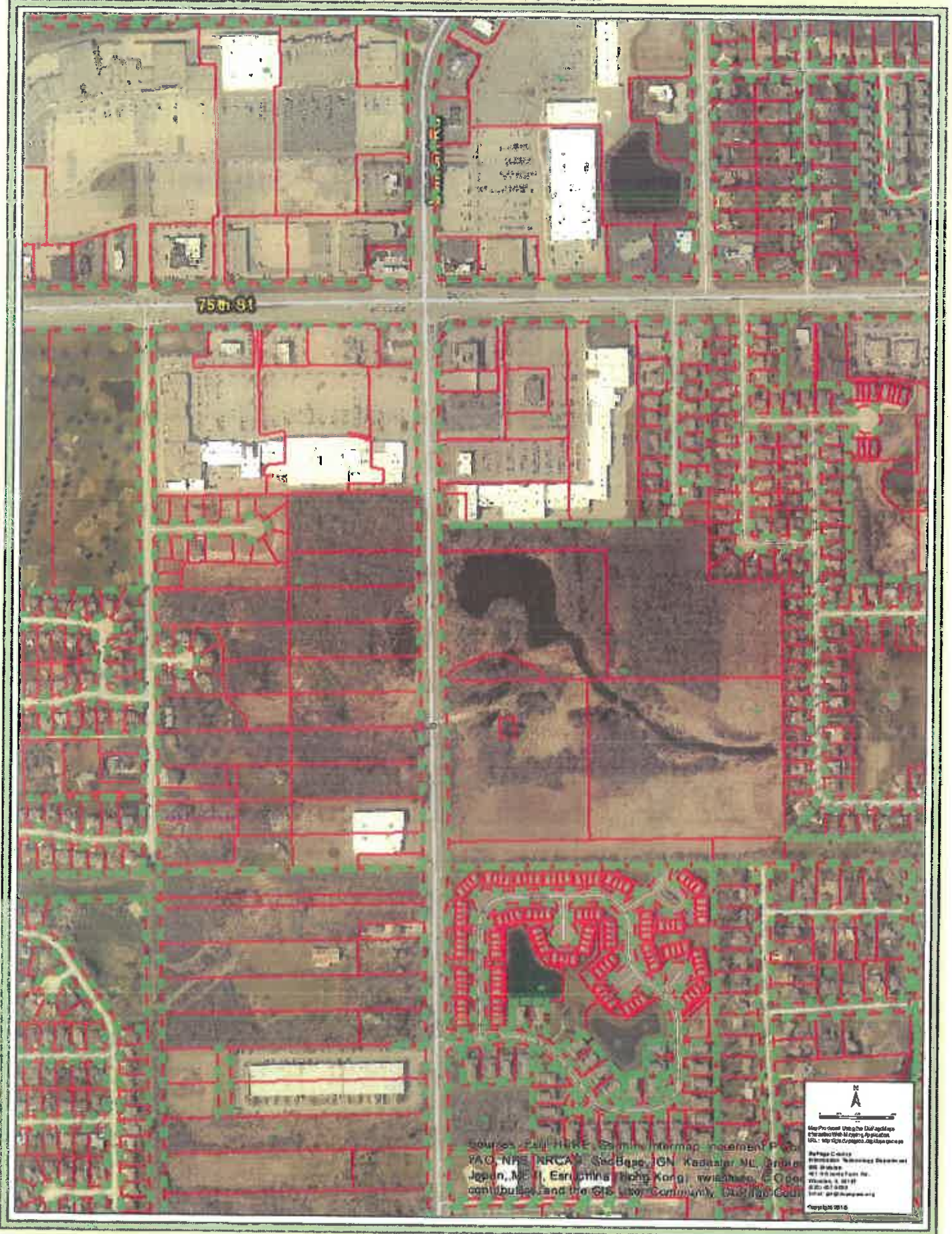
Special Use Criteria

1. The special use (Volleyball / Fitness Training) will be a significant facility upgrade for community athletes versus current facility location. This facility will be a one stop volleyball / fitness training environment for the community.
2. The special use (Volleyball / Fitness Training) will not impose any danger to public health, safety or general welfare.
3. The special use (Volleyball / Fitness Training) will have no negative impact to surrounding properties, nor decrease any property values.
4. The special use (Volleyball / Fitness Training) will not impede normal and orderly development and improvement of surrounding property.
5. The special use (Volleyball / Fitness Training) will not have any negative architectural design effect to landscape effect that would have an undesirable effect on the immediate structures or have any negative effect on current property values.
6. The special use (Volleyball / Fitness Training) will have adequate utilities, access roads, drainage as it relates to the current structure.
7. The special use (Volleyball / Fitness Training) will not have a negative to current traffic flow in this location.
8. It is agreed by special use (Volleyball / Fitness Training) to abide and conform to applicable regulations by the city council of Darien.



Bill Milborn

Owner Club Fusion, Inc
New Wave Volleyball
11104 S. Grant Hwy.
Marengo, IL. 60152

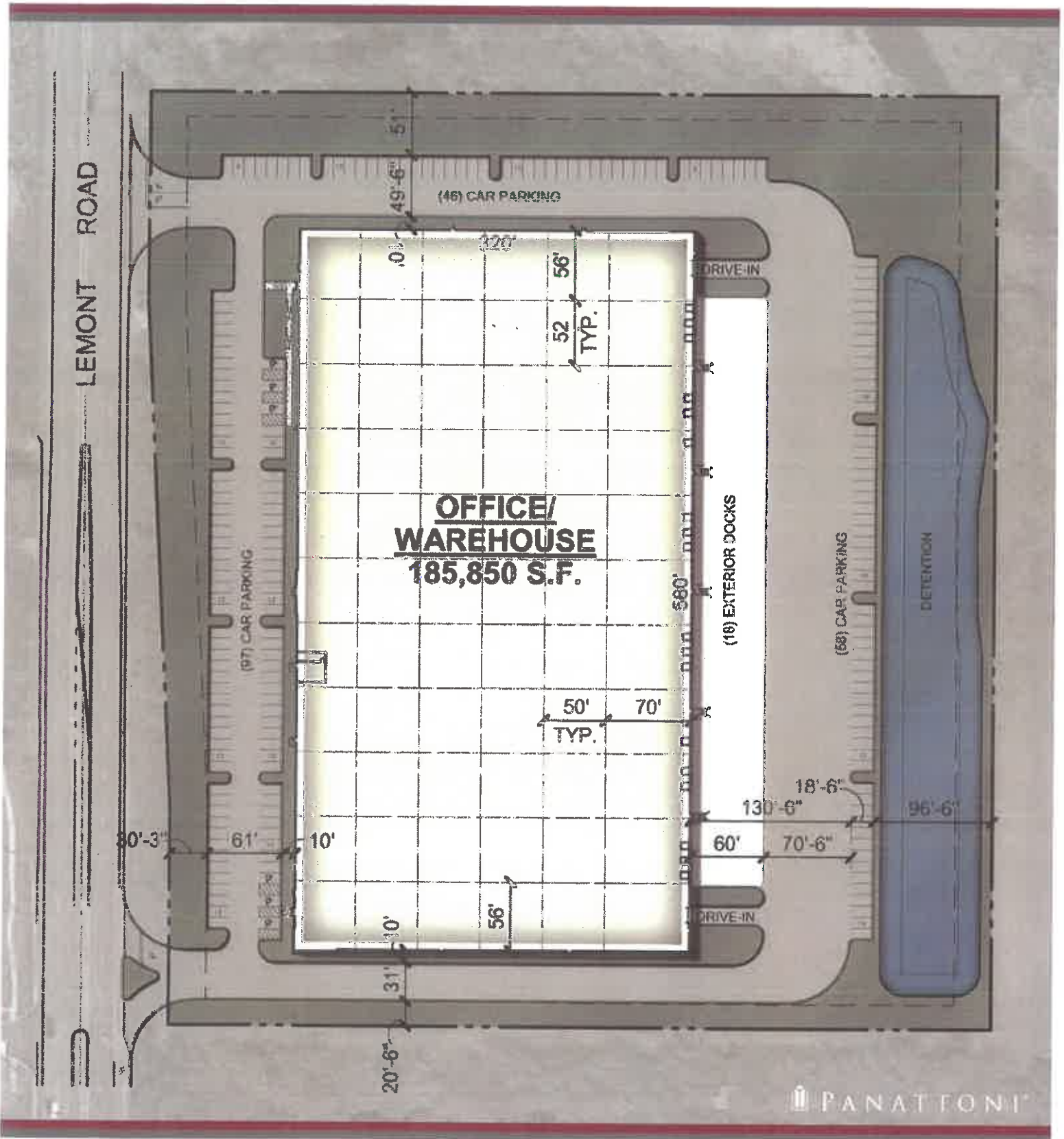




09/25/2018 02:49

7879 LEMONT ROAD
 Darien, Illinois

185,850 SF (DIVISIBLE)
 Available for Lease



PANATTONI

LEE & ASSOCIATES
 COMMERCIAL REAL ESTATE SERVICES

9450 W. BRYN MAWR AVENUE, SUITE 550
 ROSEMONT, ILLINOIS 60018
 MAIN | (773) 355-3000
WWW.LEE-ASSOCIATES.COM

FOR MORE INFORMATION:
TIMOTHY J. MCCAHILL
 Vice President
 (773) 355-3044 direct
tmccahill@lee-associates.com

BRIAN C. VANOSKY
 Principal
 (773) 355-3023 direct
bvanosky@lee-associates.com

JEFFREY J. JANDA, SIOR
 Principal
 (773) 355-3015 direct
jjanda@lee-associates.com

Club Fusion is proud to offer 3 convenient locations in northern Illinois. Please pick the location that best fits your location and programming.

Batavia Location

National & Select Indoor Programs, Beach Programs, Camps/Clinics & Lessons

Huntley Location

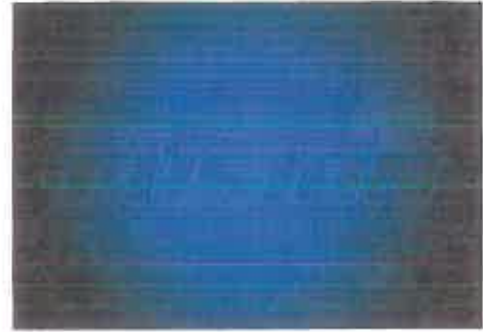
National & Select Indoor Programs, Beach Programs, Camps/Clinics & Lessons

Crystal Lake Location

Travel & Select Indoor Programs & Youth Academy

Fusion Volleyball Academy

Youth Academy Programs are offered in Batavia, Marengo, Crystal Lake. Coming soon to more locations!!



3

Convenient Locations

Club Fusion has 3 locations in Northern Illinois and also manages New Wave in Darien.

12

National Championships

Club Fusion brought home 9 National Championship in the last 7 years!

46

2018 Recruits

Club Fusion once again one of the top recruited clubs in the country according to RichKern.com!

For practice & tournament schedules, team rosters, Camps, lessons, & More choose A location





**Forest Preserve District
of DuPage County**

35580 Naperville Road
P.O. Box 5000
Wheaton, IL 60189

630.933.7200
Fax 630.933.7204
TTY 800.526.0857
dupageforest.org

Sent via e-mail: smanning@darienil.gov

Louis Mallers, Chairperson
Planning and Zoning Commission
City of Darien
1702 Plainfield Rd.
Darien, IL 60561

September 27, 2018

Re: Public Hearing on Club Fusion
P.I.N. 09-29-302-065
Case No. 2018-007

Dear Mr. Mallers,

The Forest Preserve District of DuPage County recently received a Public Notice for a petition requesting a Special Use Zoning Permit to operate an indoor recreational facility on the subject property. We appreciate receiving timely notification of such requests that may have an impact on District property, and thank you for the opportunity to comment.

District Staff has reviewed the information provided and does not have any comments. Please do not hesitate to call me at (630) 933-7235 if you have any questions.

Sincerely,

Kevin Stough
Land Preservation Manager

cc: Joseph Cantore, President
Forest Preserve District Board of Commissioners
Ed Stevenson, Executive Director
Dan Zinnen, Director of Resource Management and Development

**MINUTES
CITY OF DARIEN
PLANNING & ZONING COMMISSION MEETING
October 3, 2018**

PRESENT: Lou Mallers- Chairperson, Robert Cortez, Michael Desmond, Robert Erickson, John Laratta, Ralph Stompanato, Steven Manning - City Planner

ABSENT: Brian Gay, Brian Liedtke Mary Sullivan

Chairperson Mallers called the meeting to order at 7:00 p.m. at the City Hall – City Council Chambers, Darien, Illinois and declared a quorum present and swore in the audience members wishing to present public testimony.

REGULAR MEETING:

- A. Public Hearing Case: PZC 2018-07 7879 Lemont Road (Club Fusion) Petitioner Club Fusion, as lessee of a portion of the building at 7879 Lemont Road, seeks approval of a special use zoning permit to operate an indoor volleyball recreation business.**

Mr. Steve Manning, City Planner reported that Club Fusion is looking to find an adequate facility and currently has a practice facility in Darien providing volleyball training to youth grades 4-12 and sponsor AAU teams traveling to national tournaments. Mr. Manning reported that Club Fusion has a lease pending for 30,960 square feet with plans to include two sand volleyball courts, four hard surface volleyball courts, a fitness training room, showers, concessions and offices. He further reported that they will provide practice and training sessions after school between 4:30 - 9:30 pm with up to four coaches and four employees. Mr. Manning reported that most of the youth would be dropped off and picked up by parents.

The petitioner, Mr. William Milborn stated that he along with Steve Dowjotas - NuWave Volleyball, Brian McDermand - Progression Volleyball Consulting, and Adam Kamuda - MFC Sports Performance are looking to make the Darien facility the home of Club Fusion. He reported that practices will be held after school between the hours of 4:30 and 9:30 pm to Middle School and High School athletes.

Mr. Steve Dowjotas, NuWave Volleyball stated that they have outgrown the space they lease from Perfect Swing at 8251 Lemont Road and that they would like to make the program better and provide a better facility. Mr. Dowjotas stated that presently there are 25 youths from Darien and hope to expand and open the facility offering a lot with the goal of practicing and training.

Mr. Milborn stated that they are planning on providing concessions offering drinks, and snacks and that there are at least 200 parking spaces with room for additional spaces if needed.

Commissioner Laratta stated that the lighting may have not been set up for large pedestrian crowds at night and that it was a safety issue.

Mr. Milborn stated that the pick-up and drop-off will be located in the front of the building where there is lighting.

Chairperson Mallers questioned if there is any possibility for expansion.

Mr. Dowjotas stated that they took off as a club and that for the first time NuWave will have a home.

Commissioner Cortez questioned what partnering has been done with the other locations.

Mr. Dowjotas stated that they have partnered with the middle and high schools providing clinics.

Commissioner Laratta questioned how many will be in the building at one time.

Mr. Milborn stated that there will be approximately 30-50 kids from age 10-14 years that will be dropped off and picked up. He further stated that some of the 15-18 year olds will drive but mostly dropped off and picked up.

Commissioner Laratta questioned what type of strength training is offered.

Mr. Adam Kamuda - MFC Sports Performance stated that strength training will be similar to a fitness club but that they do not offer a typical gym like membership.

Commissioner Cortez questioned the beach volleyball.

Mr. Brian McDermand - Progression Volleyball Consulting stated that they are creating courts exclusively for doubles. He stated that presently there are only four in the Chicagoland area. Mr. McDermand stated that they are not looking for big leagues only four on a court so the numbers will be minimal. He further stated that most groups will be a maximum of 8 and that they are going to provide two of the nicest sand courts in the country.

Commissioner Desmond stated that his daughter played for NuWave and Steve Dowjotas coached her and that he is familiar with the Club. He questioned the length of the lease.

Mr. Milborn stated that they have not finalized the lease but it is seven years.

Commissioner Stompanato asked about a typical busiest day.

Mr. Dowjotas stated that there will be 16 teams at the same time with 150 players and spectators. He stated that this sport does not attract many spectators, and usually only parents.

Mr. Manning reported that this type of facility will be treated like other health clubs in Darien and that they will pay an amusement tax. He further reported that they will also have concessions and a pro shop and therefore will be some sales tax. He reported that staff received a letter from the Forest Preserve stating that they had no issues.

Chairperson Mallers stated that this is a useful use in a big space.

At 7:31 p.m. Chairperson Mallers opened the meeting to anyone wishing to present public comment.

Mrs. Gia Gaetto and Mr. Jonathan Tan stated that their children are players with NuWave and that they support them. They both stated that the coaching is exceptional and that they are great with the kids and that this facility will be a great addition to Darien.

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

Commissioner Laratta expressed his concern for lighting and stated that the lighting has typical warehouse lighting.

Commissioner Erickson noted the special use criteria.

Commissioner Desmond stated that this will be a significant value to Darien and that it will bring people to our restaurants, stores, etc.

Commissioner Desmond made a motion and it was seconded by Commissioner Erickson approval of a special use zoning permit to operate an indoor volleyball recreation business and that the petition satisfies the Special Use Standards 1-8 of the Zoning Code Section 5A-2-2-6(G) subject to the Municipal Services Committee reviewing the plan for adequate lighting.

Upon roll call vote, THE MOTION CARRIED 6-0.

Mr. Manning reported that this would forward to the Municipal Services Committee on October 22, 2018 and to the City Council on November 5, 2018.

CORRESPONDENCE

None

OLD BUSINESS

Mr. Steve Manning, City Planner reported that the Salverredy family petition for a variation for an attached garage withdrew their petition. He further reported that the Municipal Services Committee and the City Council gave their go ahead for the PZC to have a hearing on amending the code regarding variance criteria and that the City Attorney was very encouraging.

Chairperson Mallers reported that he provided an overview to the Municipal Services Committee and encouraged them to consider more Aldermen participation attendance at PZC meetings.

There was some discussion regarding having Aldermen at the meetings.

Chairperson Mallers stated that his intention was to enhance the relationship between the PZC and the MSC.

Mr. Manning reported that the MSC had a few comments regarding variation criteria language being general or specific, how it compared to other communities, and whether it was weighted or biased. They also were encouraging about upgrading other criteria in the City Code.

NEW BUSINESS

None

APPROVAL OF MINUTES

Commissioner Erickson made a motion and it was seconded by Commissioner Laratta to approve the August 1, 2018 Regular Meeting Minutes.

Upon roll call vote, THE MOTION CARRIED 6-0.

NEXT MEETING

Chairperson Mallers announced that the next meeting is scheduled for Wednesday, October 17, 2018 at 7:00 p.m.

PUBLIC COMMENTS (On any topic related to planning and zoning)

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

ADJOURNMENT

With no further business before the Commission, Commissioner Cortez made a motion and it was seconded by Commissioner Stompanato. Upon voice vote, **THE MOTION CARRIED** unanimously and the meeting adjourned at 8:12 p.m.

RESPECTFULLY SUBMITTED:

APPROVED:

Elizabeth Lahey
Secretary

Lou Mallers
President



CITY OF DARIEN

In the County of DuPage and the State of Illinois
Incorporated 1969

SPECIAL USE STANDARDS

Zoning Code Section 5A-2-2-6(G)

No special use shall be recommended to the City Council by the Plan Commission, nor approved by the City Council, unless findings of fact have been made on those of the following factors which relate to the special use being sought:

1. That the special use is deemed necessary for the public convenience at the location specified.
2. That the establishment, maintenance, or operation of the special use will not be detrimental to, or endanger the public health, safety, or general welfare.
3. That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the neighborhood.
4. That the establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
5. That the exterior architectural design, landscape treatment, and functional plan of any proposed structure will not be at variation with either the exterior architectural design, landscape treatment, and functional plan of structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district, as to cause a substantial depreciation in the property values within the neighborhood.
6. That adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.
7. That adequate measures have been or will be taken to provide ingress and egress so designed to minimize traffic congestion in the public streets.
8. That the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the City Council pursuant to the recommendations of the Plan Commission and the Planning and Development Committee.

**MINUTES
CITY OF DARIEN
MUNICIPAL SERVICES COMMITTEE MEETING
September 24, 2018**

PRESENT: Alderman Joseph Marchese–Chairman, Alderman Thomas Belczak, Alderman Thomas Chlystek, Dan Gombac – Director, Steven Manning - City Planner

ABSENT: None

ESTABLISH QUORUM

Chairperson Joseph Marchese called the meeting to order at 6:35 p.m. at City Hall Council Chambers, Darien, Illinois and declared a quorum present.

OLD BUSINESS

- a. Discussion – Consideration to amend the City Code provisions on storage of refuse containers in residential areas.**

Mr. Steve Manning, City Planner reported that at the last meeting Alderman Vaughn asked that an exemption be given to houses to allow storage of refuse containers in front where side or rear locations are not practicable or reasonable.

Mr. Manning reported that he canvassed the area and surveyed other towns of refuse containers used for screening.

Mr. Dan Gombac, Director reported that there are a lot of people who claim they do not have room in their garage to store the containers. He reported that staff is researching containers and will work with Home Depot to provide residents with a discount. Mr. Gombac stated that if changes are made that the Code will need to be amended.

Alderman Belczak and Alderman Chlystek stated that they had no issues as long as there was screening.

Mr. Gombac stated that he would provide an update at the next meeting.

NEW BUSINESS

- a. Discussion – Request from the Planning and Zoning Commission to amend the zoning variation standards.**

Mr. Lou Mallers, Chairperson - Planning and Zoning Commission reported that presented the Committee with an overview of the recent workshops, procedures and protocol that was provided by the City. He stated that the workshops have been beneficial and that the PZC felt that there are some codes that need updating.

Mr. Steve Manning, City Planner reported that the PZC looked at the standards and codes and focused on variation criteria and that the consensus was to reword the decision criteria. Mr. Manning stated that the updates address the issue that the Committee is facing and easy to read.

He reported that this was discussed with the City Attorney and that he encourages the effort and supports the upgrade to the variation criteria.

Mr. Mallers stated that he has been a member of the PZC for six years and that the intention is to enhance and update the process to better understand the variations for the Committee as well as for the resident and what is required. He stated that the PZC would also like to enhance communication between the PZC and the City Council.

Alderman Chlystek stated that the wording seems to make it harder for the petitioner and how the positives outweigh the negatives.

Mr. Mallers stated that we have to look at what makes sense.

Alderman Belczak stated that he would like to get the PZC packets.

Mr. Mallers stated that they would like to see Aldermen presence at the PZC meetings.

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

Alderman Belczak made a motion and it was seconded by Alderman Marchese approval City Council review of the criteria and send back to the PZC for permanent changes.

Upon voice vote, THE MOTION CARRIED 2-0. Alderman Chlystek abstained.

- b. Resolution – Accepting proposals for the hardware and software updates from the following: Stenstrom Petroleum Services, for the Fuel Management hardware and software update in an amount not to exceed \$11,206.**

Mr. Dan Gombac, Director reported that the Public Works facility includes a fuel station for the City's various departments, local fire departments, Park District and School District. He reported that the City upgraded the gas pumps and tanks and the computer hardware and software. He further reported that approval of the resolution is to accept proposals for the hardware and software updates.

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

Alderman Belczak made a motion and it was seconded by Alderman Chlystek approval of a resolution accepting proposals for the hardware and software updates from the following: Stenstrom Petroleum Services, for the Fuel Management hardware and software update in an amount not to exceed \$11,206.

Upon voice vote, THE MOTION CARRIED 3-0.

- c. Resolution - Accepting proposals for the hardware and software updates from the following: Computerized Fleet Analysis (dba: CFA Software, Inc.) CFA hardware and software update in an amount not to exceed \$23,682.**

Mr. Dan Gombac, Director reported that the fuel inventory data is stored within the FuelMaster hardware and software which generates a report from the Computerized Fleet Analysis CFA. He reported that that the CFA software is over 20 years and is obsolete and has no further support

for updates and does not have the ability to be integrated to the City's network. Mr. Gombac reported that this resolution is for the hardware and software updates from CFA Software, Inc.

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

Alderman Belczak made a motion and it was seconded by Alderman Chlystek approval of resolution accepting proposals for the hardware and software updates from the following: Computerized Fleet Analysis (dba: CFA Software, Inc.) CFA hardware and software update in an amount not to exceed \$23,682.

Upon voice vote, THE MOTION CARRIED 3-0.

- d. Resolution - Accepting a proposal from Associated Technical Services Ltd (ATS) for the 2018 water leak survey, in the amount of \$9,472.32 for the leak detection phase and a per unit cost for the leak location phase in the amount of \$420.00 per mainline or service leak, and \$95.00 per fire hydrant leak or mainline valve for a total amount not to exceed \$14,500.00.**

Mr. Dan Gombac, Director reported that approval of the resolution is for the Annual Water Leak Survey Program. He reported that the City has used the vendor for the last four years and that they have provided a good analysis.

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

Alderman Chlystek made a motion and it was seconded by Alderman Belczak approval of a resolution accepting a proposal from Associated Technical Services Ltd (ATS) for the 2018 water leak survey, in the amount of \$9,472.32 for the leak detection phase and a per unit cost for the leak location phase in the amount of \$420.00 per mainline or service leak, and \$95.00 per fire hydrant leak or mainline valve for a total amount not to exceed \$14,500.00.

Upon voice vote, THE MOTION CARRIED 3-0.

- e. Resolution - Authorizing the purchase of the following De-icing and Anti-Icing Equipment and Products.**

Mr. Dan Gombac, Director reported that this resolution is for the purchase of deicing and anti-icing equipment and products as presented in the agenda memo Items 1-5. He stated that the product breaks the bond and melts and that the goal is to have one assigned truck.

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

Alderman Belczak made a motion and it was seconded by Alderman Chlystek approval of a resolution authorizing the purchase of the following De-icing and Anti-Icing Equipment and Products.

Upon voice vote, THE MOTION CARRIED 3-0.

- f. Resolution - Accepting a proposal from Allied Door Inc., for the removal and replacement of five (5) garage bay doors, hardware and including motor controllers,**

at the Public Works Facility, located at 1041 South Frontage Road in an amount not to exceed \$26,349.82.

Mr. Dan Gombac, Director reported that this resolution is approval for the removal and replacement of five garage bay doors, hardware and motor controllers at the Public Works Facility.

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

Alderman Belczak made a motion and it was seconded by Alderman Chlystek approval of a resolution accepting a proposal from Allied Door Inc., for the removal and replacement of five (5) garage bay doors, hardware and including motor controllers, at the Public Works Facility, located at 1041 South Frontage Road in an amount not to exceed \$26,349.82.

Upon voice vote, THE MOTION CARRIED 3-0.

g. Minutes – August 27, 2018 Municipal Services Committee

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

Alderman Belczak made a motion and it was seconded by Alderman Chlystek approval of the minutes of the August 27, 2018 Municipal Services Committee Meeting.

Upon voice vote, THE MOTION CARRIED UNANIMOUSLY 3-0.

DIRECTOR'S REPORT

Mr. Dan Gombac, Director had no report.

A Darien resident was present in the audience and asked what Darien's stance was on the Sterogenics situation in Willowbrook.

Mr. Gombac reported that Willowbrook has a website for information specifically regarding Sterogenics. He reported that the City of Darien is a liaison to the group and that there are a lot of moving parts and that Darien will keep residents updated. He further reported that the City Administrator Bryon Vana can be contacted directly regarding Sterogenics.

Alderman Chlystek stated that there was a spill there five years ago and that he would like to see an Ordinance moving forward in Darien.

NEXT SCHEDULED MEETING

Chairperson Marchese announced that the next Meeting is scheduled for Monday, October 22, 2018.

ADJOURNMENT

With no further business before the Committee, Alderman Belczak made a motion and it was seconded by Alderman Chlystek to adjourn. Upon voice vote, THE MOTION CARRIED unanimously and the meeting adjourned at 8:13 p.m.

RESPECTFULLY SUBMITTED:

Joseph Marchese
Chairman

Thomas Belczak
Alderman

Thomas Chlystek
Alderman