



Village Board  
President  
Frank Soto

Trustees  
John Adamowski  
Morris Bartlett  
Patricia A. Johnson  
Martin O'Connell  
Oronzo Peconio  
Henry Wesseler  
Village Clerk  
JoEllen Ridder

Village Manager  
Michael Cassady

# VILLAGE OF BENSENVILLE

## Village of Bensenville, Illinois BOARD OF TRUSTEES MEETING AGENDA

**6:30 P.M. Tuesday, September 28, 2010**

Bensenville Village Hall, 12 S. Center Street, Bensenville IL 60106

- I. CALL TO ORDER
- II. PLEDGE OF ALLEGIANCE
- III. ROLL CALL
- IV. PUBLIC COMMENT (3 minutes per person with a 30 minute meeting limitation)
- V. APPROVAL OF MINUTES

September 14, 2010 – Board of Trustees

- VI. WARRANT – September 28, 2010 #10/35 - \$1,261,542.29

### **PUBLIC HEARING NOTICE**

The Village of Bensenville is holding this public hearing to review an application for a DuPage County Community Development Block Grant for the second phase of our Volk Brothers Subdivision Infrastructure Reconstruction Project. The project proposes to include street, sewer, water, and sidewalk improvements to Wood Avenue, Foley Street and Henderson Street.

### **VII. CONSENT AGENDA – CONSIDERATION OF AN “OMNIBUS VOTE”**

1. *Resolution Approving a Proposal from the Baecore Group for Services Relating to Customer Relationship Management System (CRM) System Implementation*
2. *Ordinance Approving the Grant of a Conditional Use Permit to Allow for Motor Vehicle Repair (Major and Minor) at 1160-1200 N. Ellis Street, Bensenville, Illinois*
3. *Motion Authorizing the Execution of a Contract Amendment with Christopher B. Burke Engineering Ltd. for Engineering Service*
4. *Resolution Authorizing and Approving Addendum to the Proposal for*

*Engineering Services from Christopher B. Burke Engineering, LTD.  
for Improvements to the North Industrial Park Contemplated in  
Proposed Special Service Areas 3, 4, 5, 6, 7, 8, and 9*

5. *Resolution Approving a Facility Usage License Agreement with the Fenwick High School Hockey Club*
6. *Ordinance Authorizing the Sale of Surplus Personal Property Owned by the Village of Bensenville*
7. *Motion Authorizing for the Village Manager to Retain Baxter and Woodman Consulting Engineers to Provide Management Transition Assistance to Department of Public Works*

## **VIII. REPORTS OF STANDING COMMITTEES**

- A. Community and Economic Development Committee – No Report
- B. Infrastructure and Environment Committee – No Report
- C. Administration, Finance and Legislation Committee
  1. *Resolution Approving the Use of Prepayment Agreements in Regard to Special Service Areas 3, 4, 5, 6, 7, 8, and 9, and Authorizing the Village Manager to Execute the Prepayment Agreements on Behalf of the Village*
  2. *Ordinance Proposing the Establishment of Special Service Area Number 9 (North Industrial District Improvements) In the Village of Bensenville and Providing For A Public Hearing and Other Procedures in Connection Therewith*
- D. Public Safety Committee – No Report

## **IX. INFORMATION ITEMS**

### **A. PRESIDENT'S REMARKS**

*Announcement: Rescheduling of the Regular Board Meeting of October 12<sup>th</sup> to commence at 6pm.*

*Proclamation for Recognition of the Bensenville Food Pantry*

*Proclamation for Hispanic Heritage Month*

B. VILLAGE MANAGER'S REPORT

C. VILLAGE ATTORNEY'S REPORT

X. UNFINISHED BUSINESS

XI. NEW BUSINESS

XII. EXECUTIVE SESSION

- A. Review of Executive Session Minutes [5 ILCS 120/2 (C)(21)]
- B. Personnel [5 ILCS 120/2(C)(1)]
- C. Collective Bargaining [5 ILCS 120/2 (C)(2)]
- D. Property Acquisition [5 ILCS 120/2(C)(5)]
- E. Litigation [5 ILCS 120/2(C)(11)]

XIII. MATTERS REFERRED FROM EXECUTIVE SESSION

XIV. ADJOURNMENT

**Please Note** - The Village of Bensenville is subject to the requirements of the Americans with Disabilities Act of 1990. Individuals with disabilities who plan to attend this meeting and who require certain accommodations in order to allow them to observe and/or participate in this meeting, or who have questions regarding the accessibility of this meeting or the facilities, are requested to contact Village Hall (630-766-8200) at least 3 days prior to the meeting to allow the Village of Bensenville to make reasonable accommodations for those persons.

**Village of Bensenville**  
Board Room  
12 South Center Street  
Bensenville, Illinois 60106  
Counties of DuPage and Cook

**MINUTES OF THE VILLAGE BOARD OF TRUSTEES MEETING**

September 14, 2010

**CALL TO ORDER:** 1. President Soto called the meeting to order at 7:40 p.m.

**ROLL CALL:** 2. Upon roll call by Village Clerk, JoEllen Ridder, the following Board Members were present:

Adamowski, Bartlett, Johnson, O'Connell, Peconio, Wesseler

Absent: None

A quorum was present.

Senator Pankau addressed the Village Board with a financial statement for the State of Illinois.

**PUBLIC COMMENT:**

*There was no public comment.*

**APPROVAL OF MINUTES:**

3. The August 24, 2010 Village Board Meeting minutes were presented.

Motion: Trustee Wesseler made a motion to approve the minutes as presented. Trustee O'Connell seconded the motion.

Motion: Trustee O'Connell made a motion to approve the minutes as amended. Trustee Johnson seconded the motion.

All were in favor.

Motion carried.

**WARRANT NO.**

**10/34:**

4. President Soto presented **Warrant No. 10/34** in the amount of \$889,936.37

Motion:

Trustee Johnson made a motion to approve the warrant as presented. Trustee Bartlett seconded the motion.

**ROLL CALL:**

AYES: Adamowski, Bartlett, Johnson, O'Connell, Peconio, Wesseler

NAYS: None

Motion carried.

Motion:

5. Trustee Peconio made a motion to set the Consent Agenda as presented. Trustee Wesseler seconded the motion.

All were in favor.

Motion carried.

**Resolution No.**

**R-75-2010:**

**Resolution Authorizing the Execution of a Purchase Order for One Marked Squad Car. (Consent Agenda)**

**Resolution No.**

**R-76-2010:**

**Resolution Authorizing the Execution of a Purchase Order for One Unmarked Squad Car. (Consent Agenda)**

**Resolution No.**

**R-77-2010:**

**Resolution Authorizing the Execution of a Purchase Order and Contract with Baxter & Woodman Engineering Consultants for Engineering Services to Update the Pavement Maintenance Program. (Consent Agenda)**

**Resolution No.**

**R-78-2010:**

**Resolution Authorizing the President to Execute a Certain Labor Agreement Between the Village of Bensenville and Metropolitan Alliance of Police (MAP) Bensenville Police Chapter #165 – Police Officers. (Consent Agenda)**

Motion:

Trustee Peconio made a motion to approve the Consent Agenda as presented. Trustee Johnson seconded the motion.

**ROLL CALL:** AYES: Adamowski, Bartlett, Johnson, O'Connell, Peconio, Wesseler

NAYS: None

Motion carried.

**Ordinance No.**

**66-2010:**

6. Village President, Frank Soto, gave the summarization of the action contemplated in **Ordinance No. 66-2010** entitled **A Ordinance Granting a Conditional Use Permit for a Recycling Center for Warrior Scrap Metal, 1141 E. Green Street, Bensenville, Illinois.**

Motion:

Trustee Wesseler made a motion to adopt the ordinance as presented. Trustee Peconio seconded the motion.

**ROLL CALL:**

AYES: Adamowski, Bartlett, O'Connell, Peconio, Wesseler

NAYS: None

Motion carried.

**Resolution No.**

**R-79-2010:**

7. Village President, Frank Soto, gave the summarization of the action contemplated in **Resolution No. R-79-2010** entitled **A Resolution Authorizing the Use of a Financial Institutions for Village Business.**

Motion:

Trustee Bartlett made a motion to approve the resolution as presented. Trustee Johnson seconded the motion.

**ROLL CALL:**

AYES: Adamowski, Bartlett, Johnson, O'Connell, Wesseler,

NAYS: None

ABSTAINED:Peconio

Motion carried.

**Resolution No.**

**R-80-2010:**

8. Village President, Frank Soto, gave the summarization of the action contemplated in **Resolution No. R-80-2010** entitled **A Resolution Designating Charter One Bank as the Depository for the Village of Bensenville.**

**Motion:**

Trustee Bartlett made a motion to approve the resolution as presented. Trustee O'Connell seconded the motion.

**ROLL CALL:**

AYES: Adamowski, Bartlett, Johnson, O'Connell

NAYS: Peconio, Wesseler

Motion carried.

**Ordinance No.**

**67-2010:**

9. Village President, Frank Soto, gave the summarization of the action contemplated in **Ordinance No. 67-2010** entitled **A Ordinance Proposing the Establishment of Special Service Area Number 3 (North Industrial District Improvements) In the Village of Bensenville and Providing for a Public Hearing and Other Procedures in Connection Therewith.**

**Motion:**

Trustee Peconio made a motion to adopt the ordinance as presented. Trustee Johnson seconded the motion.

**ROLL CALL:**

AYES: Adamowski, Bartlett, Johnson, O'Connell, Peconio, Wesseler

NAYS: None

Motion carried.

**Ordinance No.**

**68-2010:**

10. Village President, Frank Soto, gave the summarization of the action contemplated in **Ordinance No. 68-2010** entitled **A Ordinance Proposing the Establishment of Special Service Area Number 4(North Industrial District Improvements) In the Village of Bensenville and Providing for a Public Hearing and Other Procedures in Connection Therewith.**

**Motion:**

Trustee Bartlett made a motion to adopt the ordinance as presented. Trustee Wesseler seconded the motion.

**ROLL CALL:** AYES: Adamowski, Bartlett, Johnson, O'Connell, Peconio, Wesseler

NAYS: None

Motion carried.

**Ordinance No.**

**69-2010:**

11. Village President, Frank Soto, gave the summarization of the action contemplated in **Ordinance No. 69-2010** entitled **A Ordinance Proposing the Establishment of Special Service Area Number 5 (North Industrial District Improvements) In the Village of Bensenville and Providing for a Public Hearing and Other Procedures in Connection Therewith.**

Motion: Trustee Bartlett made a motion to adopt the ordinance as presented. Trustee Wesseler seconded the motion.

**ROLL CALL:** AYES: Adamowski, Bartlett, Johnson, O'Connell, Peconio, Wesseler

NAYS: None

Motion carried.

**Ordinance No.**

**70-2010:**

12. Village President, Frank Soto, gave the summarization of the action contemplated in **Ordinance No. 70-2010** entitled **A Ordinance Proposing the Establishment of Special Service Area Number 6 (North Industrial District Improvements) In the Village of Bensenville and Providing for a Public Hearing and Other Procedures in Connection Therewith.**

Motion: Trustee Johnson made a motion to adopt the ordinance as presented. Trustee Bartlett seconded the motion.

**ROLL CALL:** AYES: Adamowski, Bartlett, Johnson, O'Connell, Peconio, Wesseler

NAYS: None

Motion carried.

**Ordinance No.**

**71-2010:**

13. Village President, Frank Soto, gave the summarization of the action contemplated in **Ordinance No. 71-2010** entitled **A Ordinance Proposing the Establishment of Special Service Area Number 7 (North Industrial District Improvements) In the Village of Bensenville and Providing for a Public Hearing and Other Procedures in Connection Therewith.**

Motion:

Trustee Bartlett made a motion to adopt the ordinance as presented. Trustee Wesseler seconded the motion.

**ROLL CALL:**

AYES: Adamowski, Bartlett, Johnson, O'Connell, Peconio, Wesseler

NAYS: None

Motion carried.

**Ordinance No.**

**72-2010:**

14. Village President, Frank Soto, gave the summarization of the action contemplated in **Ordinance No. 72-2010** entitled **A Ordinance Proposing the Establishment of Special Service Area Number 8(North Industrial District Improvements) In the Village of Bensenville and Providing for a Public Hearing and Other Procedures in Connection Therewith.**

Motion:

Trustee Peconio made a motion to adopt the ordinance as presented. Trustee Bartlett seconded the motion.

**ROLL CALL:**

AYES: Adamowski, Bartlett, Johnson, O'Connell, Peconio, Wesseler

NAYS: None

Motion carried.

**Ordinance No.**

**73-2010:**

15. Village President, Frank Soto, gave the summarization of the action contemplated in **Ordinance No. 73-2010** entitled **A Ordinance Proposing the Establishment of Special Service Area Number 9 (North Industrial District Improvements) In the Village of Bensenville and Providing for a Public Hearing and Other Procedures in Connection Therewith.**

Motion:

Trustee Bartlett made a motion to adopt the ordinance as presented. Trustee Wesseler seconded the motion.

Minutes of the Village Board Meeting  
September 14, 2010 Page 7

**ROLL CALL:**                    AYES: Adamowski, Bartlett, Johnson, O'Connell, Peconio, Wesseler  
    NAYS: None  
    Motion carried.

**PRESIDENTS**

**REMARKS:**                    President Soto thanked Senator Pankau for her presentation to the Village Board and Residents of Bensenville.

President Soto shared an update regarding the Veteran's Park project.

President Soto announced that on September 22, 2010 at 6:00 p.m. there will be the grand opening of the new Police Resource Building at Elm Courts in Bensenville. All Residents are invited to attend.

Village Clerk, JoEllen Ridder, read a proclamation into the record for proclaiming the week of September 17 through September 23 as Constitution Week.

**MANAGERS**

**REPORT:**                    Village Manager, Michael Cassady, informed the Village Board that the Village Board Meeting being held on October 12, 2010 will begin at 6:00 p.m.

Village Manager, Michael Cassady, informed the Village Board that the strategic plan has been updated for their review.

**ADJOURNMENT:**

Trustee Johnson made a motion to adjourn the meeting. Trustee Bartlett seconded the motion.

All were in favor.

Motion carried.

President Soto adjourned the meeting at 7:37 p.m.

JoEllen Ridder  
Village Clerk

**PASSED AND APPROVED** by the President and Board of Trustees of the Village of Bensenville this \_\_\_\_\_ day, September 2010

## VILLAGE OF BENSENVILLE

**TYPE:** Resolution **SUBMITTED BY:** Denise Pieroni **DATE:** September 23, 2010

**DESCRIPTION:** Resolution authorizing the Village Manager to execute the Baecore Group proposal to implement the selected customer service management system (CRM) software and ensure full integration with existing village business processes and workflows to ensure quality customer “facing” customer service access, problem resolution and follow-up.

### SUPPORTS THE FOLLOWING APPLICABLE VILLAGE GOALS:

|                                     |                                    |
|-------------------------------------|------------------------------------|
| <input checked="" type="checkbox"/> | Financially Sound Village          |
| <input checked="" type="checkbox"/> | Quality Customer Oriented Services |
| <input checked="" type="checkbox"/> | Safe and Beautiful Village         |

|                                     |                                 |
|-------------------------------------|---------------------------------|
| <input checked="" type="checkbox"/> | Enrich the lives of Residents   |
|                                     | Major Business/Corporate Center |
|                                     | Vibrant Major Corridors         |

**COMMITTEE ACTION:** Administration, Finance & Legislation Committee unanimously recommended moving forward with the implementation proposal

**DATE:** 9/21/2010

**BACKGROUND:** Village staff continues to seek opportunities to improve customer access to services by providing convenient access, better functionality and full integration with all relevant MUNIS modules, both present and future. Integration ensures that all business process and workflows flow together, integrate and provide mechanisms for internal and external follow-up for work and service orders. Access and integration are important, but it is also critical to ensure employee accountability; provide comprehensive tracking of work orders and customer service requests; track issues and ongoing problems; track and assess village responses and mitigation; and provide feedback mechanisms between the village and our customers. After evaluation of a number of products, Baecore is recommending that the Village move forward with the implementation of an interim solution (E-GovLink) with the ultimate goal on implementing a MUNIS solution once it is available and tested to confirm that it meets the needs of the Village. As contemplated in the amendment to the 2010 budget, it is recommended that Baecore be used to coordinate the implementation of this system. The Administration, Finance & Legislation Committee reviewed this recommendation at its September 21 meeting and has unanimous recommended approval of this proposal.

**KEY ISSUES:** Among the many requirements important to the implementation of E-GovLink\* are user interface, customer interaction, account interaction, security, use with existing systems such as service and work orders and the future use of fleet and facilities modules. Reporting, system maintenance, initial purchase and ongoing costs were strong considerations in making the recommendation. Critical to a successful implementation is the ability to ensure all customer service tools and business processes are integrated and provide timely village and customer follow-up and notification. Effective customer service software must be integrated and able to be modified, as required, in a workflow and business process friendly manner for all village business processes and all existing and future village systems solutions.

**ALTERNATIVES:** Board discretion

**RECOMMENDATION:** Board concurrence with committee recommendation to approve proposal with Baecore Group to implement and integrate E-GovLink at a cost not to exceed \$30,000.

**BUDGET IMPACT:** The amendment 2010 budget included \$50,000 for the study and implementation of this project. The original agreement with Baecore included \$20,000 to identify options and a preferred solution. The proposal under consideration is for the implementation phase. The budget included \$30,000 for this phase which was not included in the scope of work included under the original agreement with Baecore.

**ACTION REQUIRED:** Motion approving resolution approving proposal with Baecore for CRM implementation services and authorizing its execution by the Village Manager.

\*During the evaluation and selection six solutions were evaluated and more than 400 functional requirements were considered. Among the many requirements considered user interface, customer interaction, account interaction, accountability, simplicity, cost-effectiveness, security, use with existing systems such as service orders and the use of fleet and facilities modules in the future were included. Additionally, reporting, system maintenance, initial purchase and ongoing costs were strong considerations in making the recommendation.

**RESOLUTION NO.**

**A RESOLUTION APPROVING A PROPOSAL FROM  
THE BAECORE GROUP FOR SERVICES RELATING TO  
CUSTOMER RELATIONSHIP MANAGEMENT (CRM) SYSTEM IMPLEMENTATION**

WHEREAS, the VILLAGE OF BENSENVILLE (hereinafter "VILLAGE") is a municipal corporation established and existing under the laws of the State of Illinois pursuant to the Illinois Municipal Code, 65 ILCS 5/1-1-1 *et seq.*; and

WHEREAS, the VILLAGE is empowered to make all agreements, contracts, and engagements and to undertake other acts as necessary in the exercise of its statutory powers; and

WHEREAS, it is sometimes necessary, in furtherance of its statutory functions, for the VILLAGE to engage various outside services required by the VILLAGE; and

WHEREAS, the VILLAGE desires to move forward with the implementation of a Customer Relationship Management (CRM) System; and

WHEREAS, the VILLAGE has determined a need for additional professional assistance to ensure the effective transition to and implementation of this CRM system; and

WHEREAS, the Baecore Group has effectively provided similar services to the Village of Bensenville and other municipalities within the Chicago land area and has the staffing and expertise to continue to provide such services to the VILLAGE; and

WHEREAS, for this purpose, the VILLAGE has determined that it is reasonable, necessary, and desirable to expand the scope of engagement of the Baecore Group for business process and project management services (hereinafter referred to as the "Services") to include implementation of this new CRM system as outlined in their proposal dated September 16, 2010 (hereinafter referred to as the "Proposal"), which Proposal is attached hereto as Exhibit "A" and incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED by the President and Board of Trustees of the Village of Bensenville, DuPage and Cook Counties, Illinois, as follows:

SECTION ONE: The recitals set forth above are incorporated herein and made a part hereof as if fully set forth.

SECTION TWO: The engagement of the Baecore Group to provide the Services set out in the Proposal, at a total cost not to exceed \$30,000, is hereby approved.

SECTION THREE: The Village Manager is hereby authorized and directed to execute on behalf of the Village of Bensenville, and the Village Clerk is hereby authorized to attest to, as the agreement for the Services, the Proposal attached hereto and incorporated herein by reference as Exhibit "A," with such additions and revisions thereto as the Village Attorney shall require.

SECTION FOUR: This Resolution shall take effect immediately upon its passage and approval as provided by law.

PASSED AND APPROVED by the President and Board of Trustees of the Village of Bensenville, Illinois, this 28th day of September, 2010.

APPROVED:

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Frank Soto, Village President

ATTEST:

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Jo Ellen Ridder, Village Clerk

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

September 16, 2010

Mrs. Denise Pieroni, Deputy Village Manager  
Mr. Cassady, Village Manager  
Village of Bensenville  
12 S. Center Street  
Bensenville, IL 60106

Dear Mrs. Pieroni & Mr. Cassady:

In response to the Village's focus of improved customer service Baecore has worked with many of the departments and the Village Manager's office to identify the current state and preliminary desired state for improving customer service. The implementation of a solution for improved customer service as defined by the desired state will involve process restructuring, policy clarification/implementation, process improvements and integration of such policies and processes with supporting technology tools.

Baecore Group proposes the departmental integration of a call tracking system and the associated components to support the internal information needs as well as the external communication requirements. This proposal will include the identification and implementation of the business process flows between the selected application and the MUNIS work order and service order functionality as well as automation for request escalations to ensure no request "falls through the cracks."

The total cost of this proposed engagement is \$30,000. The total estimated number of billable hours is two hundred (200). The Village is not constrained to use these hours in any established increment and Baecore will provide services in any reasonable increment to support Village objectives. All consulting hours will continue to be invoiced at \$150 for the remainder of 2010.

If this is in line with your expectations, please sign and return one copy of the attached Agreement, and keep one copy for your records. Signature of this agreement does not bind the Village to the above projects or priorities. Priorities and goals will be established by the office of the Village Manager and will be adjusted as needed. If you have any questions, please feel free to contact me at 847-585-1486.

I appreciate the opportunity to work with you.

Sincerely,

Mary Smith

TYPE: Ordinance SUBMITTED BY: S. Viger DATE: 09.22.10

**DESCRIPTION:**

Ordinance granting a Conditional Use Permit to allow a "Motor Vehicle Repair (Major & Minor)" in the existing I – 2 Light Industrial District located at 1160 – 1200 N. Ellis Street.

**SUPPORTS THE FOLLOWING APPLICABLE VILLAGE GOALS:**

|                          |                                    |                                     |                                 |
|--------------------------|------------------------------------|-------------------------------------|---------------------------------|
| <input type="checkbox"/> | Financially Sound Village          | <input type="checkbox"/>            | Enrich the lives of Residents   |
| <input type="checkbox"/> | Quality Customer Oriented Services | <input checked="" type="checkbox"/> | Major Business/Corporate Center |
| <input type="checkbox"/> | Safe and Beautiful Village         | <input type="checkbox"/>            | Vibrant Major Corridors         |

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COMMITTEE ACTION: Community & Economic Development DATE: 09.21.10

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**BACKGROUND:**

The property in question is along the east side of N. Ellis Street in the northern business park and falls. For many years the site was home to Auto Truck who has relocated out of town to larger facilities. The Village has reviewed the property several times recently; approving outdoor storage and a variance to allow the storage to occupy up to 50% of the site and to remain unpaved for 24 months. This request is to allow APA73 a logistics and limousine firm to repair vehicles in the facility.

**KEY ISSUES:**

Whether or not the proposed Conditional Use meets the approval criteria found in the Zoning Ordinance and will it ultimately will not be detrimental to the surrounding area and be in the best interest of the Village.

**ALTERNATIVES:**

Approve the Ordinance as presented.

Approve the ordinance with altered or additional conditions.

Remand the Ordinance to the CDC for further deliberation.

Deny the Ordinance.

**RECOMMENDATION:**

The staff had recommended that the CDC approve the Conditional Use Permit.

On July 12, 2010 the CDC voted unanimously to recommend approval.

On September 21, 2010 the Community & Economic Development Committee voted unanimously to approve the Conditional Use Permit.

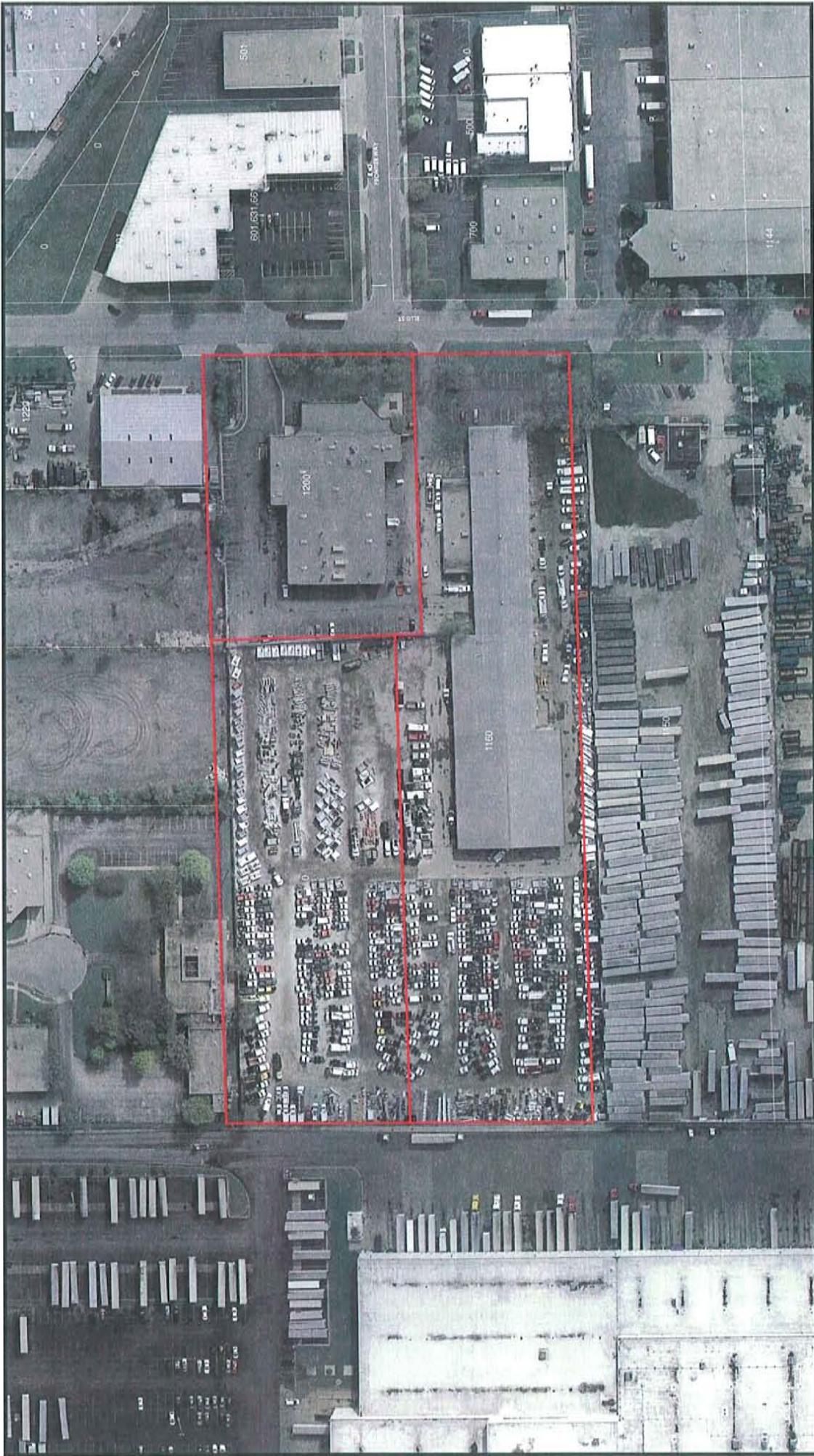
**BUDGET IMPACT:**

N/A

**ACTION REQUIRED:**

Adoption of the Ordinance approving the Conditional Use Permit to allow Motor Vehicle Repair (Major & Minor) for the property located at 1160 – 1200 N. Ellis in the existing I – 2 Light Industrial District

Village of Bensenville  
1160-1200 N. Ellis St.



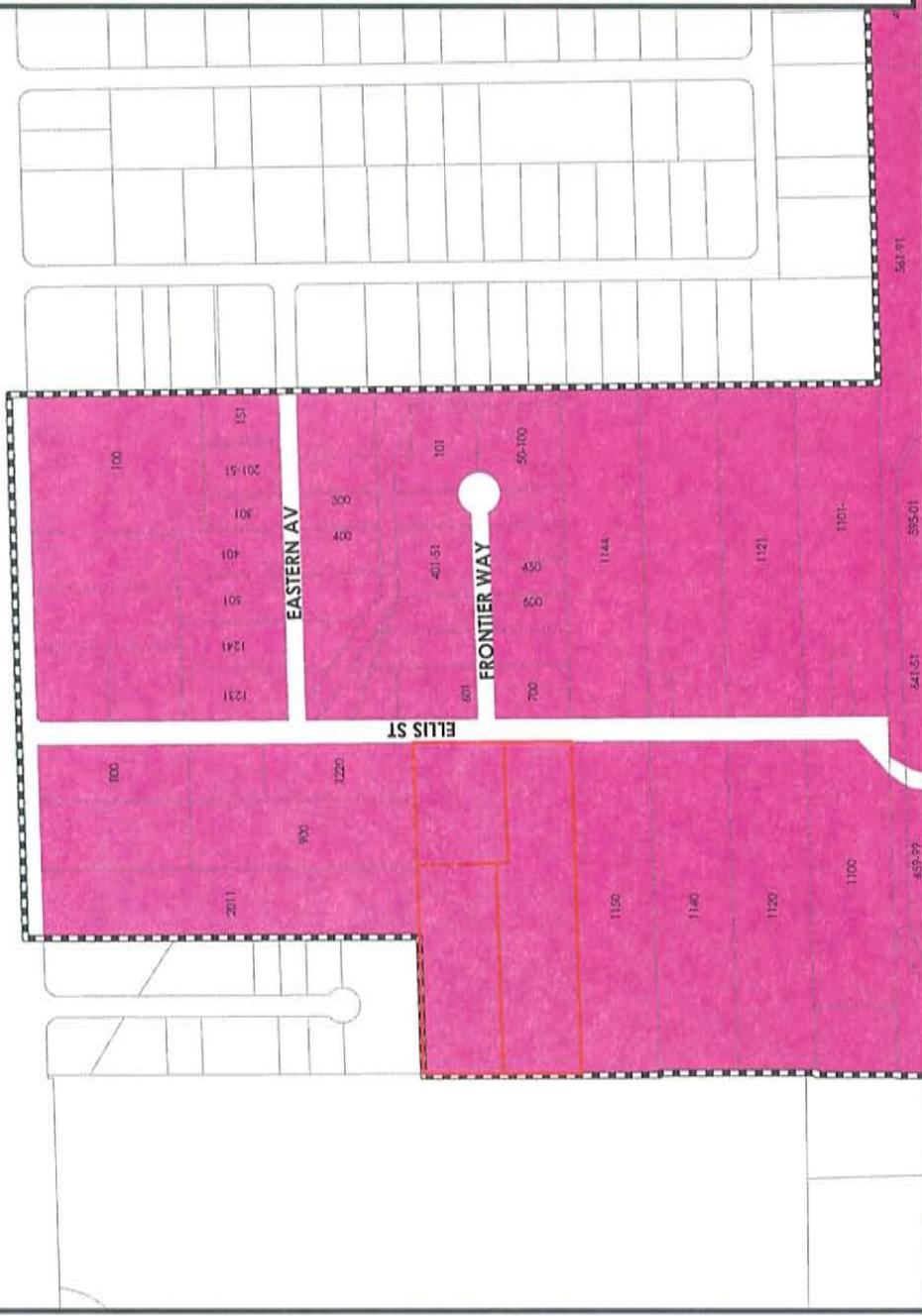
# Village of Bensenville

1160-1200 N. Ellis St.



## Bensenville Zoning

|                                |                                       |                                   |  |                                 |   |                          |                                 |                               |                                  |                                |                        |                        |                             |                         |                   |   |                      |                      |                        |
|--------------------------------|---------------------------------------|-----------------------------------|--|---------------------------------|---|--------------------------|---------------------------------|-------------------------------|----------------------------------|--------------------------------|------------------------|------------------------|-----------------------------|-------------------------|-------------------|---|----------------------|----------------------|------------------------|
| RS-1 Low Density Single Family | RS-2 Medium Low Density Single Family | RS-3 Medium Density Single Family | RS-4 Medium High Density Single Family | RS-5 High Density Single Family | RS-6 High Density Traditional Single Family | RA-1 Mixed Single Family | RA-5 High Density Single Family | RM-1 Low Density Multi-Family | RM-2 Medium Density Multi-Family | RM-3 High Density Multi-Family | C-2 Highway Commercial | C-3 Downtown Mixed Use | C-4 Regional PUD Commercial | O-1 Neighborhood Office | O-2 Office Center | I-1 Office/Research/Assembly/Industrial | I-2 Light Industrial | I-3 Heavy Industrial | I-4 General Industrial |
|--------------------------------|---------------------------------------|-----------------------------------|--|---------------------------------|---|--------------------------|---------------------------------|-------------------------------|----------------------------------|--------------------------------|------------------------|------------------------|-----------------------------|-------------------------|-------------------|---|----------------------|----------------------|------------------------|



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

**AN ORDINANCE APPROVING THE GRANT OF A CONDITIONAL USE PERMIT  
TO ALLOW MOTOR VEHICLE REPAIR (MAJOR & MINOR) AT  
1160 -1200 N. ELLIS STREET, BENSENVILLE, ILLINOIS**

**WHEREAS**, AutoTruck, Inc. and Mobile Equipment Warehousing Co. (the "Owner/Applicant") , filed an application seeking a conditional use permit to allow a proposed tenant APA73 to conduct motor vehicle repair (major & minor) pursuant to Section 10-3-4-C of *The Village of Bensenville Zoning Ordinance* ("Zoning Ordinance") at property commonly known as 1160 – 1200 N. Ellis Street, and legally described in Exhibit "A," attached hereto and incorporated herein by reference (the "Subject Property"), a copy of said application being on file in the Community and Economic Development Department; and

**WHEREAS**, Notice of Public Hearing with respect to the conditional use permit sought by the Applicant was published in a newspaper of general circulation in the Village of Bensenville all as required by the statutes of the State of Illinois and the ordinances of the Village; and

**WHEREAS**, pursuant to said Notice, the Community Development Commission of the Village of Bensenville conducted a Public Hearing on July 12, 2010, as required by the statutes of the State of Illinois and the ordinances of the Village, and after hearing the application, made the findings of facts as set forth in Exhibit "B," attached hereto and incorporated herein by reference' and

**WHEREAS**, upon said findings of facts, the Community Development Commission, voted to 6 – 0 to approve the application for conditional use permit to allow motor vehicle repair , major & minor at the Subject Property, subject to the conditions as previously set forth for use of the Subject Property in Ordinance No. 54-2010 adopted on June 8, 2010; and

**WHEREAS**, the Community Development Commission forwarded its recommendation to approve the application to the Village Board's Community and Economic Development Committee which concurred in the recommendation to approve the application; and

**WHEREAS**, the Community and Economic Development Committee then forwarded its recommendation, along with that of the Community Development Commission, to the President and Board of Trustees on September 28, 2010; and

**WHEREAS**, the President and Board of Village Trustees considered the matter and determined, based on its consideration, that the permit should be granted, allowing the relief

requested, finding that it is consistent with the Zoning Ordinance and the orderly and harmonious development of the Village.

**NOW, THEREFORE, BE IT ORDAINED** by the President and Board of Trustees of the Village of Bensenville, Counties of DuPage and Cook, Illinois, duly assembled at a regular meeting, as follows:

**SECTION ONE:** That the forgoing recitals are hereby incorporated by reference as if fully set forth herein.

**SECTION TWO:** That the application for a conditional use permit to allow APA73 to conduct motor vehicle repair, major & minor at the Subject Property, in conjunction with its use of the Subject Property is hereby granted subject to the following conditions: (1) the conditional use permit shall only be applicable during the tenancy of APA73 or any successor in interest it may have in assumption of the tenancy, and (2) those conditions previously applied to the use of the Subject Property in Ordinance 54-2010, adopted by the Village Board on June 8, 2010.

**SECTION THREE:** That this Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

**PASSED AND APPROVED** by the President and Board of Trustees of the Village of Bensenville, this 28th day of September, 2010.

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Frank Soto, Village President

ATTEST:

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JoEllen Ridder, Village Clerk

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

NAYES: \_\_\_\_\_

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

## EXHIBIT "A"

### LEGAL DESCRIPTION

#### **CDC Case 2010 – 17 1160 – 1200 N. Ellis Street**

The legal description is as follows:

##### **PARCEL 1**

LOT 1 IN AUTO TRUCK, INC. ASSESSMENT PLAT OF PART OF LOTS 6 AND 7 IN DEVON FIVE ACRE FARMS, BEING A SUBDIVISION OF THE WEST HALF OF THE WEST HALF OF THE NORTHEAST QUARTER AND PART OF THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 2, TOWNSHIP 40 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO A PLAT THEREOF RECORDED DOCUMENT NUMBER R92-240550 AND CORRECTED BY CERTIFICATE OF CORRECTION RECORDED AS DOCUMENT R93-027543, IN DU PAGE COUNTY, ILLINOIS.

##### **PARCEL 2**

LOTS 6 AND 7 IN DEVON FIVE ACRE FARMS, BEING A SUBDIVISION OF THE WEST HALF OF THE WEST HALF OF THE NORTHEAST QUARTER AND PART OF THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 2, TOWNSHIP 40 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT LOT 1 IN AUTO TRUCK, INC. ASSESSMENT PLAT OF PART OF LOTS 6 AND 7 IN DEVON FIVE ACRE FARMS, AFORESAID), IN DUPAGE COUNTY, ILLINOIS.

PINs 03 – 02 – 102 – 031, - 032, -033

## **EXHIBIT “B”**

**CDC # 2010 – 17**  
**1160 - 1200 N. Ellis Street**  
**“Auto Truck / Mobile Equipment Warehousing Co.**  
**Public Hearing: 07.12.10**

### **Findings of Fact** **Conditional Use Permit**

The Community Development Commission hearing the testimony at the Public Hearing for the CDC Case #2010 – 17 a Conditional Use Permit to allow Motor Vehicle Repair Minor & Major at 1160 - 1200 N. Ellis Street make the following Findings of Fact:

1. Traffic: The proposed use will not create any adverse impact of types or volumes of traffic flow not otherwise typical of permitted uses in the zoning district has been minimized.
2. Environmental Nuisance: The proposed motor vehicle repair will not have negative effects of noise, glare, odor, dust, waste disposal, blockage of light or air or other adverse environmental effects of a type or degree not characteristic of permitted uses in the district have been minimized.
3. Neighborhood Character: The proposed use will fit harmoniously with the existing character of existing permitted uses in its environs. Any adverse effects on environmental quality, property values or neighborhood character beyond those normally associated with permitted uses in the district have been minimized.
4. Use Of Public Services And Facilities: The proposed use will not require existing community facilities or services to a degree disproportionate to that normally expected of permitted uses in the district, nor generate disproportionate demand for new services or facilities in such a way as to place undue burdens upon existing development in the area.
5. Public Necessity: The proposed use at the particular location requested is necessary to provide a service or a facility which is in the interest of public convenience, and will contribute to the general welfare of the neighborhood or community.
6. Other Factors: The use is in harmony with any other elements of compatibility pertinent in the judgment of the commission to the conditional use in its proposed location.

TYPE: Resolution SUBMITTED BY: S. Viger DATE: 09.22.10

**DESCRIPTION:**

Motion regarding the approval of a contract amendment with Christopher B. Burke Engineering Ltd. (CBBEL) to continue to perform general engineering services for the Village through 12.31.10.

**SUPPORTS THE FOLLOWING APPLICABLE VILLAGE GOALS:**

|                                     |   |                          |  |
|-------------------------------------|---|--------------------------|--|
| <input checked="" type="checkbox"/> | <i>Financially Sound Village</i>          | <input type="checkbox"/> | <i>Enrich the lives of Residents</i>   |
| <input checked="" type="checkbox"/> | <i>Quality Customer Oriented Services</i> | <input type="checkbox"/> | <i>Major Business/Corporate Center</i> |
| <input type="checkbox"/>            | <i>Safe and Beautiful Village</i>         | <input type="checkbox"/> | <i>Vibrant Major Corridors</i>         |

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**COMMITTEE ACTION:** Community & Economic Development    **DATE:** 09.21.10

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**BACKGROUND**

The Village has contacted with CBBEL for quite some time. CBBEL provides: General Engineering 10 hours per month, for a retainer of \$1,390.00 Development Plan Review, these fees are passed through to permittees. On – Call Services Hours not to exceed \$25,000 Specific proposals will be submitted for Capital Improvements upon request of the Village.

**KEY ISSUES:**

CBBEL's abilities and prior service to the Village.  
Uninterrupted service for our residents.

**ALTERNATIVES:**

Prepare a "Request for Qualifications" from various engineering firms.

**RECOMMENDATION:**

Staff respectfully recommends approval of the amended contract so that engineering services to the Village will be uninterrupted. During the term of this contract amendment staff would recommend initiating a RFQ process for firms to provide these services for the upcoming fiscal year.

On September 21, 2010 the Community & Economic Development Committee voted unanimously to approve the contract amendment.

**BUDGET IMPACT:**

**ACTION REQUIRED:**

Approval of the Resolution authorizing the Village Manager to execute the contract amendment.

RESOLUTION NO.

**A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT  
AMENDMENT WITH CHRISTOPHER B. BURKE ENGINEERING LTD. FOR  
ENGINEERING SERVICES**

BE IT RESOLVED by the President and Board of Trustees of the Village of Bensenville, Counties of DuPage and Cook, Illinois as follows:

THAT the Village Board authorizes the Village Manager to execute a purchase order and other associated documents to Christopher B. Burke Engineering Ltd. to update the extend the term of the exiting contract through December 31, 2010.

PASSED AND APPROVED by the President and Board of Trustees of the Village of Bensenville, Illinois, \_\_\_\_\_, 2010.

APPROVED:

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Frank Soto  
Village President

ATTEST:

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JoEllen Ridder  
Village Clerk

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

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

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



**CHRISTOPHER B. BURKE ENGINEERING, LTD.**  
9575 West Higgins Road Suite 600 Rosemont, Illinois 60018 TEL (847) 823-0500 FAX(847) 823-0520

August 27, 2010

Village of Bensenville  
12 South Center Street  
Bensenville, Illinois 60106-2130

Attention: Michael Cassady, Village Manager

Subject: Village Engineer Services  
Contract Amendment

Dear Mr. Cassady:

Christopher B. Burke Engineering, Ltd. (CBBEL) is pleased to continue to perform professional engineering services for the Village of Bensenville (Village). This letter will serve to amend the term of our Letter of Agreement dated May 19, 2009. Please note that the term of this amendment was chosen to bridge the six-month extension of the current Village budget to incorporate the conversion of the Village's fiscal year to a calendar-year basis beginning January 1, 2011. We will serve as the Village's Stormwater Administrator and review engineer for new developments including: preliminary and final plan review; as-built review and letter of credit reductions; special studies upon request by the Village and answering questions from developers and residents directed to CBBEL from Village staff regarding engineering standards, design, benchmarks and other miscellaneous questions.

#### GENERAL ENGINEERING

General engineering will be provided by CBBEL for a monthly retainer of \$1,390.00. General engineering will include but not be limited to the following:

- Attend DuPage County Municipal Engineers Meeting and development pre-application meetings for potential projects involving floodplain or wetlands.
- Preparation of monthly status reports.
- Phone calls from developers regarding engineering requirements, design standards, benchmarks, and floodplain.
- Preliminary meetings with staff and potential developers prior to an application being filed.

CBBEL understands that the above services will require approximately 10 hours/month.

#### DEVELOPMENT PLAN REVIEW

CBBEL will serve as the Stormwater Administrator under the DuPage County Countywide Stormwater and Floodplain Ordinance and as the review engineer on proposed developments and single family homes. The following rate structure will be used:

##### **NEW DEVELOPMENT OR REDEVELOPMENT (OTHER THAN SINGLE FAMILY HOMES)**

|   |   |
|---|---|
| Preliminary Engineering Plan                                | \$0.06/sq. ft. of lot area (\$2,614/acre) |
| Final Engineering Plan                                      | \$0.12/sq. ft. of lot area (\$5,227/acre) |
| As-Built Review, Final Inspection, Letter of Credit Release | \$0.03/sq. ft. of lot area (\$1,307/acre) |

##### **SINGLE FAMILY HOME GRADING PLAN**

|                               |   |
|-------------------------------|---|
| Grading Plan*                 | \$250 (1 <sup>st</sup> Submittal), \$100 (Resubmittal)              |
| Foundation Spot Survey        | \$100 (1 <sup>st</sup> Submittal and Resubmittal)                   |
| As-Built and Final Inspection | \$250 (1 <sup>st</sup> Submittal), \$100 (Resubmittal or Reinspect) |

All reviews will include a site visit during the review and as-built stage. Substantial plan changes after plans are approved will be billed on a time and material basis. This phase of the contract will be limited to no more than \$25,000 without previous approval by the Village for the period of May 1, 2010 through December 31, 2010.

#### ON-CALL SERVICES

On-call services will include various engineering services not included in the above tasks and may include assignments such as: inspections or site meetings during development; meetings or site inspections with Village staff and/or residents regarding drainage issues, traffic, or other engineering issues, and attendance at other meetings when requested by Village staff. An itemized list of time spent on this task will be provided on the monthly invoice. This phase of the contract will not exceed \$25,000 without prior approval of the Village for the period of May 1, 2010 through December 31, 2010.

#### CAPITAL IMPROVEMENTS

Project specific proposals for capital improvement projects will be provided upon the request of the Director of Public Works.

For other miscellaneous services we will bill you at the hourly rates specified on the attached Schedule of Charges up to a not-to-exceed fee agreed upon by the Village.

We would like to establish our contract in accordance with the attached General Terms and Conditions. These General Terms and Conditions are expressly incorporated into and are an integral part of this contract for professional services.

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, F.ASCE  
President

Encl: Schedule of Charges  
General Terms and Conditions

THIS PROPOSAL, GENERAL TERMS AND CONDITIONS, AND SCHEDULE OF CHARGES ACCEPTED FOR THE VILLAGE OF BENSENVILLE

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

**CHRISTOPHER B. BURKE ENGINEERING, LTD.**  
**STANDARD CHARGES FOR PROFESSIONAL SERVICES**  
**JANUARY, 2009**

|  | Charges* |
|--|----------|
|  | (\$/Hr)  |
| <u>Personnel</u>                       |          |
| Principal                              | 240      |
| Engineer VI                            | 210      |
| Engineer V                             | 173      |
| Engineer IV                            | 138      |
| Engineer III                           | 125      |
| Engineer I/II                          | 102      |
| Survey V                               | 178      |
| Survey IV                              | 132      |
| Survey III                             | 127      |
| Survey II                              | 100      |
| Survey I                               | 78       |
| Resource Planner V                     | 112      |
| Resource Planner IV                    | 108      |
| Resource Planner III                   | 100      |
| Resource Planner I/II                  | 88       |
| Engineering Technician V               | 150      |
| Engineering Technician IV              | 132      |
| Engineering Technician III             | 107      |
| Engineering Technician I/II            | 97       |
| CAD Manager                            | 138      |
| Assistant CAD Manager                  | 126      |
| CAD II                                 | 125      |
| CAD I                                  | 98       |
| GIS Specialist III                     | 120      |
| GIS Specialist I/II                    | 67       |
| Landscape Architect                    | 138      |
| Environmental Resource Specialist V    | 154      |
| Environmental Resource Specialist IV   | 134      |
| Environmental Resource Specialist III  | 114      |
| Environmental Resource Specialist I/II | 94       |
| Environmental Resource Technician      | 90       |
| Administrative                         | 88       |
| Engineering Intern                     | 53       |
| Survey Intern                          | 53       |
| Information Technician III             | 97       |
| Information Technician I/II            | 62       |

**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, 2009.

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.

## VILLAGE OF BENSENVILLE

**TYPE:** Resolution      **SUBMITTED BY:** Denise Pieroni      **DATE:** September 23, 2010

**DESCRIPTION:** Authorizing the execution on an addendum to the contract with Christopher B. Burke for engineering services relating to proposed improvements within the North Industrial Park Special Service Areas and TIF District (#13).

**SUPPORTS THE FOLLOWING APPLICABLE VILLAGE GOALS:**

*Financially Sound Village*  
 *Quality Customer Oriented Services*  
 *Safe and Beautiful Village*

*Enrich the lives of Residents*  
 *Major Business/Corporate Center*  
 *Vibrant Major Corridors*

**COMMITTEE ACTION:** Community & Economic Development Committee  
unanimous recommendation for approval

**DATE:**  
09/21/2010

**BACKGROUND:** The Village had proposed significant comprehensive improvements within the North Industrial Park which were to be funded through a Special Assessment (SA). Christopher B. Burke had been retained to do the engineering for the work contemplated under the SA. The Village has since redefined the scope of work and the methodology for payment. As proposed, road, stormwater management and other related projects in seven (7) special service areas within the North Industrial Park area are to be undertaken. These projects are to be funded through the revenues derived from each of the respective special service areas and a TIF district. The expenditure authorization provided for in the original contract with Christopher B. Burke has been exhausted. As a result of the changes in the scope and funding direction, additional cost analysis and engineering work has and continues to be required. Based on their knowledge of this work and the detailed plans that have been developed to date, staff recommends that the Village continue to use this firm for these projects. This addendum to the original contract covering the costs for the additional required services to take the project through bidding was reviewed by the Community & Economic Development Committee at their September 21 meeting and has unanimously recommended its approval.

**KEY ISSUES:** The Village is in the process of establishing seven (7) special services areas and an additional TIF district to provide for the funding of infrastructure improvements in the North Industrial Park. Additional engineering services have been and will continue to be needed as we move forward. Retaining the firm involved in the development of the plans is the most cost effective alternative as we move forward with these projects.

**ALTERNATIVES:**

- Board discretion

**RECOMMENDATION:** Consistent with the recommendation of the Committee, approve the resolution approving the amendment to the contract with Christopher B. Burke for engineering work in conjunction with infrastructure improvement in the North Industrial Park for a total cost not-to-exceed \$134,000.

**BUDGET IMPACT:** 3<sup>rd</sup> amendment to the 2010 Budget provided the funding for professional services required in conjunction with the work proposed within the SSA areas and TIF district. Additional budget authority will be addressed in the 2011 budget process. Ultimately these costs will be covered through the revenues derived from the respective SSA area and the TIF (#13).

**ACTION REQUIRED:** Board approval of a resolution authorizing the Village Manager to execute the addendum to the contract with Christopher B. Burke for services related to the North Industrial Park Special Service areas and TIF district.

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

**AUTHORIZING AND APPROVING AMENDMENT TO PROPOSAL FOR  
ENGINEERING SERVICES FROM CHRISTOPHER B. BURKE ENGINEERING, LTD.  
FOR IMPROVEMENTS TO THE NORTH INDUSTRIAL PARK CONTEMPLATED IN  
PROPOSED SPECIAL SERVICE AREAS 3, 4, 5, 6, 7, 8, AND 9**

BE IT RESOLVED by the President and Board of Trustees of the Village of Bensenville, Counties of DuPage and Cook, Illinois as follows:

That the Village Board authorizes the Village Manager to execute the proposal and associated documents from Christopher B. Burke Engineering, LTD, dated September 20, 2010 providing for the continuation of engineering services for improvements in the North Industrial Park contemplated in proposed Special Service Areas 3, 4, 5, 6, 7, 8, and 9 and to issue a purchase order to Christopher B. Burke Engineering, LTD. of Rosemont, Illinois for said services at a cost not to exceed \$134,000.

PASSED AND APPROVED by the President and Board of Trustees of the Village of Bensenville, Illinois this 28th day of September, 2010.

**APPROVED:**

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Frank Soto  
Village President

ATTEST:

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JoEllen Ridder, Village Clerk

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

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

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



**CHRISTOPHER B. BURKE** ENGINEERING, LTD.  
9575 West Higgins Road Suite 600 Rosemont, Illinois 60018 TEL (847) 823-0500 FAX(847) 823-0520

September 20, 2010

Village of Bensenville  
12 South Center Street  
Bensenville, IL 60106

Attention: Michael Cassady, Village Manager

Subject: Amendment to Proposal for Professional Engineering Services – North Industrial Special Service Area Project (formerly North Industrial Special Assessment District Improvements Project)  
(CBBEL Project No. 05-738)

Dear Mr. Cassady:

As requested, Christopher B. Burke Engineering, Ltd. (CBBEL) proposes this amendment to our existing contract to provide professional engineering and survey services for design engineering services for the North Industrial Special Service Area Project (formerly known as the North Industrial Special Assessment District Roadway Improvements Project) within the Village of Bensenville.

Included in this proposal are the Understanding of the Assignment, Scope of Services, and Estimated Fee.

#### UNDERSTANDING OF THE ASSIGNMENT

The Village of Bensenville executed several contracts with the CBBEL in 2005 to perform professional engineering and survey services related to the design of roadway, potable water, stormwater, and sanitary sewer infrastructure improvements for the area identified as the North Industrial Special Assessment District. These improvements were to have been funded through the creation of a Special Assessment District. However, the subsequent litigation over the proposed assessments has caused the Village to revise the project scope and funding mechanism.

The scope of the proposed improvements has been decreased and the creation of seven (7) Special Service Areas (SSA's) has been proposed to pay for the improvements. The revised project scope now includes only the following work items:

- Roadway reconstruction and street light conduit installation for Mark Street, Tower Lane, Eagle Drive, Thomas Drive, Golf Lane, Maple Lane, Beeline Drive,

Country Club Drive (Foster Avenue to Eagle Drive), Meyer Road (Beeline Drive to Foster Avenue), Supreme Drive (Thorndale Avenue to Thomas Drive), and Ellis Avenue (Supreme Drive to Railroad Spur).

- Sanitary sewer lining and point repairs along roadways that are to be reconstructed.
- Storm sewer improvements along Supreme Drive and replacement of the 84" bypass storm sewer paralleling Supreme Drive to the north.
- Streambank stabilization, culvert replacements, and wetland mitigation along the South Unnamed Tributary to Willow Creek from the rear of 1133 Bryn Mawr Avenue to Thomas Drive and along the North Unnamed Tributary to Willow Creek from the discharge point of the 84" bypass culvert to York Road.

Watermain replacements along Eagle Drive, Country Club Drive (Foster Avenue to Eagle Drive), and Thomas Drive will remain on the plans issued for bid for this project, but they will be paid for with another funding source.

Public hearings for the proposed SSA's will be held October 12, 2010. Assuming no successful petitions of objection are submitted, it is the Village's intention to solicit public bids for the project in the first quarter of 2011 with an anticipated completion of all improvements by the third quarter of 2012.

CBBEL has expended considerable resources during 2009 and 2010 to provide revised project costs and assessment roles for the re-scoped project as well as attending various public meetings. Consequently, we have exhausted the limits of our extant contract. It is our understanding that the Village wishes CBBEL to continue its participation in the Special Service Area process and to modify the existing pre-final plans and specifications to reflect the changed scope and solicit public bids for the same. This amendment to the existing agreement will authorize CBBEL to perform the following scope of services.

### SCOPE OF SERVICES

**Task 1 – Completion of Design Engineering Services:** CBBEL will perform the following tasks in order to prepare final bidding documents and receive public bids for the Special Service Area projects:

**Task 1a – Topographic Survey:** The revised project scope includes the replacement of the existing culvert beginning on the north side of Industrial Avenue and extending southward to its terminus at the open waterway approximately 370 feet to the south, and the Thomas Drive culvert crossing. Incomplete topographic information for these culverts was collected during the

field data collection stage and additional data is needed to finalize the construction plans.

**Task 1b – Preparation of Construction Easement Documents** The culvert south of Industrial Drive is to be constructed within existing drainage easements, but a construction easement is needed due to the width of the proposed replacement culverts and the need to access the work site. We will prepare the construction easement document for delivery to the Village. It is assumed that Village staff will be responsible for the execution of the document by the property owner.

**Task 1c – Plans, Specifications, and Estimates:** CBBEL will revise the existing pre-final prepare plans and specifications to reflect the revised scope of work and the desired bidding timeframe listed earlier. The plans and specifications will be published into bidding packages designed to construct the improvements in the most efficient and cost effective manner with the concurrence of Village staff. CBBEL will submit revised pre-final plans to Village staff for review and approval prior to the solicitation of public bids. During the design process, follow-up meetings with Village staff can be expected to finalize required information, submittals and documentation.

**Task 1d – Utility Coordination:** CBBEL is aware that NICOR will need to relocate some its facilities along Supreme Avenue to accommodate the new large diameter storm sewer and associated roadway drainage structures. CBBEL will coordinate the utility relocations with NICOR so that project schedule impacts will be minimized. CBBEL is unaware of any other utility conflicts.

**Task 1e – 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 for award.

**Task 2 – Coordination and Value Engineering for 84” Culvert Replacement:** The replacement of the 84” culvert pipe paralleling Supreme Drive will require the removal and replacement of a portion of the existing private railroad spur. It is CBBEL’s understanding that three parties have control of the ownership and maintenance for this spur line and that deliveries are made daily to a single user on it. We will meet with all three parties to explore options to preserve material deliveries and investigate alternative rehabilitation options to eliminate or minimize disruption to the railroad spur itself. We recommend that the Village perform a televised inspection of the pipe interior by its own forces or the Village’s sewer cleaning contractor to verify existing pipe conditions.

**Task 3 – Outside Agency Permitting:** Permits will need to be obtained from the US Army Corps of Engineers (USACE) and the DuPage County Department of Economic Development and Planning (EDP) to construct the proposed channel and culvert

improvements. CBBEL will complete an updated wetland assessment to confirm that field conditions have not changed. This update is a requirement of the Corps. CBBEL will then update, repackage, and resubmit documentation that was previously reviewed and ready for permit issuance by the USACE in 2007. CBBEL will respond to the latest set of review comments from the EDP and resubmit as required to obtain permit issuance. This contract amendment does not include the payment of outstanding and future permit review fees assessed by the EDP for their consultant review expense, but these shall remain the responsibility of the Village.

**Task 4 – Preparation of LOMR:** The RFM maps prepared by the County of DuPage show portions of SSA 4, 5, 6, 7, and 8 as being within either a Zone A or Zone AE. The improvements to the channel and culverts, accompanied with downstream improvements recently constructed by the Metropolitan Water Reclamation District of Greater Chicago, should decrease the base flood elevation and decrease the size of the floodplain area. CBBEL will perform the hydrologic and hydraulic modeling necessary to establish a revised Base Flood Elevation throughout the aforementioned SSA's. Once this data is obtained and construction of the channel and culvert improvements is completed, CBBEL will file for a Letter of Map Revision (LOMR) on behalf of the Village to revise the regulatory floodplain maps to reflect the as-built conditions. This work also includes the as-built surveying necessary to document the completed work.

**Task 5 – Revise Special Service Area Assessment Roles and Public Meeting Attendance:** CBBEL will provide updated parcel assessment roles and project cost estimates based upon Village and project team direction. We will attend meetings with Village staff, Village Board, and private property owners, as required by the Village to present our work and technical information regarding the revised scope project.

#### **ESTIMATED FEE**

The estimated cost of providing the described services is summarized below:

|                |  |   |                  |
|----------------|--|---|------------------|
| Task 1         | Completion of Design Engineering Services                      |   |                  |
| Task 1a        | Topographic Survey   | - | \$ 3,000         |
| Task 1b        | Preparation of Easement Documents                              | - | \$ 2,500         |
| Task 1c        | Plans, Specifications, and Estimates                           | - | \$57,500         |
| Task 1d        | Utility Coordination   | - | \$ 1,000         |
| <u>Task 1e</u> | <u>Bidding Assistance</u>                                      | - | <u>\$ 1,000</u>  |
|                | Subtotal for Tasks 1a thru 1e                                  |   | \$65,000         |
| Task 2         | Coordination and Value Engineering for 84" Culvert Replacement | - | \$ 7,000         |
| Task 3         | Outside Agency Permitting                                      | - | \$22,000         |
| Task 4         | Preparation of LOMR  | - | \$22,000         |
| Task 5         | Revise SSA Roles and Public Meetings                           | - | \$18,000         |
|                | <b>Grand Total:</b>  |   | <b>\$134,000</b> |

We will continue to bill you at the hourly rates from 2005 that were specified on the Schedule of Charges that were attached to our current agreement and provide services in accordance with the existing General Terms and Conditions. Direct costs for blueprints, photocopying, mailing, mileage, overnight delivery, permit fees, data collection fees, 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 are not included in the preceding fee estimate and 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.

Very truly yours,

Christopher B. Burke, PhD, PE, D.WRE, F.ASCE  
President

Encl. Schedule of Charges  
General Terms and Conditions

THIS PROPOSAL, SCHEDULE OF CHARGES AND GENERAL TERMS AND CONDITIONS ACCEPTED FOR THE VILLAGE OF BENSENVILLE:

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

## **VILLAGE OF BENSENVILLE**

### **VILLAGE OF BENSENVILLE**

**TYPE:** Resolution

**SUBMITTED BY:** Gary Thorsen

**DATE:** Sept 28, 2010

**DESCRIPTION:** Resolution requesting execution of a contract with the Fenwick High School Hockey Club and The Village of Bensenville specifically the Edge I & II ice rinks for a period of 3yrs from August 23, 2010 to August 22, 2011.

#### **SUPPORTS THE FOLLOWING APPLICABLE VILLAGE GOALS:**

Financially Sound Village  
 Quality Customer Oriented Services  
 Safe and Beautiful Village

Enrich the lives of Residents  
 Major Business/Corporate Center  
 Vibrant Major Corridors

**COMMITTEE ACTION:** Community and Economic Development

**DATE:** Sept 28, 2010

#### **• Community and Economic Development Committee Unanimously Passed**

**BACKGROUND:** Attached is a contract between the Fenwick High School Hockey Club and The Village of Bensenville specifically the Edge I & II ice rinks for a period of 1yr from August 23, 2010 to August 22, 2011. Within the contract, the terms are identified specifically but I would like to highlight a few key points.

- Hourly ice cost is \$330.00 hr. Average ice cost in the area is \$320.00. Ice costs have been trending down due to the economic climate but fortunately, with our location and the quality of our facility we are still able to get above average hourly ice revenue.
- The use of the West rink locker rooms and a cost of \$13,000 which will be paid in 3 installments, \$5,000 in September, \$4,000 in October, and \$4,000 in December.
- 5% Amusement Tax which is an additional revenue source that other rinks do not charge.
- Late fee of 5% after 14 days (standard)
- Kick out clause for non payment (standard)

**KEY ISSUES:** Action by the Village Board is needed authorizing the contract between the Fenwick High School Hockey Club and the Village of Bensenville

#### **ALTERNATIVES:**

- Not to approve the resolution executing a contract between the Village of Bensenville and Fenwick High School Hockey Club.
- Loss of revenue generated by this agreement and not achieving the projected revenue for the 2010 budget.

**RECOMMENDATION:** Staff recommends approval of the resolution executing a contract between Fenwick High School Hockey Club Organization and The Village of Bensenville specifically the Edge I & II ice rinks.

**BUDGET IMPACT:** Revenue needed to meet 2010 budgeted revenue projections

**ACTION REQUIRED:** Board action on the resolution and execution of contract between the Fenwick High School Hockey Club and the Village of Bensenville.

**RESOLUTION NO.**

**A RESOLUTION APPROVING A FACILITY USAGE LICENSE AGREEMENT  
WITH THE FENWICK HIGH SCHOOL HOCKEY CLUB**

**WHEREAS**, the VILLAGE OF BENSENVILLE (hereinafter the “Village”) is a municipal corporation established and existing under the laws of the State of Illinois pursuant to the Illinois Municipal Code, 65 ILCS 5/1-1-1 *et seq.*; and

**WHEREAS**, the Village is empowered to make all contracts and to undertake other acts as necessary in the exercise of its statutory powers pursuant to 65 ILCS 5/2-3-8; and

**WHEREAS**, the Village owns and operates ice rink facilities commonly known as the Edge One Arena and the Edge Two Arena (collectively the “Arena”); and

**WHEREAS**, the Village has determined that it is necessary and desirable to license ice time and use of the Arena for the purposes of generating revenue to fund the costs of maintenance, operation and management of the Arena; and

**WHEREAS**, an organization known as The Fenwick High School Hockey Club, an Illinois not-for profit corporation, (hereinafter “Licensee”) has expressed a desire to enter into an Ice Arena and Facility Usage License Agreement (hereinafter “Agreement”) for the use of the Arena in accordance with the terms and conditions as expressed in the Agreement attached hereto and incorporated by reference herein as Exhibit “A”; and

**WHEREAS**, President and Board of Trustees have determined that it is in the best interests of the Village and its residents to approve the Agreement with the Licensee.

**NOW, THEREFORE, BE IT RESOLVED** by the President and Board of Trustees of the Village of Bensenville, DuPage and Cook Counties, Illinois, as follows:

**SECTION ONE:** The recitals set forth above are incorporated herein and made a

part hereof.

**SECTION TWO:** The Village Manager is hereby authorized and directed to execute on behalf of the Village of Bensenville, and the Village Clerk is hereby authorized to attest thereto, the Ice Arena and Facility Usage License Agreement attached hereto and incorporated herein by reference as Exhibit "A."

**SECTION THREE:** This Resolution shall take effect immediately upon its passage and approval as provided by law.

PASSED AND APPROVED by the President and Board of Trustees of the Village of Bensenville, Illinois this 28th day of September 2010.

APPROVED:

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Frank Soto, Village President

ATTEST:

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JoEllen Ridder, Village Clerk

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

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**VILLAGE OF BENSENVILLE  
ICE ARENA AND FACILITY USAGE LICENSE AGREEMENT**

This Ice Arena and Facility Usage License Agreement (hereinafter "Agreement") is made and entered into by and between the Village of Bensenville (hereinafter "Licensor") and The Fenwick High School Hockey Club, an Illinois not-for profit corporation, (hereinafter "Licensee") (collectively the "Parties") for the use of the Village of Bensenville Edge Arenas (hereinafter the "Arena") on the date this Agreement is fully executed by the Parties.

**WITNESSETH:**

WHEREAS, Licensor is an Illinois municipality organized and existing by virtue of the laws of the State of Illinois and the Illinois Constitution of 1970; and

WHEREAS, pursuant to the authority granted to Licensor by the laws of the State of Illinois and the Illinois Constitution of 1970, Licensor owns and operates ice rinks located at 735 East Jefferson Street, Bensenville, Illinois, commonly known as The Edge Ice II; and

WHEREAS, Licensor intends to license ice time and use of Arena facilities for the purposes of generating revenue to fund the costs of maintenance, operation, and management of the Arena; and

WHEREAS, Licensor intends to license ice time and use of Arena facilities as provided herein to Licensee, and has relied upon Licensee's undertakings in this Agreement as an inducement to make the commitments outlined in this Agreement; and

WHEREAS, Licensee intends to use the ice time and arena facilities as provided herein to Licensee, and Licensee has relied upon Licensor's representations in the Agreement as an inducement to make the commitments outlined in this Agreement; and

WHEREAS, Licensee intends to use all ice time and the Arena and its facilities, as provided herein; and

WHEREAS, Licensee recognizes that Licensor is an Illinois municipal corporation and is therefore subject to the limitations of the laws of the State of Illinois and the Illinois Constitution of 1970; and

WHEREAS, Licensee further recognizes that the Arena and its facilities are public in nature; and

WHEREAS, Licensee recognizes that Licensor has executed, and is therefore bound by, other license agreements with other entities, which may limit Licensor's ability to reschedule ice time, and

WHEREAS, Licensor and Licensee recognize that this Agreement is for the benefit of Licensee, its members, employees, agents, coaches, players and invitees.

NOW, THEREFORE, in consideration of the recitals and representations set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby

acknowledged, the Parties hereby agree as follows:

## TERMS AND CONDITIONS

### ARTICLE I (DEFINITIONS)

1.1 Annual Operating Year. The term "Annual Operating Year" shall mean the time period from September 1st through August 31st of the following year.

1.2 Arena. The term "Arena" shall mean the ice surface and related facilities commonly known as The Edge Ice II Arena, located at 735 Jefferson Street, Bensenville, Illinois.

1.3 Facilities. The term "Facilities" shall mean the Arena ice surface and assigned Locker Rooms.

1.4 Ice Make. The term "Ice Make" shall mean the act of cleaning and smoothing the surface of the ice rink.

1.5 Locker Rooms. The term "Locker Rooms" shall mean any locker room assigned to Licensee by Lessor at Lessor's sole discretion. Licensee shall be entitled to the exclusive use of the two West Rink Locker Rooms pursuant to paragraph 3.3 (c) below.

### ARTICLE II (TERM)

2.1 The Term of this Agreement shall commence on August 23, 2010, and shall expire on August 22, 2011 (hereinafter the "Term").

### ARTICLE III (USE OF THE ARENA)

#### 3.1 Scope of License.

(a) This License authorizes Licensee to use the ice surface, assigned Locker Rooms, spectator stands, public areas of the Arena, and all means of public ingress and egress.

(b) This License also authorizes Licensee to use parking areas and other areas of the Arena otherwise available to the skating public.

(c) This License applies only during the ice time set forth in Exhibit C to this Agreement or otherwise exchanged pursuant to Section 3.2 of this Agreement and reasonable times before and after the ice time for use of the Locker rooms, spectator stands, public areas of the Arena, and all means of public ingress and egress.

(d) This License applies only to Licensee and its employees, agents, members and

invitees.

(e) This License shall not be construed to grant any interest in realty or any other possessory interest in the Arena, or any part thereof, to Licensee.

3.2 Ice Time.

(a) In each Annual Operating Year, Licensee shall purchase ice time from Licensor pursuant to the schedule set forth in Exhibit C to this Agreement.

(b) Licensee and Licensor may mutually exchange the ice time specifically listed in Exhibit C to this Agreement for other ice time. Such exchanges shall be similar in time and are subject to the approval of the Licensor and Licensee. All exchanges must be approved in writing forty-eight (48) hours prior to the earlier of ice times.

3.3 Payment.

(a) Licensor shall invoice Licensee on the 15th of each month for all charges due and owing the following month. All invoiced amounts shall become due and owing on the first day of the month following the invoice date.

(b) The invoiced amount for ice time shall be based upon a rate of \$330.00 per hour together with the Village of Bensenville's five percent (5%) amusement tax assessment as required by Ordinance except for all ice time hours that begin prior to 9:00 am on Monday through Friday, then ice time shall be based upon a rate of \$100.00 per hour together with the Village of Bensenville's five percent (5%) amusement tax for all hours.

(c) The total amount due for use of the two West rink locker rooms is \$13,000.00. This shall be paid in 3 installments of \$5,000.00, \$4,000.00, and \$4,000.00 and will be invoiced on the September, October, and December invoices. Failure to pay the rental amount shall result in eviction from the locker rooms.

(d) A five percent (5%) monthly late fee will be charged if payment is received more than fourteen (14) days after the invoice date. A \$50.00 fee will be charged for all checks that are dishonored.

(e) Upon Licensee's failure to pay any sums due hereunder as required by any part herein after ten (10) days written notice from Licensor to Licensee, Licensor may sell Licensee's remaining ice time, in whole or in part, in addition to any other remedy provided under this Agreement or by law. However, the sale of said ice time shall not relieve Licensee of its obligation to pay in accordance with this Agreement.

(f) If the Licensee fails to pay any sums as required herein after ten (10) days prior written notice, Licensor hereby reserves the right to cancel any future commitments made by Licensor to Licensee pursuant to this Agreement, in addition to any other remedy provided under this Agreement or by law.

**ARTICLE IV**  
**(RIGHTS AND OBLIGATIONS OF LICENSOR)**

4.1 Ejection. Licensor reserves the right to eject any person, including, but not limited to, Licensee, its employees, agents, members or invitees who cause a disturbance or refuse to comply with the reasonable direction of Licensor's agents.

4.2 Preemption of Ice Time. Licensor reserves the right, within not less than fourteen (14) days prior to scheduled ice time, and upon notice, to preempt Licensee's use of the Arena up to one (1) time per Annual Operating Year. Licensor shall reschedule the preempted ice time at a date and time suitable to Licensee, or, at the sole discretion of the Licensor, issue refunds or credits in lieu of said ice time.

4.3 Access to Ice and Locker Rooms. Licensor shall provide the ice rink and any assigned Locker Rooms to Licensee pursuant to the terms of this Agreement, including, but not limited to, the ice times set forth in Exhibit C to this Agreement.

4.4 Ice Make. Licensor shall provide one Ice Make prior to the ice times specified in Exhibit C to this Agreement and after the 2<sup>nd</sup> period of every Sunday game slot. Requests for additional Ice Makes will be honored based upon the availability of staff and equipment.

4.5 Use Preparation. Licensor shall be responsible for advance preparation of the ice surface, placement of all nets and boards, maintenance of lighting and ice surfaces, heating, and cleaning of Locker Rooms.

**ARTICLE V**  
**(OBLIGATIONS OF LICENSEE)**

5.1 Arena Inspection. Licensee shall inspect the areas of the Arena subject to its use under this Agreement prior to each use and shall report defects, if any, to Licensor immediately.

5.2 Supervision. Licensee shall provide for the supervision of all of Licensee's activities at the Arena so as to comply with all Arena rules and regulations, including, but not limited to, the rules and regulations set forth in Exhibit B to this Agreement, and all other and further rules and regulations posted in the Arena. If Licensor institutes additional Rules & Regulations for the Arena it shall notify Licensee in writing not less than fourteen (14) days in advance. Licensee shall provide for qualified and trained adult supervision at all times and in all areas utilized by Licensee, its employees, agents, members or invitees. Licensee shall not use, or permit the use of, the Arena, for any unlawful or disorderly purpose.

5.3 Locker Room Contract. Licensee shall execute the Locker Room Contract attached hereto as part of Exhibit B to this Agreement. Licensee shall transmit all executed Locker Room Contracts to Licensor within a reasonable time after they have been executed.

5.4 Arena Property Damage. Licensee shall be charged with repairing damage caused to the Arena and/or equipment by the negligence and/or abuse of Licensee, its employees, agents, members or invitees reasonable wear and tear excepted.. The amount of said charges shall be equal to the amount of materials and labor required to repair the equipment or the premises.

5.5 Personnel. Licensee shall be responsible for providing its own instructors, coaches, referees, officials, and any other personnel necessary for Licensee's activities.

5.6 Clearance of Ice Surface. Licensee shall clear ice surfaces promptly after the end of each ice time session and at each Ice Make. Licensee shall be responsible for ensuring that no one other than the coaches shall enter or step upon the ice surface while the resurfacing doors are open. Players are not permitted to enter the ice while the resurfacing doors are open.

5.7 Associations. Licensee shall be a member in good standing, register all players and teams, and abide by the current rules and regulations of the USA Amateur Hockey Association and the Amateur Hockey Association of Illinois. Licensee's failure to register all players and teams shall be deemed a material breach of this Agreement.

5.8 Written Release. Licensee shall execute the written release and waiver of liability attached hereto as Exhibit A to this Agreement. Licensee shall transmit all executed written releases and waivers to Lessor within a reasonable time after they have been executed.

5.9 Inclement Weather. Licensee shall not be excused from its performance under this Agreement on account of inclement weather conditions.

#### ARTICLE VI (RISK)

6.1 Assumption of Risk. Licensee, Licensee's employees, agents, members and invitees, assume all risks and hazards incidental to Licensee's use of the Arena. These risks include, but are not limited to, the danger of being injured by or on ice surfaces, pucks, hockey sticks, hockey players, skaters, coaches, training apparatus, nets or any other element incidental to the operation of the Arena.

6.2 Insurance and Waiver of Subrogation.

(a) Licensee shall purchase and maintain public liability insurance during the full term of this Agreement naming Lessor as an additional insured, for limits of liability of not less than:

(1) Personal injury/death: One Million and 00/100 Dollars (\$1,000,000.00) per occurrence; and

(2) Property damage liability: One Hundred Thousand and 00/100 Dollars (\$100,000.00) per occurrence.

(b) Licensee shall also maintain property damage coverage for all personal property of Licensee stored or otherwise kept at the Arena in an amount sufficient to cover the full replacement cost thereof.

(c) Lessor and Licensee each hereby waive any and every claim for recovery from the other for any and all loss of, or damage to, the Arena or to the contents thereof, which loss or damages are covered by valid and collectible property casualty insurance policies,

to the extent that such damage is recoverable under the terms of such policies. Inasmuch as this mutual waiver will preclude the assignment of any claim by subrogation, or otherwise, to an insurance company, or any other person, Licensor and Licensee each agree to give each insurance company which has issued, or in the future may issue, to it policies of physical damage insurance, written notice of the terms of this mutual waiver, and to have said insurance policies properly endorsed, if necessary, to prevent the invalidation of said insurance coverage by reason of said waiver.

6.3 Indemnification. Each Party (hereinafter the "Indemnitor") shall indemnify, hold harmless, and defend the other party (hereinafter the "Indemnitee") and its officers, employees, or agents from and against all liability, including costs and attorneys' fees, claims, demands, and causes of actions arising out of or related to any loss, damage, injury, death, or loss or damage to property resulting from, or arising out of the Indemnitor's negligence.

#### ARTICLE VII (TERMINATION/DEFAULT)

##### 7.1 Termination/Default Rights.

- (a) Licensor shall have the right to terminate this Agreement, after thirty (30) days prior written notice, for Lessee's failure to pay any and all fees as provided herein.
- (b) The Parties shall have the right to terminate this Agreement, after thirty (30) days prior written notice, for failure to comply with any other provision of this Agreement by the Parties or their employees, agents, members or invitees.
- (c) Termination of this Agreement shall not terminate any liability arising out of conduct prior to the actual date of termination, nor limit any recovery of damages resulting from such termination.
- (d) If any Party institutes any suit or action to enforce its rights hereunder, the prevailing Party in such suit or action shall be entitled to recover from the non-prevailing Party whatever sum the court may award as reasonable attorney(s) fees and court costs in such suit or action and in any appeals therefrom.

#### ARTICLE VIII (ARENA CLOSURE)

8.1 Licensor reserves the right to close or evacuate the Arena at any time for any reason, including but not limited to: any act of God, strike, labor dispute, fire, war, civil disturbance, explosion, pestilence, breakage or accident to machinery or water utility appurtenances, quarantine, epidemic, flood, weather disturbance, any act or interference of any governmental authority or agency, or by any similar cause reasonably beyond the control of the Licensor. Licensee shall not be charged for any time that the Arena is closed or evacuated. Payment schedules shall be adjusted or compensatory ice time shall be arranged, accordingly. Licensor reserves ultimate control and dominion over all areas of the Arena and reserves the right to inspect all facilities being used by Licensee to ensure Licensee is in full compliance with this Agreement.

**ARTICLE IX**  
**(GENERAL PROVISIONS)**

9.1 No Assignment. This Agreement may not be assigned by Licensee without Licenser's prior written consent. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of this Agreement, when applicable.

9.2 Amendments. No amendments or other revisions of this Agreement shall be valid unless made in writing by the Licensee and the Licenser and signed.

9.3 Entire Agreement. This Agreement, including all exhibits attached hereto, represents the entire understanding for the use of the Arena between the Parties. There are no other or additional agreements between the Parties that modify the terms of this Agreement.

9.4 Severability. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provision and this Agreement shall then be construed in all respects as if such invalid or unenforceable provision(s) was omitted.

9.5 Headings and Captions. The headings and captions provided in this Agreement have been inserted merely as a matter of convenience and/or reference, and are not intended to define, limit, or describe the scope or intent of any provision of this Agreement.

9.6 Governing law. Interpretation of this Agreement shall be governed by the laws of the State of Illinois. Venue for all litigation arising out of this Agreement shall be proper in the Eighteenth Judicial Circuit Court of DuPage County, Wheaton, Illinois.

9.7 Waiver. No waiver of a breach of any provision of this Agreement by any party shall be effective unless made expressly in writing. No such waiver shall constitute or be construed as a waiver by such party of any future breach or any other provision of this Agreement.

9.8 Counterparts. This Agreement may be executed and delivered in two or more counterparts, each of which shall be an original document and all of which shall constitute a single binding Agreement.

9.9 Notice. Any and all notices required or permitted to be given hereunder may be given by personal delivery, or by facsimile or e-mail followed by express mail delivery, or by mailing. If personally delivered, notice shall be deemed given when actually received; if by facsimile or e-mail, notice shall be deemed given when actually received; if by mail, notice shall be deemed given when deposited with the U.S. Postal Service, first class postage prepaid, certified or registered mail return receipt requested, and addressed as follows:

If to the Village of Bensenville:

Village of Bensenville  
Attn: Village Manager  
12 South Center Street  
Bensenville, Illinois 60106

With a copy to:

Patrick K. Bond  
Bond, Dickson & Associates, P.C.  
400 S. Knoll Street, Unit C  
Whcaton, Illinois 60187

If to Fenwick High School Hockey Club:

President@fenwickhockey.org  
Secretary@fenwickhockey.org

Fenwick High School Hockey Club  
505 West Washington Blvd.  
Oak Park, IL 60302-4095

9.10 Authority. The Parties and each of them, by their signatures below, represent and warrant that they each have the full right, power and authority to enter into this Agreement and to perform their obligations hereunder; and this Agreement is valid and binding upon and enforceable against them, their heirs, successors and assigns in accordance with its terms. At the time of execution hereof, the parties and each of them shall provide to the others certified copies of corporate resolutions or other enabling resolutions authorizing execution of this Agreement.

9.11 No Third-Party Beneficiaries. The Parties agree that no third-party shall have any rights or benefits under this Agreement.

Space left intentionally blank

VILLAGE OF BENSENVILLE

Attest:

By: Michael Cassady, Village Manager

JoEllen Ridder, Village Clerk

Date: \_\_\_\_\_

Date: \_\_\_\_\_

FENWICK HOCKEY CLUB

By:

Date: 7/28/10

Attest:

Secretary

Date: 7/28/10

## EXHIBIT A

WAIVER AND RELEASE OF LIABILITY AGREEMENT

I. **Assumption of risk.** I acknowledge that ice skating, or any activities related to ice skating, involve certain risks, dangers and hazards that can result in serious personal injury or death. I also acknowledge that ice skating arenas contain potential dangers. Accordingly, I hereby freely agree and accept any and all known and unknown risks of injury while participating in ice skating and related activities arising out of the License executed between the VILLAGE OF BENSENVILLE and THE FENWICK FRIARS HIGH SCHOOL HOCKEY CLUB, an Illinois not-for-profit corporation, except for risks caused by negligence, wrongful conditions, or breach of contract by the village of Bensenville. I further recognize and acknowledge that the risks involved in ice skating, or any activities related to ice skating, can be reduced by, among other things: taking skating lessons, abiding by the rules and regulations of the Arena, and using common sense and care.

II. **Release and waiver of claims agreement.** In consideration of allowing me to participate in ice skating, or any activities related to ice skating, at the Arena, I hereby agree to waive any and all claims that I have or may have in the future against the VILLAGE OF BENSENVILLE resulting from my participation in the activities of THE FENWICK FRIARS HIGH SCHOOL HOCKEY CLUB, at the Arena. Further, I hereby release the VILLAGE OF BENSENVILLE from any and all liability for any loss, damage, injury or expense that I may suffer, or that my next of kin or heirs might suffer, as a result of my participation in the ice skating and related activities arising out of the Agreement executed between the VILLAGE OF BENSENVILLE and THE FENWICK FRIARS HIGH SCHOOL HOCKEY CLUB, due to whatever cause whatsoever, except for risks caused by the negligence of the VILLAGE OF BENSENVILLE.

III. **Binding effect of this agreement.** In the event of my death or incapacity, this agreement shall be binding upon my heirs, next of kin, executors, assigns, and representatives.

IV. **Entire agreement.** This agreement contains all the terms and conditions of my waiver and release of liability.

I HAVE READ AND UNDERSTAND THIS AGREEMENT AND I AM AWARE THAT  
BY SIGNING THIS AGREEMENT I AM WAIVING CERTAIN LEGAL RIGHTS.

---

Participant

Parent or guardian if participant is a minor

---

Date

## EXHIBIT B

RINK AND LOCKER ROOM RULES

1. Licensee must fill out and sign locker room responsibility contract prior to gaining access to any locker room.
2. Skates must be kept on the rubber floor only and not on or around the bleachers.
3. Playing hockey is restricted to the ice only. No sticks with pucks, balls, or any other objects will be permitted in the public areas of the rink. This equipment will be confiscated by rink staff if this policy is not adhered to.
4. Players must be fully clothed when outside of the locker room.
5. Roller blades, roller shoes, bicycles, scooters, and skate boards are not permitted in the rink
6. No pets allowed in rink.
7. The ice re-surfacer (Zamboni) will not start until all players are off of the ice and doors are closed.
8. User will be billed for every minute that they remain on the ice beyond the scheduled end of their slot. E.g. If a practice or game is scheduled from 5:30 pm – 6:30 pm that means the user should be off of the ice at 6:30 pm. This does not mean that it is time to start conditioning while the assistant coach picks up the pucks. The rink will notify the club of the extra charges and who was on the ice. Our goal is to provide a safe environment and we feel that having to resurface the ice in any time less than ten minutes is unsafe.
9. Users do not have access to the office or any office equipment within it.
10. No food or sport drinks allowed in locker rooms – WATER ONLY is allowed.
11. Floor hockey is strictly prohibited in all areas of the Edge Ice Arenas and particularly locker rooms and adjacent hallways.
12. Chewing tobacco is not allowed in the arena – violation will result in immediate ejection from the facility.
13. ALL trash must be picked up in locker rooms before this form is deemed ACCEPTABLE.
14. Players and or teams that bang sticks on wall and floors as they enter or exit the locker room will be immediately ejected from the Edge Ice Arenas.
15. Licensee is required to inform all of its Team Members of these rules and regulations.

## LOCKER ROOM RESPONSIBILITY CONTRACT

Date \_\_\_\_\_

Team and Association \_\_\_\_\_

Rink (Circle One): JOHN JEFF EAST JEFF WEST Locker Room # \_\_\_\_\_

Time of day key is checked out \_\_\_\_\_

Responsible party printed name  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I agree to accept full responsibility for cleanliness and damage that may occur during the above team's usage of this locker room. I understand the locker room will be inspected by an Edge Ice Arena employee and before occupancy and after all players have completed use of the locker room. The room must be clean and free from any acts of vandalism upon inspection. I further understand that the Rink and Locker Room Rules apply to the above referenced Team's use of the locker room.

Responsible party signature \_\_\_\_\_

Witness (Edge Staff) \_\_\_\_\_

After use inspection (circle one)  Acceptable Not Acceptable\*\*

\*\*Reason for non-acceptance \_\_\_\_\_

Employee name that inspected locker room and received key \_\_\_\_\_

Time of day key returned \_\_\_\_\_

*(Please note price list on reverse side for cost of damages)*

## Price List for Damages

Your team will be held liable for all damages to locker rooms that occurred in contracted time frame. Replacement costs that your team will be charged for any and all damage shall not exceed:

|                  |           |
|------------------|-----------|
| Paint touch up   | \$60.00   |
| Damaged Bench    | \$200.00  |
| Keys             | \$5.00    |
| Locks            | \$80.00   |
| Showerhead       | \$50.00   |
| Outlet           | \$30.00   |
| Outlet Cover     | \$10.00   |
| Light Cover      | \$100.00  |
| Thermostat       | \$500.00  |
| Toilet           | \$500.00  |
| Sink             | \$400.00  |
| Toilet Partition | \$500.00  |
| Shower Partition | \$500.00  |
| Emergency Lights | \$500.00  |
| Coat Hooks       | \$250.00  |
| Damaged Ceilings | \$1000.00 |
| Damaged Doors    | \$1000.00 |
| Room Deodorizer  | \$100.00  |

## EXHIBIT C

## ICE TIME/SCHEDULE

**A. Regular Ice Slots**

In each Annual Operating Year, Licensee shall be responsible for purchasing certain specified ice slots from Licensor. In each Annual Operating Year, from September 1st through and including the end of the 1st week in March, specifically excluding Labor Day Weekend, Thanksgiving Day and the three days following such days, December 25 – January 1, Licensee hereby agrees to purchase from the ice arena the general hours set forth in the following schedule and the exact hours set forth in the detailed schedule.

Monday

5:30 – 7:00 pm Jefferson West  
8:20 – 9:50 pm Jefferson West

Tuesday

6:00 – 7:00 am Jefferson West  
5:20 – 6:50 pm Jefferson West

Wednesday

6:00 – 7:00 am Jefferson West  
5:20 – 6:50 pm Jefferson West

Sunday

3:10 – 5:10 pm Jefferson West

**B. Spring Ice Slots**

In each Annual Operating Year, from the period beginning April 1<sup>st</sup> through and including May 30<sup>th</sup>, specifically excluding Easter Sunday, Licensee hereby agrees to purchase from the ice arena a minimum of the general hours set forth in the following schedule.

Monday

5:30 – 7:00 pm Jefferson West  
8:20 – 9:50 pm Jefferson West

Tuesday

6:00 – 7:00 am Jefferson West  
5:20 – 6:50 pm Jefferson West

Wednesday

6:00 – 7:00 am Jefferson West  
5:20 – 6:50 pm Jefferson West

Sunday

3:10 – 5:10 pm Jefferson West

**TYPE:** Ordinance **SUBMITTED BY:** John Anderson **DATE:** 09-21-2010

**DESCRIPTION:** Ordinance Authorization for the Sale and Disposal of Surplus Equipment

**SUPPORTS THE FOLLOWING APPLICABLE VILLAGE GOALS:**

|                                     |                                    |                          |                                 |
|-------------------------------------|------------------------------------|--------------------------|---------------------------------|
| <input checked="" type="checkbox"/> | Financially Sound Village          | <input type="checkbox"/> | Enrich the lives of Residents   |
| <input type="checkbox"/>            | Quality Customer Oriented Services | <input type="checkbox"/> | Major Business/Corporate Center |
| <input checked="" type="checkbox"/> | Safe and Beautiful Village         | <input type="checkbox"/> | Vibrant Major Corridors         |

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**COMMITTEE ACTION:** Unanimously approved

**DATE:** September 21, 2010

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**BACKGROUND:**

The Village owns multiple items of equipment that are currently not being used within the Public Works and wastewater treatment plant facility grounds. Equipment that is not traded in for new purchases must be approved by ordinance for proper disposal.

**KEY ISSUES:**

The types of equipment items listed below are out of service for various mechanical related reasons. The cost to repair this equipment is prohibitive, as they have reached their useful service life. The items include, but are not limited to:

1. Inoperable generator trailer unit
2. Inoperable forklift with related forklift attachments
3. Inoperable asphalt heater unit
4. Inoperable asphalt pavement spreader unit
5. Inoperable soil pulverizer
6. Dilapidated snow plows
7. Dilapidated storage containers

Salvage yards were contacted to request salvage price quotes for all unused inoperable items and equipment on the Public Works and Wastewater Treatment facility site.

One of the main goals of this process of removing unused items is not only to receive revenue for equipment that is not being used, but to stay in compliance with IEPA requirements under our existing storm water permit. IEPA performs routine inspections of the Public Works and Wastewater treatment plant facility and have recommended the removal of unnecessary and unused items. This has been accomplished with the recent removal of unused inoperable vehicles on the Public Works site and the removal of unnecessary equipment will continue this process of complying with an IEPA directive.

Public Works staff will be evaluating all unused items at the Public Works facility site and the wastewater treatment site and placing them in one of the following categories:

1. Keep item and move it to a designated division's storage area for future use
2. Designate item for sale to a salvage/scrap yard
3. Discard items that are not used, will not be used, and will not be purchased by a salvage yard

The unwanted accumulation of unused equipment will be monitored in the future by site evaluation monthly reports run in conjunction with the storm water pollution prevention plan which includes monthly storm water site evaluation reports. These reports will be presented to the IEPA when site inspection occurs.

**RECOMMENDATION:**

Committee request that items deemed reusable be placed online for sale to attempt to gain additional revenue. Staff recommends approval of the ordinance authorizing the sale or disposal of unused equipment.

**BUDGET IMPACT:**

This action would produce surplus sale revenue.

**ACTION REQUIRED:**

Motion to approve an ordinance authorizing the sale or disposal of unused equipment.

## **ORDINANCE NO.**

### **AUTHORIZING THE SALE OF SURPLUS PERSONAL PROPERTY OWNED BY THE VILLAGE OF BENSENVILLE**

WHEREAS, in the opinion of at least a simple majority of the corporate authorities of the Village of Bensenville, it is no longer necessary or useful or for the best interests of the Village of Bensenville to retain ownership of the personal property hereinafter described; and

WHEREAS, it has been determined by the President and Board of Trustees of the Village of Bensenville to sell said personal property through the IBID online auction website and to A-Affordable Auto Parts.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Bensenville, Counties of Du Page and Cook, Illinois, as follows:

**SECTION ONE:** Pursuant to 65 ILCS 5/11-76-4, the President and Board of Trustees of the Village of Bensenville find that the following described personal property:

- Inoperable generator trailer unit
- Inoperable forklift with related forklift attachments
- Inoperable asphalt heater unit
- Inoperable asphalt pavement spreader unit
- Inoperable soil pulverizer
- Dilapidated snow plows
- Dilapidated storage containers

now owned by the Village of Bensenville is no longer necessary or useful to the Village of Bensenville and the best interests of the Village of Bensenville will be served by its sale.

**SECTION TWO:** Pursuant to said 65 ILCS 5/11-76-4, the Village Manager is hereby authorized and directed to sell the aforementioned personal property now owned by the Village of Bensenville through the IBID online auction website and to A-Affordable Auto Parts.

**SECTION THREE:** No price that is less than the minimum price set forth in the list of property to be sold shall be accepted except as authorized by the Village Manager or his agent.

**SECTION FOUR:** All ordinances in conflict herewith are repealed to the extent of said conflict. This ordinance shall be in full force and effect from and after its passage by simple majority vote of the corporate authorities and approval in the manner provided by law.

PASSED AND APPROVED by the President and Board of Trustees at the Village of Bensenville, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

---

Frank Soto

Village President

ATTEST:

---

JoEllen Ridder  
Village Clerk

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

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

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

**TYPE:** Motion      **SUBMITTED BY:** Village Manager      **DATE:** 9/28/10

**DESCRIPTION:** Authorize Village Manager to retain Baxter and Woodman Consulting Engineers to provide management transition assistance to Department of Public Works

**SUPPORTS THE FOLLOWING APPLICABLE VILLAGE GOALS:**

|                                     |   |                          |  |
|-------------------------------------|---|--------------------------|--|
| <input checked="" type="checkbox"/> | <i>Financially Sound Village</i>          | <input type="checkbox"/> | <i>Enrich the lives of Residents</i>   |
| <input checked="" type="checkbox"/> | <i>Quality Customer Oriented Services</i> | <input type="checkbox"/> | <i>Major Business/Corporate Center</i> |
| <input checked="" type="checkbox"/> | <i>Safe and Beautiful Village</i>         | <input type="checkbox"/> | <i>Vibrant Major Corridors</i>         |

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**COMMITTEE ACTION:** Approved Unanimously

**DATE:** 09/21/10

**BACKGROUND**

Baxter and Woodman provide key engineering assistance to the Village of Bensenville Department of Public Works on several projects and programs, including management of waste water pre-treatment, street resurfacing, neighborhood drainage studies and an update of our water and sewer rates (on tonight's agenda). Baxter and Woodman have deep institutional knowledge of our utility and transportation systems and have exceeded our expectations for service and responsiveness.

**KEY ISSUES:**

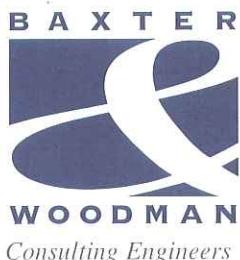
With the resignation of Paul Quinn, we are requesting that Steve Zehner and Ralph Tompkins, both registered professional engineers with Baxter and Woodman, be retained to provide management and engineering assistance to the department. They will work four hours per day, four days a week, with an additional four hours provided by their engineering staff. The cost will be \$2,000 per week, not to exceed \$16,000. This will allow us to continue the positive momentum the Department has achieved this past year as we focus on significant deliverables due over the next three months. Of particular importance is completion of contract negotiations on waste water treatment operations, development of a Five Year Capital Improvement Plan, operations/management review and mentoring to our young Public Works Management Team.

**ALTERNATIVES:** 1. Authorize Village Manager to retain Baxter and Woodman.  
2. Discretion of the Committee.

**RECOMMENDATION:** Staff recommends approval of this additional assistance. Our current organizational structure requires engineering services to be sourced to the private sector. Many key objectives due in the last Quarter of 2010 require engineering assistance and Baxter and Woodman have proven expertise and demonstrated results.

**BUDGET IMPACT:** Not to exceed \$16,000 for eight weeks of service.

**ACTION REQUIRED:** Authorize Village Manager to execute an Agreement with Baxter and Woodman.



Consulting Engineers

Mr. Michael Cassady  
Village Manager  
Village of Bensenville  
12 S. Center St.  
Bensenville, IL 60106

August 26, 2010

***Subject: Village of Bensenville – Public Works Assistance***

Dear Mr. Cassady:

A long time Public Works Manager with many years of institutional knowledge has left the Village this week. We understand the staff remaining are capable and enthusiastic to fill this void, but they lack the experience that may be necessary to carry the Village into the next fiscal year.

Baxter & Woodman, Inc. has the professional staff to assist the Village of Bensenville with interim Public Works assistance. Thank you for the opportunity to submit our proposal to assist the Village for approximately 20 hours per week through the month of November or until the end of the year if needed.

**Staffing**

We have assigned Mr. Steven G. Zehner, PE and Mr. Ralph Tompkins, PE as Sr. Public Works Consultants to the Village. Steve will work in the Village's public works office 4 hours per day; 4 days per week. Steve has been serving the Village for more than ten years and he is very familiar with Village preferences, procedures and personnel. Ralph is the former Director of Public Works for the City of DeKalb (30+ years). He will coordinate with Steve and the Village when needed. Both of these gentlemen and the Village are further supported by our staff of 190 professional engineers, technicians, surveyors, and more. With our close-by Itasca location, staff is readily available to provide prompt and responsive assistance.

**Scope of Services**

Our understanding of this assignment includes one Baxter & Woodman staff member working in the Village's public works office (4 hours per day, 4 days per week) to provide general public works assistance. Ralph and the remaining

8678 Ridgefield Rd.

Crystal Lake, IL 60012

815.459.1260

Fax 815.455.0450

[info@baxterwoodman.com](mailto:info@baxterwoodman.com)

Mr. Michael Cassady  
Village of Bensenville

August 26, 2010  
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Baxter & Woodman team can provide an additional 4 hours per week of assistance. The typical duties may include:

- Perform duties assigned by the Village Manager.
- Attendance at public works staffing meetings.
- Assistance in developing project scope and costs for Village Capital Improvement Planning.
- Assist as needed with budget, project management, operations, procurement and resident inquiries.
- Assist in the review of permit applications.
- Mentor staff as needed on public works administration.
- Identify grant opportunities.
- We propose attending a bi-weekly meeting with the Village Manager and Sr. Public Works Consultant Ralph Tompkins to update the Village on the progress of this effort and to discuss any concerns.
- Assist the Village with the selection of the next Public Works Director.

#### **Fee**

Our weekly fee for the proposed 4 hour work day, 4 days per week plus 4 hours of additional staff support will be \$2,000 per week. Travel time to and from the Village office and expenses will not be charged to the Village. If the Village requests time for special tasks beyond the initial 20 hours per week, the Village will be billed at our standard hourly rates of compensation for the additional hours.



Mr. Michael Cassady  
Village of Bensenville

August 26, 2010  
100818.10 · Page 3

Consulting Engineers

If you find this proposal acceptable, **please sign below and return one copy for our files**. We appreciate the opportunity to assist the Village of Bensenville with these services. Please do not hesitate to call if you have any questions or need additional information.

Very truly yours,

BAXTER & WOODMAN, INC.  
CONSULTING ENGINEERS

A handwritten signature in blue ink that reads "John V. Ambrose".

John V. Ambrose, PE  
Vice-President

**VILLAGE OF BENSENVILLE, ILLINOIS**

**ACCEPTED BY:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

## VILLAGE OF BENSENVILLE

TYPE: Resolution SUBMITTED BY: Denise Pieroni DATE: September 23, 2010

**DESCRIPTION:** Resolution approving use of Prepayment Agreements in regard to Special Service Areas 3, 4, 5, 6, 7, 8, and 9, and authorizing the Village Manager to execute the Prepayment Agreements on behalf of the Village

**SUPPORTS THE FOLLOWING APPLICABLE VILLAGE GOALS:**

*Financially Sound Village*  
 *Quality Customer Oriented Services*  
 *Safe and Beautiful Village*

*Enrich the lives of Residents*  
 *Major Business/Corporate Center*  
 *Vibrant Major Corridors*

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COMMITTEE ACTION: N/A

DATE: N/A

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**BACKGROUND:** On September 14, 2010, the Village Board approved seven (7) ordinances proposing the establishment of seven (7) Special Service Areas (SSA) in the North Industrial Park and providing for the Public Hearings and other procedures in connection therewith. These Special Service Areas are proposed in order to fund identified improvements within certain areas of the North Industrial Park. As proposed, each SSA would be used to fund 50% of the cost of the improvements proposed for each respective area. The other 50% of these costs would be funded through the proposed North Industrial Park TIF. Several property owners have requested the opportunity to prepay their respective allocation. The resolution before the Board at this time approves the format for prepayment agreements in each area and authorizes the Village Manager to execute these agreements. Depending on the location of a specific parcel and the impact of its potential removal on the remainder of the District, this prepayment option may not be available to all property owners.

**KEY ISSUES:** The Village would like to provide as much flexibility as possible to property owners relative to the payments options, subject to direct and/or indirect limitations created by the SSA enabling legislation.

**ALTERNATIVES:**

- Village Board discretion

**RECOMMENDATION:** Approve the resolution approving the use of Prepayment Agreements in regard to Special Service Areas 3, 4, 5, 6, 7, 8, and 9, and authorizing the Village Manager to execute the Prepayment Agreements on behalf of the Village.

**BUDGET IMPACT:** No direct impact to the Budget, however prepayments will reduce the amount that the Village will need to bond for to cover the cost of the improvements.

**ACTION REQUIRED:** Board approval of the Resolution.

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

**A RESOLUTION APPROVING THE USE OF PREPAYMENT AGREEMENTS  
IN REGARD TO SPECIAL SERVICE AREAS 3, 4, 5, 6, 7, 8 AND 9,  
AND AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE  
PREPAYMENT AGREEMENTS ON BEHALF OF THE VILLAGE**

**BE IT RESOLVED** by the President and Board of Trustees of the Village of Bensenville, DuPage and Cook Counties, Illinois, that the President and Board of Trustees hereby approve, and authorize the use of, the following agreements, which are attached hereto as GROUP EXHIBIT "A" and made part hereof, in regard to Special Service Areas 3, 4, 5, 6, 7, 8 and 9:

1. Agreement in Regard to a Prepayment Relative to Bensenville Special Service Area 3 (North Industrial District Improvements);
2. Agreement in Regard to a Prepayment Relative to Bensenville Special Service Area 4 (North Industrial District Improvements);
3. Agreement in Regard to a Prepayment Relative to Bensenville Special Service Area 5 (North Industrial District Improvements);
4. Agreement in Regard to a Prepayment Relative to Bensenville Special Service Area 6 (North Industrial District Improvements);
5. Agreement in Regard to a Prepayment Relative to Bensenville Special Service Area 7 (North Industrial District Improvements);
6. Agreement in Regard to a Prepayment Relative to Bensenville Special Service Area 8 (North Industrial District Improvements); and
7. Agreement in Regard to a Prepayment Relative to Bensenville Special Service Area 9 (North Industrial District Improvements);

(hereinafter the "Prepayment Agreements").

**BE IT FURTHER RESOLVED** that the Village Manager is hereby authorized to execute any of the Prepayment Agreements, on behalf of the Village, as well execute,

on behalf of the Village, any and all additional documents necessary to carry out the terms and provisions of the Prepayment Agreements.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2010, pursuant to a roll call vote as follows:

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

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

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

**APPROVED** by me this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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Frank Soto, Village President

ATTEST:

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JoEllen Ridder, Village Clerk

**GROUP EXHIBIT "A"**

- 1. Agreement in Regard to a Prepayment Relative to Bensenville Special Service Area 3 (North Industrial District Improvements)**
- 2. Agreement in Regard to a Prepayment Relative to Bensenville Special Service Area 4 (North Industrial District Improvements)**
- 3. Agreement in Regard to a Prepayment Relative to Bensenville Special Service Area 5 (North Industrial District Improvements)**
- 4. Agreement in Regard to a Prepayment Relative to Bensenville Special Service Area 6 (North Industrial District Improvements)**
- 5. Agreement in Regard to a Prepayment Relative to Bensenville Special Service Area 7 (North Industrial District Improvements)**
- 6. Agreement in Regard to a Prepayment Relative to Bensenville Special Service Area 8 (North Industrial District Improvements)**
- 7. Agreement in Regard to a Prepayment Relative to Bensenville Special Service Area 9 (North Industrial District Improvements)**

(attached)

**AGREEMENT  
IN REGARD TO A PREPAYMENT  
RELATIVE TO  
BENSENVILLE SPECIAL SERVICE AREA NUMBER 3  
(NORTH INDUSTRIAL DISTRICT IMPROVEMENTS)**

This Agreement (hereinafter referred to as the "Agreement"), entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by and between the Village of Bensenville (hereinafter referred to as the "Village") and \_\_\_\_\_ (hereinafter referred to as the "Owner"). The Village and the Owner are hereinafter sometimes individually referred to as a "Party" and collectively referred to as the "Parties."

**WITNESSETH**

**WHEREAS**, on September 14, 2010, the President and Board of Trustees of the Village approved Ordinance Number 67-2010, entitled "AN ORDINANCE PROPOSING THE ESTABLISHMENT OF SPECIAL SERVICE AREA NUMBER 3 (NORTH INDUSTRIAL DISTRICT IMPROVEMENTS) IN THE VILLAGE OF BENSENVILLE AND PROVIDING FOR A PUBLIC HEARING AND OTHER PROCEDURES IN CONNECTION THEREWITH" (the "Ordinance"), in regard to the establishment of Bensenville Special Service Area Number 3 (the "SSA"), with said SSA being established to provide certain street reconstruction, street lighting conduit and sanitary sewer improvements services in a portion of the North Industrial District (the "Improvements"); and

**WHEREAS**, pursuant to the Ordinance, the maximum amount of the bonds or other debt instruments to be issued to pay for the costs of the Improvements is Six Hundred Sixty-Five Thousand and No/100 Dollars (\$665,000.00), with the debt service relative to said bonds or other debt instruments to be paid over a maximum twenty (20)

year period at an interest rate not to exceed seven and one-half percent (7½%), pursuant to a tax to be levied against all of the real property included within the SSA; and

**WHEREAS**, permanent index number \_\_\_\_\_ (the "Parcel") is one of the parcels of property that is proposed to be included in the SSA; and

**WHEREAS**, the Owner is the owner of the Parcel, and desires to prepay the Parcel's proportionate share of the cost of the Improvements contemplated pursuant to the SSA, so as to avoid paying certain financing costs relating to the SSA; said proportionate share of the cost of the SSA that has been assigned to the Parcel being \$\_\_\_\_\_ (the "Prepayment Amount"); and

**WHEREAS**, the Village has indicated that, upon receipt of the Prepayment Amount on or before October 19, 2010, the Village would:

- (1) place the Prepayment Amount in an escrow fund, to be held in trust for use in paying a portion of the costs of the Improvements;
- (2) delete the Parcel from the SSA, pursuant to an Ordinance to be adopted at the October 26, 2010 Village Board meeting; and
- (3) return the Prepayment Amount, without interest, to the Owner in the event that the Village does not proceed with the SSA or the construction of the Improvements;

and

**WHEREAS**, Article VII, Section 10 of the 1970 Illinois Constitution provides the authority for this Agreement; and

**WHEREAS**, it is in the best interests of the Village and the Owner to enter into this Agreement;

**NOW, THEREFORE**, in consideration of the foregoing, the mutual premises and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties hereto, the Parties hereto agree as follows:

1. The preambles hereto, as set forth above, are incorporated herein by reference and are made part hereof.
2. The Owner has, simultaneously with the execution of this Agreement, deposited with the Village the Prepayment Amount, to be held in escrow by the Village, as the Parcel's proportionate share of the Improvements to be constructed pursuant to the SSA, and to be used by the Village relative to the payment of the costs of the Improvements.
3. The Village hereby acknowledges receipt of the Prepayment Amount as of the date of this Agreement.
4. In regard to the Prepayment Amount, the Village agrees as follows:
  - A. Said Prepayment Amount shall be held in trust, in an escrow account, until such time as the Village either proceeds with the SSA, and uses the Prepayment Amount to pay for the cost of the Improvements, or refunds the Prepayment Amount.
  - B. Said Prepayment Amount shall be used solely to pay the cost of the Improvements to be constructed pursuant to the SSA.
  - C. The Village shall, on October 26, 2010, adopt an Ordinance deleting the Parcel from the SSA.
  - D. In the event that the Village does not:

- (i) delete the Parcel from the SSA on October 26, 2010;
- (ii) establish the SSA, on or before January 31, 2011; or
- (iii) proceed with the construction of the Improvements pursuant to the SSA, by awarding a contract(s) in relation to said construction no later than December 1, 2011;  
the Prepayment Amount shall be returned to the Owner, without interest, within thirty (30) days after the Village's failure to comply with either (i), (ii) or (iii) above (by November 25, 2010, March 2, 2011 or December 31, 2011, respectively).

5. In the event that the Improvements are constructed for less than the amount used by the Village to calculate the Prepayment Amount, the Village shall provide the Owner with a refund of a portion of the Prepayment Amount, without interest, based on the Parcel's prorated share of said construction cost savings, within thirty (30) days after the final payment is made to the contractor employed to construct the Improvements.

6. For purposes of any return of all or a portion of the Prepayment Amount to the Owner, as provided for in Sections 4.D. and 5. above, the Owner hereby specifies that the check should be made payable to \_\_\_\_\_, and should be forwarded to the following address:

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**7.** Notice of other writings which either Party is required to, or may wish to, serve upon the other Party in connection with this Agreement shall be in writing and shall be delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

A. If to the Village:

Village Manager  
Village of Bensenville  
12 South Center Street  
Bensenville, Illinois 60106

B. If to the Owner:

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or to such other address, or additional parties, as either Party may from time to time designate in a written notice to the other Party. Service by certified mail shall be deemed given on the third day following the mailing of said notice, and service by personal delivery shall be deemed given upon actual delivery.

**8.** This Agreement shall be executed simultaneously in two (2) counterparts, each of which shall be deemed an original, but both of which shall constitute one and the same Agreement.

**9.** This Agreement contains the entire understanding between the Parties and supersedes any prior understanding or written or oral agreements between them regarding the within subject matter. There are no representations, agreements, arrangements or understandings, oral or written, between and among the Parties hereto relating to the subject matter of this Agreement which are not fully expressed herein.

**10.** This Agreement shall be deemed dated and become effective on the date on which the last of the Parties executes this Agreement as set forth below.

11. The Village and the Owner each represent that the person(s) executing this Agreement, upon their respective behalves, has/have the authority to do so and to bind the Village and the Owner in relation thereto.

**IN WITNESS WHEREOF**, the Village, pursuant to authority granted by the President and Board of Trustees, has caused this Agreement to be executed by its Village Manager, and the Owner has caused this Agreement to be signed by its authorized representative(s).

**VILLAGE OF BENSENVILLE**

By: \_\_\_\_\_  
Michael Cassady,  
Village Manager

Date: \_\_\_\_\_

**OWNER:** \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ATTEST:**  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF ILLINOIS      )  
                            ) SS  
COUNTY OF DuPAGE    )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named Michael Cassady, personally known to me to be the Village Manager of the Village of Bensenville, and also known to me to be the same person whose name is subscribed to the foregoing instrument as such Village Manager, appeared before me this day in person and acknowledged that, as such Village Manager, he signed and delivered the signed instrument, pursuant to authority given by the Village of Bensenville, as his free and voluntary act, and as the free and voluntary act and deed of said Village of Bensenville, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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Notary Public

STATE OF ILLINOIS      )  
                            ) SS  
COUNTY OF \_\_\_\_\_ )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named \_\_\_\_\_ and \_\_\_\_\_, personally known to me to be the \_\_\_\_\_ and the \_\_\_\_\_ of \_\_\_\_\_ (the "Owner"), and also known to me to be the same persons whose names are subscribed to the foregoing instrument as \_\_\_\_\_ and \_\_\_\_\_, respectively, appeared before me this day in person and acknowledged that, as such \_\_\_\_\_ and \_\_\_\_\_, they signed and delivered the signed instrument, pursuant to authority given by said Owner, as their free and voluntary act, and as the free and voluntary act and deed of said Owner, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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Notary Public

**AGREEMENT  
IN REGARD TO A PREPAYMENT  
RELATIVE TO  
BENSENVILLE SPECIAL SERVICE AREA NUMBER 4  
(NORTH INDUSTRIAL DISTRICT IMPROVEMENTS)**

This Agreement (hereinafter referred to as the "Agreement"), entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by and between the Village of Bensenville (hereinafter referred to as the "Village") and \_\_\_\_\_ (hereinafter referred to as the "Owner"). The Village and the Owner are hereinafter sometimes individually referred to as a "Party" and collectively referred to as the "Parties."

**WITNESSETH**

**WHEREAS**, on September 14, 2010, the President and Board of Trustees of the Village approved Ordinance Number 68-2010, entitled "AN ORDINANCE PROPOSING THE ESTABLISHMENT OF SPECIAL SERVICE AREA NUMBER 4 (NORTH INDUSTRIAL DISTRICT IMPROVEMENTS) IN THE VILLAGE OF BENSENVILLE AND PROVIDING FOR A PUBLIC HEARING AND OTHER PROCEDURES IN CONNECTION THEREWITH" (the "Ordinance"), in regard to the establishment of Bensenville Special Service Area Number 4 (the "SSA"), with said SSA being established to provide certain street reconstruction, sanitary sewer, storm sewer, street lighting conduit and storm water drainage improvements services in a portion of the North Industrial District (the "Improvements"); and

**WHEREAS**, pursuant to the Ordinance, the maximum amount of the bonds or other debt instruments to be issued to pay for the costs of the Improvements is Two Million Eight Hundred Sixty-Seven Thousand and No/100 Dollars (\$2,867,000.00), with the debt service relative to said bonds or other debt instruments to be paid over a

maximum twenty (20) year period at an interest rate not to exceed seven and one-half percent (7½%), pursuant to a tax to be levied against all of the real property included within the SSA; and

**WHEREAS**, permanent index number \_\_\_\_\_ (the "Parcel") is one of the parcels of property that is proposed to be included in the SSA; and

**WHEREAS**, the Owner is the owner of the Parcel, and desires to prepay the Parcel's proportionate share of the cost of the Improvements contemplated pursuant to the SSA, so as to avoid paying certain financing costs relating to the SSA; said proportionate share of the cost of the SSA that has been assigned to the Parcel being \$\_\_\_\_\_ (the "Prepayment Amount"); and

**WHEREAS**, the Village has indicated that, upon receipt of the Prepayment Amount on or before October 19, 2010, the Village would:

- (1) place the Prepayment Amount in an escrow fund, to be held in trust for use in paying a portion of the costs of the Improvements;
- (2) delete the Parcel from the SSA, pursuant to an Ordinance to be adopted at the October 26, 2010 Village Board meeting; and
- (3) return the Prepayment Amount, without interest, to the Owner in the event that the Village does not proceed with the SSA or the construction of the Improvements;

and

**WHEREAS**, Article VII, Section 10 of the 1970 Illinois Constitution provides the authority for this Agreement; and

**WHEREAS**, it is in the best interests of the Village and the Owner to enter into this Agreement;

**NOW, THEREFORE**, in consideration of the foregoing, the mutual premises and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties hereto, the Parties hereto agree as follows:

1. The preambles hereto, as set forth above, are incorporated herein by reference and are made part hereof.
2. The Owner has, simultaneously with the execution of this Agreement, deposited with the Village the Prepayment Amount, to be held in escrow by the Village, as the Parcel's proportionate share of the Improvements to be constructed pursuant to the SSA, and to be used by the Village relative to the payment of the costs of the Improvements.
3. The Village hereby acknowledges receipt of the Prepayment Amount as of the date of this Agreement.
4. In regard to the Prepayment Amount, the Village agrees as follows:
  - A. Said Prepayment Amount shall be held in trust, in an escrow account, until such time as the Village either proceeds with the SSA, and uses the Prepayment Amount to pay for the cost of the Improvements, or refunds the Prepayment Amount.
  - B. Said Prepayment Amount shall be used solely to pay the cost of the Improvements to be constructed pursuant to the SSA.
  - C. The Village shall, on October 26, 2010, adopt an Ordinance deleting the Parcel from the SSA.
  - D. In the event that the Village does not:

- (i) delete the Parcel from the SSA on October 26, 2010;
- (ii) establish the SSA, on or before January 31, 2011; or
- (iii) proceed with the construction of the Improvements pursuant to the SSA, by awarding a contract(s) in relation to said construction no later than December 1, 2011;  
the Prepayment Amount shall be returned to the Owner, without interest, within thirty (30) days after the Village's failure to comply with either (i), (ii) or (iii) above (by November 25, 2010, March 2, 2011 or December 31, 2011, respectively).

5. In the event that the Improvements are constructed for less than the amount used by the Village to calculate the Prepayment Amount, the Village shall provide the Owner with a refund of a portion of the Prepayment Amount, without interest, based on the Parcel's prorated share of said construction cost savings, within thirty (30) days after the final payment is made to the contractor employed to construct the Improvements.

6. For purposes of any return of all or a portion of the Prepayment Amount to the Owner, as provided for in Sections 4.D. and 5. above, the Owner hereby specifies that the check should be made payable to \_\_\_\_\_, and should be forwarded to the following address:

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**7.** Notice of other writings which either Party is required to, or may wish to, serve upon the other Party in connection with this Agreement shall be in writing and shall be delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

A. If to the Village:

Village Manager  
Village of Bensenville  
12 South Center Street  
Bensenville, Illinois 60106

B. If to the Owner:

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or to such other address, or additional parties, as either Party may from time to time designate in a written notice to the other Party. Service by certified mail shall be deemed given on the third day following the mailing of said notice, and service by personal delivery shall be deemed given upon actual delivery.

**8.** This Agreement shall be executed simultaneously in two (2) counterparts, each of which shall be deemed an original, but both of which shall constitute one and the same Agreement.

**9.** This Agreement contains the entire understanding between the Parties and supersedes any prior understanding or written or oral agreements between them regarding the within subject matter. There are no representations, agreements, arrangements or understandings, oral or written, between and among the Parties hereto relating to the subject matter of this Agreement which are not fully expressed herein.

**10.** This Agreement shall be deemed dated and become effective on the date on which the last of the Parties executes this Agreement as set forth below.

11. The Village and the Owner each represent that the person(s) executing this Agreement, upon their respective behalves, has/have the authority to do so and to bind the Village and the Owner in relation thereto.

**IN WITNESS WHEREOF**, the Village, pursuant to authority granted by the President and Board of Trustees, has caused this Agreement to be executed by its Village Manager, and the Owner has caused this Agreement to be signed by its authorized representative(s).

**VILLAGE OF BENSENVILLE**

By: \_\_\_\_\_  
Michael Cassady,  
Village Manager

Date: \_\_\_\_\_

**OWNER:** \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ATTEST:**  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF ILLINOIS      )  
                            ) SS  
COUNTY OF DuPAGE    )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named Michael Cassady, personally known to me to be the Village Manager of the Village of Bensenville, and also known to me to be the same person whose name is subscribed to the foregoing instrument as such Village Manager, appeared before me this day in person and acknowledged that, as such Village Manager, he signed and delivered the signed instrument, pursuant to authority given by the Village of Bensenville, as his free and voluntary act, and as the free and voluntary act and deed of said Village of Bensenville, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

---

Notary Public

STATE OF ILLINOIS      )  
                            ) SS  
COUNTY OF \_\_\_\_\_ )

I, the undersigned, a Notary Public, in and for the County and State aforesaid,  
DO HEREBY CERTIFY that the above-named \_\_\_\_\_ and  
\_\_\_\_\_, personally known to me to be the \_\_\_\_\_  
and the \_\_\_\_\_ of \_\_\_\_\_ (the "Owner"),  
and also known to me to be the same persons whose names are subscribed to the  
foregoing instrument as \_\_\_\_\_ and \_\_\_\_\_,  
respectively, appeared before me this day in person and acknowledged that, as such  
\_\_\_\_\_ and \_\_\_\_\_, they signed and delivered the  
signed instrument, pursuant to authority given by said Owner, as their free and  
voluntary act, and as the free and voluntary act and deed of said Owner, for the uses  
and purposes therein set forth.

GIVEN under my hand and Notary Seal, this \_\_\_\_\_ day of \_\_\_\_\_,  
2010.

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Notary Public

**AGREEMENT  
IN REGARD TO A PREPAYMENT  
RELATIVE TO  
BENSENVILLE SPECIAL SERVICE AREA NUMBER 5  
(NORTH INDUSTRIAL DISTRICT IMPROVEMENTS)**

This Agreement (hereinafter referred to as the "Agreement"), entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by and between the Village of Bensenville (hereinafter referred to as the "Village") and \_\_\_\_\_ (hereinafter referred to as the "Owner"). The Village and the Owner are hereinafter sometimes individually referred to as a "Party" and collectively referred to as the "Parties."

**WITNESSETH**

**WHEREAS**, on September 14, 2010, the President and Board of Trustees of the Village approved Ordinance Number 69-2010, entitled "AN ORDINANCE PROPOSING THE ESTABLISHMENT OF SPECIAL SERVICE AREA NUMBER 5 (NORTH INDUSTRIAL DISTRICT IMPROVEMENTS) IN THE VILLAGE OF BENSENVILLE AND PROVIDING FOR A PUBLIC HEARING AND OTHER PROCEDURES IN CONNECTION THEREWITH" (the "Ordinance"), in regard to the establishment of Bensenville Special Service Area Number 5 (the "SSA"), with said SSA being established to provide certain stormwater management improvements services in a portion of the North Industrial District (the "Improvements"); and

**WHEREAS**, pursuant to the Ordinance, the maximum amount of the bonds or other debt instruments to be issued to pay for the costs of the Improvements is Two Hundred Thousand Five Hundred and No/100 Dollars (\$200,500.00), with the debt service relative to said bonds or other debt instruments to be paid over a maximum twenty (20) year period at an interest rate not to exceed seven and one-half percent

(7½%), pursuant to a tax to be levied against all of the real property included within the SSA; and

**WHEREAS**, permanent index number \_\_\_\_\_ (the "Parcel") is one of the parcels of property that is proposed to be included in the SSA; and

**WHEREAS**, the Owner is the owner of the Parcel, and desires to prepay the Parcel's proportionate share of the cost of the Improvements contemplated pursuant to the SSA, so as to avoid paying certain financing costs relating to the SSA; said proportionate share of the cost of the SSA that has been assigned to the Parcel being \$\_\_\_\_\_ (the "Prepayment Amount"); and

**WHEREAS**, the Village has indicated that, upon receipt of the Prepayment Amount on or before October 19, 2010, the Village would:

- (1) place the Prepayment Amount in an escrow fund, to be held in trust for use in paying a portion of the costs of the Improvements;
- (2) delete the Parcel from the SSA, pursuant to an Ordinance to be adopted at the October 26, 2010 Village Board meeting; and
- (3) return the Prepayment Amount, without interest, to the Owner in the event that the Village does not proceed with the SSA or the construction of the Improvements;

and

**WHEREAS**, Article VII, Section 10 of the 1970 Illinois Constitution provides the authority for this Agreement; and

**WHEREAS**, it is in the best interests of the Village and the Owner to enter into this Agreement;

**NOW, THEREFORE**, in consideration of the foregoing, the mutual premises and covenants set forth herein, and other good and valuable consideration, the receipt and

sufficiency of which is hereby acknowledged by the Parties hereto, the Parties hereto agree as follows:

1. The preambles hereto, as set forth above, are incorporated herein by reference and are made part hereof.
2. The Owner has, simultaneously with the execution of this Agreement, deposited with the Village the Prepayment Amount, to be held in escrow by the Village, as the Parcel's proportionate share of the Improvements to be constructed pursuant to the SSA, and to be used by the Village relative to the payment of the costs of the Improvements.
3. The Village hereby acknowledges receipt of the Prepayment Amount as of the date of this Agreement.
4. In regard to the Prepayment Amount, the Village agrees as follows:
  - A. Said Prepayment Amount shall be held in trust, in an escrow account, until such time as the Village either proceeds with the SSA, and uses the Prepayment Amount to pay for the cost of the Improvements, or refunds the Prepayment Amount.
  - B. Said Prepayment Amount shall be used solely to pay the cost of the Improvements to be constructed pursuant to the SSA.
  - C. The Village shall, on October 26, 2010, adopt an Ordinance deleting the Parcel from the SSA.
  - D. In the event that the Village does not:
    - (i) delete the Parcel from the SSA on October 26, 2010;
    - (ii) establish the SSA, on or before January 31, 2011; or

(iii) proceed with the construction of the Improvements pursuant to the SSA, by awarding a contract(s) in relation to said construction no later than December 1, 2011; the Prepayment Amount shall be returned to the Owner, without interest, within thirty (30) days after the Village's failure to comply with either (i), (ii) or (iii) above (by November 25, 2010, March 2, 2011 or December 31, 2011, respectively).

5. In the event that the Improvements are constructed for less than the amount used by the Village to calculate the Prepayment Amount, the Village shall provide the Owner with a refund of a portion of the Prepayment Amount, without interest, based on the Parcel's prorated share of said construction cost savings, within thirty (30) days after the final payment is made to the contractor employed to construct the Improvements.

6. For purposes of any return of all or a portion of the Prepayment Amount to the Owner, as provided for in Sections 4.D. and 5. above, the Owner hereby specifies that the check should be made payable to \_\_\_\_\_, and should be forwarded to the following address:

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7. Notice of other writings which either Party is required to, or may wish to, serve upon the other Party in connection with this Agreement shall be in writing and

shall be delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

A. If to the Village:

Village Manager  
Village of Bensenville  
12 South Center Street  
Bensenville, Illinois 60106

B. If to the Owner:

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or to such other address, or additional parties, as either Party may from time to time designate in a written notice to the other Party. Service by certified mail shall be deemed given on the third day following the mailing of said notice, and service by personal delivery shall be deemed given upon actual delivery.

**8.** This Agreement shall be executed simultaneously in two (2) counterparts, each of which shall be deemed an original, but both of which shall constitute one and the same Agreement.

**9.** This Agreement contains the entire understanding between the Parties and supersedes any prior understanding or written or oral agreements between them regarding the within subject matter. There are no representations, agreements, arrangements or understandings, oral or written, between and among the Parties hereto relating to the subject matter of this Agreement which are not fully expressed herein.

**10.** This Agreement shall be deemed dated and become effective on the date on which the last of the Parties executes this Agreement as set forth below.

**11.** The Village and the Owner each represent that the person(s) executing this Agreement, upon their respective behalves, has/have the authority to do so and to bind the Village and the Owner in relation thereto.

**IN WITNESS WHEREOF**, the Village, pursuant to authority granted by the President and Board of Trustees, has caused this Agreement to be executed by its Village Manager, and the Owner has caused this Agreement to be signed by its authorized representative(s).

**VILLAGE OF BENSENVILLE**

By: \_\_\_\_\_  
Michael Cassady,  
Village Manager

Date: \_\_\_\_\_

**OWNER:** \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF ILLINOIS      )  
                            ) SS  
COUNTY OF DuPAGE    )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named Michael Cassady, personally known to me to be the Village Manager of the Village of Bensenville, and also known to me to be the same person whose name is subscribed to the foregoing instrument as such Village Manager, appeared before me this day in person and acknowledged that, as such Village Manager, he signed and delivered the signed instrument, pursuant to authority given by the Village of Bensenville, as his free and voluntary act, and as the free and voluntary act and deed of said Village of Bensenville, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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Notary Public

STATE OF ILLINOIS      )  
                            ) SS  
COUNTY OF \_\_\_\_\_ )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named \_\_\_\_\_ and \_\_\_\_\_, personally known to me to be the \_\_\_\_\_ and the \_\_\_\_\_ of \_\_\_\_\_ (the "Owner"), and also known to me to be the same persons whose names are subscribed to the foregoing instrument as \_\_\_\_\_ and \_\_\_\_\_, respectively, appeared before me this day in person and acknowledged that, as such \_\_\_\_\_ and \_\_\_\_\_, they signed and delivered the signed instrument, pursuant to authority given by said Owner, as their free and voluntary act, and as the free and voluntary act and deed of said Owner, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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Notary Public

**AGREEMENT  
IN REGARD TO A PREPAYMENT  
RELATIVE TO  
BENSENVILLE SPECIAL SERVICE AREA NUMBER 6  
(NORTH INDUSTRIAL DISTRICT IMPROVEMENTS)**

This Agreement (hereinafter referred to as the "Agreement"), entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by and between the Village of Bensenville (hereinafter referred to as the "Village") and \_\_\_\_\_ (hereinafter referred to as the "Owner"). The Village and the Owner are hereinafter sometimes individually referred to as a "Party" and collectively referred to as the "Parties."

**WITNESSETH**

**WHEREAS**, on September 14, 2010, the President and Board of Trustees of the Village approved Ordinance Number 70-2010, entitled "AN ORDINANCE PROPOSING THE ESTABLISHMENT OF SPECIAL SERVICE AREA NUMBER 6 (NORTH INDUSTRIAL DISTRICT IMPROVEMENTS) IN THE VILLAGE OF BENSENVILLE AND PROVIDING FOR A PUBLIC HEARING AND OTHER PROCEDURES IN CONNECTION THEREWITH" (the "Ordinance"), in regard to the establishment of Bensenville Special Service Area Number 6 (the "SSA"), with said SSA being established to provide certain stormwater management improvements services in a portion of the North Industrial District (the "Improvements"); and

**WHEREAS**, pursuant to the Ordinance, the maximum amount of the bonds or other debt instruments to be issued to pay for the costs of the Improvements is One Million Nine Hundred Forty-Seven Thousand and No/100 Dollars (\$1,947,000.00), with the debt service relative to said bonds or other debt instruments to be paid over a maximum twenty (20) year period at an interest rate not to exceed seven and one-half

percent (7½%), pursuant to a tax to be levied against all of the real property included within the SSA; and

**WHEREAS**, permanent index number \_\_\_\_\_ (the "Parcel") is one of the parcels of property that is proposed to be included in the SSA; and

**WHEREAS**, the Owner is the owner of the Parcel, and desires to prepay the Parcel's proportionate share of the cost of the Improvements contemplated pursuant to the SSA, so as to avoid paying certain financing costs relating to the SSA; said proportionate share of the cost of the SSA that has been assigned to the Parcel being \$\_\_\_\_\_ (the "Prepayment Amount"); and

**WHEREAS**, the Village has indicated that, upon receipt of the Prepayment Amount on or before October 19, 2010, the Village would:

- (1) place the Prepayment Amount in an escrow fund, to be held in trust for use in paying a portion of the costs of the Improvements;
- (2) delete the Parcel from the SSA, pursuant to an Ordinance to be adopted at the October 26, 2010 Village Board meeting; and
- (3) return the Prepayment Amount, without interest, to the Owner in the event that the Village does not proceed with the SSA or the construction of the Improvements;

and

**WHEREAS**, Article VII, Section 10 of the 1970 Illinois Constitution provides the authority for this Agreement; and

**WHEREAS**, it is in the best interests of the Village and the Owner to enter into this Agreement;

**NOW, THEREFORE**, in consideration of the foregoing, the mutual premises and covenants set forth herein, and other good and valuable consideration, the receipt and

sufficiency of which is hereby acknowledged by the Parties hereto, the Parties hereto agree as follows:

1. The preambles hereto, as set forth above, are incorporated herein by reference and are made part hereof.
2. The Owner has, simultaneously with the execution of this Agreement, deposited with the Village the Prepayment Amount, to be held in escrow by the Village, as the Parcel's proportionate share of the Improvements to be constructed pursuant to the SSA, and to be used by the Village relative to the payment of the costs of the Improvements.
3. The Village hereby acknowledges receipt of the Prepayment Amount as of the date of this Agreement.
4. In regard to the Prepayment Amount, the Village agrees as follows:
  - A. Said Prepayment Amount shall be held in trust, in an escrow account, until such time as the Village either proceeds with the SSA, and uses the Prepayment Amount to pay for the cost of the Improvements, or refunds the Prepayment Amount.
  - B. Said Prepayment Amount shall be used solely to pay the cost of the Improvements to be constructed pursuant to the SSA.
  - C. The Village shall, on October 26, 2010, adopt an Ordinance deleting the Parcel from the SSA.
  - D. In the event that the Village does not:
    - (i) delete the Parcel from the SSA on October 26, 2010;
    - (ii) establish the SSA, on or before January 31, 2011; or

(iii) proceed with the construction of the Improvements pursuant to the SSA, by awarding a contract(s) in relation to said construction no later than December 1, 2011;

the Prepayment Amount shall be returned to the Owner, without interest, within thirty (30) days after the Village's failure to comply with either (i), (ii) or (iii) above (by November 25, 2010, March 2, 2011 or December 31, 2011, respectively).

5. In the event that the Improvements are constructed for less than the amount used by the Village to calculate the Prepayment Amount, the Village shall provide the Owner with a refund of a portion of the Prepayment Amount, without interest, based on the Parcel's prorated share of said construction cost savings, within thirty (30) days after the final payment is made to the contractor employed to construct the Improvements.

6. For purposes of any return of all or a portion of the Prepayment Amount to the Owner, as provided for in Sections 4.D. and 5. above, the Owner hereby specifies that the check should be made payable to \_\_\_\_\_, and should be forwarded to the following address:

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7. Notice of other writings which either Party is required to, or may wish to, serve upon the other Party in connection with this Agreement shall be in writing and

shall be delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

A. If to the Village:

Village Manager  
Village of Bensenville  
12 South Center Street  
Bensenville, Illinois 60106

B. If to the Owner:

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or to such other address, or additional parties, as either Party may from time to time designate in a written notice to the other Party. Service by certified mail shall be deemed given on the third day following the mailing of said notice, and service by personal delivery shall be deemed given upon actual delivery.

**8.** This Agreement shall be executed simultaneously in two (2) counterparts, each of which shall be deemed an original, but both of which shall constitute one and the same Agreement.

**9.** This Agreement contains the entire understanding between the Parties and supersedes any prior understanding or written or oral agreements between them regarding the within subject matter. There are no representations, agreements, arrangements or understandings, oral or written, between and among the Parties hereto relating to the subject matter of this Agreement which are not fully expressed herein.

**10.** This Agreement shall be deemed dated and become effective on the date on which the last of the Parties executes this Agreement as set forth below.

**11.** The Village and the Owner each represent that the person(s) executing this Agreement, upon their respective behalves, has/have the authority to do so and to bind the Village and the Owner in relation thereto.

**IN WITNESS WHEREOF**, the Village, pursuant to authority granted by the President and Board of Trustees, has caused this Agreement to be executed by its Village Manager, and the Owner has caused this Agreement to be signed by its authorized representative(s).

**VILLAGE OF BENSENVILLE**

By: \_\_\_\_\_  
Michael Cassady,  
Village Manager

Date: \_\_\_\_\_

**OWNER:** \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF ILLINOIS      )  
                            ) SS  
COUNTY OF DuPAGE    )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named Michael Cassady, personally known to me to be the Village Manager of the Village of Bensenville, and also known to me to be the same person whose name is subscribed to the foregoing instrument as such Village Manager, appeared before me this day in person and acknowledged that, as such Village Manager, he signed and delivered the signed instrument, pursuant to authority given by the Village of Bensenville, as his free and voluntary act, and as the free and voluntary act and deed of said Village of Bensenville, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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Notary Public

STATE OF ILLINOIS      )  
                            ) SS  
COUNTY OF \_\_\_\_\_ )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named \_\_\_\_\_ and \_\_\_\_\_, personally known to me to be the \_\_\_\_\_ and the \_\_\_\_\_ of \_\_\_\_\_ (the "Owner"), and also known to me to be the same persons whose names are subscribed to the foregoing instrument as \_\_\_\_\_ and \_\_\_\_\_, respectively, appeared before me this day in person and acknowledged that, as such \_\_\_\_\_ and \_\_\_\_\_, they signed and delivered the signed instrument, pursuant to authority given by said Owner, as their free and voluntary act, and as the free and voluntary act and deed of said Owner, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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Notary Public

**AGREEMENT  
IN REGARD TO A PREPAYMENT  
RELATIVE TO  
BENSENVILLE SPECIAL SERVICE AREA NUMBER 7  
(NORTH INDUSTRIAL DISTRICT IMPROVEMENTS)**

This Agreement (hereinafter referred to as the "Agreement"), entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by and between the Village of Bensenville (hereinafter referred to as the "Village") and \_\_\_\_\_ (hereinafter referred to as the "Owner"). The Village and the Owner are hereinafter sometimes individually referred to as a "Party" and collectively referred to as the "Parties."

**WITNESSETH**

**WHEREAS**, on September 14, 2010, the President and Board of Trustees of the Village approved Ordinance Number 71-2010, entitled "AN ORDINANCE PROPOSING THE ESTABLISHMENT OF SPECIAL SERVICE AREA NUMBER 7 (NORTH INDUSTRIAL DISTRICT IMPROVEMENTS) IN THE VILLAGE OF BENSENVILLE AND PROVIDING FOR A PUBLIC HEARING AND OTHER PROCEDURES IN CONNECTION THEREWITH" (the "Ordinance"), in regard to the establishment of Bensenville Special Service Area Number 7 (the "SSA"), with said SSA being established to provide certain street reconstruction, sanitary sewer, stormwater management and street lighting conduit improvements services in a portion of the North Industrial District (the "Improvements"); and

**WHEREAS**, pursuant to the Ordinance, the maximum amount of the bonds or other debt instruments to be issued to pay for the costs of the Improvements is One Million Two Thousand and No/100 Dollars (\$1,002,000.00), with the debt service relative to said bonds or other debt instruments to be paid over a maximum twenty (20)

year period at an interest rate not to exceed seven and one-half percent (7½%), pursuant to a tax to be levied against all of the real property included within the SSA; and

**WHEREAS**, permanent index number \_\_\_\_\_ (the "Parcel") is one of the parcels of property that is proposed to be included in the SSA; and

**WHEREAS**, the Owner is the owner of the Parcel, and desires to prepay the Parcel's proportionate share of the cost of the Improvements contemplated pursuant to the SSA, so as to avoid paying certain financing costs relating to the SSA; said proportionate share of the cost of the SSA that has been assigned to the Parcel being \$\_\_\_\_\_ (the "Prepayment Amount"); and

**WHEREAS**, the Village has indicated that, upon receipt of the Prepayment Amount on or before October 19, 2010, the Village would:

- (1) place the Prepayment Amount in an escrow fund, to be held in trust for use in paying a portion of the costs of the Improvements;
- (2) delete the Parcel from the SSA, pursuant to an Ordinance to be adopted at the October 26, 2010 Village Board meeting; and
- (3) return the Prepayment Amount, without interest, to the Owner in the event that the Village does not proceed with the SSA or the construction of the Improvements;

and

**WHEREAS**, Article VII, Section 10 of the 1970 Illinois Constitution provides the authority for this Agreement; and

**WHEREAS**, it is in the best interests of the Village and the Owner to enter into this Agreement;

**NOW, THEREFORE**, in consideration of the foregoing, the mutual premises and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties hereto, the Parties hereto agree as follows:

1. The preambles hereto, as set forth above, are incorporated herein by reference and are made part hereof.
2. The Owner has, simultaneously with the execution of this Agreement, deposited with the Village the Prepayment Amount, to be held in escrow by the Village, as the Parcel's proportionate share of the Improvements to be constructed pursuant to the SSA, and to be used by the Village relative to the payment of the costs of the Improvements.
3. The Village hereby acknowledges receipt of the Prepayment Amount as of the date of this Agreement.
4. In regard to the Prepayment Amount, the Village agrees as follows:
  - A. Said Prepayment Amount shall be held in trust, in an escrow account, until such time as the Village either proceeds with the SSA, and uses the Prepayment Amount to pay for the cost of the Improvements, or refunds the Prepayment Amount.
  - B. Said Prepayment Amount shall be used solely to pay the cost of the Improvements to be constructed pursuant to the SSA.
  - C. The Village shall, on October 26, 2010, adopt an Ordinance deleting the Parcel from the SSA.
  - D. In the event that the Village does not:

- (i) delete the Parcel from the SSA on October 26, 2010;
- (ii) establish the SSA, on or before January 31, 2011; or
- (iii) proceed with the construction of the Improvements pursuant to the SSA, by awarding a contract(s) in relation to said construction no later than December 1, 2011;  
the Prepayment Amount shall be returned to the Owner, without interest, within thirty (30) days after the Village's failure to comply with either (i), (ii) or (iii) above (by November 25, 2010, March 2, 2011 or December 31, 2011, respectively).

5. In the event that the Improvements are constructed for less than the amount used by the Village to calculate the Prepayment Amount, the Village shall provide the Owner with a refund of a portion of the Prepayment Amount, without interest, based on the Parcel's prorated share of said construction cost savings, within thirty (30) days after the final payment is made to the contractor employed to construct the Improvements.

6. For purposes of any return of all or a portion of the Prepayment Amount to the Owner, as provided for in Sections 4.D. and 5. above, the Owner hereby specifies that the check should be made payable to \_\_\_\_\_, and should be forwarded to the following address:

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**7.** Notice of other writings which either Party is required to, or may wish to, serve upon the other Party in connection with this Agreement shall be in writing and shall be delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

A. If to the Village:

Village Manager  
Village of Bensenville  
12 South Center Street  
Bensenville, Illinois 60106

B. If to the Owner:

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or to such other address, or additional parties, as either Party may from time to time designate in a written notice to the other Party. Service by certified mail shall be deemed given on the third day following the mailing of said notice, and service by personal delivery shall be deemed given upon actual delivery.

**8.** This Agreement shall be executed simultaneously in two (2) counterparts, each of which shall be deemed an original, but both of which shall constitute one and the same Agreement.

**9.** This Agreement contains the entire understanding between the Parties and supersedes any prior understanding or written or oral agreements between them regarding the within subject matter. There are no representations, agreements, arrangements or understandings, oral or written, between and among the Parties hereto relating to the subject matter of this Agreement which are not fully expressed herein.

**10.** This Agreement shall be deemed dated and become effective on the date on which the last of the Parties executes this Agreement as set forth below.

11. The Village and the Owner each represent that the person(s) executing this Agreement, upon their respective behalves, has/have the authority to do so and to bind the Village and the Owner in relation thereto.

**IN WITNESS WHEREOF**, the Village, pursuant to authority granted by the President and Board of Trustees, has caused this Agreement to be executed by its Village Manager, and the Owner has caused this Agreement to be signed by its authorized representative(s).

**VILLAGE OF BENSENVILLE**

By: \_\_\_\_\_  
Michael Cassady,  
Village Manager

Date: \_\_\_\_\_

**OWNER:** \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ATTEST:**  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF ILLINOIS      )  
                            ) SS  
COUNTY OF DuPAGE    )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named Michael Cassady, personally known to me to be the Village Manager of the Village of Bensenville, and also known to me to be the same person whose name is subscribed to the foregoing instrument as such Village Manager, appeared before me this day in person and acknowledged that, as such Village Manager, he signed and delivered the signed instrument, pursuant to authority given by the Village of Bensenville, as his free and voluntary act, and as the free and voluntary act and deed of said Village of Bensenville, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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Notary Public

STATE OF ILLINOIS      )  
                            ) SS  
COUNTY OF \_\_\_\_\_ )

I, the undersigned, a Notary Public, in and for the County and State aforesaid,  
DO HEREBY CERTIFY that the above-named \_\_\_\_\_ and  
\_\_\_\_\_, personally known to me to be the \_\_\_\_\_  
and the \_\_\_\_\_ of \_\_\_\_\_ (the "Owner"),  
and also known to me to be the same persons whose names are subscribed to the  
foregoing instrument as \_\_\_\_\_ and \_\_\_\_\_,  
respectively, appeared before me this day in person and acknowledged that, as such  
\_\_\_\_\_ and \_\_\_\_\_, they signed and delivered the  
signed instrument, pursuant to authority given by said Owner, as their free and  
voluntary act, and as the free and voluntary act and deed of said Owner, for the uses  
and purposes therein set forth.

GIVEN under my hand and Notary Seal, this \_\_\_\_\_ day of \_\_\_\_\_,  
2010.

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Notary Public

**AGREEMENT  
IN REGARD TO A PREPAYMENT  
RELATIVE TO  
BENSENVILLE SPECIAL SERVICE AREA NUMBER 8  
(NORTH INDUSTRIAL DISTRICT IMPROVEMENTS)**

This Agreement (hereinafter referred to as the "Agreement"), entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by and between the Village of Bensenville (hereinafter referred to as the "Village") and \_\_\_\_\_ (hereinafter referred to as the "Owner"). The Village and the Owner are hereinafter sometimes individually referred to as a "Party" and collectively referred to as the "Parties."

**WITNESSETH**

**WHEREAS**, on September 14, 2010, the President and Board of Trustees of the Village approved Ordinance Number 72-2010, entitled "AN ORDINANCE PROPOSING THE ESTABLISHMENT OF SPECIAL SERVICE AREA NUMBER 8 (NORTH INDUSTRIAL DISTRICT IMPROVEMENTS) IN THE VILLAGE OF BENSENVILLE AND PROVIDING FOR A PUBLIC HEARING AND OTHER PROCEDURES IN CONNECTION THEREWITH" (the "Ordinance"), in regard to the establishment of Bensenville Special Service Area Number 8 (the "SSA"), with said SSA being established to provide certain stormwater management improvements services in a portion of the North Industrial District (the "Improvements"); and

**WHEREAS**, pursuant to the Ordinance, the maximum amount of the bonds or other debt instruments to be issued to pay for the costs of the Improvements is Five Hundred Twenty-Two Thousand Five Hundred and No/100 Dollars (\$522,500.00), with the debt service relative to said bonds or other debt instruments to be paid over a maximum twenty (20) year period at an interest rate not to exceed seven and one-half

percent (7½%), pursuant to a tax to be levied against all of the real property included within the SSA; and

**WHEREAS**, permanent index number \_\_\_\_\_ (the "Parcel") is one of the parcels of property that is proposed to be included in the SSA; and

**WHEREAS**, the Owner is the owner of the Parcel, and desires to prepay the Parcel's proportionate share of the cost of the Improvements contemplated pursuant to the SSA, so as to avoid paying certain financing costs relating to the SSA; said proportionate share of the cost of the SSA that has been assigned to the Parcel being \$\_\_\_\_\_ (the "Prepayment Amount"); and

**WHEREAS**, the Village has indicated that, upon receipt of the Prepayment Amount on or before October 19, 2010, the Village would:

- (1) place the Prepayment Amount in an escrow fund, to be held in trust for use in paying a portion of the costs of the Improvements;
- (2) delete the Parcel from the SSA, pursuant to an Ordinance to be adopted at the October 26, 2010 Village Board meeting; and
- (3) return the Prepayment Amount, without interest, to the Owner in the event that the Village does not proceed with the SSA or the construction of the Improvements;

and

**WHEREAS**, Article VII, Section 10 of the 1970 Illinois Constitution provides the authority for this Agreement; and

**WHEREAS**, it is in the best interests of the Village and the Owner to enter into this Agreement;

**NOW, THEREFORE**, in consideration of the foregoing, the mutual premises and covenants set forth herein, and other good and valuable consideration, the receipt and

sufficiency of which is hereby acknowledged by the Parties hereto, the Parties hereto agree as follows:

1. The preambles hereto, as set forth above, are incorporated herein by reference and are made part hereof.
2. The Owner has, simultaneously with the execution of this Agreement, deposited with the Village the Prepayment Amount, to be held in escrow by the Village, as the Parcel's proportionate share of the Improvements to be constructed pursuant to the SSA, and to be used by the Village relative to the payment of the costs of the Improvements.
3. The Village hereby acknowledges receipt of the Prepayment Amount as of the date of this Agreement.
4. In regard to the Prepayment Amount, the Village agrees as follows:
  - A. Said Prepayment Amount shall be held in trust, in an escrow account, until such time as the Village either proceeds with the SSA, and uses the Prepayment Amount to pay for the cost of the Improvements, or refunds the Prepayment Amount.
  - B. Said Prepayment Amount shall be used solely to pay the cost of the Improvements to be constructed pursuant to the SSA.
  - C. The Village shall, on October 26, 2010, adopt an Ordinance deleting the Parcel from the SSA.
  - D. In the event that the Village does not:
    - (i) delete the Parcel from the SSA on October 26, 2010;
    - (ii) establish the SSA, on or before January 31, 2011; or

(iii) proceed with the construction of the Improvements pursuant to the SSA, by awarding a contract(s) in relation to said construction no later than December 1, 2011; the Prepayment Amount shall be returned to the Owner, without interest, within thirty (30) days after the Village's failure to comply with either (i), (ii) or (iii) above (by November 25, 2010, March 2, 2011 or December 31, 2011, respectively).

5. In the event that the Improvements are constructed for less than the amount used by the Village to calculate the Prepayment Amount, the Village shall provide the Owner with a refund of a portion of the Prepayment Amount, without interest, based on the Parcel's prorated share of said construction cost savings, within thirty (30) days after the final payment is made to the contractor employed to construct the Improvements.

6. For purposes of any return of all or a portion of the Prepayment Amount to the Owner, as provided for in Sections 4.D. and 5. above, the Owner hereby specifies that the check should be made payable to \_\_\_\_\_, and should be forwarded to the following address:

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7. Notice of other writings which either Party is required to, or may wish to, serve upon the other Party in connection with this Agreement shall be in writing and

shall be delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

A. If to the Village:

Village Manager  
Village of Bensenville  
12 South Center Street  
Bensenville, Illinois 60106

B. If to the Owner:

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or to such other address, or additional parties, as either Party may from time to time designate in a written notice to the other Party. Service by certified mail shall be deemed given on the third day following the mailing of said notice, and service by personal delivery shall be deemed given upon actual delivery.

**8.** This Agreement shall be executed simultaneously in two (2) counterparts, each of which shall be deemed an original, but both of which shall constitute one and the same Agreement.

**9.** This Agreement contains the entire understanding between the Parties and supersedes any prior understanding or written or oral agreements between them regarding the within subject matter. There are no representations, agreements, arrangements or understandings, oral or written, between and among the Parties hereto relating to the subject matter of this Agreement which are not fully expressed herein.

**10.** This Agreement shall be deemed dated and become effective on the date on which the last of the Parties executes this Agreement as set forth below.

**11.** The Village and the Owner each represent that the person(s) executing this Agreement, upon their respective behalves, has/have the authority to do so and to bind the Village and the Owner in relation thereto.

**IN WITNESS WHEREOF**, the Village, pursuant to authority granted by the President and Board of Trustees, has caused this Agreement to be executed by its Village Manager, and the Owner has caused this Agreement to be signed by its authorized representative(s).

**VILLAGE OF BENSENVILLE**

By: \_\_\_\_\_  
Michael Cassady,  
Village Manager

Date: \_\_\_\_\_

**OWNER:** \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF ILLINOIS      )  
                            ) SS  
COUNTY OF DuPAGE    )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named Michael Cassady, personally known to me to be the Village Manager of the Village of Bensenville, and also known to me to be the same person whose name is subscribed to the foregoing instrument as such Village Manager, appeared before me this day in person and acknowledged that, as such Village Manager, he signed and delivered the signed instrument, pursuant to authority given by the Village of Bensenville, as his free and voluntary act, and as the free and voluntary act and deed of said Village of Bensenville, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

---

Notary Public

STATE OF ILLINOIS      )  
                            ) SS  
COUNTY OF \_\_\_\_\_ )

I, the undersigned, a Notary Public, in and for the County and State aforesaid,  
DO HEREBY CERTIFY that the above-named \_\_\_\_\_ and  
\_\_\_\_\_, personally known to me to be the \_\_\_\_\_  
and the \_\_\_\_\_ of \_\_\_\_\_ (the "Owner"),  
and also known to me to be the same persons whose names are subscribed to the  
foregoing instrument as \_\_\_\_\_ and \_\_\_\_\_,  
respectively, appeared before me this day in person and acknowledged that, as such  
\_\_\_\_\_ and \_\_\_\_\_, they signed and delivered the  
signed instrument, pursuant to authority given by said Owner, as their free and  
voluntary act, and as the free and voluntary act and deed of said Owner, for the uses  
and purposes therein set forth.

GIVEN under my hand and Notary Seal, this \_\_\_\_\_ day of \_\_\_\_\_,  
2010.

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Notary Public

**AGREEMENT  
IN REGARD TO A PREPAYMENT  
RELATIVE TO  
BENSENVILLE SPECIAL SERVICE AREA NUMBER 9  
(NORTH INDUSTRIAL DISTRICT IMPROVEMENTS)**

This Agreement (hereinafter referred to as the "Agreement"), entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by and between the Village of Bensenville (hereinafter referred to as the "Village") and \_\_\_\_\_ (hereinafter referred to as the "Owner"). The Village and the Owner are hereinafter sometimes individually referred to as a "Party" and collectively referred to as the "Parties."

**WITNESSETH**

**WHEREAS**, on September 14, 2010, the President and Board of Trustees of the Village approved Ordinance Number 73-2010, entitled "AN ORDINANCE PROPOSING THE ESTABLISHMENT OF SPECIAL SERVICE AREA NUMBER 9 (NORTH INDUSTRIAL DISTRICT IMPROVEMENTS) IN THE VILLAGE OF BENSENVILLE AND PROVIDING FOR A PUBLIC HEARING AND OTHER PROCEDURES IN CONNECTION THEREWITH" (the "Ordinance"), in regard to the establishment of Bensenville Special Service Area Number 9 (the "SSA"), with said SSA being established to provide certain street reconstruction, sanitary sewer and street lighting conduit improvements services in a portion of the North Industrial District (the "Improvements"); and

**WHEREAS**, pursuant to the Ordinance, the maximum amount of the bonds or other debt instruments to be issued to pay for the costs of the Improvements is Three Million Seven Hundred Eighty-Six Thousand and No/100 Dollars (\$3,786,000.00), with the debt service relative to said bonds or other debt instruments to be paid over a

maximum twenty (20) year period at an interest rate not to exceed seven and one-half percent (7½%), pursuant to a tax to be levied against all of the real property included within the SSA; and

**WHEREAS**, permanent index number \_\_\_\_\_ (the "Parcel") is one of the parcels of property that is proposed to be included in the SSA; and

**WHEREAS**, the Owner is the owner of the Parcel, and desires to prepay the Parcel's proportionate share of the cost of the Improvements contemplated pursuant to the SSA, so as to avoid paying certain financing costs relating to the SSA; said proportionate share of the cost of the SSA that has been assigned to the Parcel being \$\_\_\_\_\_ (the "Prepayment Amount"); and

**WHEREAS**, the Village has indicated that, upon receipt of the Prepayment Amount on or before October 19, 2010, the Village would:

- (1) place the Prepayment Amount in an escrow fund, to be held in trust for use in paying a portion of the costs of the Improvements;
- (2) delete the Parcel from the SSA, pursuant to an Ordinance to be adopted at the October 26, 2010 Village Board meeting; and
- (3) return the Prepayment Amount, without interest, to the Owner in the event that the Village does not proceed with the SSA or the construction of the Improvements;

and

**WHEREAS**, Article VII, Section 10 of the 1970 Illinois Constitution provides the authority for this Agreement; and

**WHEREAS**, it is in the best interests of the Village and the Owner to enter into this Agreement;

**NOW, THEREFORE**, in consideration of the foregoing, the mutual premises and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties hereto, the Parties hereto agree as follows:

1. The preambles hereto, as set forth above, are incorporated herein by reference and are made part hereof.
2. The Owner has, simultaneously with the execution of this Agreement, deposited with the Village the Prepayment Amount, to be held in escrow by the Village, as the Parcel's proportionate share of the Improvements to be constructed pursuant to the SSA, and to be used by the Village relative to the payment of the costs of the Improvements.
3. The Village hereby acknowledges receipt of the Prepayment Amount as of the date of this Agreement.
4. In regard to the Prepayment Amount, the Village agrees as follows:
  - A. Said Prepayment Amount shall be held in trust, in an escrow account, until such time as the Village either proceeds with the SSA, and uses the Prepayment Amount to pay for the cost of the Improvements, or refunds the Prepayment Amount.
  - B. Said Prepayment Amount shall be used solely to pay the cost of the Improvements to be constructed pursuant to the SSA.
  - C. The Village shall, on October 26, 2010, adopt an Ordinance deleting the Parcel from the SSA.
  - D. In the event that the Village does not:

- (i) delete the Parcel from the SSA on October 26, 2010;
- (ii) establish the SSA, on or before January 31, 2011; or
- (iii) proceed with the construction of the Improvements pursuant to the SSA, by awarding a contract(s) in relation to said construction no later than December 1, 2011;  
the Prepayment Amount shall be returned to the Owner, without interest, within thirty (30) days after the Village's failure to comply with either (i), (ii) or (iii) above (by November 25, 2010, March 2, 2011 or December 31, 2011, respectively).

5. In the event that the Improvements are constructed for less than the amount used by the Village to calculate the Prepayment Amount, the Village shall provide the Owner with a refund of a portion of the Prepayment Amount, without interest, based on the Parcel's prorated share of said construction cost savings, within thirty (30) days after the final payment is made to the contractor employed to construct the Improvements.

6. For purposes of any return of all or a portion of the Prepayment Amount to the Owner, as provided for in Sections 4.D. and 5. above, the Owner hereby specifies that the check should be made payable to \_\_\_\_\_, and should be forwarded to the following address:

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**7.** Notice of other writings which either Party is required to, or may wish to, serve upon the other Party in connection with this Agreement shall be in writing and shall be delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

A. If to the Village:

Village Manager  
Village of Bensenville  
12 South Center Street  
Bensenville, Illinois 60106

B. If to the Owner:

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or to such other address, or additional parties, as either Party may from time to time designate in a written notice to the other Party. Service by certified mail shall be deemed given on the third day following the mailing of said notice, and service by personal delivery shall be deemed given upon actual delivery.

**8.** This Agreement shall be executed simultaneously in two (2) counterparts, each of which shall be deemed an original, but both of which shall constitute one and the same Agreement.

**9.** This Agreement contains the entire understanding between the Parties and supersedes any prior understanding or written or oral agreements between them regarding the within subject matter. There are no representations, agreements, arrangements or understandings, oral or written, between and among the Parties hereto relating to the subject matter of this Agreement which are not fully expressed herein.

**10.** This Agreement shall be deemed dated and become effective on the date on which the last of the Parties executes this Agreement as set forth below.

11. The Village and the Owner each represent that the person(s) executing this Agreement, upon their respective behalves, has/have the authority to do so and to bind the Village and the Owner in relation thereto.

**IN WITNESS WHEREOF**, the Village, pursuant to authority granted by the President and Board of Trustees, has caused this Agreement to be executed by its Village Manager, and the Owner has caused this Agreement to be signed by its authorized representative(s).

**VILLAGE OF BENSENVILLE**

By: \_\_\_\_\_  
Michael Cassady,  
Village Manager

Date: \_\_\_\_\_

**OWNER:** \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF ILLINOIS      )  
                            ) SS  
COUNTY OF DuPAGE    )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named Michael Cassady, personally known to me to be the Village Manager of the Village of Bensenville, and also known to me to be the same person whose name is subscribed to the foregoing instrument as such Village Manager, appeared before me this day in person and acknowledged that, as such Village Manager, he signed and delivered the signed instrument, pursuant to authority given by the Village of Bensenville, as his free and voluntary act, and as the free and voluntary act and deed of said Village of Bensenville, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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Notary Public

STATE OF ILLINOIS      )  
                            ) SS  
COUNTY OF \_\_\_\_\_ )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named \_\_\_\_\_ and \_\_\_\_\_, personally known to me to be the \_\_\_\_\_ and the \_\_\_\_\_ of \_\_\_\_\_ (the "Owner"), and also known to me to be the same persons whose names are subscribed to the foregoing instrument as \_\_\_\_\_ and \_\_\_\_\_, respectively, appeared before me this day in person and acknowledged that, as such \_\_\_\_\_ and \_\_\_\_\_, they signed and delivered the signed instrument, pursuant to authority given by said Owner, as their free and voluntary act, and as the free and voluntary act and deed of said Owner, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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Notary Public