

## Village Board

### Village President

Frank DeSimone

### Trustees

Rosa Camona

Ann Franz

Agnieszka "Annie" Jaworska

McLane Lomax

Nicholas Panicola Jr.

Armando Perez

### Village Clerk

Nancy Quinn

### Village Manager

Evan K. Summers



**BENSENVILLE**  
GATEWAY TO OPPORTUNITY

## **Village of Bensenville, Illinois VILLAGE BOARD COMMITTEE OF THE WHOLE AGENDA**

**6:00 PM December 12, 2017**

- 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
  1. *November 14, 2017 Committee of the Whole Minutes*
- VI. **REPORTS OF VILLAGE DEPARTMENTS**
  - A. Administration
    1. *Consideration of a Resolution Approving a One Year Risk Management Agreement with Arthur J. Gallagher for Insurance Coverage*
    2. *Consideration of a Resolution Approving a Worker's Compensation Insurance with Illinois Public Risk Fund*
    3. *Consideration of an Ordinance Adopting the EEO Sexual Harassment Policy*
    4. *Consideration of a Resolution Authorizing an Agreement with the Res Publica Group and the Village of Bensenville for Professional Services*
    5. *Informational Item - Bond Refunding Opportunity*
    6. *Consideration of an Ordinance of the Village of Bensenville, DuPage and Cook Counties, Illinois Designating Authority to Accept Electricity Pricing and to Contract for Electricity for the Village's Electric Aggregation Program*
    7. *Consideration of an Ordinance of the Village of Bensenville, DuPage and Cook Counties, Illinois Approving an Intergovernmental Agreement by and Between the Bensenville Park District and the Village of Bensenville for the Use and Operation of the Green Teen Center Zone from January 1, 2018 Through December 31, 2023*
  - B. Community and Economic Development

1. *Consideration of an Ordinance Approving a Rezoning, Variance, Plat of Consolidation and Site Plan for the applicant ARCO/Murray, located at 220 N York Road*
2. *Consideration of an Ordinance Approving a Conditional Use Permit, Currency Exchange for the applicant Conexion Latina BV Corp, located at 229 W Grand Ave Ste E.*
3. *Consideration of a Resolution Authorizing the Sale of Surplus Property on Brookwood and Pleasant Streets and Adjacent Rights-Of-Way*

C. Finance

1. *Consideration of an Ordinance Amending Section 8-7-7 of the Chapter Seven of the Village of Bensenville Code Establishing the Water/Sewer Rates Effective January 1, 2018 and Onwards*
2. *Consideration of a Resolution Establishing the Refuse, Recycling and Yard Waste Rates with Republic Services for the Village of Bensenville from January 1, 2018 through December 31, 2018*

D. Police Department – No Report

E. Public Works

1. *Consideration of a Resolution Authorizing the Execution of a Contract Extension with Stewart Spreading for Sludge Hauling and Land Application in the Not-to-Exceed Amount of \$100,000*
2. *Resolution Authorizing the 2018 Paratransit Service Provider Agreement by and Between Suburban Bus Division of the Regional Transportation Authority (Pace) and the Village of Bensenville*
3. *Consideration of a Resolution Authorizing the Execution of a Contract Extension with First Transit, Inc. for the Dial-a-Bus Services in the Not-to-Exceed Amount of \$277,815*
4. *Consideration of a Resolution Authorizing the Execution of a Purchase Order with Networkfleet, Inc. for the GPS Tracking Services in the Not-To-Exceed amount of \$20,000*
5. *Consideration of a Resolution Authorizing the Execution of a Purchase Order to Al Warren Oil Company, Inc. for Providing Fuel Tank Rental and Fleet Fueling Services in the Not-to-Exceed amount of \$125,500*
6. *Consideration of a Resolution Concerning the Determination of the Bensenville Village Board that Change Order Number One with R.W. Dunteman Company for an Increase of \$29,000 is Required for the Downtown Streetscape Project – North Half for a Revised Contract Cost of \$2,122,866*
7. *Consideration of a Resolution Urging the Governor to Veto Senate Bill 1451*
8. *Consideration of an Ordinance Amending the Bensenville Village Code to Regulate the Location and License Small Cell Antenna or Tower Facilities in the Right-of-Way*

F. Recreation – No Report

VII. INFORMATIONAL ITEMS

VIII. UNFINISHED BUSINESS

IX. 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)]

X. ADJOURNMENT

**TYPE:**Minutes**SUBMITTED BY:**Corey Williamsen**DEPARTMENT:**Village Clerk's Office**DATE:**December 12, 2017**DESCRIPTION:**November 14, 2017 Committee of the Whole Minutes**SUPPORTS THE FOLLOWING APPLICABLE VILLAGE GOALS:****COMMITTEE ACTION:****DATE:****BACKGROUND:****KEY ISSUES:****ALTERNATIVES:****RECOMMENDATION:****BUDGET IMPACT:****ACTION REQUIRED:****ATTACHMENTS:****Description**

DRAFT\_171114\_COW

**Upload Date**

11/30/2017

**Type**

Cover Memo

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

**MINUTES OF THE COMMITTEE OF THE WHOLE  
November 14, 2017**

**CALL TO ORDER:** President DeSimone called the meeting to order at 6:00 p.m.

**PRESENT:** Upon roll call by Deputy Village Clerk, Corey Williamsen, the following Board Members were present:

President DeSimone, Carmona, Franz, Panicola, Perez

Absent: Jaworska, Lomax

Village Clerk, Nancy Quinn, was also present.

A quorum was present.

Staff Present: E. Summers, J. Caracci, G. Ferguson, T. Finner, S. Guest, F. Kosman, A. Thakkar, S. Viger, C. Williamsen

**Public Comment:** There was no public comment.

**Approval of Minutes:** The October 17, 2017 Committee of the Whole Meeting minutes were presented.

**Motion:** Trustee Franz made a motion to approve the minutes as presented. Trustee Carmona seconded the motion.

All were in favor. Motion carried.

The October 17, 2017 Special Budget Committee of the Whole Meeting minutes were presented.

**Motion:** Trustee Panicola made a motion to approve the minutes as presented. Trustee Franz seconded the motion.

All were in favor. Motion carried.

The October 19, 2017 Special Budget Committee of the Whole Meeting minutes were presented.

Motion: Trustee Perez made a motion to approve the minutes as presented. Trustee Franz seconded the motion.

All were in favor. Motion carried.

**Constellation  
Energy:**

Village Manager, Evan Summers, presented a Resolution Authorizing the Village Manager to Execute a Blend and Extend Agreement with Constellation New Energy, Inc.

There were no questions from the Committee.

Motion: Trustee Perez made a motion to approve this item for placement on a future Village Board Meeting Agenda for action. Trustee Carmona seconded the motion.

All were in favor. Motion Carried.

**224 W. Green St.:** Village Manager, Evan Summers, presented an Ordinance for a Variance, Signage for the Applicant Los Buenos Diaz, located at 224 W. Green Street, Bensenville.

There were no questions from the Committee.

Motion: Trustee Perez made a motion to approve this item for placement on a future Village Board Meeting Agenda for action. Trustee Panicola seconded the motion.

All were in favor. Motion Carried.

**469 W. Irving  
Park Road:**

Village Manager, Evan Summers, presented an Ordinance Approving a Conditional Use Permit, Currency Exchange for the applicant Enbioexpress Illinois, located at 469 W. Irving Park Road.

There were no questions from the Committee.

Motion: Trustee Perez made a motion to approve this item for placement on a future Village Board Meeting Agenda for action. Trustee Franz seconded the motion.

All were in favor. Motion Carried.

**229 W. Grand Ave., Suite B:**

Village Manager, Evan Summers, presented an Ordinance Approving a Conditional Use Permit, Smoke Shops, for the Applicant Second City Vapes, located at 229 W. Grand Avenue Suite B.

There were no questions from the Committee.

Motion: Trustee Perez made a motion to approve this item for placement on a future Village Board Meeting Agenda for action. Trustee Panicola seconded the motion.

All were in favor. Motion Carried.

**400 Country Club Drive:**

Village Manager, Evan Summers, presented an Ordinance Approving Variances, Parking and Transition Strip for the Applicant A + C Architects, located at 400 Country Club Drive, Bensenville.

There were no questions from the Committee.

Motion: Trustee Panicola made a motion to approve this item for placement on a future Village Board Meeting Agenda for action. Trustee Perez seconded the motion.

All were in favor. Motion Carried.

**Title 10, Chapters 2&3 Amendment:**

Village Manager, Evan Summers, presented an Ordinance Amending the Text Amendment to the Village Code to Amend the definitions of "Truck Stop" and "Motor Vehicle Service Station".

There were no questions from the Committee.

Motion: Trustee Perez made a motion to approve this item for placement on a future Village Board Meeting Agenda for action. Trustee Franz seconded the motion.

All were in favor. Motion Carried.

**Brookwood &**

**Pleasant Streets:** Village Manager, Evan Summers, presented a Resolution Authorizing the Village Manager to Obtain a Contract Proposal for the Sale of Surplus Real Estate on Brookwood and Pleasant Streets as well as Adjacent Rights of Way.

There were no questions from the Committee.

Motion: Trustee Perez made a motion to approve this item for placement on a future Village Board Meeting Agenda for action. Trustee Panicola seconded the motion.

All were in favor. Motion Carried.

*Trustee Jaworska entered the meeting at 6:13 p.m.*

**Crystal  
Maintenance:**

Village Manager, Evan Summers, presented a Resolution Authorizing the Execution of a Contract Extension to Crystal Maintenance Services, Corp. for the Janitorial Services at the Police and Emergency Management Headquarters in the Not-to-Exceed Amount of \$26,438.

There were no questions from the Committee.

Motion: Trustee Franz made a motion to approve this item for placement on a future Village Board Meeting Agenda for action. Trustee Carmona seconded the motion.

All were in favor. Motion Carried.

**Lindahl Brothers:** Village Manager, Evan Summers, presented a Resolution Authorizing the Execution of a One Year Contract Extension with Lindahl Brothers, Inc. for Sand & Stone Delivery and Debris Hauling in the Not-to-Exceed Amount of \$76,000.

There were no questions from the Committee.

**Motion:** Trustee Panicola made a motion to approve this item for placement on a future Village Board Meeting Agenda for action. Trustee Franz seconded the motion.

All were in favor. Motion Carried.

**GIS Partners:** Village Manager, Evan Summers, presented a Resolution Authorizing the Execution of a "GIS Consortium Service Provider Contract" with Municipal GIS Partners, Inc. (MGP) for the 2018 Calendar Year in the Not-to-Exceed Amount of \$81,978.

There were no questions from the Committee.

**Motion:** Trustee Panicola made a motion to approve this item for placement on a future Village Board Meeting Agenda for action. Trustee Franz seconded the motion.

All were in favor. Motion Carried.

**Alexander Chemical:** Village Manager, Evan Summers, presented a Resolution Authorizing the Execution of a One Year Contract Extension with Alexander Chemical Corporation for Purchase and Delivery of Sodium Hypochlorite in the Not-to-Exceed Amount of \$20,000.

There were no questions from the Committee.

**Motion:** Trustee Franz made a motion to approve this item for placement on a future Village Board Meeting Agenda for action. Trustee Carmona seconded the motion.

All were in favor. Motion Carried.

**Morton Salt:** Village Manager, Evan Summers, presented a Resolution Authorizing the Execution of a Contract with Morton Salt, Inc. for the Purchase of 500 Tons of Bulk Rock Salt in the Not-to-Exceed Amount of \$23,325.

There were no questions from the Committee.

**Motion:** Trustee Panicola made a motion to approve this item for placement on a future Village Board Meeting Agenda for action. Trustee Jaworska seconded the motion.

All were in favor. Motion Carried.

**Winkler's Tree  
Service:**

Village Manager, Evan Summers, presented a Resolution Authorizing the Execution of a One Year Contract Extension with Winkler's Tree Service Inc. for the 2017-2018 Parkway Tree Pruning Program in the Not-to-Exceed Amount of \$35,000.

There were no questions from the Committee.

**Motion:** Trustee Panicola made a motion to approve this item for placement on a future Village Board Meeting Agenda for action. Trustee Carmona seconded the motion.

All were in favor. Motion Carried.

**Steve Piper  
& Sons:**

Village Manager, Evan Summers, presented a Resolution Authorizing the Execution of a Contract with Steve Piper and Sons for the 2018 Parkway Tree Removal and Stump Grinding Program in the Not-to-Exceed Amount of \$20,000.

There were no questions from the Committee.

**Motion:** Trustee Panicola made a motion to approve this item for placement on a future Village Board Meeting Agenda for action. Trustee Carmona seconded the motion.

All were in favor. Motion Carried.

**Surplus Property:** Village Manager, Evan Summers, presented an Ordinance Designating Certain Property as Surplus and Authorizing the Disposition of the Same.

There were no questions from the Committee.



Motion: Trustee Perez made a motion to approve this item for placement on a future Village Board Meeting Agenda for action. Trustee Panicola seconded the motion.

All were in favor. Motion Carried.

**Engineers Short List:**

Village Manager, Evan Summers, presented a Resolution Authorizing a Short List of Professional Engineering Firms for Roadway Design, Wastewater Design, Stormwater Design, and Resident Engineering Services.

There were no questions from the Committee.

Motion: Trustee Franz made a motion to approve this item for placement on a future Village Board Meeting Agenda for action. Trustee Perez seconded the motion.

All were in favor. Motion Carried.

**IDOT ITEP**

**2018 Application:** Village Manager, Evan Summers, presented a Resolution Supporting Submission of an Application to the Illinois Department of Transportation (IDOT) for Funding under the 2018 Illinois Transportation Enhancement Program.

There were no questions from the Committee.

Motion: Trustee Perez made a motion to approve this item for placement on a future Village Board Meeting Agenda for action. Trustee Jaworska seconded the motion.

All were in favor. Motion Carried.

**Clarke Environmental:**

Village Manager, Evan Summers, presented a Resolution Authorizing a One Year Contract Extension to Clarke Environmental Mosquito Management, Inc. for Mosquito Abatement Services in the Not-to-Exceed Amount of \$35,650.

There were no questions from the Committee.

**Motion:** Trustee Carmona made a motion to approve this item for placement on a future Village Board Meeting Agenda for action. Trustee Panicola seconded the motion.

All were in favor. Motion Carried.

**Informational Items:** There were no informational items.

**Unfinished Business:** There was no unfinished business.

**Executive Session:** Village Manager, Evan Summers, stated there was not a need for executive session.

**ADJOURNMENT:** Trustee Carmona made a motion to adjourn the meeting. Trustee Franz seconded the motion.

All were in favor. Motion carried.

President DeSimone adjourned the meeting at 6:35 p.m.

Corey Williamsen  
Deputy Village Clerk

**PASSED AND APPROVED** by the President and Board of Trustees of the Village of Bensenville this \_\_\_\_day, December 2017

**TYPE:**Resolution**SUBMITTED BY:**Amit Thakkar**DEPARTMENT:**Risk Management**DATE:**December 12, 2017**DESCRIPTION:**

Consideration of a Resolution Approving a One Year Risk Management Agreement with Arthur J. Gallagher for Insurance Coverage

**SUPPORTS THE FOLLOWING APPLICABLE VILLAGE GOALS:**

x	<i>Financially Sound Village</i>		<i>Enrich the lives of Residents</i>
x	<i>Quality Customer Oriented Services</i>		<i>Major Business/Corporate Center</i>
	<i>Safe and Beautiful Village</i>		<i>Vibrant Major Corridors</i>

**COMMITTEE ACTION:****DATE:**

December 12, 2017

**BACKGROUND:**

The current risk management contract along with all the liability insurance coverage were up for renewal as of December 1, 2017. Normally all contracts including insurance contracts above \$10,000 requires an approval from the Village Board but for the recent renewal the window for renewal was short and it has to be renewed before the meeting of December 12. Per the consultation with Village Attorney, Village Manager had reached out to all members of the board to seek any objection over the email. Since no objection was received through email, the Village Manager has notified all the members of the board and signed the renewal contract with Arthur J. Gallagher and insurance coverage per his fiduciary duties to protect the interest of the Village. The same act will now have to be ratified by the Village board by this resolution. The ratification is a legal process to approve a faithful action of the Village Manager by the Village Board which will be in compliance with the Illinois Legislation as well as in the opinion of our Village's legal counsel.

**KEY ISSUES:**

- a) The current insurance broker is Arthur Gallagher and they have submitted the renewal for the current insurance to us on November 16, 2017.
- b) The current insurance expired on November 30, 2017.
- c) Per the previous meeting schedule, we had two board meetings in November-2017 but since the second board meeting for the month is cancelled, we do not have an opportunity to present the insurance renewal contract to the board before November 30, 2017.
- d) If we do not renew the contract, we will be without insurance for the period starting December 1, 2017.
- e) The following insurance are due for renewal with their respective cost. (2.2% up from last year)

Coverage Type	Insurance Company	Dec-1-2017 to Nov-30-2018 Premium	Dec-1-2016 to Nov-30-2017 Premium	Premium Increase / (Decrease)
Property Insurance	Travellers Property Casualty	\$ 62,120.00	\$ 57,929.00	\$ 4,191.00
Inland Marine	Travellers Property Casualty	\$ 3,081.00	\$ 2,399.00	\$ 682.00
General Liability including Law Enforcement, Public Entity Management	Charter Oak Fire Insurance	\$ 105,738.00	\$ 107,069.00	\$(1,331.00)
Automobile	Travellers Indemnity Co.	\$ 31,113.00	\$ 24,698.00	\$ 6,415.00
Umbrella	Travellers Indemnity Co.	\$ 36,342.00	\$ 39,686.00	\$(3,344.00)

Crime	Hanover Insurance Co.	\$ 4,127.00	\$ 4,127.00	\$ -
Liquor Liability	Underwriters of Lloyd's London	\$ 1,934.00	\$ 1,934.00	\$ -
Cyber Liability	BCS Insurance Co.	\$ 10,263.00	\$ 11,361.00	\$(1,098.00)
Arthur Gallagher Fee - Insurance Brokerage	Arthur J. Gallagher	\$ 39,000.00	\$ 39,000.00	\$ -
Total		\$ 293,718.00	\$ 288,203.00	\$ 5,515.00

#### **ALTERNATIVES:**

At the discretion of the Committee of the Whole.

#### **RECOMMENDATION:**

Staff recommends the approval of the risk management contract along with the insurance coverages.

#### **BUDGET IMPACT:**

\$288,203 will be paid out of 2018 approved budget.

#### **ACTION REQUIRED:**

Approve the Resolution as presented.  
Discretion of the Committee.

#### **ATTACHMENTS:**

<b><u>Description</u></b>	<b><u>Upload Date</u></b>	<b><u>Type</u></b>
Resolution	12/4/2017	Resolution Letter
Exhibit A - Agreement	12/4/2017	Exhibit

**RESOLUTION NO: \_\_\_\_\_**

**A RESOLUTION OF THE VILLAGE OF BENSENVILLE, DUPAGE AND  
COOK COUNTIES, ILLINOIS APPROVING AN AGREEMENT WITH ARTHUR  
J. GALLAGHER RISK MANAGEMENT SERVICES, INCORPORATED FOR  
INSURANCE SERVICES AND AUTHORIZING VARIOUS LINES OF COVERAGE**

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**WHEREAS**, the Village of Bensenville, DuPage and Cook Counties, Illinois (the “*Village*”) is a duly organized and existing municipal corporation created under the provisions of the laws of the State of Illinois and under the provisions of the Illinois Municipal Code, as from time to time supplemented and amended; and

**WHEREAS**, the Village President and Board of Trustees of the Village of Bensenville, DuPage and Cook Counties, Illinois (the “*Corporate Authorities*”) have determined that it is in the best interest of the health, safety and welfare of the Village to enter into a Compensation Agreement by and between the Village of Bensenville and Arthur J. Gallagher Risk Management Services, Incorporated, dated December 1, 2017 for a term of one year for the purpose of obtain insurance renewal coverage for the Village (the “*Agreement*”), a copy of which is attached hereto and made a part hereof, as Exhibit A; and

**WHEREAS**, the Corporate Authorities have further determined that it is in the best interest of the health, safety and welfare of the Village and reasonable and necessary to acquire or renew the specified insurance lines of coverage as recommended by Arthur J. Gallagher Risk Management Services, Incorporated in the amount of \$293,718.00 for the period December 1, 2017 to November 30, 2018 (collectively the “*Insurance Coverage Policies*”), as such insurance coverage policies, limits, providers and specific premiums are more fully described on Exhibit B, a copy of which is attached hereto and made a part hereof.

**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 1.** That the above recitals and legislative findings are found to be true and correct and are hereby incorporated herein and made a part hereof, as if fully set forth in their entirety.

**Section 2.** The Compensation Agreement by and between the Village of Bensenville and Arthur J. Gallagher Risk Management Services, Incorporated, dated December 1, 2017, a copy of which is attached hereto and made a part hereof as Exhibit A, is hereby authorized and approved, and the execution thereof by the Village Manager is hereby ratified and affirmed and shall further constitute such specific approval by the Village.

**Section 3.** The Insurance Coverage Policies for December 1, 2017 to November 30, 2018 for the various lines of coverage specified in Exhibit B, a copy of which is attached hereto and made a part hereof, are hereby authorized and approved, and the execution thereof by the Village Manager of any and all documents therein required are hereby ratified and affirmed and shall further constitute such specific approval by the Village.

**Section 4.** The Agreement and Insurance Coverage Policies and such documents and forms executed by the Village Manager are collectively hereby ratified and approved, and the officers, officials and employees of the Village are hereby further authorized to take such action as is necessary to carry out and effectuate the intent and purpose of this Resolution, the Agreement and Insurance Coverage Policies.

**Section 5.** If any section, paragraph, clause or provision of this Resolution shall be held invalid, the invalidity thereof shall not affect any other provision of this Resolution.

**Section 6.** All ordinances, resolutions, motions or orders in conflict with this Resolution are hereby repealed to the extent of such conflict.

**Section 7.** This Resolution shall be in full force and effect upon its passage, approval and publication as provided by law.

(Intentionally Left Blank)

**PASSED AND APPROVED** by the President and Board of Trustees of the Village of Bensenville, DuPage and Cook Counties, Illinois, this \_\_\_\_ day of December 2017, pursuant to a roll call vote, as follows:

APPROVED:

\_\_\_\_\_  
Frank DeSimone, Village President

ATTEST:

\_\_\_\_\_  
Nancy Quinn, Village Clerk

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

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

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



Exhibit A

Agreement

Exhibit B

Insurance Coverage Policies

Coverage Type	Insurance Company	Dec-1-2017 to Nov-30-2018 Premium	Dec-1-2016 to Nov-30-2017 Premium	Premium Increase / (Decrease)
Property Insurance	Travellers Property Casualty	\$ 62,120.00	\$ 57,929.00	\$ 4,191.00
Inland Marine	Travellers Property Casualty	\$ 3,081.00	\$ 2,399.00	\$ 682.00
General Liability including Law Enforcement, Public Entity Management	Charter Oak Fire Insurance	\$ 105,738.00	\$ 107,069.00	\$(1,331.00)
Automobile	Travellers Indemnity Co.	\$ 31,113.00	\$ 24,698.00	\$ 6,415.00
Umbrella	Travellers Indemnity Co.	\$ 36,342.00	\$ 39,686.00	\$(3,344.00)
Crime	Hanover Insurance Co.	\$ 4,127.00	\$ 4,127.00	\$ -
Liquor Liability	Underwriters of Lloyd's London	\$ 1,934.00	\$ 1,934.00	\$ -
Cyber Liability	BCS Insurance Co.	\$ 10,263.00	\$ 11,361.00	\$(1,098.00)
Arthur Gallagher Fee - Insurance Brokerage	Arthur J. Gallagher	\$ 39,000.00	\$ 39,000.00	\$ -
<b>Total</b>		<b>\$ 293,718.00</b>	<b>\$ 288,203.00</b>	<b>\$ 5,515.00</b>

# Village of Bensenville

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## Compensation Agreement

### **Compensation Agreement** **Village of Bensenville & Arthur J. Gallagher Risk Management Services, Inc.**

THIS COMPENSATION AGREEMENT is made and entered into and effective the 1st day of December, 2017 ("Effective Date") by and between VILLAGE OF BENSENVILLE, an Illinois Entity ("Client"), and ARTHUR J. GALLAGHER RISK MANAGEMENT SERVICES, INC, an Illinois corporation ("Gallagher").

#### **I. TERM AND TERMINATION**

This Agreement shall commence on the Effective Date for a term of one (1) year and shall automatically renew on the first anniversary of the Effective Date and annually thereafter for additional one- (1) year terms but may be terminated by either party at any time upon one-hundred twenty (120) days prior written notice.

#### **II. OBLIGATIONS OF GALLAGHER**

Gallagher will provide the services set out on Exhibit A attached hereto (collectively, the "Services") to Client. If the Services include the placement of insurance coverages, Gallagher will use its commercial best efforts to secure such insurance coverages on Client's behalf. In the event an insurance company cancels or refuses to place such insurance coverages, Gallagher will use its commercial best efforts to obtain the coverage from another insurance company.

#### **III. OBLIGATIONS OF CLIENT**

Client shall remunerate Gallagher its usual and customary brokerage commission for the Services. In addition to or in lieu of commission, Client shall pay Gallagher an annual fee of \$39,000 for the Services, which such fee may be revised at the time of renewal of this Agreement by the execution of an amendment to this Agreement signed by the parties hereto. If work is required to be performed in addition to the Services, Client agrees to compensate Gallagher for such additional work at its usual and customary rates. So long as the terms and conditions of the Services are substantially similar and Gallagher's performance is acceptable, in subsequent years the annual fee shall be increased 2% over the prior year, and shall be payable and earned as provided herein.

#### **IV. DISCLOSURES**

- A. In addition to such fees and commissions provided herein, Gallagher may also receive investment income on fiduciary funds temporarily held by it, such as premiums or return premiums. Other parties, such as excess and surplus lines brokers, wholesalers, reinsurance intermediaries, underwriting managers, captive managers and similar parties, some of which may be owned in whole or in part by Gallagher's corporate parent, may earn and retain usual and customary commissions and fees in the course of providing insurance products to clients. Gallagher may also participate in contingent and supplemental commission arrangements with insurance companies. Contingent commission arrangements provide for additional contingent compensation if underwriting, profitability, volume or retention goals are achieved. Such goals are typically based on the total amount of certain insurance coverages placed by Gallagher with the insurance company, not on an individual policy basis. Supplemental commissions, unlike contingents, are known at the



# Village of Bensenville

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## Compensation Agreement

effective date of the policy, but are typically paid later and apart from when usual and customary commission is paid. Any such fees or commission will not constitute compensation to Gallagher under Section III. above.

- B. Gallagher's fees under this Agreement shall be fully earned on the execution of this Agreement (and any renewal thereof), and payable on invoicing. Client is responsible for payment of premiums for all insurance placed by Gallagher on its behalf. If any amount is not paid in full when due, including premium payments to insurance companies, that nonpayment will constitute a material breach of this Agreement that will allow Gallagher to immediately terminate this Agreement, at its option, without notice to Client.
- C. Where applicable, insurance coverage placements which Gallagher makes on Client's behalf, may require the payment of federal excise taxes, surplus lines taxes, stamping or other fees, to the Internal Revenue Service (federal), various state(s) departments of revenue, state regulators, boards or associations. In such cases, Client is responsible for the payment of such taxes and/or fees, which will be identified separately by Gallagher on invoices covering these placements. Under no circumstances will these taxes or other related fees or charges be offset against the amount of Gallagher's brokerage fees or commissions referred to herein.
- D. Gallagher will be operating only as Client's broker, obtaining a variety of coverage terms and conditions to protect the risks of Client's enterprise. Gallagher will seek to bind those coverages based upon Client's authorization, however, Gallagher can make no warranties in respect to policy limits or coverage considerations of the carrier. Actual coverage is determined by policy language, so read all policies carefully. Contact Gallagher with questions on these or any other issues of concern.

## V. LIMITATION OF LIABILITY

Gallagher's liability to Client, arising from any negligent acts or omissions of Gallagher, whether related to the Services provided hereunder or not, shall not exceed \$20 million in the aggregate. Without limiting the foregoing, Gallagher shall only be liable for actual damages incurred by Client, and shall not be liable for any indirect, consequential or punitive damages.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date first written above.

ARTHUR J. GALLAGHER RISK  
MANAGEMENT SERVICES, INC.

VILLAGE OF BENSENVILLE

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

**TYPE:**Resolution**SUBMITTED BY:**Amit Thakkar**DEPARTMENT:**Risk Management**DATE:**December 12, 2017**DESCRIPTION:**Consideration of a Resolution Approving a Worker's Compensation Insurance with Illinois Public Risk Fund***SUPPORTS THE FOLLOWING APPLICABLE VILLAGE GOALS:***

x	<i>Financially Sound Village</i>		<i>Enrich the lives of Residents</i>
x	<i>Quality Customer Oriented Services</i>		<i>Major Business/Corporate Center</i>
x	<i>Safe and Beautiful Village</i>		<i>Vibrant Major Corridors</i>

**COMMITTEE ACTION:**

Committee of the Whole

**DATE:**

December 12, 2017

**BACKGROUND:**

The Village was self insured until Dec-2014. Starting Jan-2016 the Village has been fully insured with a Illinois Public Risk Fund. As a self-insured municipality, the Village had an excess to insurance for any claim above \$600,000. Our annual worker's compensation expenses were in the range of \$400,000+ for the years when we were self insured. The total insurance premium payable to Illinois Public Risk Fund is \$338,327 in addition, the Village will also get a rebate of \$8,893 in grants that can be spent on employee safety training related expenses.

**KEY ISSUES:**

- a) The Village of Bensenville was self insured till Dec-2014 with an annual expense of about \$400,000+.
- b) We also had an excess insurance for claims in excess of \$600,000 and the premium was close to \$80,000.
- c) Illinois Public Risk fund assumed the 100% worker's compensation liability and the premium for the year 2018 is \$338,327.
- d) The Illinois Public Risk Fund also offers a grant of \$8,893 that can be spent on employee safety training related expenses.
- e) The Alliant Mesirow was approved as a broker for this service by the Village Board in 2016 and we do not pay any brokerage fees to them for the services.

**ALTERNATIVES:**

At the discretion of the Committee of the Whole.

**RECOMMENDATION:**

The staff recommends the approval of the worker's compensation insurance contract.

**BUDGET IMPACT:**

The insurance premium of \$328,327 will be paid out of approved 2018 budget.

**ACTION REQUIRED:**

Approval of the Resolution approving the Workman's Compensation Insurance with Illinois Public Risk Fund.

**ATTACHMENTS:****Description****Upload Date****Type**

Resolution

12/4/2017

Resolution Letter

Exhibit A - Policy

12/4/2017

Exhibit



**RESOLUTION NO: \_\_\_\_\_**

**A RESOLUTION OF THE VILLAGE OF BENSENVILLE, DUPAGE AND  
COOK COUNTIES, ILLINOIS APPROVING A WORKER'S COMPENSATION  
INSURANCE COVERAGE WITH ILLINOIS PUBLIC RISK FUND**

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**WHEREAS**, the Village of Bensenville, DuPage and Cook Counties, Illinois (the "*Village*") is a duly organized and existing municipal corporation created under the provisions of the laws of the State of Illinois and under the provisions of the Illinois Municipal Code, as from time to time supplemented and amended; and

**WHEREAS**, the Corporate Authorities have further determined that it is in the best interest of the health, safety and welfare of the Village and reasonable and necessary to acquire or renew the worker's compensation insurance coverage as recommended by the Alliant Mesirow Insurance Services, incorporated in the amount of \$338,177 for the period January 1, 2018 to January 1, 2019. (Insurance coverage policy, limits, providers and specific premiums are more fully described on Exhibit A, a copy of which is attached hereto and made a part hereof.

**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 1.** That the above recitals and legislative findings are found to be true and correct and are hereby incorporated herein and made a part hereof, as if fully set forth in their entirety.

**Section 2.** The Insurance Coverage Policies for January 1, 2018 to January 1, 2019 for the worker's compensation coverage specified in Exhibit A, a copy of which is attached hereto and made a part hereof, are hereby authorized and approved, and the Village Manager is hereby authorized to execute the worker's compensation policy as specified in Exhibit A.

**Section 3.** If any section, paragraph, clause or provision of this Resolution shall be held invalid, the invalidity thereof shall not affect any other provision of this Resolution.

**Section 4.** All ordinances, resolutions, motions or orders in conflict with this Resolution are hereby repealed to the extent of such conflict.

**Section 5.** This Resolution shall be in full force and effect upon its passage, approval and publication as provided by law.

(Intentionally Left Blank)



**PASSED AND APPROVED** by the President and Board of Trustees of the Village of Bensenville, DuPage and Cook Counties, Illinois, this \_\_\_\_ day of December 2017, pursuant to a roll call vote, as follows:

APPROVED:

\_\_\_\_\_  
Frank DeSimone, Village President

ATTEST:

\_\_\_\_\_  
Nancy Quinn, Village Clerk

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

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

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

# Village of Bensenville

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## Compensation Agreement

### **Compensation Agreement** **Village of Bensenville & Arthur J. Gallagher Risk Management Services, Inc.**

THIS COMPENSATION AGREEMENT is made and entered into and effective the 1st day of December, 2017 ("Effective Date") by and between VILLAGE OF BENSENVILLE, an Illinois Entity ("Client"), and ARTHUR J. GALLAGHER RISK MANAGEMENT SERVICES, INC, an Illinois corporation ("Gallagher").

#### **I. TERM AND TERMINATION**

This Agreement shall commence on the Effective Date for a term of one (1) year and shall automatically renew on the first anniversary of the Effective Date and annually thereafter for additional one- (1) year terms but may be terminated by either party at any time upon one-hundred twenty (120) days prior written notice.

#### **II. OBLIGATIONS OF GALLAGHER**

Gallagher will provide the services set out on Exhibit A attached hereto (collectively, the "Services") to Client. If the Services include the placement of insurance coverages, Gallagher will use its commercial best efforts to secure such insurance coverages on Client's behalf. In the event an insurance company cancels or refuses to place such insurance coverages, Gallagher will use its commercial best efforts to obtain the coverage from another insurance company.

#### **III. OBLIGATIONS OF CLIENT**

Client shall remunerate Gallagher its usual and customary brokerage commission for the Services. In addition to or in lieu of commission, Client shall pay Gallagher an annual fee of \$39,000 for the Services, which such fee may be revised at the time of renewal of this Agreement by the execution of an amendment to this Agreement signed by the parties hereto. If work is required to be performed in addition to the Services, Client agrees to compensate Gallagher for such additional work at its usual and customary rates. So long as the terms and conditions of the Services are substantially similar and Gallagher's performance is acceptable, in subsequent years the annual fee shall be increased 2% over the prior year, and shall be payable and earned as provided herein.

#### **IV. DISCLOSURES**

- A. In addition to such fees and commissions provided herein, Gallagher may also receive investment income on fiduciary funds temporarily held by it, such as premiums or return premiums. Other parties, such as excess and surplus lines brokers, wholesalers, reinsurance intermediaries, underwriting managers, captive managers and similar parties, some of which may be owned in whole or in part by Gallagher's corporate parent, may earn and retain usual and customary commissions and fees in the course of providing insurance products to clients. Gallagher may also participate in contingent and supplemental commission arrangements with insurance companies. Contingent commission arrangements provide for additional contingent compensation if underwriting, profitability, volume or retention goals are achieved. Such goals are typically based on the total amount of certain insurance coverages placed by Gallagher with the insurance company, not on an individual policy basis. Supplemental commissions, unlike contingents, are known at the

# Village of Bensenville

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## Compensation Agreement

effective date of the policy, but are typically paid later and apart from when usual and customary commission is paid. Any such fees or commission will not constitute compensation to Gallagher under Section III. above.

- B. Gallagher's fees under this Agreement shall be fully earned on the execution of this Agreement (and any renewal thereof), and payable on invoicing. Client is responsible for payment of premiums for all insurance placed by Gallagher on its behalf. If any amount is not paid in full when due, including premium payments to insurance companies, that nonpayment will constitute a material breach of this Agreement that will allow Gallagher to immediately terminate this Agreement, at its option, without notice to Client.
- C. Where applicable, insurance coverage placements which Gallagher makes on Client's behalf, may require the payment of federal excise taxes, surplus lines taxes, stamping or other fees, to the Internal Revenue Service (federal), various state(s) departments of revenue, state regulators, boards or associations. In such cases, Client is responsible for the payment of such taxes and/or fees, which will be identified separately by Gallagher on invoices covering these placements. Under no circumstances will these taxes or other related fees or charges be offset against the amount of Gallagher's brokerage fees or commissions referred to herein.
- D. Gallagher will be operating only as Client's broker, obtaining a variety of coverage terms and conditions to protect the risks of Client's enterprise. Gallagher will seek to bind those coverages based upon Client's authorization, however, Gallagher can make no warranties in respect to policy limits or coverage considerations of the carrier. Actual coverage is determined by policy language, so read all policies carefully. Contact Gallagher with questions on these or any other issues of concern.

## V. LIMITATION OF LIABILITY

Gallagher's liability to Client, arising from any negligent acts or omissions of Gallagher, whether related to the Services provided hereunder or not, shall not exceed \$20 million in the aggregate. Without limiting the foregoing, Gallagher shall only be liable for actual damages incurred by Client, and shall not be liable for any indirect, consequential or punitive damages.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date first written above.

ARTHUR J. GALLAGHER RISK  
MANAGEMENT SERVICES, INC.

VILLAGE OF BENSENVILLE

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_



**TYPE:**Ordinance**SUBMITTED BY:**Amit Thakkar**DEPARTMENT:**Human Resources**DATE:**December 12, 2017**DESCRIPTION:**Consideration of an Ordinance Adopting the EEO Sexual Harassment Policy**SUPPORTS THE FOLLOWING APPLICABLE VILLAGE GOALS:**

x	<i>Financially Sound Village</i>		<i>Enrich the lives of Residents</i>
x	<i>Quality Customer Oriented Services</i>		<i>Major Business/Corporate Center</i>
x	<i>Safe and Beautiful Village</i>		<i>Vibrant Major Corridors</i>

**COMMITTEE ACTION:**

Committee of the Whole.

**DATE:**

December 12, 2017

**BACKGROUND:**

Public Act 100-0554 (the Act) amends the State Officials and Employees Ethics Act, including Section 70-5, which pertains to the local government entities. The Act mandates all governmental units adopt, within 60 days after the effective date of November 16, 2017, which is January 15, 2018, an Ordinance or Resolution establishing a policy prohibiting sexual harassment.

**KEY ISSUES:**

- a) Public Act 100-0554 amends the State Official and Employee Ethics Act which also pertains to the local governmental units.
- b) The act mandates all the local government units have to adopt a policy prohibiting Sexual Harassment Policy by January 15, 2018.
- c) The current Sexual Harassment Policy is part of our Employee Handbook and needs change to comply with the newly state requirement in the Public Act 100-0554. The new draft version of the policy as well as red-lined version is attached herewith.

**ALTERNATIVES:**

At the discretion of the Committee.

**RECOMMENDATION:**

Staff recommends the approval of the Ordinance adopting the EEO Sexual Harassment Policy.

**BUDGET IMPACT:**

None

**ACTION REQUIRED:**

Approval the Ordinance adopting the EEO Sexual Harassment Policy.  
Discretion of the Committee.

**ATTACHMENTS:****Description****Upload Date****Type**

SH Policy Final

12/11/2017

Cover Memo

Ordinance

12/6/2017

Ordinance



**OUR POLICY AGAINST DISCRIMINATION AND HARASSMENT**

**REVISED JANUARY 2018**

### ***Section 1.03 Equal Opportunity Employer***

The Village is firmly committed to prohibiting unlawful discrimination and harassment on the basis of all legally protected categories, including without limitation, based on race, color, sex, age, sexual orientation or sexual preference, gender, gender identity or expression, religion, military status, marital status, national origin, disability, pregnancy, childbirth or any medical condition related to pregnancy or childbirth, or any other protected category as defined by applicable law. This policy extends throughout the employment process, from application/selection through termination, and in all employment related decisions.

If you feel that you have been the victim of unlawful discrimination or harassment of any kind or if you have witnessed a violation of this Policy, you are encouraged to promptly report the allegations to your Department Head or the Director of Human Resources. Be assured that all complaints will be promptly investigated and remedied as appropriate. Also be assured that no retaliation will be taken or tolerated against any employee covered by this Policy who reports a complaint of a violation of this Policy and/or participates in an investigation of any complaint allegations. In the event the Village determines that a violation of this Policy has occurred, appropriate disciplinary action (including immediate termination, if warranted) will be taken as deemed necessary by management.

### ***Disability & Pregnancy Accommodation Requests***

The Village prohibits discrimination on the basis of disability, pregnancy, or medical conditions related to pregnancy or child birth. Therefore, the Village will not refuse to hire, segregate, or take any other employment action with respect to recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure or the terms, privileges or conditions of employment on the basis of pregnancy or disability.

The Village also makes reasonable accommodations when necessary for all employees and/or applicants with disabilities and/or employees who are affected by pregnancy, childbirth, or medical conditions related to pregnancy or childbirth, provided the employee is otherwise qualified to perform the essential functions of the job.

Consistent with these commitments, the Village will not require an employees affected by pregnancy or other disability to take a leave of absence (against the employee's wishes) if another reasonable accommodation can be provided to the known medical conditions related to the disability or pregnancy of that employee. Further, the Village will not fail or refuse to reinstate an employee affected by pregnancy or other disability to his/her original job or to an equivalent position with equivalent pay, seniority, and benefits upon her signifying his/her intent to return to work or when the need for reasonable accommodation ceases, unless the Village can demonstrate that the accommodation would impose an undue hardship on the Village's operations.

The Village may request documentation from an employee's health care provider concerning the need for the requested reasonable accommodation(s), the medical justification for the requested accommodation(s); a description of the reasonable accommodation(s) that is medically advisable; the date the reasonable accommodation(s) became (or will become) medically

advisable; and the probable duration of the reasonable accommodation(s). The Village may deny an accommodation if it imposes an undue hardship. Employees and/or applicants are encouraged to discuss their need for a reasonable accommodation with Human Resources. These issues will be addressed on a case-by-case basis.

### ***Section 1.07 Sexual Harassment Policy***

The Village is committed to providing a workplace that is free from all forms of unlawful harassment and unlawful discrimination, including sexual harassment. Unlawful harassment includes making the working environment uncomfortable based on a legally protected category such as: race; color; sex; age; sexual orientation or sexual preference; gender; gender identity or expression; religion; military status; marital status; national origin; disability; pregnancy, childbirth or any medical condition related to pregnancy or childbirth; and/or any other protected category as defined by applicable state, federal and/or local law or ordinance. Any employee's behavior or action or conduct that fits the definition of sexual harassment (or harassment based on any other legally protected category) is a form of misconduct, which may result in disciplinary action up to and including immediate dismissal for even the first offense if warranted.

Each employee of the Village bears the responsibility to refrain from sexual and other forms of harassment in the work place. No employee, male or female, should be subjected to unsolicited or unwelcomed sexual overtures or comments based on other categories listed above. Furthermore, all supervisors/managers are expected to make sure that the work environment is free from all forms of harassment and discrimination, including sexual harassment. All forms of discrimination and conduct which can be considered harassing, coercive or disruptive, or which create a hostile or offensive environment, are strictly prohibited. Instances of sexual harassment or other forms of harassment based on any legally protected category will be investigated in a prompt and effective manner so that appropriate remedial action can be taken where necessary based on the investigation results.

All employees of the Village are expected to become familiar with the contents of this Policy and to abide by the requirements it establishes. All employees also are encouraged to report any complaint or allegation of a violation of this Policy (no matter how slight). Be assured that no retaliation will be taken or tolerated against any employee or other person covered by this Policy who reports a complaint or participates in a complaint investigation pursuant to this Policy.

#### ***1.07.1 Definition of Sexual Harassment***

Sexual harassment includes (without limitation) any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:

1. Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or,

3. Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Conduct commonly considered to be sexual harassment includes (without limitation):

1. Verbal: Sexual innuendoes, suggestive comments, insults, humor and jokes about sex, anatomy or gender-specific traits, sexual propositions, threats, repeated or unwelcome requests for dates, or statements about other employees or persons in contact with Village personnel, even outside their presence, of a sexual nature.
2. Non-Verbal: Suggestive or insulting sounds (whistling), leering, obscene gestures, sexually suggestive bodily gestures, "catcalls," "smacking," or "kissing" noises.
3. Visual (Environmental): Posters, signs, pin-ups, or slogans of a sexual nature.
4. Physical: Touching, unwelcome hugging or kissing, pinching, brushing the body, coerced sexual activity, or actual assault.

Sexual harassment may involve: a man harassing a woman; a woman harassing a man; or an individual harassing another individual of the same sex or gender. Simply put: the sexual harassment prohibitions in this Policy are "gender neutral".

More severe and overt forms of sexual harassment are the easiest to determine. An example of sexual harassment is where a qualified individual is denied employment opportunities and benefits that are, instead, awarded to an individual who submits (voluntarily or under coercion) to sexual advances or sexual favors. Another example is where an employee must submit to unwelcome sexual conduct in order to receive an employment opportunity. It must be noted that the examples used in this Policy are not all inclusive and do not represent the breadth of possible sexually harassing actions. They are intended to help make clear some of the examples of what conduct can constitute sexual harassment.

On the other end of the spectrum, some sexual harassment is more subtle and depends to some extent on individual perception and interpretation. An example of the most subtle form of sexual harassment (which is prohibited under this Policy in most cases even if it does not rise to the level of unlawful activity) is the use of endearments. For example, the use of terms such as "honey," "darling," and "sweetheart" is objectionable to many employees who believe that these terms undermine their authority and their ability to deal with other employees on an equal and professional level. Therefore, regardless of your intention, such terms should be avoided at work.

Another example is the use of a compliment that could potentially be interpreted as sexual in nature. Below are three (3) other statements that might be made about the appearance of a co-worker in the work place that could be offensive to another or which may cause another person covered by this Policy to feel uncomfortable at work (this list is not all inclusive):

"That's an attractive outfit you have on."

"That's an attractive outfit. It really looks good on you."



“That's an attractive outfit. You really fill it out well.”

To avoid even the possibility of offending an employee, it is best to follow a course of conduct above reproach, or to err on the side of caution. Again, these are merely examples and if you need additional guidance as to how to conform to acceptable business standards, please speak to the Director of Human Resources or your Department Head.

### ***1.07.2 Responsibilities of Employees***

Each individual employee must refrain from sexual harassment, discrimination, retaliation and unlawful harassment in the work place. An individual who violates this Policy can, of course, be personally liable for his or her individual conduct under the law depending on the circumstances involved. The harassing employee also will be subject to disciplinary action up to and including dismissal where deemed appropriate by management in order to remedy the situation.

### ***1.07.3 Responsibilities of Others who do business with the Village***

As used in this policy, the prohibition against sexual harassment, discrimination and/or retaliation toward any employee also extends to acts, conduct or statements made by a Village official (elected or appointed), agent, lobbyist, attorney, vendor, and/or others who do business with the Village – even if such persons are not employed by the Village and/or compensated for their services by the Village (collectively referred to as the “Vendors”). Employees who feel that they were made uncomfortable at work by the actions of any Vendor is encouraged to report the matter in accordance with the complaint procedure set forth below in this Policy without fear of retaliation. All complaint allegations involving Vendors will be investigated and remedied as appropriate based on the facts involved.

### ***107.4 Procedures for Filing a Complaint of Sexual or Other Harassment***

An employee who either observes or believes herself/himself to be the object of sexual or other unlawful harassment should deal with the incident(s) as directly and firmly as possible by clearly communicating her/his position to the supervisor/manager, the Director of Human Resources, and to the offending employee/person (if the employee is comfortable doing so). Likewise, supervisors/managers in need of information regarding their obligations under this Policy or procedures to follow upon receipt of a complaint of harassment should contact the Director of Human Resources. It is not necessary for the harassment to be directed at the person making the complaint where the working environment is uncomfortable for any person.

Each incident of harassment should be documented or recorded when possible and appropriate. A note should be made of the date, time, place, what was said or done, and by whom when available. The documentation may be augmented by written records such as letters, notes, names, and telephone numbers. If the employee who witnessed the situation elects not to document the incident, a meeting will be held with management for this purpose so that the details can be documented. If it is preferred, however, for the employee to document the situation on his/her own to be sure that all facts and relevant information is retained.

The process for making a complaint about sexual harassment falls into several stages:

1. **DIRECT COMMUNICATION:** If there is offensive or harassing behavior in the work place, the employee involved should directly and clearly express her/his objection that the conduct is unwelcome and request that the offending behavior stop if the employee is comfortable doing so. The initial message may be verbal. If subsequent messages are needed, the employee is encouraged to put the message in a memo or email. (The employee is free to consult the Human Resources Director for guidance in this process).
2. **CONTACT SUPERVISORY PERSONNEL:** At the same time direct communication is undertaken, or in the case an employee is not comfortable with direct communication, the issue should be promptly reported to the immediate supervisor or the Department Head. If the harasser is the immediate supervisor, or the problem should be reported to the next level of supervision or the Human Resources Director.
3. **FORMAL COMPLAINT:** If an employee is uncomfortable reporting an incident to any supervisor, an employee may also report incidents of sexual harassment directly to the Department Head or Village Manager. The Human Resources Director will counsel the reporting employee and be available to assist with the filing of a complaint. The Human Resources Director will investigate all complaint allegations that are reported. Any employee's behavior that fits the definition of sexual harassment is a form of misconduct, which may result in disciplinary action up to and including dismissal.

While employees are permitted to submit a confidential report of harassment; employees are encouraged to provide as much information as possible about the allegations so that the Village can effectively investigate and remedy (if appropriate) any Policy violation(s). NOTE: This procedure set forth above applies to sexual harassment as well as all other forms of discrimination or harassment based on any legally protected category.

While we hope to be able to resolve any complaints of harassment within the Village, you have the right to contact the Illinois Department of Human Rights (IDHR) at the James R. Thompson Center, 100 Randolph Street, Suite 10-100, Chicago, Illinois 60601, about filing a formal complaint. The IDHR will investigate your complaint, and if it determines that there is sufficient evidence of harassment to proceed further, it will file a complaint with the Illinois Human Rights Commission (HRC), located at the same address on the fifth floor. If the IDHR does not complete its investigation within 365 days, you may file a complaint directly with the HRC between the 365th and the 395th day.

#### ***1.07.5 Reprisal or Retaliation is Prohibited***

Reprisals or retaliation against an employee who utilizes this Policy or participates in the investigation of a complaint under this Policy is strictly forbidden. This includes direct retaliation or reprisal, or the encouragement of others to engage in retaliation or reprisal against any person who:

1. Opposes any conduct prohibited by this Policy;
2. Complies or encourages others to comply with any provision of this Policy;
3. Files a complaint concerning any violation of this Policy;

4. Testifies, assists or participates in any investigation or hearing resulting from a complaint under this Policy; and/or
5. Exercises any right conferred under this Policy.

The Village forbids retaliation against employee (or other person covered by the Policy) for reporting harassment, assisting in making a discrimination or harassment complaint, or cooperating in a discrimination or harassment investigation. Anyone who believes that they have been retaliated against should notify a Supervisor, a Department Head, or the Village Administrator. Further, under the Illinois Human Rights Act (775 ILCS 5/6), the Illinois Whistleblower Act (740 ILCS 174/5), and the State Employee Ethics Act (5 ILCS 430) it is a crime to retaliate, or to conspire to retaliate, against an employee because the employee has opposed an action that the employee reasonably believes to be unlawful discrimination or harassment or because the employee has participated in an investigation of harassment or discrimination. However, an employee who knowingly makes a false report of harassment will be subject to discipline.

**ORDINANCE:** \_\_\_\_\_

**AN ORDINANCE ADOPTING A POLICY PROHIBITING SEXUAL HARASSMENT  
FOR THE VILLAGE OF BENSENVILLE, COUNTIES OF COOK AND DUPAGE**

**WHEREAS**, the Illinois General Assembly has recently enacted Public Act 100-0554, an Act concerning government, which became effective immediately, dated December 12, 2017;

**WHEREAS**, pursuant to the Act, each governmental unit shall adopt an ordinance or resolution establishing a policy to prohibit sexual harassment;

**WHEREAS**, all prior existing sexual harassment policies of Village of Bensenville, County of Cook and County of DuPage shall be superseded by the Policy Prohibiting Sexual Harassment adopted by this Ordinance; and

**WHEREAS**, should any section or provision of this Ordinance or the adopted Policy Prohibiting Sexual Harassment be declared to be invalid, that decision shall not affect the validity of this Ordinance or adopted Policy Prohibiting Sexual Harassment as a whole or any part thereof, other than the part so declared to be invalid;

**NOW, THEREFORE**, be it ordained by the corporate authorities of Village of Bensenville, Counties of Cook, and DuPage the following:

Section 1. The Policy Prohibiting Sexual Harassment, included as Exhibit A to this Ordinance, is hereby adopted.

Section 2. This ordinance shall be in full force and effect on December 12, 2017.

**PASSED AND APPROVED** by the President and Board of Trustees of the Village of Bensenville, DuPage and Cook Counties, Illinois, this \_\_\_\_ day of December 2017, pursuant to a roll call vote, as follows:

Approved

---

Frank DeSimone, Village President

ATTEST:

---

Nancy Quinn, Village Clerk

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

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

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

**TYPE:**Resolution**SUBMITTED BY:**M. Ribando**DEPARTMENT:**Village Manager's Office**DATE:**12/12/17**DESCRIPTION:**

Consideration of a Resolution Authorizing an Agreement with the Res Publica Group and the Village of Bensenville for Professional Services

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

<input type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>

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

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

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

Committee of the Whole

**DATE:**

12/12/17

**BACKGROUND:**

The Village of Bensenville continuously looks for the most effective ways to provide current and accurate communications to our residents and stakeholders. Res Publica Group has continued with an action plan that improves Village communications and promote Village services and information.

**KEY ISSUES:**

The Village continues to promote and improve communications regarding Village information within our community and to our stakeholders.

**ALTERNATIVES:****RECOMMENDATION:**

Staff is recommending approving the Resolution authorizing the agreement with Res Publica Group and the Village of Bensenville for professional services.

**BUDGET IMPACT:**

Not to exceed \$4,000 a month.

**ACTION REQUIRED:**

Approval of the Resolution authorizing the agreement with Res Publica Group and the Village of Bensenville.

**ATTACHMENTS:****Description****Upload Date****Type**

Agreement

12/7/2017

Cover Memo

Resolution

12/12/2017

Cover Memo

November 30, 2017

Mr. Evan Summers  
Village Manager  
Village of Bensenville  
12 S. Center St.  
Bensenville, IL 60106

Mr. Summers:

Thank you for giving Res Publica Group the opportunity to work with you and your team. We are excited to begin our work and feel privileged to assist you with your current communication needs.

Per our conversation and vote by the village board, I am sending this letter agreement for the appropriate approval and signature.

As discussed, we will provide the Village of Bensenville with strategic communications counsel and media relations work as part of a broader plan to elevate the village's profile and improve the way it communicates with residents and business owners. Building upon the work we have done in the last 12 months, we would look to provide the following services:

- Facilitate meetings with newsroom executives and village leaders to improve relations
- Identify, package and present news stories to reporters about the village
- Proactively position the village with media on key subjects and stories
- Provide statements to media in response to immediate inquiries
- Analysis and ongoing guidance for improving village communications to residents
- Analysis and ongoing guidance for improving in-house TV production
- Analysis and guidance to improve your web presence, promoting events and social media
- Develop messaging to engage key stakeholders in the positive things happening

Our fees for these efforts shall not exceed \$4,000 per month for the next 12 months, commencing the date the agreement is signed. The parties agree that any services not included in this agreement or – but requested by the village – would be invoiced separately. This could include graphic design, video editing, ongoing crisis communications or marketing-focused campaigns or economic development initiatives.

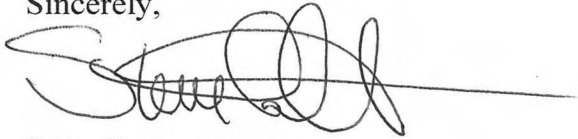
Res Publica Group will invoice the village on a monthly basis and all invoices are due

within 45 days of receipt. Other terms and conditions of our services are set forth in the attached Exhibit A and are incorporated as part of this letter agreement.

If you are in agreement with the above terms, please have a duly authorized entity sign below and return to Res Publica either by fax at 312-755-1462 or by a scanned PDF copy to my email, [sp@respublicagroup.com](mailto:sp@respublicagroup.com). By signing below, the Village of Bensenville agrees to engage Res Publica Group pursuant to the terms set forth in this letter agreement.

Once again, thank you for providing Res Publica Group with the opportunity to assist you.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Patterson", with a long horizontal line extending to the right.

Steve Patterson  
Vice President

Approved: \_\_\_\_\_

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

Commencing September 1, 2017 with attached Terms and Conditions.



## EXHIBIT A Terms and Conditions

The following is an agreement ("Agreement") between the party listed on the letter agreement ("Client") and The Res Publica Group, LLC ("Res Publica") relating to the services to be provided by Res Publica to Client. This Agreement incorporates by reference those terms and conditions set forth in the letter agreement. In addition, the following terms and conditions apply:

1. **Services.** Res Publica will perform the services set forth in the Letter Agreement in addition to those terms and conditions set forth in the original, August 2, 2016 Proposal, which Proposal is incorporated herein by reference ("Services"). If Client wants to expand the scope of the Services, Client and Res Publica shall agree upon the services to be performed and their price by amending the letter agreement.
2. **Ownership.** All slogans, trademarks, ideas and/or other materials developed, submitted or purchased by Res Publica for Client, in the form and to the extent specifically utilized in Client's program covered by this Agreement ("Works"), shall be Client's property exclusively. Res Publica hereby assigns, grants and transfers to Client all rights solely to the Works.
3. **Expenses.** Client shall reimburse Res Publica for all out-of-pocket, third-party expenses, and all travel and related expenses incurred by Res Publica in performing the Services.
4. **Payment.** Res Publica shall invoice Client on a monthly basis and all invoices are due within 45 days of receipt. For late payments, unpaid invoices in excess of forty-five days (45), Res Publica may assess a late payment charge at the rate of 3% per month (36% per year) or the maximum legal rate. If Client is more than forty-five (45) days late in paying any invoice, Res Publica may, in its sole discretion, cease performing Services, upon written notice to Client.
5. **Right to Use.** Client represents and warrants that: (i) all materials furnished to Res Publica will not in any way constitute an infringement, misappropriation or other violation of any third party's intellectual property rights; and (ii) Client has properly obtained all necessary permissions and licenses from any individuals whose name, image or likeness is used in any such materials, where appropriate and when necessary.
6. **Non-Solicitation of Employees.** During the term of this Agreement and for one (1) year after its termination, Client will not, without the written consent of Res Publica, solicit or hire (either directly or indirectly) any Res Publica employee with whom Client came into contact during the performance of this Agreement, for the purpose of engaging such employee as an employee, consultant, agent or other independent contractor. In the event Client does so solicit and employ or engage any person so employed by Res Publica, Client shall pay Res Publica a fee equal to the total amount of such employee's **[annual]** cash and non-cash compensation as a reimbursement to Res Publica of its recruitment and training costs. This Section shall survive termination or expiration of this Agreement.
7. **Confidentiality.** 7.1 Confidentiality Obligations (a) Confidentiality. Res Publica agrees to hold Confidential Information in confidence in accordance with the terms of this Agreement. (b) Non-Use. Res Publica agrees to use Confidential Information solely in accordance with the terms of this Agreement.  
7.2 Confidentiality Standard of Care. Res Publica shall exercise at least the same degree of care as it uses with regard to its own Confidential Information, but in no event less than reasonable degree of care, in protecting Client Confidential Information.  
7.3 Required Disclosure of Confidential Information. In the event that Res Publica is compelled by law to disclose any Confidential Information: (a) Notice of Disclosure. Res Publica shall provide Client with prompt written notice of the order to disclose. (b) Cooperation to Seek Protective Order. Res Publica shall cooperate with Client to assert and to allow Client to assert all applicable privileges over the Confidential Information, to quash a subpoena or other process, or to otherwise obtain a protective order or other appropriate remedy. (c) Limited Disclosure. In the event that a protective order or other remedy is not obtained, or Client waives compliance with the provisions of this Agreement, Res Publica shall:

(i) disclose only the portion of Confidential Information that is legally required to disclose; and (ii) exercise all reasonable efforts to obtain reliable assurances that confidential treatment will be afforded to Confidential Information.

7.4 Return of Property. At Client's request, all Confidential Information in the possession of Res Publica shall be immediately returned to Client.

#### 7.5 Definition of Confidential Information

(a) Included Information. Confidential Information means any non-public information disclosed to Res Publica, whether orally, in writing, through any means of communication, by or on behalf of Client, including but not limited to information that is attorney-client privileged and/or subject to the attorney work-product doctrine. (b) Excluded Information. The restrictions of this Agreement on use and disclosure of Confidential Information will not apply to: (i) Public Information. Information that is or becomes publicly known without the breach of this Agreement. (ii) Already Known. Information that at the time of disclosure under this Agreement is already known to Res Publica without any restriction on its disclosure. (iii) Third Party Source. Information that is or subsequently comes into the possession of Res Publica from a third party without violation of any contractual or legal obligation. (iv) Independently Developed. Information that is independently developed by Res Publica without the use of Confidential Information or breach of this Agreement.

Res Publica will have the burden of proof regarding the applicability of any exception. Notwithstanding these exceptions, information that is attorney-client privileged or subject to the attorney work-product doctrine shall at all times remain subject to the restrictions of this Agreement on use and disclosure of Confidential Information.

8. Injunctive Relief. In addition to any other rights or remedies it may have at law or under contract, Res Publica may apply to any court of competent jurisdiction for injunctive or other equitable relief to enforce this Agreement, without being required to show actual damages or post any bond. If any provision or portion of a provision is held to be unenforceable, the rest of the Agreement will remain in effect.

9. Entire Agreement. Client is deemed to have accepted this Agreement when Client signs or returns the letter agreement to Res Publica. These terms and conditions will not be superseded by any conflicting terms or conditions in any other form of written communication, unless signed by both parties. This Agreement together with the letter agreement is the complete statement of the terms of the understanding between the parties, merging and superseding all prior negotiations or agreements of the parties, either written or oral, made either prior to or contemporaneously with this Agreement. This Agreement cannot be modified or amended except by a subsequent written instrument executed by the parties.

10. Term. The term of this Agreement shall commence as of date of the letter agreement, and shall continue until terminated by either party upon thirty [30] days prior written notice. Termination of the Agreement shall not relieve the parties of any obligation accruing prior to such termination. In that regard, such termination shall not relieve Client of any obligation or liability with respect to contracts for services or materials entered into by Res Publica on behalf of Client with any third party.

11. LIMITATION. IN NO EVENT WILL RES PUBLICA BE LIABLE TO CLIENT FOR ANY INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OR LOST PROFITS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR OTHERWISE EXCEPT SUCH DAMAGES AND/OR LOST PROFITS ARISING FROM RES PUBLICA'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT SUBJECT TO THE IMMEDIATELY FOREGOING LIMITATION. RES PUBLICA'S ENTIRE LIABILITY TO CLIENT UNDER THIS AGREEMENT OR OTHERWISE, WILL BE LIMITED TO 3X THE FEES PAID BY CLIENT TO RES PUBLICA PURSUANT TO THIS AGREEMENT.

12. Notices. Notices shall be in writing and sent by certified mail, return receipt requested. Notices to Client will be sent to Client's address on the letter agreement with a copy provided to: Bond, Dickson and Conway, Attn: Patrick Bond, 400 Knoll St, Wheaton, IL 60187. Notices to Res Publica will be sent to The Res Publica Group, 444 N. Michigan Avenue, Suite 3600, Chicago, IL 60611, Attention: Guy Chipparoni, President.

13. Governing Law. This Agreement and any disputes among the parties will be governed by the internal laws (exclusive of the conflicts of law principles) of the State of Illinois. The parties consent to the exclusive and sole jurisdiction of the federal court located in Chicago, Illinois or the state court located in DuPage County, Illinois with respect to all litigation, claims, causes of action, demands, controversies or disputes among the parties.

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

**A RESOLUTION APPROVING EXECUTION OF AN  
AGREEMENT WITH RES PUBLICA GROUP**

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 and contracts and to undertake other acts as necessary in the exercise of its statutory powers; and

WHEREAS, the VILLAGE is in need of professional services to continue the ongoing efforts of Village communications to our stakeholders; and

WHEREAS, Res Publica Group has the experience and expertise to provide said professional services; and

WHEREAS, the VILLAGE has determined that it is reasonable, necessary, and desirable to enter into an agreement with Res Publica Group per the terms set forth in the agreement attached hereto as Exhibit “A” in the amount not to exceed the monthly rate of \$4000.

NOW, THEREFORE, BE IT RESOLVED by the 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, a agreement with Res Publica Group in the amount of \$4000 per month for the professional services as set forth in the agreement attached hereto 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 Board of Trustees of the Village of Bensenville,  
Illinois, this 12th day of December, 2017.

APPROVED:

\_\_\_\_\_  
Frank DeSimone, Village President

ATTEST:

\_\_\_\_\_  
Nancy Quinn, Village Clerk

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

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

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

**TYPE:**Informational**SUBMITTED BY:**Amit Thakkar**DEPARTMENT:**Finance Department**DATE:**December 12, 2017**DESCRIPTION:**Informational Item - Bond Refunding Opportunity**SUPPORTS THE FOLLOWING APPLICABLE VILLAGE GOALS:**

x	<i>Financially Sound Village</i>	x	<i>Enrich the lives of Residents</i>
x	<i>Quality Customer Oriented Services</i>		<i>Major Business/Corporate Center</i>
		x	
x	<i>Safe and Beautiful Village</i>	x	<i>Vibrant Major Corridors</i>

**COMMITTEE ACTION:**

N/A

**DATE:**

December 12, 2017

**BACKGROUND:**

We have received an unsolicited offer from Baird through our bond consultants and by further following the lead in the current market, we have identified a potential Bond Refunding Opportunity which is very time sensitive. Per the new tax reforms underway at the federal government, it will not be possible to advance refund governmental bonds starting January 1, 2018 (if the reforms get Senate approval). Having said that, if we can refund 2011A, 2011B, 2013A and 2013E before December-2017, we might have an estimated total savings (net present value) of \$1,447,000. The savings amount is an estimate based on improved credit rating as well as in time closing before December 31, 2017. The actual savings and bond rating might be lower than estimated here. This opportunity is very time sensitive and is very attractive as well. To facilitate the approval of the bond refunding, we might require a special board meeting (probably 19th December, 2017)

**KEY ISSUES:**

- a) Refunding Opportunity available is very time sensitive.
- b) New Tax reforms if passed successfully by the Senate, will not permit the advanced Bond refunding and might also affect the tax exempt status.
- c) The refunding opportunity will provide an aggregate savings subject to improved credit rating than Aa3 and in time closing.

**ALTERNATIVES:**

At the discretion of the Committee and Board.

**RECOMMENDATION:**

If refunding is possible, we will ask the Village President and the Board of Trustees to please attend the Special Board Meeting which is tentatively scheduled for December 19, 2017 to approve the bond refunding Ordinance.

**BUDGET IMPACT:**

The Village could potentially capture a significant savings.

**ACTION REQUIRED:**

None

**TYPE:**Ordinance**SUBMITTED BY:**M. Ribando**DEPARTMENT:**Village Manager's Office**DATE:**December 12, 2017**DESCRIPTION:**

Consideration of an Ordinance of the Village of Bensenville, DuPage and Cook Counties, Illinois Designating Authority to Accept Electricity Pricing and to Contract for Electricity for the Village's Electric Aggregation Program

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

<input checked="" type="checkbox"/>	<i>Financially Sound Village</i>	<input checked="" 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>

**COMMITTEE ACTION:**

Committee of the Whole

**DATE:**

December 12, 2017

**BACKGROUND:**

The Illinois Power Agency allows municipalities to adopt regulations providing for the aggregation of residential and small commercial retail electrical loads for the purpose of soliciting bids and entering into a service agreement to purchase electricity and related services and equipment. Also, the municipality may opt-out of an aggregation program.

**KEY ISSUES:**

The bidding process for the purposes of purchasing electricity is an extremely time sensitive process. The Village has developed a plan of operation and governance for a aggregation program. The Village will monitor the electricity market to identify and establish a final price to ascertain the lowest qualified bidder.

**ALTERNATIVES:****RECOMMENDATION:**

Staff is recommending approval of the Ordinance designating Authority to the Village of Bensenville for Electricity pricing for the Village's Aggregation Program.

**BUDGET IMPACT:**

To be determined after bids are received.

**ACTION REQUIRED:**

Approval of the Ordinance designating Authority to the Village of Bensenville for Electricity pricing for the Village's Aggregation Program.

**ATTACHMENTS:****Description**

Ordinance

**Upload Date**

12/7/2017

**Type**

Cover Memo

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

**AN ORDINANCE OF THE VILLAGE OF BENSENVILLE, DUPAGE AND  
COOK COUNTIES, ILLINOIS DESIGNATING AUTHORITY TO ACCEPT  
ELECTRICITY PRICING AND TO CONTRACT FOR ELECTRICITY  
FOR THE VILLAGE’S ELECTRIC AGGREGATION PROGRAM**

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**WHEREAS**, the Village of Bensenville, DuPage and Cook Counties, Illinois (the “*Village*”) is a duly organized and existing municipal corporation created under the provisions of the laws of the State of Illinois and under the provisions of the Illinois Municipal Code, as from time to time supplemented and amended; and

**WHEREAS**, the Illinois Power Agency Act, 20 ILCS 3855/1-92 (the “*Act*”), allows municipalities to adopt regulations providing for the aggregation of residential and small commercial retail electrical loads for the purpose of soliciting bids and entering into service agreements to facilitate the sale and purchase of electricity and related services and equipment; and

**WHEREAS**, under the Act, the Village may operate an aggregation program as an opt-out program for residential and small commercial retail customers; and

**WHEREAS**, the Village has resolved to authorize an opt-out aggregation program for residential and small commercial retail electrical loads located within the Village for the purpose of soliciting bids and entering into service agreements to facilitate for such aggregated loads the sale and purchase of electricity and related services and equipment; and

**WHEREAS**, the Village has developed a plan of operation and governance for the aggregation program; and

**WHEREAS**, the Village has operated under this plan of operation and governance to provide opt-out electricity supply with an alternative retail electric supplier; and

**WHEREAS**, pursuant to the Act and the plan of governance, the Village will seek bids for the award of a contract for the continued provision of electricity for the electricity aggregation program; and

**WHEREAS**, pursuant to the Act and the plan of governance, the Village, on a daily basis, needs to monitor the electricity market to identify and establish a final price for the electricity to be supplied to the electricity aggregation program in order to ascertain the lowest qualified bidder; and

**WHEREAS**, the Village expects that the daily market price quotes will result in a final electricity price for the electricity aggregation program that is deemed to be advantageous to the residents and small businesses within the Village; and

**WHEREAS**, in order to preserve the ability of the Village to establish a final electricity price for the electricity aggregation program at as low a price as practicable, the Village Board has determined that it will serve and be in the best interest of the Village to authorize the Village Manager, or his designee, to execute, on behalf of the Village, all documentation necessary to secure a final electricity price for the electricity aggregation program with the lowest qualified bidder, in accordance with the terms of a contract with the lowest qualified bidder.

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

**Section 1.** That the above recitals and legislative findings are found to be true and correct and are hereby incorporated herein and made a part hereof, as if fully set forth in their entirety.

**Section 2.** The Village President and Board of Trustees of the Village of Bensenville (the “*Corporate Authorities*”) hereby authorizes and designates the Village Manager to be the



Village Designee in accordance with the Village's electric aggregation plan of operation and governance, the applicable provisions of the Illinois Power Agency Act and any applicable rules and regulation that are now or in the future adopted pursuant to the Act.

**Section 3.** The Corporate Authorities do hereby authorize the Village Manager, as the Village Designee, or his designee, to accept on behalf of the Village a final electricity price for the electricity aggregation program, in accordance with and pursuant to the execution of a contract authorized under the plan of governance, but only if the final electricity price provided is at a price that is less than the pricing offered through Commonwealth Edison.

**Section 4.** This Ordinance shall not be deemed or interpreted as obligating the Village Manager, as the Village Designee, or his designee to execute any documentation related to the establishment of a final electricity price for the electricity aggregation program. In the event that the Village Manager, as the Village Designee, or his designee, determines, in his sole discretion and in according with the provisions of this Ordinance, that on any given day, the daily market price quotes for any term are not favorable to the Village, then the Village Manager, as the Village Designee, or his designee, is hereby authorized to reject such quotes on behalf of the Village.

**Section 5.** If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any other provision of this Ordinance.

**Section 6.** All ordinances, resolutions, motions or orders in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**Section 7.** This Ordinance shall be in full force and effect immediately upon its passage and approval to ensure that the health, safety and welfare of the residents is protected.

**PASSED AND APPROVED** by the President and Board of Trustees of the Village of Bensenville, DuPage and Cook Counties, Illinois, this \_\_\_\_ day of December 2017, pursuant to a roll call vote, as follows:

APPROVED:

\_\_\_\_\_  
Frank DeSimone, Village President

ATTEST:

\_\_\_\_\_  
Nancy Quinn, Village Clerk

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

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

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

**TYPE:**Ordinance**SUBMITTED BY:**M. Ribando**DEPARTMENT:**Village Manager's Office**DATE:**December 12, 2017**DESCRIPTION:**

Consideration of an Ordinance of the Village of Bensenville, DuPage and Cook Counties, Illinois Approving an Intergovernmental Agreement by and Between the Bensenville Park District and the Village of Bensenville for the Use and Operation of the Green Teen Center Zone from January 1, 2018 Through December 31, 2023

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

<input checked="" type="checkbox"/>	<i>Financially Sound Village</i>	<input checked="" 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>

**COMMITTEE ACTION:**

Committee of the Whole

**DATE:**

December 12, 2017

**BACKGROUND:**

The Village currently maintains and operates the Green Teen Center Zone, which is a free drop-in center for Village school aged residents in grades 4 to 8. The Teen Center is located at 302 West Green Street, Bensenville, Illinois.

The Center provides children with a supervised environment where children engage in positive activities to build character, reinforce education and promote healthy development by offering a number of artistic, educational, adventure and athletic activities at various times throughout the year.

The Bensenville Park District desires to operate, manage and use the Center and related premises, in order to provide after school tutoring, mixed media workshops, trips, special events, speakers, networking opportunities, informational sessions, social events, arts and cultural programs, volunteer opportunities, college planning, and such, all as a part of its program offering and mission.

**KEY ISSUES:**

The Village is willing to allow the Bensenville Park District, its officers, employees, staff and volunteers to operate, manage and use the Center and related premises, subject to the terms and conditions under the IGA. Also, the Bensenville Park District accepts and acknowledges liability for all the operation, management and use of the Center.

**ALTERNATIVES:**

Maintain operations of the Center under the jurisdiction of the Village.

**RECOMMENDATION:**

Staff is recommending the approval of the Ordinance approving the IGA between the Bensenville Park District and the Village of Bensenville for the usage and operations of the Green Teen Center Zone.

**BUDGET IMPACT:**

The Village will compensate the District for the operation and staffing of the Center to offer the Programs from January 1, 2018 to December 31, 2018 in the amount of \$60,000.00.

The Village will compensate the District for the operation and staffing of the Center to offer the Programs from January 1, 2019 to December 31, 2019 in the amount of \$61,800.00.

The Village will compensate the District for the operation and staffing of the Center to offer the Programs from January 1, 2020 to December 31, 2020 in the amount of \$63,654.00.

The Village will compensate the District for the operation and staffing of the Center to offer the Programs from January 1, 2021 to December 31, 2021 in the amount of \$65,563.62.

The Village will compensate the District for the operation and staffing of the Center to offer the Programs from January 1, 2022 to December 31, 2022 in the amount of \$69,382.86.

The Village will compensate the District for the operation and staffing of the Center to offer the Programs from January 1, 2023 to December 31, 2023 in the amount of \$71,464.35.

**ACTION REQUIRED:**

Approval of the Ordinance.

**ATTACHMENTS:**

<b><u>Description</u></b>	<b><u>Upload Date</u></b>	<b><u>Type</u></b>
IGA Park District - Draft2	12/7/2017	Cover Memo
Ordinance	12/7/2017	Cover Memo

AN INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN THE VILLAGE  
OF BENSENVILLE AND THE BENSENVILLE PARK DISTRICT FOR THE USE AND  
OPERATION OF THE VILLAGE OF BENSENVILLE GREEN TEEN CENTER ZONE

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This INTERGOVERNMENTAL AGREEMENT (the “*Agreement*”) is made and entered into by and between the VILLAGE OF BENSENVILLE (the “*Village*”), an Illinois Municipal Corporation, and the BENSENVILLE PARK DISTRICT, an Illinois unit of local government (the “*District*”) on the Effective Date, as herein defined. The Village and District shall also be known or referred to as the “*Party*” or “*Parties*.”

RECITALS

WHEREAS, Article VII, Section 10 of the Illinois Constitution of 1970 authorized municipalities and units of local government to associate among themselves to exercise, combine or transfer any power or function, in any manner not prohibited by law or ordinance; and

WHEREAS, the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*, (the “*Act*”) authorizes units of local government to exercise jointly with any public agency of the State, including other units of local government, any power, privilege or authority which may be exercised by a unit of local government individually, and to enter into contract for the performance of governmental services, activities or undertakings; and

WHEREAS, the Village currently maintains and operates the Green Teen Center Zone, which is a free drop-in center for Village school aged residents in grades 4 to 8 (the “*Center*”), and is located at 302 West Green Street, Bensenville, Illinois; and

WHEREAS, the Center provides children with a supervised environment where children engage in positive activities to build character, reinforce education and promote healthy development by offering a number of artistic, educational, adventure and athletic activities at various times throughout the year; and

WHEREAS, District desires to operate, manage and use the Center and related premises, in order to provide after school tutoring, mixed media workshops, trips, special events, speakers, networking opportunities, informational sessions, social events, arts and cultural programs, volunteer opportunities, college planning, and such, all as a part of its program offering and mission, and will organize a student advisory council to govern over aspects of the teen initiative (collectively the “*Programs*”); and

WHEREAS, the Village is willing to allow District, its officers, employees, staff and volunteers (collectively the “*Personnel*”) to operate, manage and use the Center and related premises, subject to the terms and conditions herein set forth, in order to undertake and provide the Programs therein to all eligible school aged residents in grades 4 to 8, as District has agreed to provide the necessary supervision, management and Personnel to operate the Programs and the Center and to accept and acknowledge all such liability for all the operation, management and use of the Center and supervision and oversight of its Personnel and program participants; and

WHEREAS, it is in the mutual best interests of the residents of the Village and District to enter into this Intergovernmental Agreement for all of the purposes set forth above.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings herein contained, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. INCORPORATION OF PREAMBLES: Each of the preambles contained in the Recitals section above are incorporated herein and made a part of this Agreement, as if fully listed herein.

2. TERM AND CONSIDERATION: The term of this Agreement shall be six (6) year starting on January 1, 2018, to and including December 31, 2023 (the “Term”).

The Village will compensate the District for the operation and staffing of the Center to offer the Programs from January 1, 2018 to December 31, 2018 in the amount of \$60,000.00.

The Village will compensate the District for the operation and staffing of the Center to offer the Programs from January 1, 2019 to December 31, 2019 in the amount of \$61,800.00.

The Village will compensate the District for the operation and staffing of the Center to offer the Programs from January 1, 2020 to December 31, 2020 in the amount of \$63,654.00.

The Village will compensate the District for the operation and staffing of the Center to offer the Programs from January 1, 2021 to December 31, 2021 in the amount of \$65,563.62.

The Village will compensate the District for the operation and staffing of the Center to offer the Programs from January 1, 2022 to December 31, 2022 in the amount of \$69,382.86.

The Village will compensate the District for the operation and staffing of the Center to offer the Programs from January 1, 2023 to December 31, 2023 in the amount of \$71,464.35.

Upon the Effective Date of this Agreement, the Village agrees to contribute \$15,000.00 towards various improvement projects identified by District that are needed at the Center prior to offering the Programs at the Center. The District agrees that this shall be the sole amount required of Village to improve the Center for the District to operate at the Center.

3. CENTER USE: District shall operate, manage and use the Center by its Personnel to undertake Programs and activities at the Center, and related premises, and monitor, safeguard and ensure that all participants at the Center are treated in the same manner as all other participants of the District. District and its Personnel must at all times comply with all applicable rules and regulations of the Village and all general rules, procedures and policies of the District applicable to all other Personnel and participants of the District. The Center shall be open to all eligible participants six days a week with hours of operation changing seasonally.

4. **CENTER PERSONNEL:** All Personnel assigned by the District to the Center shall be employees of the District only and not the Village. The District shall be responsible for payment of all wages and benefits, FICA withholding, income tax withholding, unemployment insurance, workers' compensation insurance, comprehensive general and professional liability coverage, medical insurance coverage, training costs and fees, and all other requirements of local, state or federal law or as required by District general rules, procedures and policies of the District for all Personnel of the District in order to operate, manage and use the Center.

The District's Manager of Park Operations shall at all times be responsible for the staffing, supervision and management of District Personnel and participants at the Center as well as all of the overall activities and Programs undertaken at the Center.

5. **CENTER MAINTENANCE:** Village shall be responsible for all mechanical systems, including HVAC, water and sewer systems and roof throughout the Term. District will be responsible for all other maintenance issues related to cleanliness, painting, normal wear and tear and general maintenance and operations throughout the Term. District shall return the Center at the end of the Term of this Agreement in substantially the same condition as presented to it at the beginning of the Term, normal wear and tear excluded. District shall be responsible for all damage to the Center throughout the Term of the Agreement, with the exception of the specified systems herein identified unless deliberately damaged by District, its Personnel or participants.

6. **CENTER EQUIPMENT:** District and its Personnel shall be responsible for supplying all Program equipment and supplies, and assume all risks related to the proper operation and maintenance of said equipment and supplies. Only authorized equipment and supplies of District shall be permitted at the Center and no unauthorized equipment or supplies shall be used in the Center.

7. **STANDARD OF CONDUCT:** The District shall not tolerate any unsafe, illegal, or inappropriate behavior or conduct, or any conduct by Personnel that violates the provisions of this Agreement. The District shall cause any persons that the District knows to have engaged in such behaviors to be immediately removed from the Center. Such conduct may further result in the termination of this Agreement by the Village following notice and an opportunity to cure, as provided herein, if such activities are promoted by, participated in, or knowingly condoned, by the District or its Personnel. Such conduct may, however, result in the immediate termination of this Agreement without notice or opportunity to cure, where such conduct is ongoing and is promoted by, participated in, or knowingly condoned by District or its Personnel, such that providing notice and opportunity to cure is not practical.

8. **INSURANCE:** The District shall provide:

- a. **Workers' Compensation and Unemployment Insurance.** The District shall at all times maintain and provide the Village evidence that it has secured, worker's compensation and unemployment insurance for its personnel in amounts required by Illinois law.

- b. Professional Liability Insurance. The District shall purchase, and provide the Village evidence that it has secured, for itself and its Personnel, comprehensive professional liability insurance with a minimum per occurrence limit of \$1,000,000 (one million dollars), and additional aggregate coverage of at least \$5,000,000 (five million dollars). The District shall name the Village as an additional insured, with thirty (30) days notification prior to cancellation, and shall provide such insurance certification to the Village.
- c. Comprehensive General Liability (CGL) Insurance. The District shall maintain and provide the Village evidence that it has secured, comprehensive general liability insurance with a minimum of \$1,000,000 (one million dollars) per occurrence, with an "umbrella" or excess insurance coverage on a following form basis to the underlying coverage of a minimum of \$5,000,000 (five million dollars). The District shall name the Village as an additional insured, with thirty (30) days notification prior to cancellation, and shall provide such insurance certification to the Village.

The District covenants and agrees to maintain the insurance coverage herein contemplated; however, failure by the District, at any point in time, to maintain or provide for such appropriate insurance coverage, even if in excess of the amounts herein specified, shall not relieve the District of any and all indemnifications, representations, warranties and covenants herein contained. The District expressly understands and agrees that any insurance protection furnished by the District hereunder shall in no way limit its responsibility to indemnify and hold harmless the Village pursuant to the terms of this Agreement.

9. INDEMNIFICATION AND HOLD HARMLESS: In addition to the minimum insurance requirements herein contained, District covenants and agrees, to the maximum extent permitted by law, to indemnify, defend and hold harmless, release and forever discharge the Village and its officers, appointed and elected officials, employees, agents, volunteers, representatives, assigns, successors, invitees and attorneys, in both their official and individual capacities (collectively the "*Released Parties*") from and against any and all claims, suits, actions and causes of actions of every kind and nature including liabilities, damages, costs and expenses brought by third parties arising from any and all conduct of the District, its Personnel, and participants in connection with this Agreement, or any of its components for but not limited to any accidents, illness, injuries to or death of persons, workers' compensation claims, or loss of or damage to property of any kind, economic and non-economic damages, insurance deductibles and reasonable attorneys' fees and litigation expenses, court costs and fines, that may directly or indirectly arise from or relate to any matter covered by this Agreement, including but not limited to, the Center, attendance by participants, District Personnel, and use of, and presence at the Center, including its buildings, land, related parking areas and walkways, that the Village or any of the Released Parties may incur, suffer or sustain, or become obligated for as a result of any act, failure or omission by the District or District Personnel, or any third party.

In the event of any personal injury, bodily injury, death, illness, or loss or damage or claim or claims therefor arising from District's use of the Center, District shall give immediate written notice to the Village Manager. District agrees that the Village may have attorneys of its own



choice prepare and conduct its defense and that the District will pay all reasonable costs of defense of the Village in any such action, including the fees of attorneys of the Village's choice.

District agrees that it is accepting responsibility under this Agreement for use of the Center and the conduct of its Personnel in using the Center. District accepts the Center, in "AS IS, WHERE AS" condition, agrees that the Village is not making any warranties or guarantees of any kind regarding the suitability or fitness for a particular purpose of the Center, and agrees to waive any claims, suits, actions and causes of action of any kind that it has or could have against the Village or the Released Parties relative to the Center, including but not limited to any claims or causes of action related to the design, maintenance, and operation of the Center, and its quality or fitness.

If any judgment shall be rendered against the Village, its officials, officers, employees, agents, attorneys and representatives, in any such action herein contemplated, the District shall, at its own expense, satisfy and discharge the judgment and any and all fees and cost of any kind. To the extent permissible by law, the District waives any limits to the amount of its obligations to indemnify, defend or contribute to any sums due under any indemnification claim, including any claim by any employee of the Contractor that may be subject to the Workers Compensation Act, 820 ILCS 305/1 *et seq.*, or any other related law or judicial decision.

Notwithstanding any other provision to the contrary, the District shall not be required to indemnify, defend and hold harmless the Released Parties against any claim, cause of action, suit, loss, damage, cost and expense, if such claim, cause of action suit, loss, damage, cost and expense was caused as a result of the sole and intentional negligence of the Released Parties. The Village shall, at its own cost and expense, appear, defend and pay all costs and other expenses arising therefrom or incurred in connection therewith.

10. REMEDY: The Parties hereby covenants and agrees that no recourse or remedy under or upon any obligation or agreement contained herein or for any claim in law or equity shall be had personally or individually against the other Parties' officials or officers, agents, attorneys and representatives in any amount and no liability, right or claim at law or in equity shall attach to or shall be incurred by them in any amount and any and all such rights or claims are hereby expressly waived and released as a condition of and as consideration for the execution of this Agreement by the Parties.

11. TERMINATION: In addition to the provisions set forth herein, either Party shall have the right to terminate the Agreement for any reason upon sixty (60) days prior written notice. Any termination shall not waive the Parties' indemnification obligations or payment obligations, or portion thereof, under this Agreement.

12. DEFAULT: In the event that either Party fails to perform under this Agreement, the other Party shall notify the non-performing Party of the default, in writing, setting forth the nature of the default. The Party that has failed to perform shall have seven (7) days after receipt of the notice to correct such failure or take substantial steps toward correcting the failure. If, after seven (7) days, the default has not been corrected, or substantial steps taken to correct the default,

the Party serving the notice may then declare the Agreement terminated, at which time the District shall immediately cease use of the Center.

13. NOTICE: All notices required to be provided under this Agreement shall be in writing and served either (a) personally during regular business hours; or (b) by registered or certified mail, return receipt requested, properly addressed with postage prepaid and deposited in the United States mail. Notices served personally shall be effective upon receipt, and notices served by mail shall be deemed to have been received three (3) business days after the post marked date which it bears. All notices shall be addressed as follows:

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

with copies to: Village Clerk  
Village of Bensenville  
12 South Center Street  
Bensenville, Illinois 60106

If to District: Manager of Park Operations  
Bensenville Park District  
1000 West Wood Avenue  
Bensenville, Illinois 60106

with copies to: Manager of Park Operations  
Bensenville Park District  
1000 West Wood Avenue  
Bensenville, Illinois 60106

14. SUCCESSORS AND ASSIGNEES: This Agreement may not be assigned or transferred under any circumstances without the written approval of the Village, in its absolute and sole discretion, but shall be binding on the parties, their grantees, nominees, successors in interest, assignees, heirs, executors or lessors.

15. GOVERNMENTAL REGULATIONS: District shall comply with all applicable requirements of federal, state, county and local regulatory authorities, including the applicable provisions of the Bensenville Village Code, with respect to the use and operation of the Center.

16. COUNTERPARTS: This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

17. NO OTHER AGREEMENT OR REPRESENTATION: This Agreement incorporates all agreements and understandings of the Parties hereto as of the date of its execution and each Party acknowledges that no representation or warranties have been made which have not

been set forth herein and that no other agreements or representations other than those contained in this Agreement have been made by the Parties. Each Party further agrees that no statement, representation promise or provision it requested has been excluded in this Agreement and; if so omitted, that each Party hereby relinquishes the benefit of any such omitted statement, representation, promise or provision and is willing to perform this Agreement in its entirety without claiming reliance thereon or making any other claim on account of such omission. This Agreement shall be deemed and construed to be the joint and collective work product between the Parties and, as such, this Agreement shall not be construed against one Party, as the otherwise purported drafter of same, by any court of competent jurisdiction or order resolving any inconsistency, any ambiguity, vagueness or conflict in the terms or provisions, if any, contained herein.

18. NO DUTY TO THIRD PARTIES: This Agreement is entered into solely for the benefit of the Parties, and nothing in this Agreement shall be deemed, intended or construed by the Parties, nor by any third party, entity or personnel of the Parties, either expressly or implied, to establish or impose any legal duty or obligation to any third party beneficiary or creating the relationship of employee and employer, principal and agent or limited or general partnership or fiduciaries or of a joint venture between the Parties hereto, it being understood and agreed that not any other provision, condition, obligation or benefit contained herein, nor any acts of the Parties hereto, shall be deemed to create any relationship between the Parties hereto or between the Village and the District or the Village and the District's Personnel.

19. NO LIABILITY OF VILLAGE FOR DISTRICT'S EXPENSES OR COST: The Village shall have no obligations to make any payment to the District, except as herein contemplated, or any Personnel of District, or other person or entity, nor shall the Village be obligated to pay any cost or expense incurred by the District, or any of its contractor, subcontractor, mechanic or materialman providing services or materials to the District pertaining to this Agreement, the Center or work therein contemplated.

20. AUTHORITY: Execution of this Agreement by the Village is authorized by an ordinance passed by the President and Board of Trustees of the Village Bensenville. Execution of this Agreement by District is authorized by ordinance or resolution passed by the Board of Commissioners of the District. The Parties represent and warrant to each other that they have the authority to enter into this Agreement and perform their obligations hereunder.

21. SEVERABILITY: If any article, section, subsection, term or provision of this Agreement or the application thereof shall be held invalid or unenforceable, the remainder of said article, section, subsection, term or provision of this Agreement will not be affected thereby to the extent the remainder can be given effect without the invalid provision provided such does not represent a material change to the rights or obligation of the Parties.

22. LAWS; CHANGE IN LAWS: Nothing herein shall be construed as an express or implied waiver of any common law or statutory immunities or privileges of District or the Village, or any of their respective officials, officers or employees. The Parties agree to immediately notify each other of any change in conditions or change in federal, state or local law, or of any other

event, which may significantly affect its ability to perform its obligations in accordance with the provisions of this Agreement.

23. JURISDICTION; VENUE AND WAIVER OF TRIAL BY JURY: This Agreement shall be governed by the laws of the State of Illinois in all respects as to interpretation and performance without regard to its conflicts of law principles. Any and all legal proceedings of any kind arising in connection with this Agreement shall be in the Circuit Court of DuPage County, Illinois. The District expressly agrees to submit to the jurisdiction of the Circuit Court of DuPage County, Illinois for all purposes and intents. The Parties hereto shall and hereby do waive trial by jury in any action, proceeding or counterclaim brought by either Party hereto against the other on any matters whatsoever arising out of or in any way connected with this Agreement, or for the enforcement of any remedy, emergency or otherwise.

24. SURVIVAL OF COVENANTS AND AGREEMENTS: The Parties hereby expressly understand and agree that none of the indemnifications, representations, warranties and covenants contained herein shall terminate at the expiration or termination of the Agreement but shall survive such and shall be binding upon and incur to the benefit of the Parties hereto, their grantees, nominees, successors in interest, assignees, heirs, executors or lessees for a period of twenty (20) years from the expiration or termination of this Agreement.

25. CAPTIONS: The captions at the beginning of the several sections, respectively, are for convenience in locating the context only, but are not part of the context.

26. EFFECTIVE DATE: This Agreement shall be deemed, dated and become effective on the date the last Party signs this Agreement, provided that each of the governing bodies of the Parties has duly authorized such execution.

*(Intentionally Left Blank)*

IN WITNESS WHEREOF, the Parties have entered into this Agreement on the Effective Date, herein defined.

VILLAGE OF BENSENVILLE

By: \_\_\_\_\_

Its: Village President

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

ATTEST:

By: \_\_\_\_\_

Its: Village Clerk

BENSENVILLE PARK DISTRICT

By: \_\_\_\_\_

Its: \_\_\_\_\_

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

ATTEST:

By: \_\_\_\_\_

Its: Secretary

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

**AN ORDINANCE OF THE VILLAGE OF BENSENVILLE, DUPAGE AND  
COOK COUNTIES, ILLINOIS APPROVING AN INTERGOVERNMENTAL  
AGREEMENT BY AND BETWEEN THE BENSENVILLE PARK DISTRICT  
AND THE VILLAGE OF BENSENVILLE FOR THE USE AND  
OPERATION OF THE GREEN TEEN CENTER ZONE**

---

**WHEREAS**, the Village of Bensenville, DuPage and Cook Counties, Illinois (the “*Village*”) is a duly organized and existing municipal corporation created under the provisions of the laws of the State of Illinois and under the provisions of the Illinois Municipal Code, as from time to time supplemented and amended; and

**WHEREAS**, the Bensenville Park District, Illinois (the “*Park District*”) is a unit of local government organized and existing under the laws of the State of Illinois; and

**WHEREAS**, Article VII, Section 10 of the Illinois Constitution of 1970 authorizes units of local government to enter into contract to exercise, combine or transfer any power or function not prohibited by law; and

**WHEREAS**, the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*, (the “*Act*”) authorizes units of local government to exercise jointly with any public agency of the State, including other units of local government, any power, privilege or authority which may be exercised by a unit of local government individually, and to enter into contracts for the performance of governmental services, activities or undertakings; and

**WHEREAS**, it is the desire of the Village President and Board of Trustees of the Village of Bensenville (the “*Corporate Authorities*”) to enter into an Intergovernmental Agreement by and between the Bensenville Park District and the Village of Bensenville for the Use and Operation of the Green Teen Center (the “*Intergovernmental Agreement*”).

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

**Section 1.** That the above recitals and legislative findings are found to be true and correct and are hereby incorporated herein and made a part hereof, as if fully set forth in their entirety.

**Section 2.** The Corporate Authorities find and determine that it is necessary and desirable to enter into the Intergovernmental Agreement for the purpose set forth therein and that the adoption of this Ordinance is in the best interests of the Village.

**Section 3.** The Intergovernmental Agreement, a copy of which is attached hereto and made a part hereof as Exhibit A, is hereby approved in the form presented to this Board of Trustees, with such necessary changes as may be authorized by the Village Manager, the execution thereof by the Village President to constitute the authorization and approval of the Corporate Authorities of any and all changes or revisions therein contained.

**Section 4.** The Village President, Village Clerk and Village Manager are hereby authorized and directed to execute and deliver the Intergovernmental Agreement and any and all other document necessary to implement the provisions, terms and conditions thereof, as therein described.

**Section 5.** The officials, officers and employees of the Village are hereby authorized to take such further actions as are necessary to carry out the intent and purpose of this Ordinance and the Intergovernmental Agreement.

**Section 6.** If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this Ordinance.

**Section 7.** All ordinances, resolutions, motions or orders in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**Section 8.** This Ordinance shall take effect upon its passage, approval and publication as required by law.

*(Intentionally Left Blank)*



**PASSED AND APPROVED** by the President and Board of Trustees of the Village of Bensenville, DuPage and Cook Counties, Illinois, this \_\_\_\_ day of December 2017, pursuant to a roll call vote, as follows:

APPROVED:

\_\_\_\_\_  
Frank DeSimone, Village President

ATTEST:

\_\_\_\_\_  
Nancy Quinn, Village Clerk

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

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

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

Exhibit A

Intergovernmental Agreement

**TYPE:**Ordinance**SUBMITTED BY:**K. Pozsgay**DEPARTMENT:**CED**DATE:**12.12.17**DESCRIPTION:**

Consideration of an Ordinance Approving a Rezoning, Variance, Plat of Consolidation and Site Plan for the applicant ARCO/Murray, located at 220 N York Road

**SUPPORTS THE FOLLOWING APPLICABLE VILLAGE GOALS:****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 checked="" type="checkbox"/> Major Business/Corporate Center |
| <input checked="" type="checkbox"/> Safe and Beautiful Village | <input checked="" type="checkbox"/> Vibrant Major Corridors         |

**COMMITTEE ACTION:**

Committee of the Whole

**DATE:**

12.12.17

**BACKGROUND:**

The Petitioner is seeking a (1) Rezoning from C-4 Regional PUD Commercial to I - 2 Light Industrial, (2) Variance for loading dock width from 14' to 12', (3) Plat of Consolidation and (4) Site Plan.

**KEY ISSUES:**

1. The applicant ARCO/Murray, an architecture firm representing Distribution Realty Group (DRG), is seeking to rezone these properties, consolidate into one Lot, and construct an 188,945 SF industrial building, which will require a variance to loading dock width.
2. Staff predicts the new development to lead to an increase in EAV and thus an increase to increment in TIF 12.
3. There is precedent for the rezoning request, including 350 and 610 N York Road.
4. Dock Width variation from 14' to 12' is a standard request with precedent.

**ALTERNATIVES:**

Discretion of the Committee of the Whole.

**RECOMMENDATION:**

- 1) The staff respectfully recommends that the Rezoning, Variance, Plat of Consolidation and Site Plan be approved.
- 2) At the Public Hearing on December 12, 2017, the Community Development Commission voted unanimously (6-0) to recommend approval of the Requests with the conditions recommended by staff (attached). Motion passed.

**BUDGET IMPACT:**

n/a

**ACTION REQUIRED:**

Approval of an Ordinance granting Rezoning, Variance, Plat of Consolidation and Site Plan for the applicant ARCO/Murray, located at 220 N York Road.

**ATTACHMENTS:**

<b><u>Description</u></b>	<b><u>Upload Date</u></b>	<b><u>Type</u></b>
Aerial & Zoning Maps	11/29/2017	Backup Material
Legal Notice	11/29/2017	Backup Material
Application	11/29/2017	Backup Material
Staff Report	11/29/2017	Executive Summary
Comprehensive Plan Mid Town map	11/29/2017	Backup Material
Comprehensive Plan NBD map	11/29/2017	Backup Material
IDOT letter	11/29/2017	Backup Material
Plans	11/29/2017	Backup Material
Ordinance	12/6/2017	Cover Memo

CDC#2017 – 29

220 N York Rd  
Village of Bensenville

Rezoning, Site Plan Review, Plat of Consolidation,  
and Variance, Truck dock Width from 14' to 12'

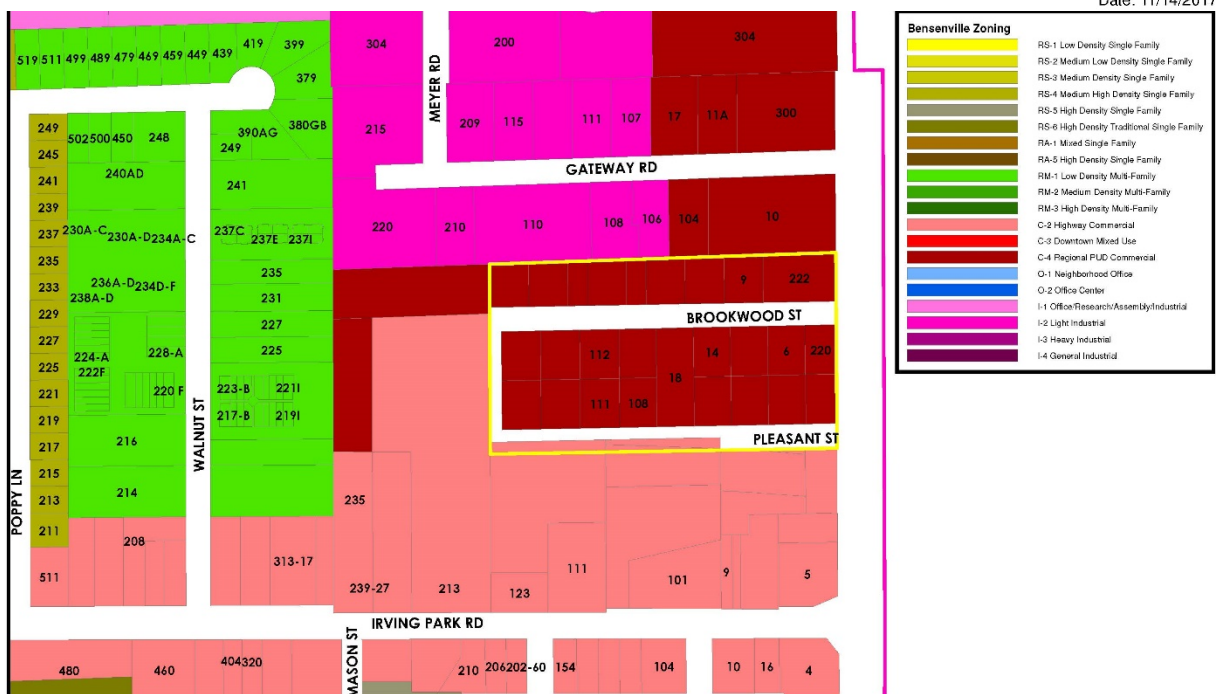


# Village of Bensenville

220 N York



Date: 11/14/2017



**LEGAL NOTICE/PUBLIC NOTICE  
NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that on Tuesday, December 5, 2017 at 6:30 P.M., the Community Development Commission of the Village of Bensenville, Du Page and Cook Counties, will hold a Public Hearing to review Case No. 2017 – 29 to consider requests for:

Rezoning from C – 4 Regional PUD Commercial District to I – 2 Light Industrial District, Municipal Code Sections 10 – 7D and 10 – 9B; and

Variance, Truck Loading Dock Width, Municipal Code Section 10 – 11 – 12D – 1a; and

Preliminary & Final Plat of Consolidation; and Site Plan Review.

220 North York Road is in a C – 4 Regional PUD Commercial District. The Public Hearing will be held in the Village Board Room at Village Hall, 12 S. Center Street, Bensenville, IL.

The Legal Description is as follows:

LOT 1, (EXCEPT THE EAST 17 FEET THEREOF), LOTS 2 THRU 17, (INCLUSIVE), LOTS 18 AND 19 (EXCEPT THE EAST 17 FEET THEREOF), LOTS 20 THRU 27, (INCLUSIVE), IN BENSENVILLE GARDENS, BEING A RESUBDIVISION OF LOT 1 IN C.A. FRANZEN'S SUBDIVISION OF PART OF THE NORTHEAST 1/4 OF SECTION 14, TOWNSHIP 40 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 10, 1924 AS DOCUMENT NUMBER 178806, IN DUPAGE COUNTY, ILLINOIS, TOGETHER WITH ALL OF THE 60 FEET ROADWAY KNOWN AS BROOKWOOD STREET, LYING WEST OF THE WEST LINE OF THE EAST 17 FEET OF THE SAID LOTS 1 AND 18 AND EAST OF THE WEST LINE OF SAID LOT 9 AS EXTENDED SOUTH;

ALSO, ALL OF THE 30 FEET ROADWAY RECORDED AS ADDISON STREET, LYING SOUTH OF THE NORTH LINE OF SAID LOT 10 AS EXTENDED WEST AND NORTH OF THE SOUTH LINE OF SAID LOT 27 AS EXTENDED WEST;

ALSO, ALL OF THE 30 FEET ROADWAY KNOWN AS PLEASANT STREET LYING WEST OF THE WEST LINE OF THE EAST 17 FEET OF LOT 19 AS EXTENDED SOUTH AND EAST OF THE WEST LINE OF BENSENVILLE GARDENS, BEING A RESUBDIVISION OF LOT 1 IN C.A. FRANZEN'S SUBDIVISION OF PART OF THE NORTHEAST 1/4 OF SECTION 14, TOWNSHIP 40 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 10, 1924 AS DOCUMENT NUMBER 178806, IN DUPAGE COUNTY, ILLINOIS;

ALSO, ALL OF THE 33 FEET ROADWAY KNOWN AS PLEASANT STREET, LYING WEST OF THE WEST LINE OF THE EAST 17 FEET OF LOT 1, AS EXTENDED NORTH, AND EAST OF THE WEST LINE OF LOT 4, AS EXTENDED NORTH, IN LANDMEIR'S DIVISION OF PART OF THE NORTHEAST 1/4 OF SECTION 14, TOWNSHIP 40 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 10, 1950 AS DOCUMENT NUMBER 600863, IN DUPAGE COUNTY, ILLINOIS;

ALSO, THE NORTH 33 FEET OF LOTS 3 AND 4 IN C.A. FRANZEN'S SUBDIVISION OF PART OF THE NORTHEAST 1/4 OF SECTION 14, TOWNSHIP 40 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 11, 1919 AS DOCUMENT NUMBER 139197, ALL IN DUPAGE COUNTY, ILLINOIS

**PROPERTY INDEX NUMBERS:**

0314208004, 0314208019, 0314208007, 0314208008, 0314205067, 0314207020, 0314207013, 0314207014, 0314207015, 0314207011, 0314207012, 0314208010, 0314208001, 0314207009, 0314207010, 0314207008, 0314208017, 0314208018, 0314208009, 0314208015, 0314208016, 0314205032, 0314208006, 0314208003, 0314208002, 0314208011, 0314208012, 0314208013, 0314209006, AND 0314209033.

Commonly known as 220 North York Road, Bensenville, IL 60106.

Distribution Realty Group, 1817 Patterson Street, Suite 200, Nashville, TN 37203 is the owner and ARCO/Murray, 3110 Woodcreek Drive, Downers Grove, IL 60515 the applicant for the subject property.

Any individual with a disability requiring a reasonable accommodation in order to participate in any public meeting held under the authority of the Village of Bensenville should contact the Village Clerk, Village of Bensenville, 12 S. Center St., Bensenville, IL 60106, (630) 766-8200, at least three (3) days in advance of the meeting.

Applicant's application and supporting documentation may be examined by any interested parties in the office of the Community and Economic Development Department, Monday through Friday, in the Village Hall, 12 South Center Street, Bensenville, IL 60106. All interested parties may attend and will be heard at the Public Hearing. Written comments will be accepted by the Community and Economic Development Department through December 5, 2017 until 5:00 P.M.

Office of the Village Clerk  
Village of Bensenville

**TO BE PUBLISHED IN THE BENSENVILLE INDEPENDENT  
November 16, 2017**

**For Office Use Only**

Date of Submission: \_\_\_\_\_ MUNIS Account #: \_\_\_\_\_ CDC Case #: \_\_\_\_\_

**COMMUNITY DEVELOPMENT COMMISSION APPLICATION**

Address: 220 North York Road, Bensenville, IL

Property Index Number(s) (PIN): Multiple, see attached legal description w/ applicable PINs

**A. OWNER:**

James Love	Distribution Realty Group	
Name	Corporation (if applicable)	
<u>1817 Patterson Street, Suite 200</u>		
Street		
<u>Nashville</u>	<u>TN</u>	<u>37203</u>
City	State	Zip Code
<u>James Love</u>	<u>312.765.3456</u>	
Contact Person	Telephone Number & Email Address	

If Owner is a Land Trust, list the names and addresses of the beneficiaries of the Trust.

Owner Signature: \_\_\_\_\_

Date: 11-6-17

**B. APPLICANT:**

☐ Check box if same as owner

Andrew Glover	ARCO/Murray	
Name	Corporation (if applicable)	
<u>3110 Woodcreek Drive</u>		
Street		
<u>Downers Grove</u>	<u>IL</u>	<u>60515</u>
City	State	Zip Code
<u>Andrew Glover</u>	<u>331.903.2249</u>	<u>aglover@arcomurray.com</u>
Contact Person	Telephone Number & Email Address	

General Contractor

Relationship of Applicant to subject property

Applicant Signature: \_\_\_\_\_

Date: 11-6-17

**C. ACTION REQUESTED (Check applicable):**

- ☐ Annexation
- ☐ Conditional Use Permit
- ☐ Master Sign Plan
- ☐ Planned Unit Development\*
- ☒ Plat of Subdivision
- ☒ Rezoning (Map Amendment)
- ☒ Site Plan Review
- ☒ Variance

\*See staff for additional information on PUD requests

\*\*Item located within this application packet.

**SUBMITTAL REQUIREMENTS (1 original & 1 copy of each):**

- ☐ Affidavit of Ownership\*\* (signed/notarized)
- ☒ Application\*\*
- ☒ Approval Criteria
- ☒ Legal Description of Property
- ☐ Plat of Survey
- ☒ Site Plan
- ☒ Building Plans & Elevations
- ☐ Engineering Plans
- ☐ Landscape Plan
- ☒ Review Fee (Application Fee + Escrow)
- ☒ Escrow agreement and deposit\*\*
- ☒ Digital Submission of all application materials (CD)



**Brief Description of Request(s): (Submit separate sheet if necessary)**

Rezoning and consolidation of properties from C-4 to I-2 located at or near Brookwood Street, Pleasant Street, and York Road.

Variance for width of tractor-trailer loading space width from 14' to 12'.

**Site plan review of proposed building.**

**D. PROJECT DATA:**

1. General description of the site: Properties located at or near Brookwood Street, Pleasant Street, and York Road.
2. Acreage of the site: 9.85 Building Size (if applicable): 188,945 SF
3. Is this property within the Village limits? (Check applicable below)  
☒ Yes  
☐ No, requesting annexation  
☐ No, it is under review by another governmental agency and requires review due to 1.5 mile jurisdiction requirements.
4. List any controlling agreements (annexation agreements, Village Ordinances, site plans, etc.)  
Site plan, building elevations, architectural renderings.

**5. Character of the site and surrounding area:**

	Zoning	Existing Land Use	Jurisdiction
Site:	C-4	Mix of residential and commercial	Bensenville
North:	C-4/I-2	Light industrial	Bensenville
East:	N/A	York Rd/O'Hare Airport	N/A
South:	C-2	Commercial	Bensenville
West:	C-2	Agricultural	Bensenville

**E. DEVELOPER'S STAFF (if applicable):**

**ARCHITECT**

Name: GMA Architects  
Telephone: 331.251.2726  
Email: \_\_\_\_\_

**ENGINEER:**

Name: Jacob & Hefner  
Telephone: 630.652.4620  
Email: \_\_\_\_\_

**ATTORNEY**

Name: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email: \_\_\_\_\_

**OTHER General Contractor**

Name: ARCO/Murray  
Telephone: 331.251.2726  
Email: aglover@arcomurray.com

**F. APPROVAL CRITERIA:**

1. Select the "Approval Criteria" from the list(s) found on the pg. 6 – 7 pertaining to the applicant's request(s).
2. The applicant must compose a letter describing how the request(s) specifically meets the individual criteria from the list. The CDC will be unable to recommend approval of a request without a response to the pertinent "Approval Criteria."



### **STAFF REPORT**

**HEARING DATE:** December 5, 2017  
**CASE #:** 2017 – 29  
**PROPERTY:** 220 N York Road  
**PROPERTY OWNER:** Distribution Realty Group  
**APPLICANT:** ARCO/Murray  
**SITE SIZE:** 9.85 acres  
**BUILDING SIZE:** 188,945 SF  
**PIN NUMBERS:** (see legal description)  
**ZONING:** C – 4 PUD Regional Commercial  
**REQUEST:** Rezoning from C – 4 Regional PUD Commercial District to I – 2 Light Industrial District, Municipal Code Sections 10 – 7D and 10 – 9B; and  
Variance, Truck Loading Dock Width, Municipal Code Section 10 – 11 – 12D – 1a; and  
Preliminary & Final Plat of Consolidation; and Site Plan Review.

### **PUBLIC NOTICE:**

1. A Legal Notice was published in the Bensenville Independent on Thursday November 16, 2017. A Certified copy of the Legal Notice is maintained in the CDC file and is available for viewing and inspection at the Community & Economic Development Department during regular business hours.
2. Village personnel posted two Notice of Public Hearing signs on the property, visible from the public way on Thursday November 16, 2017.
3. On Thursday November 16, 2017, Village personnel mailed from the Bensenville Post Office via First Class Mail a Notice of Public Hearing to taxpayers of record within 250' of the property in question. An Affidavit of Mailing executed by C & ED personnel and the list of recipients are maintained in the CDC file and are available for viewing and inspection at the Community & Economic Development department during regular business hours.

### **SUMMARY:**

The applicant ARCO/Murray, an architecture firm representing Distribution Realty Group (DRG), is seeking to rezone these properties, consolidate into one parcel, and construct an 188,945 SF industrial building, which will require a variance to loading dock width. DRG recently put the properties under contract including several properties owned by the Village along Brookwood and Pleasant Streets, just west of York Road. Along with Village right of way, they intend to clear the site and erect a new industrial building.

**SURROUNDING LAND USES:**

	<b>Zoning</b>	<b>Land Use</b>	<b>Comprehensive Plan</b>	<b>Jurisdiction</b>
<b>Site</b>	C – 4	Vacant/Commercial/Industrial	Regional Commercial	Village of Bensenville
<b>North</b>	C – 4	Industrial	Commercial/Industrial Flex	Village of Bensenville
<b>South</b>	C – 2	Commercial	Regional Commercial	Village of Bensenville
<b>East</b>	n/a	O'Hare	O'Hare	City of Chicago
<b>West</b>	C – 2	Vacant	Regional Commercial	Village of Bensenville

**DEPARTMENT COMMENTS:*****SUPPORTS THE FOLLOWING APPLICABLE VILLAGE GOALS:***

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

**Finance:**

No issues from Finance.

**Police:**

No Police issues.

**Engineering and Public Works:**

Upon review of the preliminary site plans, the Engineering Division offers the following comments at this time.

- 1) A DuPage County Stormwater Management Certification will be required for this project as the total land disturbing activity exceeds 5,000 SF.
- 2) Stormwater detention will be required in the case the development is exceeding 25,000 square feet of impervious area. The detention will need to be provided for the entire site. Offsite tributary flows must be maintained and accounted for in the design. Final detention calculations shall be prepared as required by the DuPage County Stormwater and Floodplain Ordinance (DCSFO effective April 2013) and submitted to the Village for approval. The preliminary plans include stormwater detention to be provided onsite.
- 3) All other applicable requirements of the DCSFO shall also be met including Best Management Practices (BMP).
- 4) National Pollution Discharge Elimination System (NPDES) permit will be required due to more than one acre of disturbance.
- 5) A DuPage County Highway Department permit will be required for the work in the York Road ROW.
- 6) After reviewing the FIRM, it appears that there isn't any presence floodplain on the site; however, the site is near Silver Creek. Bensenville being a partial waiver community, any proposed work within the special management areas will have to be reviewed (or provide letter of no objection) by DuPage County Stormwater Department.

- 7) Per the National Wetland Inventory website, the site also does not contain any wetland or riparian areas; however, it is the responsibility of the applicant to identify any existing special management areas on site and properly mitigate them. It is my understanding during a previous development plans on this site some emerging wetlands were discovered.
- 8) Depending on the height of the building, an FAA permit may be required due to its close proximity to the RPZ.
- 9) Per village code, the existing foundations must be completely removed.
- 10) All existing watermain/sanitary service taps must be disconnected at the main.
- 11) Site utilities aren't shown on this plan but a detail review will be performed during final engineering.
- 12) A plat of consolidation will be required.
- 13) The Village recently installed a bike path along the EOWA corridor which stops at York Rd. It is my understanding that DuPage County desires to continue this bike path south along York Rd. The Village will be in support of this extension. My recommendation would be to install a 10-foot wide ADA complaint HMA bike path along the York Rd frontage of this site as part of this development.

#### Community & Economic Development:

##### Economic Development:

- 1) Construction of a new building will lead to the attraction of new businesses to the Village, creating job opportunities for Village residents.
- 2) The consolidation, rezoning, and construction of a new building improves upon existing structures, places four Village-owned parcels back on the tax rolls, and significantly increases the site's EAV.
- 3) The increase in EAV also translates to generated increment for TIF 12.

New Parcel EAV	Old Parcel EAV	\$ Change	% Change	EAV Increment Generated	Tax Generated	TIF Increment Generated
\$2,546,954	\$997,170	\$1,549,784	155.42%	\$1,098,834	\$141,344	\$107,252

- 4) Bensenville industrial vacancy rate is 5.7% as of May 2017.
- 5) Industrial properties in the Village have seen a recent resurgence. Examples include 340 County Line Road, 300 Evergreen, and 350 N York Road.
- 6) This plan does not include properties to the west including Thompson and Overlin. Staff does not believe this proposed development will affect the ability to redevelopment those properties in the future, and may actually make those properties more desirable as a redevelopment opportunity.
- 7) There are a few businesses and residential uses that will be displaced as a result of this development including Seng Trucking and Pallet Services.

##### Fire Safety:

No comments.

##### Building:

No comments at this time.

Planning:

- 1) The 2013 Comprehensive Economic Development Strategy (CEDS) has these properties located in the Mid-Town – Irving Park Corridor, although the properties border the Northern Business District.
- 2) In the CEDS, the design approach to this site features a “Large Format Retail/Office/Showroom of 222,000 SF.”



- 3) The 2015 Comprehensive Plan indicates “Regional Commercial” for this property on the Future Land Use map.
- 4) The properties directly to the north on York are “Commercial/Industrial Flex” on the Future Land Use map.
- 5) In the Comprehensive Plan, the properties are shown in both the Mid-Town and Northern Business districts (see attached maps).
- 6) A major theme throughout the Comprehensive Plan is lot consolidation.
- 7) The Village had acquired properties along Pleasant and Brookwood Streets in order to facilitate this type of redevelopment. The Village properties and right-of-way are included in this assemblage and development petition.
- 8) Due to the recent upgrades to York Road at Riving Park Road, the proposed property will only include right in, right out accessibility. DRG is exploring all options to help facilitate additional entry and exit.
- 9) In a letter dating April 11, 2013 (included), IDOT states in Item #4 they will be willing to study the entrance at Brookwood following the construction of a western bypass and new interchange at Illinois Route 83 as part of the Elgin O’Hare project.

- 10) 2012 traffic counts from IDOT for York Road north of Irving Park Road are 24,500 ADT.
- 11) We have a few precedents for the rezoning request, including 350 and 610 N York Road.
- 12) Dock Width variation from 14 feet to 12 feet is a standard request.
- 13) Building height at parapet is 40 feet. The PRZ is not an issue.
- 14) Parking
  - a. The proposed plan includes 138 parking spaces (4 handicap).
  - b. Assuming 5% office buildout, 137 spaces would be required by code.
  - c. 31 truck dock positions.
  - d. 2 truck doors.
- 15) Detention are along York Road should create a nice setback with attractive green space.
- 16) Staff would like to see the York Road façade made more attractive. The glass on the corner is nice but the remaining façade to the north is blank wall. Architectural review is mandated; however, final design aesthetics can be determined at the Building Permit stage.
- 17) The site plan includes parking lot landscaping that meets or exceeds Municipal Code.
- 18) No signage plan was submitted. All signage should meet the Municipal Code.
- 19) No landscape plan was submitted. All landscape and screening shall meet or exceed the Municipal Code standards.

#### **APPROVAL CRITERIA FOR REZONING:**

The Community Development Commission shall not recommend nor shall the Village Board grant a rezoning unless it shall make findings based upon the evidence presented to it in each specific case that:

##### **1. Support for Classification**

###### **a. Compatible with Use or Zoning**

The uses permitted under the proposed district are compatible with existing uses or existing Zoning of property in the environs.

###### **b. Supported by the Trend of Development**

The trend of development in the general area since the original zoning was established supports the proposed classification.

###### **c. Consistent with Village Plans**

The proposed classification is in harmony with objectives of the General Development Plan and other applicable Village plans as reviewed in light of any changed conditions since their adoption.

***Response: The sites immediately to the north of the proposed development are zoned I-2, the same as the proposed classification of this site. The rezoning of this site would result in contiguous I-2 zoning through this site.***

##### **2. Furthers the Public Interest**

The proposed zoning classification promotes the public interest. It does not solely further the interest of the applicant.



***Response: The proposed zoning promotes public interest. The current state of the site is a conglomerate of run-down residential and commercial properties. The proposed development will have an aesthetically pleasing façade facing York Road to the east.***

### **3. Public Services Available**

Adequate public services – such as water supply, sewage disposal, fire protection, and street capacity are anticipated to be available to support the proposed classification by anticipated date of issuance of a Certificate of Occupancy.

***Response: Per conversations with Village Engineering and Public Works, there are adequate utilities (sewer/water) available on the west side of York Road.***

<b>Variances Approval Rezoning</b>	<b>Meets Criteria</b>	
	<i>Yes</i>	<i>No</i>
1. Compatible with Use or Zoning	X	
2. Supported by Trend of Development	X	
3. Consistent with Village Plans	X	
4. Furthers the Public Interest	X	
5. Public Services Available	X	

### **APPROVAL CRITERIA FOR VARIANCES:**

The Community Development Commission shall not recommend nor shall the Village Board grant a variance unless it shall make findings based upon the evidence presented to it in each specific case that:

- 1. Special Circumstances:** Special circumstances exist that are peculiar to the property for which the variances are sought and that do not apply generally to other properties in the same zoning district. Also, these circumstances are not of so general or recurrent a nature as to make it reasonable and practical to provide a general amendment to this Title to cover them.

***Response: Two (2) similar industrial buildings have recently been developed in Bensenville that were granted variances on the loading dock stall width. One building is the Geib Industries building at 901 E Jefferson Street, and the other is the Liberty building currently being developed at 350 N York Road. Both of these buildings are conventional warehouse/distribution centers, similar to our proposed building, with 12' wide truck dock stall widths.***

- 2. Hardship or Practical Difficulties:** For reasons set forth in the findings, the literal application of the provisions of this Title would result in unnecessary and undue hardship or practical difficulties for the applicant as distinguished from mere inconvenience.

***Response: A 14' wide truck loading stall is not practical for a couple of different reasons. First, the maximum width of a precast panel is 12'. If a panel is over 12' wide, the truck transporting that panel must apply for and receive special road permits to transport the panel to the site. If the loading stall width were to be 14', our precast***

*panels along the dock side of the building would have to be 14' wide, and thus cause issues with permitting the panel transportation. Second, the Chicagoland industry standard truck stall width is 12'. This allows for the maximization of the number of dock positions that will fit along the length of the building, and provides the most flexibility for the tenant's dock position needs.*

3. **Circumstances Relate to Property:** The special circumstances and hardship relate only to the physical character of the land or buildings, such as dimensions, topography or soil conditions. They do not concern any business or activity of present or prospective owner or occupant carries on, or seeks to carry on, therein, nor to the personal, business or financial circumstances of any party with interest in the property.

*Response: This variance relates directly to the dimensions of the truck stall width on the building.*

4. **Not Resulting from Applicant Action:** The special circumstances and practical difficulties or hardship that are the basis for the variance have not resulted from any act, undertaken subsequent to the adoption of this Title or any applicable amendment thereto, of the applicant or of any other party with a present interest in the property. Knowingly authorizing or proceeding with construction, or development requiring any variance, permit, certificate, or approval hereunder prior to its approval shall be considered such an act.

*Response: The applicant has not yet taken any action as it relates to the matter at hand. Construction of the facility has not begun.*

5. **Preserve Rights Conferred by District:** A variance is necessary for the applicant to enjoy a substantial property right possessed by other properties in the same zoning district and does not confer a special privilege ordinarily denied to such other properties.

*Response: As stated above, the (2) other industrial developments above have 12' wide truck stalls. As such, the granting of this variance will not result in this property having a special privilege.*

6. **Necessary for Use of Property:** The grant of a variance is necessary not because it will increase the applicant's economic return, although it may have this effect, but because without a variance the applicant will be deprived of reasonable use or enjoyment of, or reasonable economic return from, the property.

*Response: This variance is necessary because an industrial building containing truck dock stalls that are 14' wide is not marketable. All industrial facilities in the Chicagoland area have truck stall widths of 12'.*

7. **Not Alter Local Character:** The granting of the variance will not alter the essential character of the locality nor substantially impair environmental quality, property values or public safety or welfare in the vicinity.

*Response: This variance has no impact on environmental quality, property values, public safety, or public welfare.*



8. **Consistent with Title and Plan:** The granting of a variance will be in harmony with the general purpose and intent of this Title and of the general development plan and other applicable adopted plans of the Village, as viewed in light of any changed conditions since their adoption, and will not serve in effect to substantially invalidate or nullify any part thereof.

*Response: Granting this variance will not disrupt the intent of the Village Ordinance in any way, as no other section of the code relates to the truck stall width.*

9. **Minimum Variance Needed:** The variance approved is the minimum required to provide the applicant with relief from undue hardship or practical difficulties and with reasonable use and enjoyment of the property.

*Response: Since a 12' wide truck stall is industry standard, it is the minimum required variance in order to provide this property with relief from undue hardship and/or practical difficulties.*

Variances Approval Criteria	Meets Criteria	
	Yes	No
6. Special Circumstances	X	
7. Hardship	X	
8. Circumstances relate to the Property	X	
9. Not Resulting from Applicant Actions	X	
10. Preserve Rights Conferred By District	X	
11. Necessary for the Use of the Property	X	
12. Not Alter Local Character	X	
13. Consistent with Title and Plan	X	
14. Minimum Variance Needed	X	

#### RECOMMENDATIONS:

Staff recommends the Approval of the above Findings of Fact and therefore the Approval of the Rezoning, Variance, Plat of Consolidation and Site Plan for ARCO/Murray and DRG with the following conditions:

1. The site plan, floor plan and elevations be in substantial compliance of the plans dated 10.30.17 by GMA Architects; and
2. Final detention calculations shall be prepared as required by the DuPage County Stormwater and Floodplain Ordinance (DCSFO effective April 2013) and submitted to the Village for approval; and
3. Applicant to install a 10-feet wide ADA complaint HMA bike path along the York Rd frontage of this site as part of this development; and
4. Applicant to work with staff on the design of the York Road façade; and
5. The final signage plan shall be subject to staff review upon final permitting; and
6. The final landscape plan shall be subject to staff review upon final permitting.

Respectfully Submitted,  
Department of Community  
& Economic Development



Figure 6.3. Northern business district map  
Source: Chicago Metropolitan Agency for Planning, 2014.

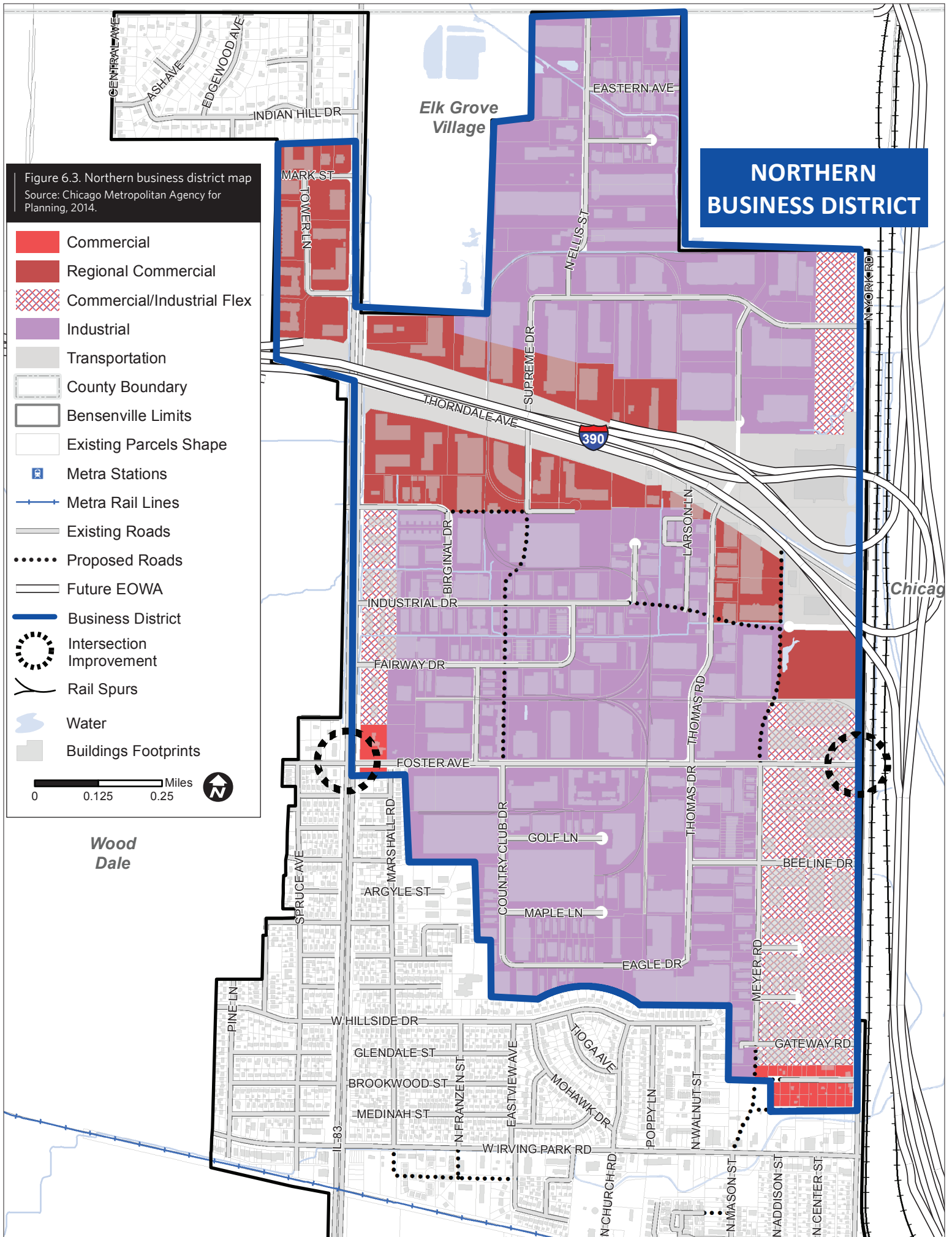
- Commercial
  - Regional Commercial
  - Commercial/Industrial Flex
  - Industrial
  - Transportation
  - County Boundary
  - Bensenville Limits
  - Existing Parcels Shape
  - Metra Stations
  - Metra Rail Lines
  - Existing Roads
  - Proposed Roads
  - Future EOWA
  - Business District
  - Intersection Improvement
  - Rail Spurs
  - Water
  - Buildings Footprints
- 0 0.125 0.25 Miles N

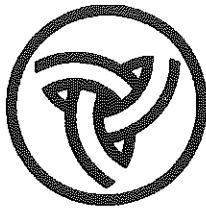
**Wood Dale**

**Elk Grove Village**

**NORTHERN BUSINESS DISTRICT**

**Chicago**





# Illinois Department of Transportation

Division of Highways / Region 1 / District 1  
201 West Center Court / Schaumburg, Illinois / 60196-1096  
Telephone 847/705-4000

April 11, 2013

Mr. Joseph Caracci  
Director of Public Works  
Village of Bensenville  
717 East Jefferson Street  
Bensenville, IL 60106

Dear Mr. Caracci:

The Illinois Department of Transportation (Department) is working on the proposed improvement of the intersection of Illinois Route 19 (Irving Park Road) at York Road in the Village of Bensenville (Village). The project had been scheduled for a June 14, 2013 letting. All projects are advertised for bids only if plans are ready, funds have been budgeted and all property has been acquired. At this time, the project has been moved to the August 2, 2013 letting due to Land Acquisition issues. A meeting was held at the District One office in Schaumburg on January 24, 2013, at which representatives from the Village and the Department were present. The Department sent a letter to the Village on February 25, 2013, summarizing the items that were discussed and providing additional information that was needed. The purpose of this letter is to respond to items in the Village's letter dated March 12, 2013 that have not been closed out.

## **Item #1 - Combination poles**

The Department has reviewed the Village's proposed mast arm and lighting fixture for the combination pole. The Department cannot accept anything that uses a specialty fixture on the light. Since the Department would be responsible for the maintenance of the combination pole, the proposed decorative mast arm and lighting fixture would utilize non-standard parts. Although, the Village has indicated willingness to keep inventory of the non-standard parts through an agreement, the Department would then be relinquishing maintenance of the lighting. Should this action be taken, the Department would be setting a precedence opening a door to other local agencies to make similar requests to install non-standard parts. There are over 300 local agencies within the District One boundaries and if this were allowed for the Village, there would surely be many more requests and no reason to follow Department policy. The Department is in no position to manage multiple varying maintenance arrangements. If the Village is able to find a decorative mast arm that would accept a cobra head light fixture, the Department would be open to that option. If one is not available, the Department would also be open to a decorative traffic signal mast arm with a standard cobra head light fixture that was used at Lake Street and Bloomingdale Road in the Village of Bloomingdale. Please refer to Exhibit A.

Mr. Joseph Caracci  
April 11, 2013  
Page two

**Item #2 – Enhanced Streetscape**

The Department will be able to accommodate the Village's request to use stamped and colored concrete for the sidewalks along Illinois Route 19 (Irving Park Road) and York Road including the northwest and southwest corners of the intersection. Also, widening the sidewalk along York Road from 5 ft. to 7 ft. will not create any issues. The additional cost above the standard sidewalk is estimated at \$83,500.

**Item #3 – Intergovernmental Agreement**

Subsequent to the receipt of this letter, the Village informed the Department that the revised Intergovernmental Agreement (IGA) was approved at their March 2013 Board meeting. The Village will be sending the Department the signed revised IGA for the Department's signature. The Department appreciates the continued cooperation given by the Village in regards to this project. Any changes for the enhanced streetscape items will be covered in an amended agreement.

**Item #4 – Local Redevelopment**

DuPage County reviewed the Village's proposal to modify the southbound dual left turn lanes near Brookwood Street and denied the request in an email to which the Village was a recipient. DuPage County noted that they would be supportive of considering a future Village initiated improvement to modify the channelization at Illinois Route 19 (Irving Park Road)/median opening opposite Brookwood Street following the construction of a western bypass and new interchange at Illinois Route 19 (Irving Park Road) as part of the Elgin O'Hare.

**Item #5 – Resurfacing Project**

The Village is correct in stating that the Department agreed to add additional resurfacing along York Road south of the intersection improvement limit near Roosevelt Avenue to Green Street to tie into the Village's improvement along Green Street. The Department apologizes for not stating this in the previous letter dated February 25, 2013. The Department will include that additional resurfacing along York Road in the intersection improvement contract plans.

If you have any questions or need additional information, please contact me or Ms. Serin Keller, Project Manager, at (847) 705-4556.

Very truly yours,



John Fortmann, P.E.  
Acting Deputy Director of Highways,  
Region One Engineer

Enclosure:     Exhibit A

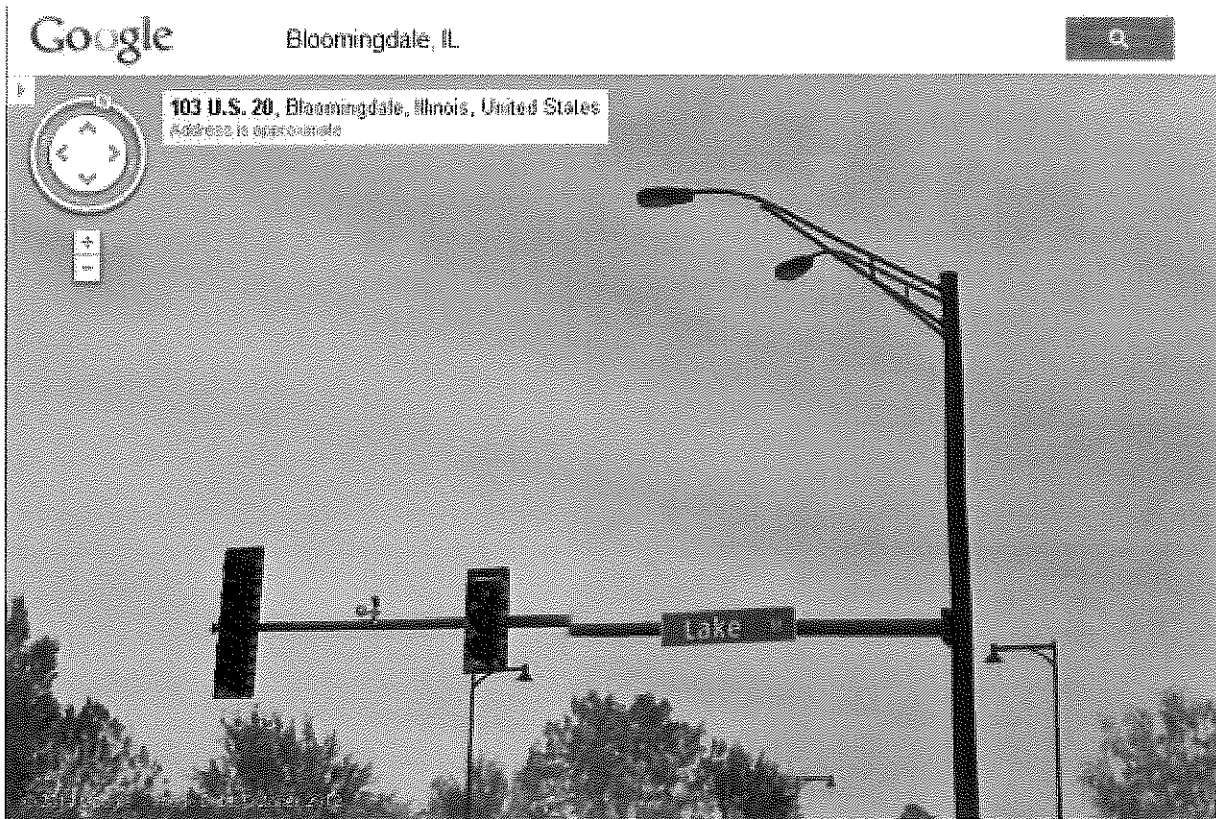


EXHIBIT A



## EXHIBIT A

### LEGAL DESCRIPTION AND PROPERTY INDEX NUMBERS

#### LEGAL DESCRIPTION: (220 NORTH YORK ROAD PARCELS)

LOT 1, (EXCEPT THE EAST 17 FEET THEREOF), LOTS 2 THRU 17, (INCLUSIVE), LOTS 18 AND 19 (EXCEPT THE EAST 17 FEET THEREOF), LOTS 20 THRU 27, (INCLUSIVE), IN BENSENVILLE GARDENS, BEING A RESUBDIVISION OF LOT 1 IN C.A. FRANZEN'S SUBDIVISION OF PART OF THE NORTHEAST 1/4 OF SECTION 14, TOWNSHIP 40 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 10, 1924 AS DOCUMENT NUMBER 178806, IN DUPAGE COUNTY, ILLINOIS, TOGETHER WITH ALL OF THE 60 FEET ROADWAY KNOWN AS BROOKWOOD STREET, LYING WEST OF THE WEST LINE OF THE EAST 17 FEET OF THE SAID LOTS 1 AND 18 AND EAST OF THE WEST LINE OF SAID LOT 9 AS EXTENDED SOUTH;

ALSO, ALL OF THE 30 FEET ROADWAY RECORDED AS ADDISON STREET, LYING SOUTH OF THE NORTH LINE OF SAID LOT 10 AS EXTENDED WEST AND NORTH OF THE SOUTH LINE OF SAID LOT 27 AS EXTENDED WEST;

ALSO, ALL OF THE 30 FEET ROADWAY KNOWN AS PLEASANT STREET LYING WEST OF THE WEST LINE OF THE EAST 17 FEET OF LOT 19 AS EXTENDED SOUTH AND EAST OF THE WEST LINE OF BENSENVILLE GARDENS, BEING A RESUBDIVISION OF LOT 1 IN C.A. FRANZEN'S SUBDIVISION OF PART OF THE NORTHEAST 1/4 OF SECTION 14, TOWNSHIP 40 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 10, 1924 AS DOCUMENT NUMBER 178806, IN DUPAGE COUNTY, ILLINOIS;

ALSO, ALL OF THE 33 FEET ROADWAY KNOWN AS PLEASANT STREET, LYING WEST OF THE WEST LINE OF THE EAST 17 FEET OF LOT 1, AS EXTENDED NORTH, AND EAST OF THE WEST LINE OF LOT 4, AS EXTENDED NORTH, IN LANDMEIR'S DIVISION OF PART OF THE NORTHEAST 1/4 OF SECTION 14, TOWNSHIP 40 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 10, 1950 AS DOCUMENT NUMBER 600863, IN DUPAGE COUNTY, ILLINOIS;

ALSO, THE NORTH 33 FEET OF LOTS 3 AND 4 IN C.A. FRANZEN'S SUBDIVISION OF PART OF THE NORTHEAST 1/4 OF SECTION 14, TOWNSHIP 40 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 11, 1919 AS DOCUMENT NUMBER 139197, ALL IN DUPAGE COUNTY, ILLINOIS

#### PROPERTY INDEX NUMBERS:

0314208004	0314207012	0314208016
0314208019	0314208010	0314205032
0314208007	0314208001	0314208006
0314208008	0314207009	0314208003
0314205067	0314207010	0314208002
0314207020	0314207008	0314208011
0314207013	0314208017	0314208012
0314207014	0314208018	0314208013
0314207015	0314208009	0314209006
0314207011	0314208015	0314209033

November 6, 2017

Village of Bensenville  
Community and Economic Development  
12 South Center Street  
Bensenville, IL 60106

RE: DRG York Road Zoning Map Amendment Approval Criteria

To Whom it May Concern,

The following are responses to each of the (3) approval criteria for a Zoning Map Amendment from C-4 to I-2 classification.

**1. Support for Classification:**

The sites immediately to the north of the proposed development are zoned I-2, the same as the proposed classification of this site. The rezoning of this site would result in contiguous I-2 zoning through this site.

**2. Further Public Interest:**

The proposed zoning promotes public interest. The current state of the site is a conglomerate of run-down residential and commercial properties. The proposed development will have an aesthetically pleasing façade facing York Road to the east.

**3. Public Services Available:**

Per conversations with Village Engineering and Public Works, there are adequate utilities (sewer/water) available on the west side of York Road.

Respectfully,



Andrew Glover  
Project Manager, ARCO Murray

cc: Jimmy Love, Distribution Realty Group  
Michael Augustine, Distribution Realty Group

Curran Darling, Distribution Realty Group  
Lee Stellakis, ARCO Murray



November 6, 2017

Village of Bensenville  
Community and Economic Development  
12 South Center Street  
Bensenville, IL 60106

RE: DRG York Road Variance Request Approval Criteria

To Whom it May Concern,

The following are responses to each of the (9) approval criteria for a variance to allow a 12' wide tractor-trailer loading stall in lieu of a 14' wide stall as the Village Code states.

**1. Special Circumstances:**

Two (2) similar industrial buildings have recently been developed in Bensenville that were granted variances on the loading dock stall width. One building is the Geib Industries building at 901 E Jefferson Street, and the other is the Liberty building currently being developed at 350 N York Road. Both of these buildings are conventional warehouse/distribution centers, similar to our proposed building, with 12' wide truck dock stall widths.

**2. Hardship or Practical Difficulties:**

A 14' wide truck loading stall is not practical for a couple of different reasons. First, the maximum width of a precast panel is 12'. If a panel is over 12' wide, the truck transporting that panel must apply for and receive special road permits to transport the panel to the site. If the loading stall width were to be 14', our precast panels along the dock side of the building would have to be 14' wide, and thus cause issues with permitting the panel transportation. Second, the Chicagoland industry standard truck stall width is 12'. This allows for the maximization of the number of dock positions that will fit along the length of the building, and provides the most flexibility for the tenant's dock position needs.

**3. Circumstances Relate to Property:**

This variance relates directly to the dimensions of the truck stall width on the building.

**4. Not Resulting from Applicant Action:**

The applicant has not yet taken any action as it relates to the matter at hand. Construction of the facility has not begun.

**5. Preserves Rights Conferred by District:**

As stated above, the (2) other industrial developments above have 12' wide truck stalls. As such, the granting of this variance will not result in this property having a special privilege.

**6. Necessary for Use of Property:**

This variance is necessary because an industrial building containing truck dock stalls that are 14' wide is not marketable. All industrial facilities in the Chicagoland area have truck stall widths of 12'.

**7. Not Alter Local Character:**

This variance has no impact on environmental quality, property values, public safety, or public welfare.

**8. Consistent with Ordinance and Plan:**

Granting this variance will not disrupt the intent of the Village Ordinance in any way, as no other section of the code relates to the truck stall width.

**9. Minimum Variance Needed:**

Since a 12' wide truck stall is industry standard, it is the minimum required variance in order to provide this property with relief from undue hardship and/or practical difficulties.

Respectfully,



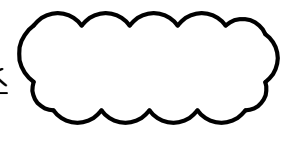

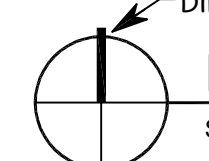
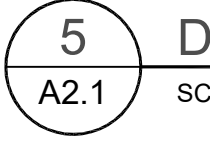
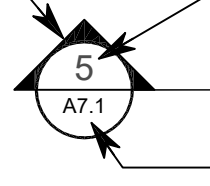
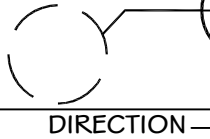
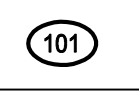
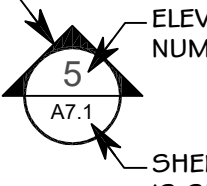
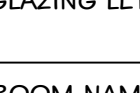
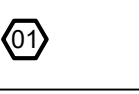


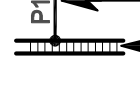
Andrew Glover  
Project Manager, ARCO Murray

cc: Jimmy Love, Distribution Realty Group  
Michael Augustine, Distribution Realty Group

Curran Darling, Distribution Realty Group  
Lee Stellakis, ARCO Murray

ABBREVIATIONS LEGEND			
AFF	ABOVE FINISHED FLOOR	HM	HOLLOW METAL
ACOU	ACOUSTICAL	IMP	INSULATED METAL PANEL
ADJ	ADJACENT	INT	INTERIOR
ALUM	ALUMINUM	INT	INTERIOR
ALT	ALTERNATE	JAN	JANITOR
APPR	APPROVE, APPROVED	MAINT	MAINTENANCE
APPROX	APPROXIMATE	MAT'L	MATERIAL
ARCH	ARCHITECT, ARCHITECTURAL	MAX	MAXIMUM
AE	ARCHITECT/ENGINEER	MECH	MECHANIC, MECHANICAL
AVG	AVERAGE	MTL	METAL
BD	BOARD	MEZZ	MEZZANINE
BLVD	BOULEVARD	MIN	MINIMUM
BLKG	BLOCKING	MISC	MISCELLANEOUS
BLDG	BUILDING	MTD	MOUNTED
BMD	BOTTOM OF METAL DECK	NA	NOT APPLICABLE
CFT	CARPET	NTS	NOT TO SCALE
CLG	CEILING	OC	ON CENTER
CT	CERAMIC TILE	OPP	OPPOSITE
COL	COLUMN	OH	OVERHEAD
CONC	CONCRETE	PLAM	PLASTIC LAMINATE
CMU	CONCRETE MASONRY UNIT	PLBG	PLUMBING
CONT	CONTINUOUS, CONTINUE	PREFAB	PREFABRICATE, PREFABRICATED
CJ	CONTROL JOINT, CONSTRUCTION JOINT	PREFIN	PREFINISH, PREFINISHED
CORR	CORRIDOR	PT	PRESSURE TREATED
DTL	DETAIL	QTY	QUANTITY
DIM	DIMENSION	REF	REFERENCE
DR	DOOR	REINF	REINFORCE, REINFORCED,
DN	DOWN	REQ'D	REINFORCING REQUIRED
DS	DOWNSPOUT	RD	ROOF DRAIN
DWG	DRAWING	SCH	SCHEDULE
ELEC	ELECTRIC, ELECTRICAL	SIM	SIMILAR
ELEV	ELEVATION	SHT	SHEET
EMER	EMERGENCY	SC	SOLID CORE
EQ	EQUAL	STC	SOUND TRANSMISSION COEFFICIENT
EQUIP	EQUIPMENT	SPEC	SPECIFICATION
EXIST	EXISTING	SF	SQUARE FOOT, SQUARE FEET
EJ	EXPANSION JOINT	S5	STAINLESS STEEL
EXT	EXTERIOR	STD	STANDARD
EIFS	EXTERIOR INSULATION FINISH SYSTEM	STL	STEEL
FIN	FINISH, FINISHED	STR	STRUCTURE, STRUCTURAL
FE	FIRE EXTINGUISHER	TEMP	TEMPORARY
FE	FIRE EXTINGUISHER CABINET	TH	THICK, THICKNESS
FL	FLOOR, FLOORING	TYP	TYPICAL
FT	FEET, FOOT	UNO	UNLESS NOTED OTHERWISE
FTG	FOOTING	VERT	VERTICAL
GA	GAGE, GAUGE	VEST	VESTIBULE
GALV	GALVANIZED	VCT	VINYL COMPOSITION TILE
GC	GENERAL CONTRACTOR	VWC	VINYL WALL COVERING
GL	GLASS, GLAZING	WH	WATER HEATER
GYP	GYPSUM	W	WITH
HT	HEIGHT	W/O	WITHOUT
		WD	WOOD

BEST MANAGEMENT PRACTICES	
THE CONTRACTOR/OWNER SHALL IMPLEMENT BEST MANAGEMENT PRACTICES AS FOLLOWS:	
SOLID WASTE MANAGEMENT : PROVIDE DESIGNATED WASTE COLLECTION AREAS AND CONTAINERS. CLEAR SITE OF TRASH.	PAINT & PAINTING SUPPLIES PROVIDE PROPER STORAGE, USE AND CLEANUP OF MATERIALS.
MATERIAL DELIVERY AND STORAGE : PROVIDE A DESIGNATED MATERIAL STORAGE AREA; IF NEEDED, PROVIDE A SECOND CONTAINER	VEHICLE FUELING, MAINT. AND CLEANING : PROVIDE A DESIGNATED FUELING AREA WITH A SECOND CONTAINER.
CONCRETE WASTE : PROVIDE A DESIGNATED AREA TO BE USED FOR CONCRETE TRUCK WASH-OUT IF NEEDED.AT NO TIME SHALL RUN-OFF ENTER THE STORM DRAINS.	HAZARDOUS WASTE MANAGEMENT: PREVENT THE DISCHARGE OF HAZARDOUS WASTE POLLUTANTS INTO THE STORM DRAIN SYSTEM.

SYMBOLS LEGEND			
REVISION MARK		REVISION NUMBER	
PLAN TITLE		DRAWING TITLE	
SECTION		DETAIL	
FRAME / OPENING DESIGNATION		ELEVATION	
GLAZING DESIGNATION		WINDOW DESIGNATION	
ROOM DESIGNATION		KEYNOTE	
		WALL TYPE	



PROJECT DATA			
PROJECT DESCRIPTION			
NEW 188,930 SQ.FT. SPEC FACILITY OF S-I (STORAGE) USE.			
BUILDING CODE INFORMATION			
BUILDING CODE:	2015 INTERNATIONAL BUILDING CODE WITH LOCAL AMENDMENTS		
ELECTRICAL CODE:	2014 NATIONAL ELECTRIC CODE WITH LOCAL AMENDMENTS		
PLUMBING CODE:	2014 STATE OF ILLINOIS PLUMBING CODE		
MECHANICAL CODE:	2015 INTERNATIONAL MECHANICAL CODE WITH LOCAL AMENDMENTS		
FIRE CODE:	2015 INTERNATIONAL FIRE CODE WITH LOCAL AMENDMENTS		
ACCESSIBILITY:	1997 ILLINOIS ACCESSIBILITY CODE		
ENERGY CODE:	2015 STATE OF ILLINOIS ENERGY CONSERVATION CODE		
FUEL GAS CODE:	2015 INTERNATIONAL FUEL GAS CODE WITH LOCAL AMENDMENTS		
PROJECT CODE DATA			
SEPARATION - CHAPTER 5, SECTION 508 & USE GROUPS - CHAPTER 3			
SEPARATION:	NONE REQUIRED - NON SEPARATED		
USE GROUPS:	S-I (MODERATE HAZARD STORAGE)		
ALLOWABLE AREA - CHAPTER 5			
ALLOWABLE AREA:	UNLIMITED AREA (PER SECTION 507)		
ACTUAL AREA CALC			
PRIMARY USE GROUP (S-I):	188,930 SQ.FT.		
ALLOWABLE HEIGHT - CHAPTER 5, TABLE 504.3 & 504.4			
ALLOWABLE BUILDING HEIGHT:	75'-0", 3 STORIES		
BUILDING HEIGHT:	40'-0" TOP OF PARAPET, 1 STORY		
CONSTRUCTION TYPE - CHAPTER 6, TABLE 601			
PROPOSED:	TYPE IIB		
STRUCTURAL FRAME :	0 HOURS		
BEARING WALLS (EXTERIOR) :	0 HOURS		
BEARING WALLS (INTERIOR)	0 HOURS		
NON-BEARING WALLS :	0 HOURS		
FLOOR CONSTRUCTION :	0 HOURS		
ROOF CONSTRUCTION :	0 HOURS		
FIRE PROTECTION SYSTEM - CHAPTER 9			
FULLY SPRINKLED - YES			
OCCUPANT LOADS - CHAPTER 10, TABLE 1004.1.2			
USE GROUP	RATIO	USE GROUP SF	OCCUPANT LOAD
S-I	1/500 SQ.FT.	188,930 SQ.FT.	378 PERSONS

EGRESS DATA - CHAPTER 10	
REQUIRED DOOR WIDTH :	378 X 0.2" = 75.6"
PROVIDED DOOR WIDTH : 16 EXITS AT 36" EA =	576"
PROVIDED DOOR WIDTH : 4 EXITS AT 72" EA =	288"
TOTAL PROVIDED DOOR WIDTH :	864"
COMMON PATH OF TRAVEL REQUIREMENT :	100'
MAXIMUM TRAVEL DISTANCE :	250' FEET (S-I OCCUPANCY)

ZONING REVIEW

DRG

DISTRIBUTION  
REALTY GROUP

220 NORTH YORK ROAD  
BENSENVILLE, IL 60106

LIST OF DRAWINGS

SHEET #	DESCRIPTION
T1.1	TITLE SHEET

ARCHITECTURAL

LS1.1	OVERALL LIFE SAFETY PLAN
AS1.1	ARCHITECTURAL SITE PLAN
A0.1	LINE OF SIGHT DIAGRAM
A0.2	RENDERING
A2.1	ENLARGED FLOOR PLAN
A2.2	ENLARGED FLOOR PLAN
A5.1	EXTERIOR ELEVATIONS
A5.2	EXTERIOR ELEVATIONS
A6.1	WALL SECTIONS
A6.2	WALL SECTIONS
A6.3	WALL SECTIONS

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PROJECT:

DRG

DISTRIBUTION  
REALTY GROUP  
DRG - BENSENVILLE SPECULATIVE FACILITY  
220 NORTH YORK ROAD  
BENSENVILLE, ILLINOIS 60106

JOB NO : SJ1817

PA : ZUK

DATE : 10.30.2017

REVISIONS

11-08-2017 - ISSUED FOR  
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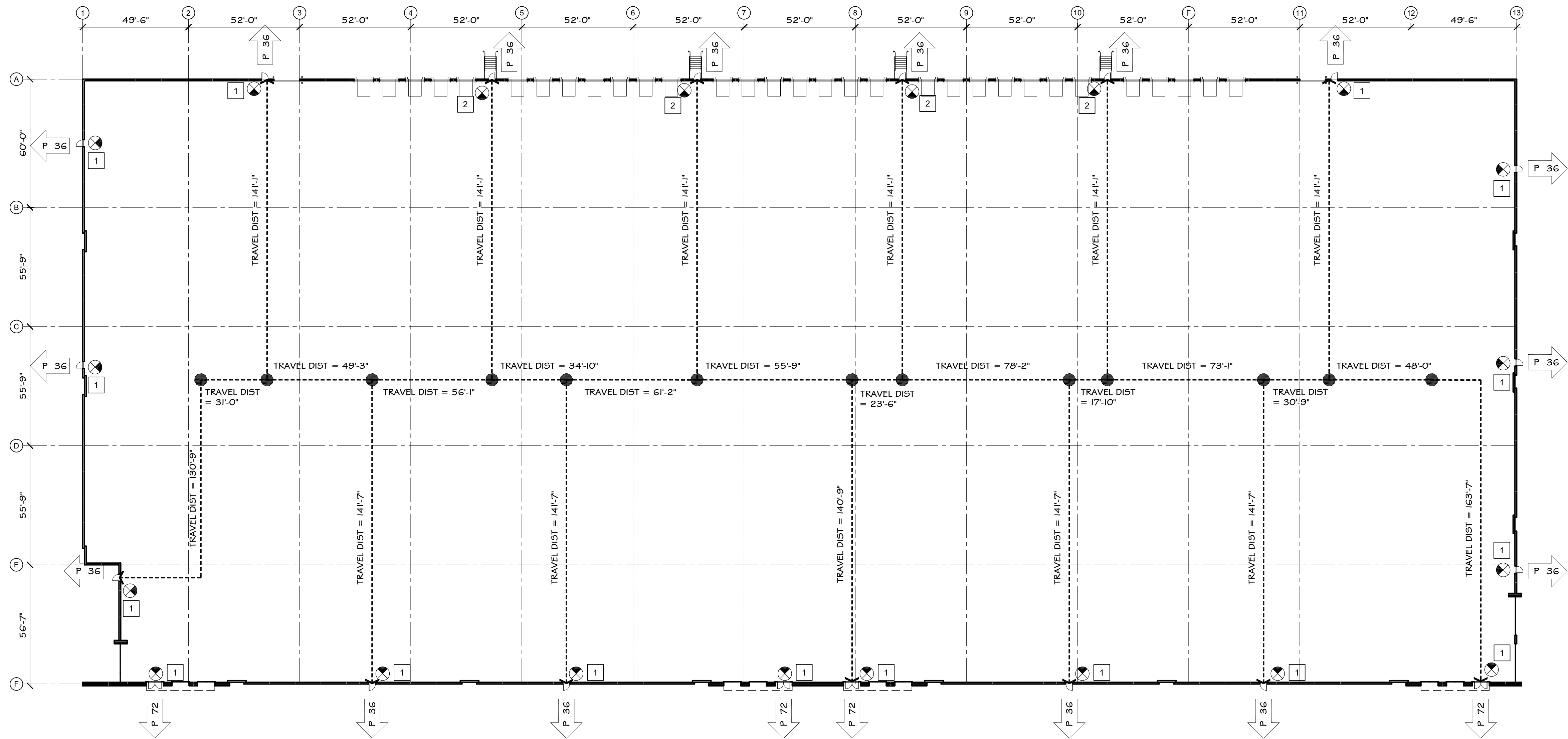
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T1.1

TITLE SHEET



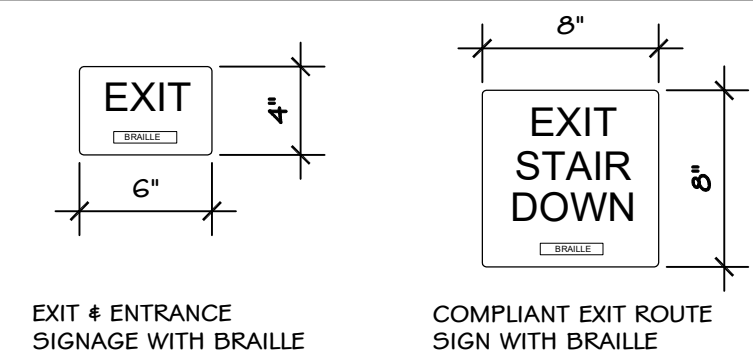


1 LIFE SAFETY PLAN  
LS1.1 SCALE: 1" = 30'-0"

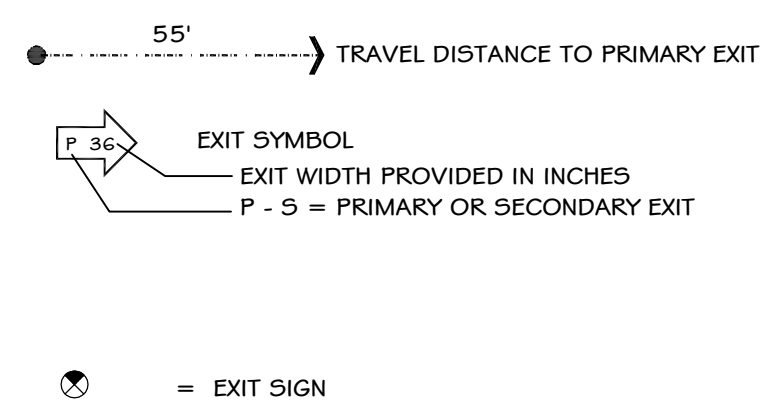
#### SIGNAGE KEYNOTES

- TACTILE EXIT SIGN: "EXIT".
- TACTILE EXIT SIGNS: "EXIT STAIR DOWN" AND "AREA OF REFUGE".

#### EGRESS WALL SIGNS



#### LIFE SAFETY LEGEND



#### GENERAL NOTES

- FINAL LAYOUT OF WAREHOUSE EXIT SIGNS & FIRE EXTINGUISHERS TO BE COORDINATED W/ LOCAL FIRE MARSHALL.
- ALL EGRESS ILLUMINATION SHALL COMPLY WITH THE CURRENT APPLICABLE CODE. THE MEANS OF EGRESS ILLUMINATION LEVEL SHALL NOT BE LESS THAN 1 FOOT-CANDLE AT THE WALKING SURFACE LEVEL. SEE ELEC. DWGS. FOR EGRESS ILLUMINATION COMPLIANCE.
- PROVIDE TACTILE EXIT SIGNS IN COMPLIANCE WITH THE CURRENT APPLICABLE CODE.
- EXIT DOORS SHALL BE OPERABLE FROM THE INSIDE WITHOUT THE USE OF A KEY OR SPECIAL KNOWLEDGE OF EFFORT.
- ADDITIONAL EXIT SIGNS AND/OR EMERGENCY LIGHTING MAY BE REQUIRED, SUBJECT TO FIELD INSPECTION & DETERMINATION OF THE AUTHORITY HAVING JURISDICTION.

#### OTHER WALL SIGNS

- NOTE 1: THE INTERNATIONAL SYMBOL OF ACCESSIBILITY SHALL BE THE STANDARD USED TO IDENTIFY FACILITIES THAT ARE ACCESSIBLE TO AND USABLE BY PHYSICALLY DISABLED PERSONS AS SET FORTH IN THE AMERICAN WITH DISABILITIES ACT (ADA).
- NOTE 2: WHERE PERMANENT IDENTIFICATION IS PROVIDED FOR ROOMS AND SPACES, SIGNS SHALL BE INSTALLED ON THE WALL ADJACENT TO THE LATCH SIDE OF THE DOOR. WHERE THERE IS NO WALL SPACE TO THE LATCH SIDE OF THE DOOR, INCLUDING AT DOUBLE LEAF DOORS, SIGNS SHALL BE PLACED ON THE NEAREST ADJACENT WALL. MOUNTING HEIGHT SHALL BE 60" TO THE CENTERLINE OF THE SIGN ABOVE FINISHED FLOOR.

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PROJECT:  
DRG  
DISTRIBUTION  
DRG BENSENVILLE SPECULATIVE FACILITY  
220 NORTH YORK ROAD  
BENSENVILLE, ILLINOIS 60106

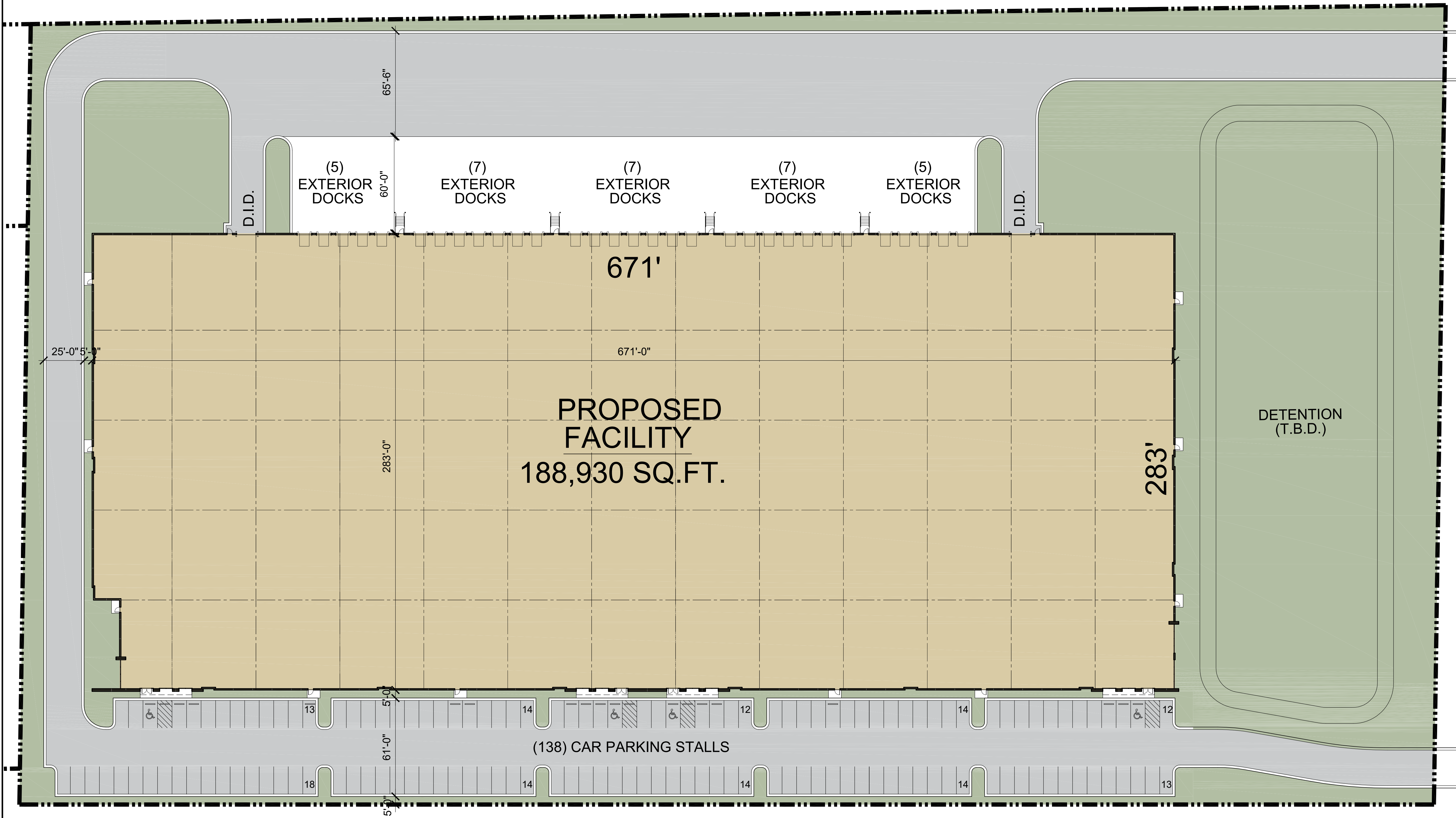
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PA : ZUK  
DATE : 10.30.2017

REVISIONS

11-08-2017 - ISSUED FOR ZONING BOARD REVIEW

SHEET NUMBER  
LS1.1  
LIFE SAFETY PLAN

PROJECT SUMMARY:	
BUILDING SUMMARY: ALL AREAS ARE GROSS SQ.FT.	
BUILDING	= 188,930 SQ.FT.
TOTAL :	= 188,930 SQ.FT.
SITE AREA :	= 429,055 SQ.FT.
	9.85 ACRES +/-
GREEN SPACE:	= 112,088 SQ.FT.
F.A.R.	= 0.44
CLEAR HEIGHT	= 32'
CAR PARKING	= 138 STALLS
TRUCK DOCKS	= 31 POSITIONS
D.I.D.	= 2 DOORS



1

AS1.1

SITE PLAN

SCALE: 1" = 30'-0"

PROJECT:

DRG  
DISTRIBUTION  
DRG BENSENVILLE SPECULATIVE FACILITY  
220 NORTH YORK ROAD  
BENSENVILLE, ILLINOIS 60106

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JOB NO : SJ1817

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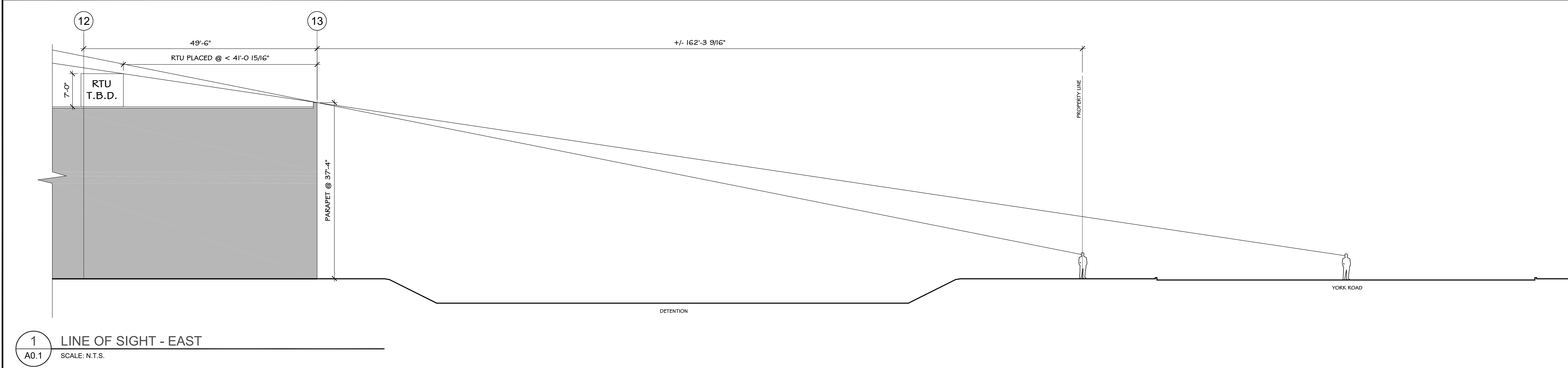
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SHEET NUMBER

AS1.1

ARCHITECTURAL SITE PLAN



PROJECT:

DRG

DISTRIBUTION  
RETIRO  
DRG BENSENVILLE SPECULATIVE FACILITY  
220 NORTH YORK ROAD  
BENSENVILLE, ILLINOIS 60106

JOB NO : SJ1817

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A0.1

LINE OF SIGHT

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PROJECT:

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REGION  
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220 NORTH YORK ROAD  
BENSenville, ILLINOIS 60106

JOB NO :

SJ1817

PA :

ZUK

DATE :

10.30.2017

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SHEET NUMBER

A0.2

RENDERING

ARCHITECT

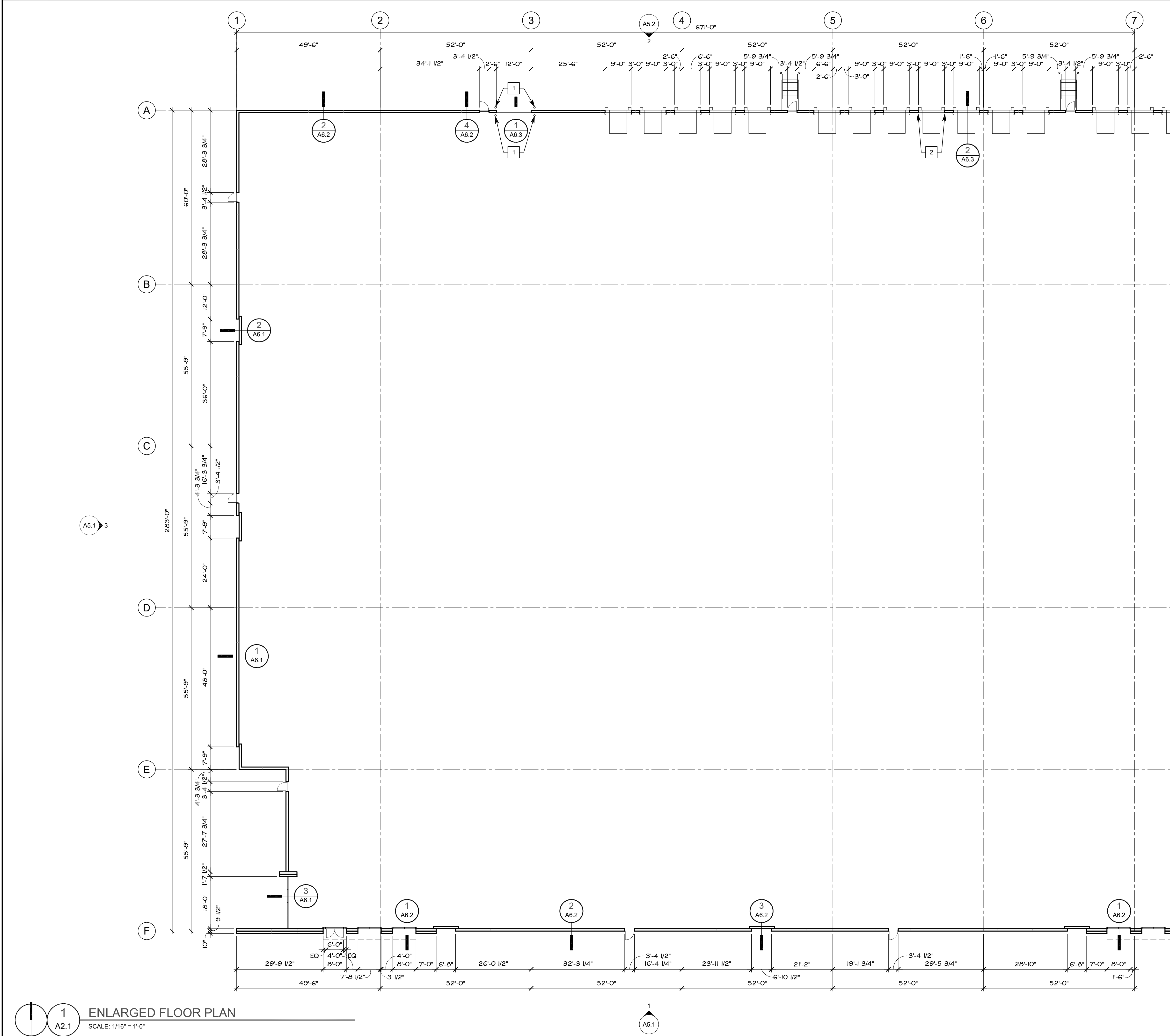
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### GENERAL FLOOR PLAN NOTES

- CONTRACTOR TO VERIFY ALL DIMENSIONS AND CONDITIONS SHOWN ON THE DRAWINGS AT THE JOB SITE AND NOTIFY ARCHITECT OF ANY OMISSIONS, DISCREPANCIES, AND/OR CONFLICTS BEFORE PROCEEDING WITH THE WORK.
- GLAZING, CASEWORK, MILLWORK AND EQUIPMENT SUPPLIERS SHALL FIELD VERIFY ALL DIMENSIONS PRIOR TO FABRICATION.
- DOORS SHOWN ADJACENT TO WALLS ARE TYPICALLY 4" FROM ADJACENT UNLESS NOTED OTHERWISE.
- ALL DIMENSIONS ARE TO FACE OF PARTITIONS.
- FIRE RETARDANT BLOCKING SHALL BE PROVIDED IN ALL WALLS AS REQUIRED BY CODE AND AS REQUIRED / RECOMMENDED FOR THE SUPPORT OF MILLWORK, TOILET PARTITIONS AND ACCESSORIES, ETC.
- ALL EXTERIOR AND EXPOSED INTERIOR PRECAST CONCRETE AND MASONRY WALL JOINTS SHALL BE CAULKED USING A TWO (2) PART TREMCO DYMERIC POLYURETHANE OR EQUAL. THE JOINTS SHALL ALSO HAVE A BACKER ROD BEHIND THE CAULK.
- PROVIDE FLOOR MATERIAL TRANSITIONAL STRIPS WHERE REQUIRED BY CHANGE IN MATERIAL.
- PROVIDE ACCESS PANELS AS REQUIRED, COORDINATE WITH M.E.P. & F.P.
- COORDINATE FIRE EXTINGUISHERS LOCATIONS WITH ARCHITECT AND LOCAL FIRE MARSHALL. LOCATIONS SHALL FOLLOW NFPA 472, FM STANDARDS, AND ADA GUIDELINES. SEE SHEET LSI.1
- BULLNOSE ALL PRECAST PANEL AND MASONRY CORNERS INCLUDING DOOR FRAMES AND HEADERS, TYPICAL.
- NO CEILINGS ARE TO BE PROVIDED - ENTIRE FACILITY IS OPEN TO DECK ABOVE.

### FLOOR PLAN KEY NOTES

1	PIPE BOLLARDS
2	Z-GUARDS @ DOCK DOOR, TYP.

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STRUCTURAL

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ARCHITECT

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PROJECT:

DRG

DISTRIBUTION

DRG BENSENVILLE SPECULATIVE FACILITY

220 NORTH YORK ROAD

BENSENVILLE, ILLINOIS 60106

JOB NO : SJ1817

PA : ZUK

DATE : 10.30.2017

REVISIONS

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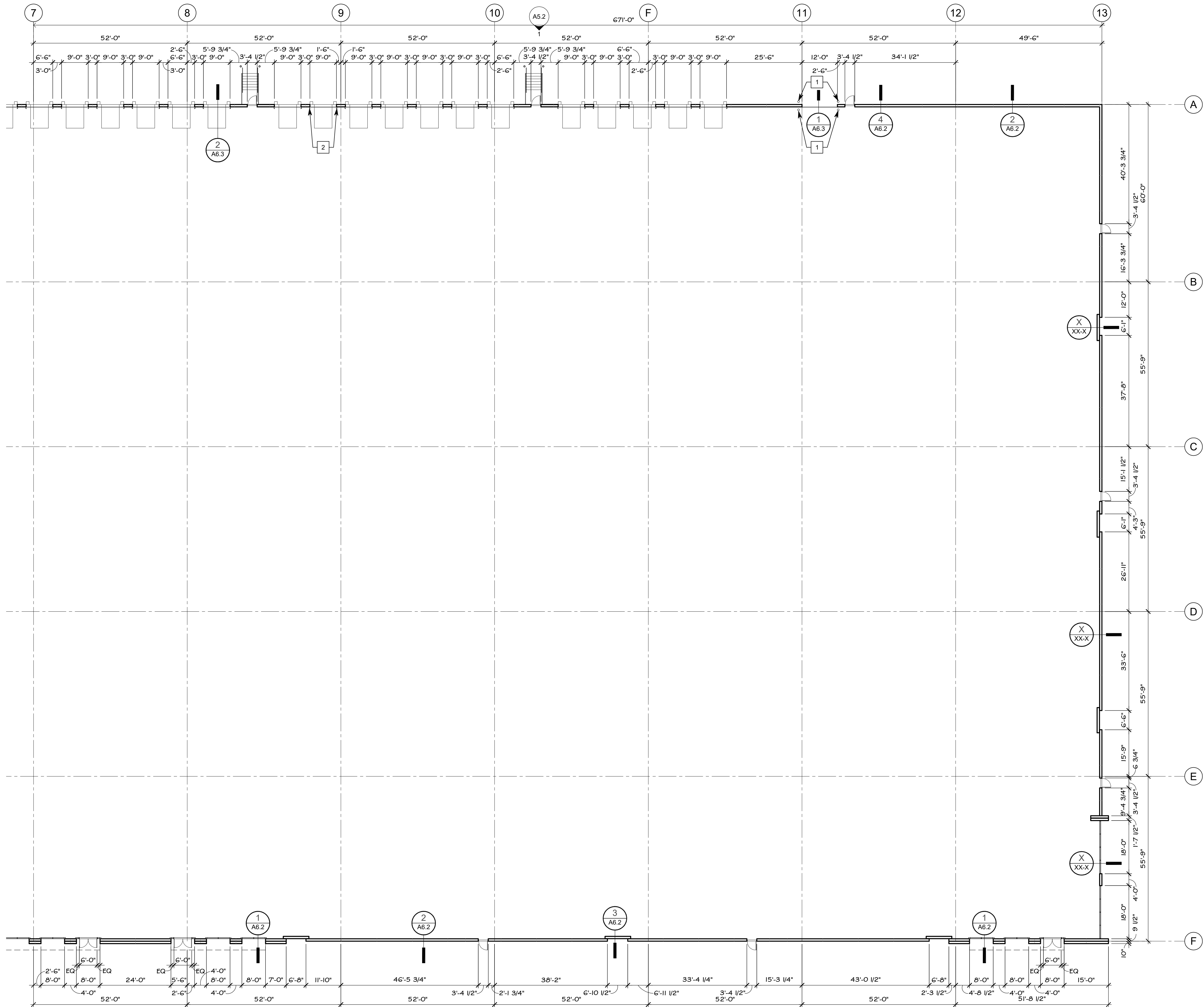
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SHEET NUMBER

A2.1

OVERALL FLOOR PLAN





### GENERAL FLOOR PLAN NOTES

- CONTRACTOR TO VERIFY ALL DIMENSIONS AND CONDITIONS SHOWN ON THE DRAWINGS AT THE JOB SITE AND NOTIFY ARCHITECT OF ANY OMISSIONS, DISCREPANCIES, AND/OR CONFLICTS BEFORE PROCEEDING WITH THE WORK.
- GLAZING, CASEWORK, MILLWORK AND EQUIPMENT SUPPLIERS SHALL FIELD VERIFY ALL DIMENSIONS PRIOR TO FABRICATION.
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- BULLNOSE ALL PRECAST PANEL AND MASONRY CORNERS INCLUDING DOOR FRAMES AND HEADERS, TYPICAL.
- NO CEILINGS ARE TO BE PROVIDED - ENTIRE FACILITY IS OPEN TO DECK ABOVE.

### FLOOR PLAN KEY NOTES

- |   |                            |
|---|----------------------------|
| 1 | PIPE BOLLARDS              |
| 2 | Z-GUARDS @ DOCK DOOR, TYP. |

**1**  
A2.2  
**ENLARGED FLOOR PLAN**  
SCALE: 1/16" = 1'-0"

**2**  
A5.1

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**PROJECT:**  
**DRG**  
DISTRIBUTION  
RETIEMENT  
DRG BENSENVILLE SPECULATIVE FACILITY  
220 NORTH YORK ROAD  
BENSENVILLE, ILLINOIS 60106

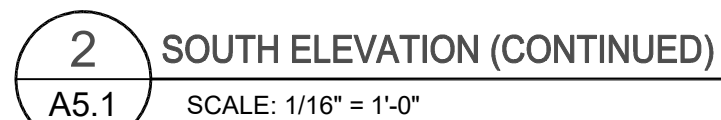
**JOB NO :** SJ1817  
**PA :** ZUK  
**DATE :** 10.30.2017

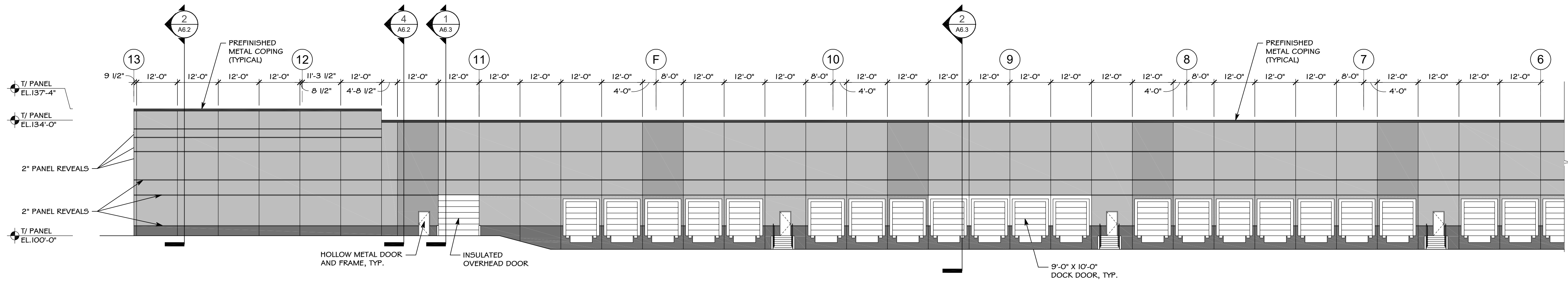
**REVISIONS**

**11-08-2017 - ISSUED FOR ZONING BOARD REVIEW**

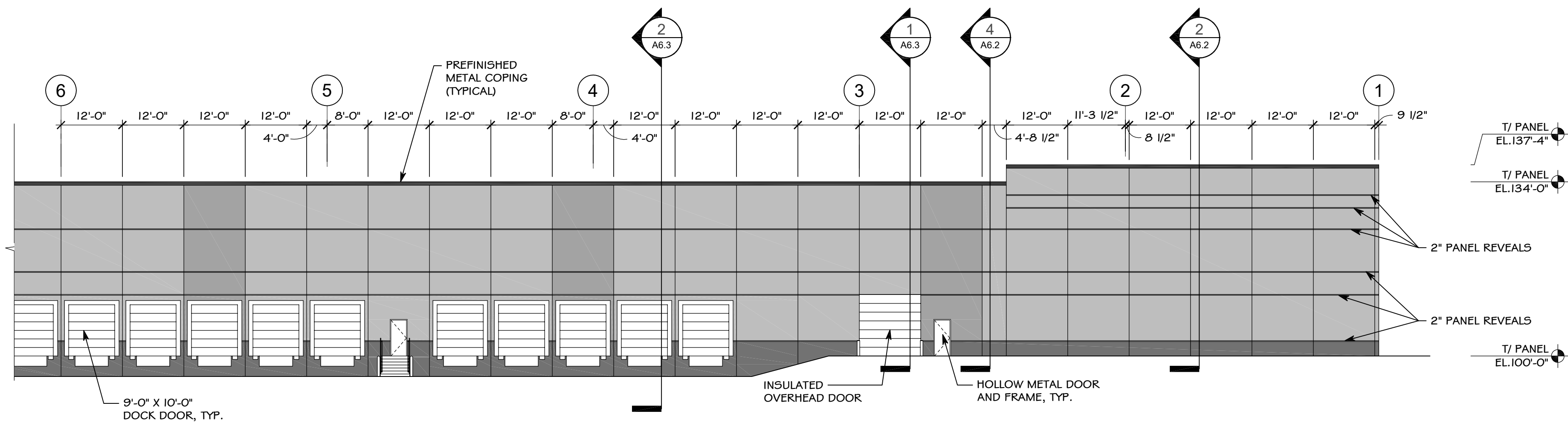
**SHEET NUMBER**  
**A2.2**  
**OVERALL FLOOR PLAN**



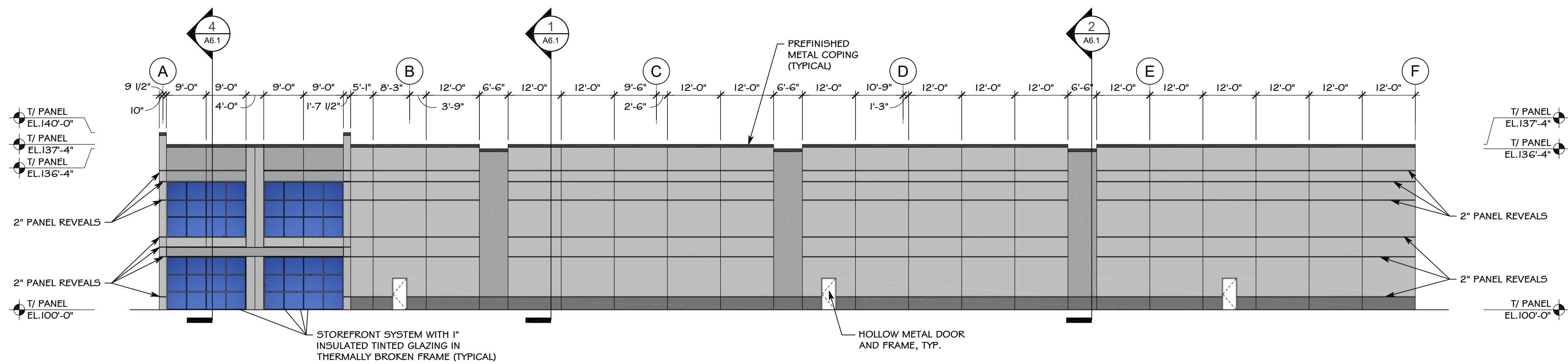




1 NORTH ELEVATION  
A5.2 SCALE: 1/16" = 1'-0"



2 NORTH ELEVATION (CONTINUED)  
A5.2 SCALE: 1/16" = 1'-0"



3 EAST ELEVATION  
A5.2 SCALE: 1/16" = 1'-0"

CONSULTING ENGINEERS  
JACOB AND REIFER  
1333 BUTTERFIELD ROAD, SUITE 300  
DOWNERS GROVE, ILL. 60155  
JACOBANDREIFER.COM  
STRUCTURAL  
TATCOARCHENGINERS.COM

DESIGN / BUILDER  
ARCO MURRAY  
3110 WOODCREEK DRIVE  
DOWNERS GROVE, ILL. 60155  
WWW.ARCOMURRAY.COM

ARCHITECT  
GMA  
ARCHITECTS  
3110 WOODCREEK DRIVE  
DOWNERS GROVE, ILL. 60155  
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PROJECT:  
DRG  
DISTRIBUTION  
DRG BENSENVILLE SPECULATIVE FACILITY  
220 NORTH YORK ROAD  
BENSENVILLE, ILLINOIS 60106

JOB NO : SJ1817  
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REVISIONS

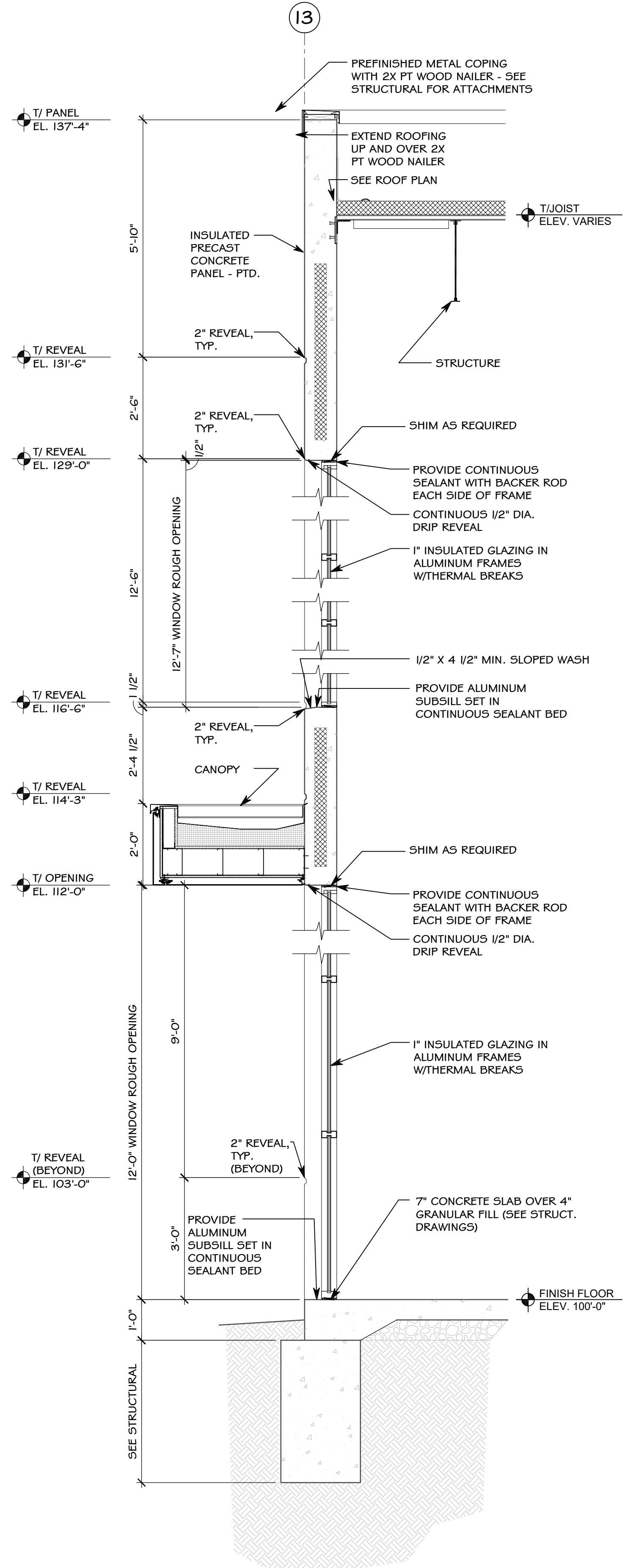
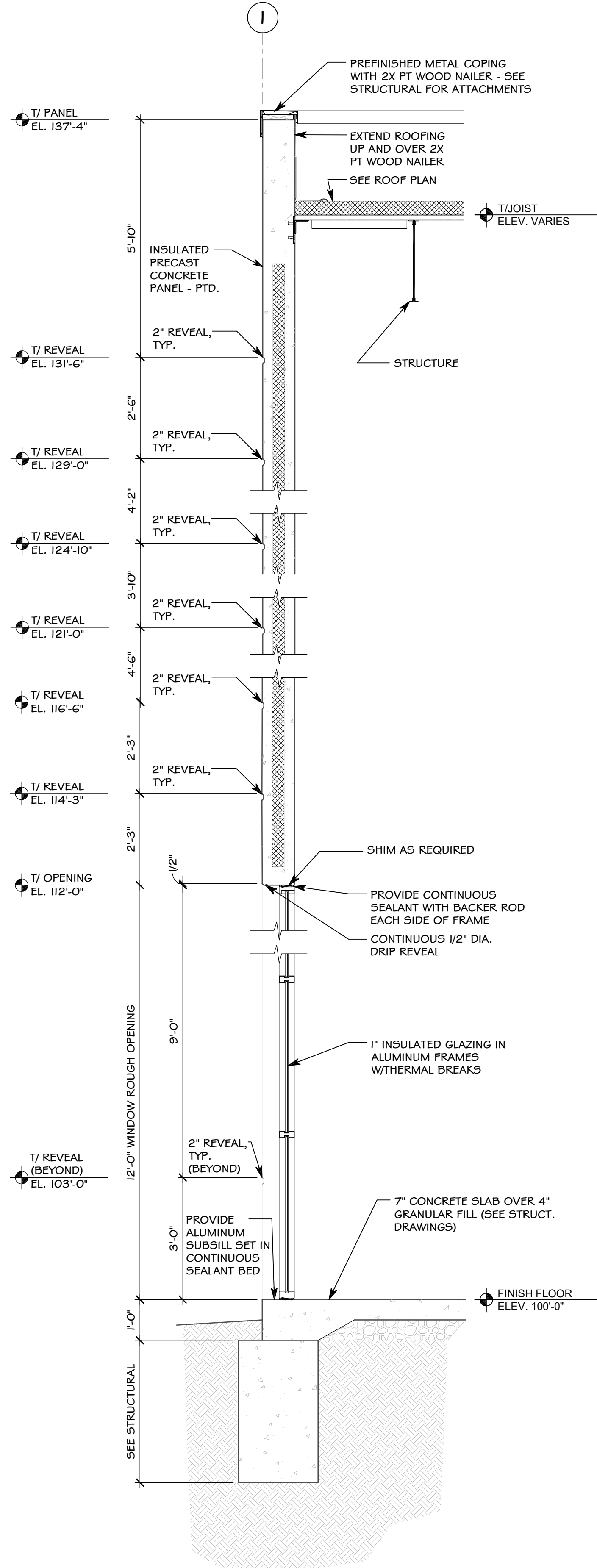
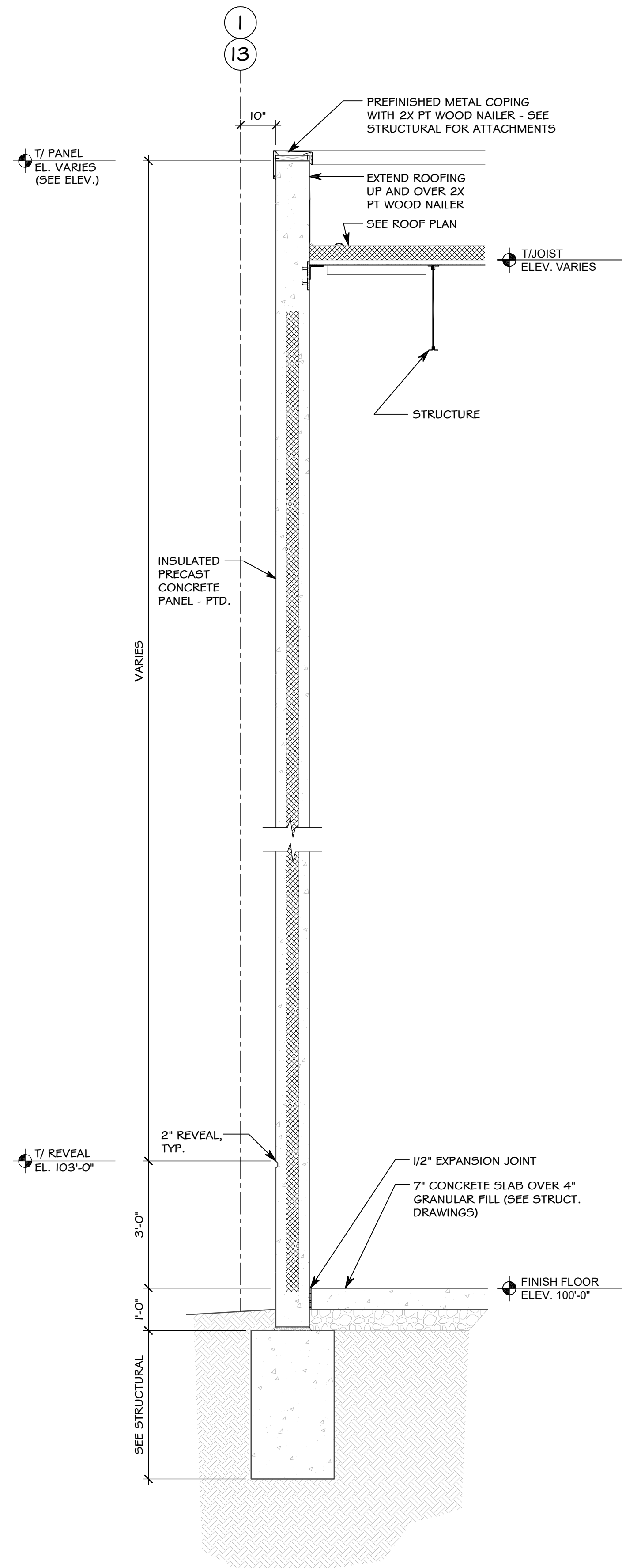
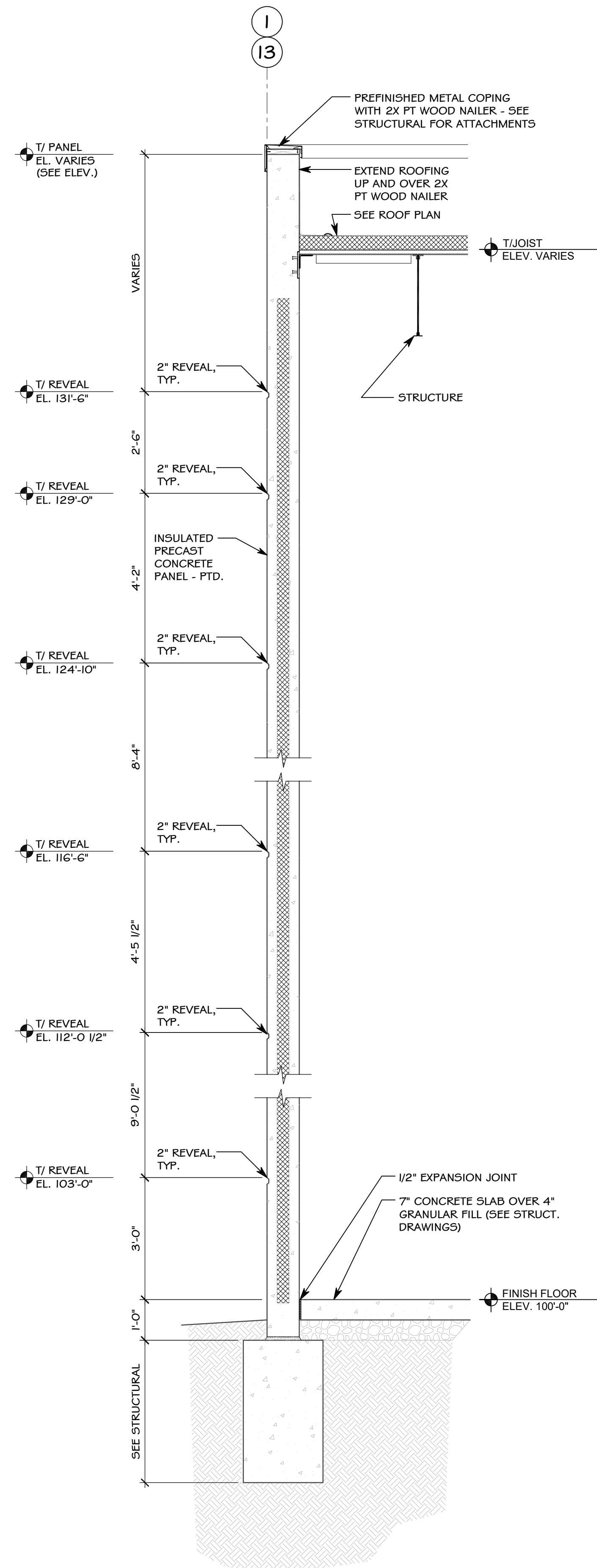
11-08-2017 - ISSUED FOR ZONING BOARD REVIEW

SHEET NUMBER

A5.2

EXTERIOR ELEVATIONS





1 WALL SECTION  
A6.1 SCALE: 1/2" = 1'-0"

2 WALL SECTION  
A6.1 SCALE: 1/2" = 1'-0"

3 WALL SECTION  
A6.1 SCALE: 1/2" = 1'-0"

4 WALL SECTION  
A6.1 SCALE: 1/2" = 1'-0"

CONSULTING ENGINEERS  
JACOB AND REIFER  
1333 BUTTERFIELD ROAD, SUITE 300  
DOWNERS GROVE, ILL. 60155  
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SRI JACOBANDREIFER.COM  
DOWNERS GROVE, ILL. 60155  
THATCHERENGINEERS.COM  
THATCHERENGINEERS.COM

DESIGN / BUILDER  
ARCO MURRAY  
3110 WOODCREEK DRIVE  
DOWNERS GROVE, ILL. 60155  
ARCOMURRAY.COM  
WWW.ARCOMURRAY.COM

PROJECT:  
DRG  
DISTRIBUTION  
DRG BENSenville SPECULATIVE FACILITY  
220 NORTH YORK ROAD  
BENSenville, ILLINOIS 60106

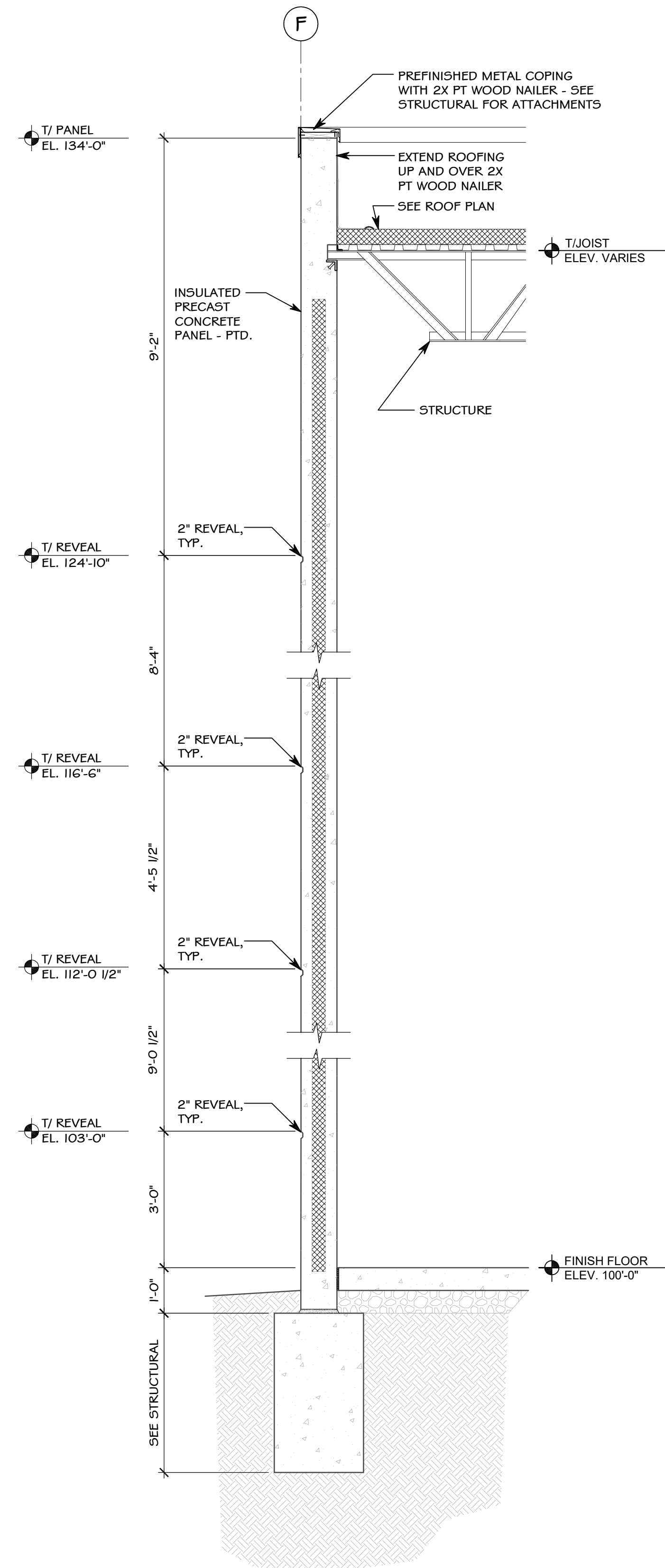
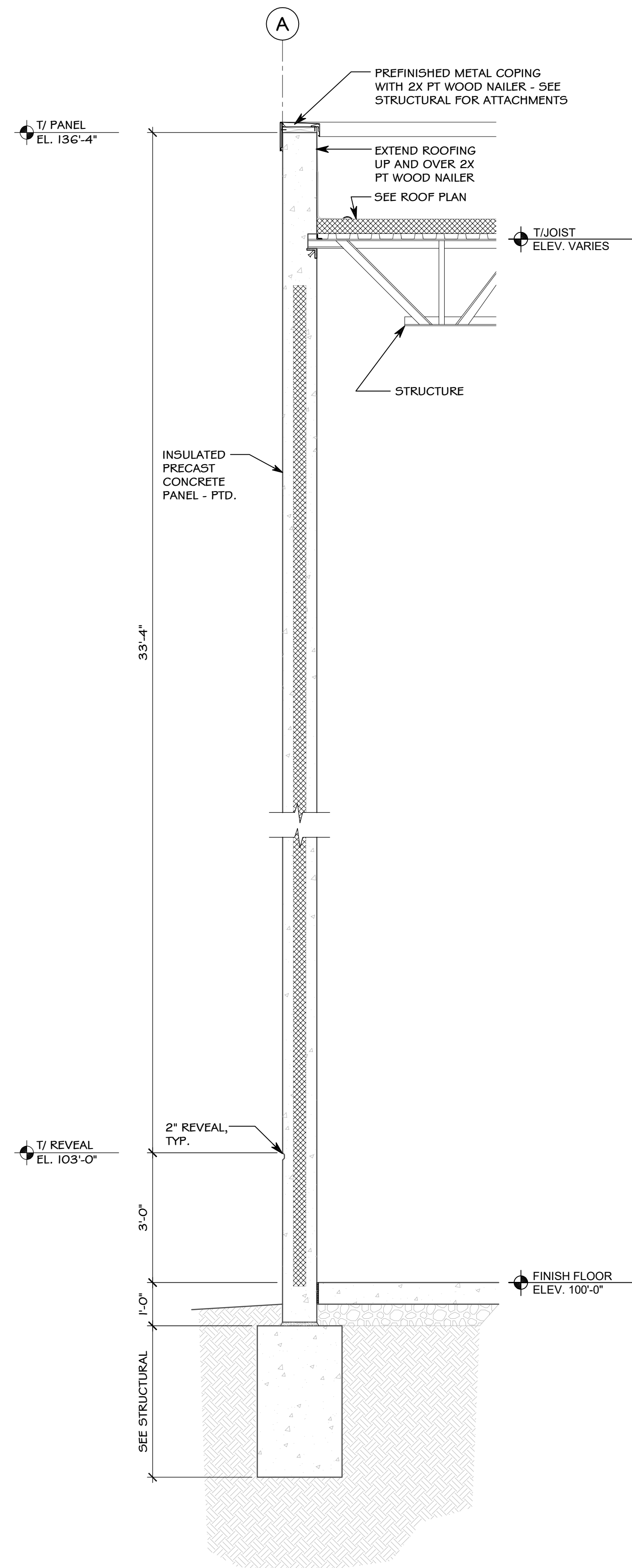
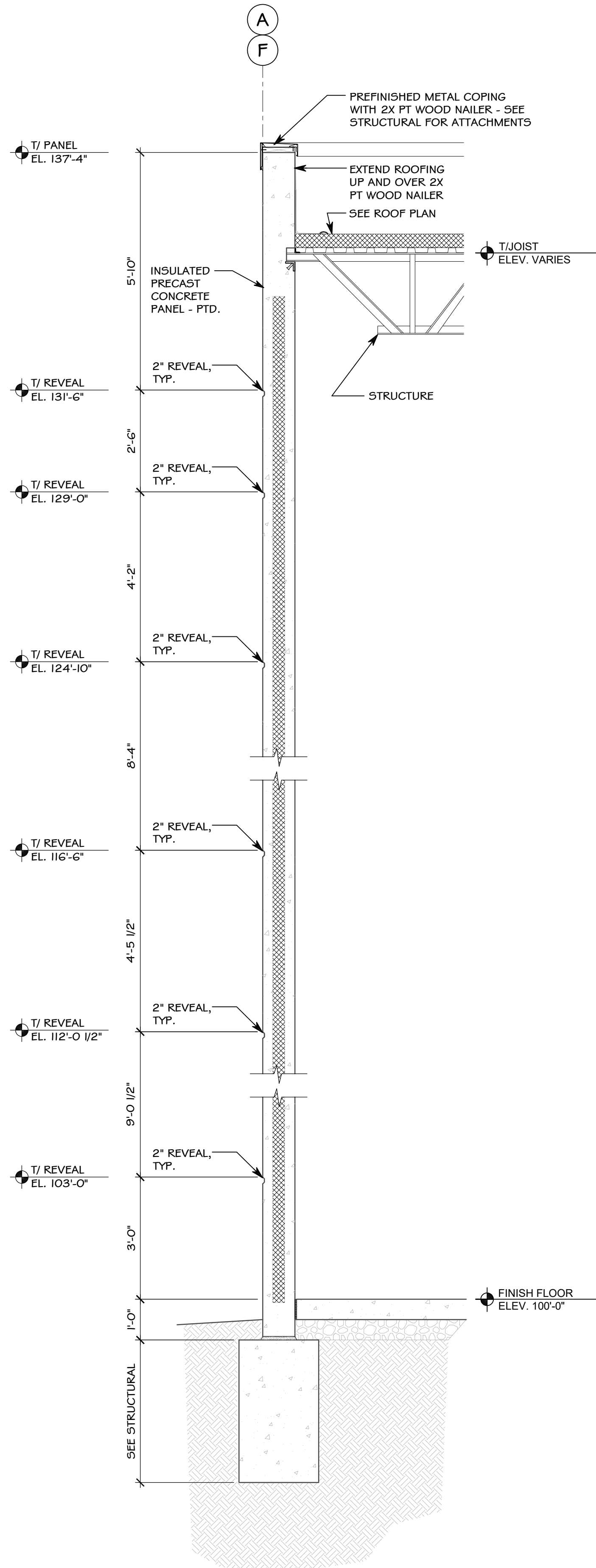
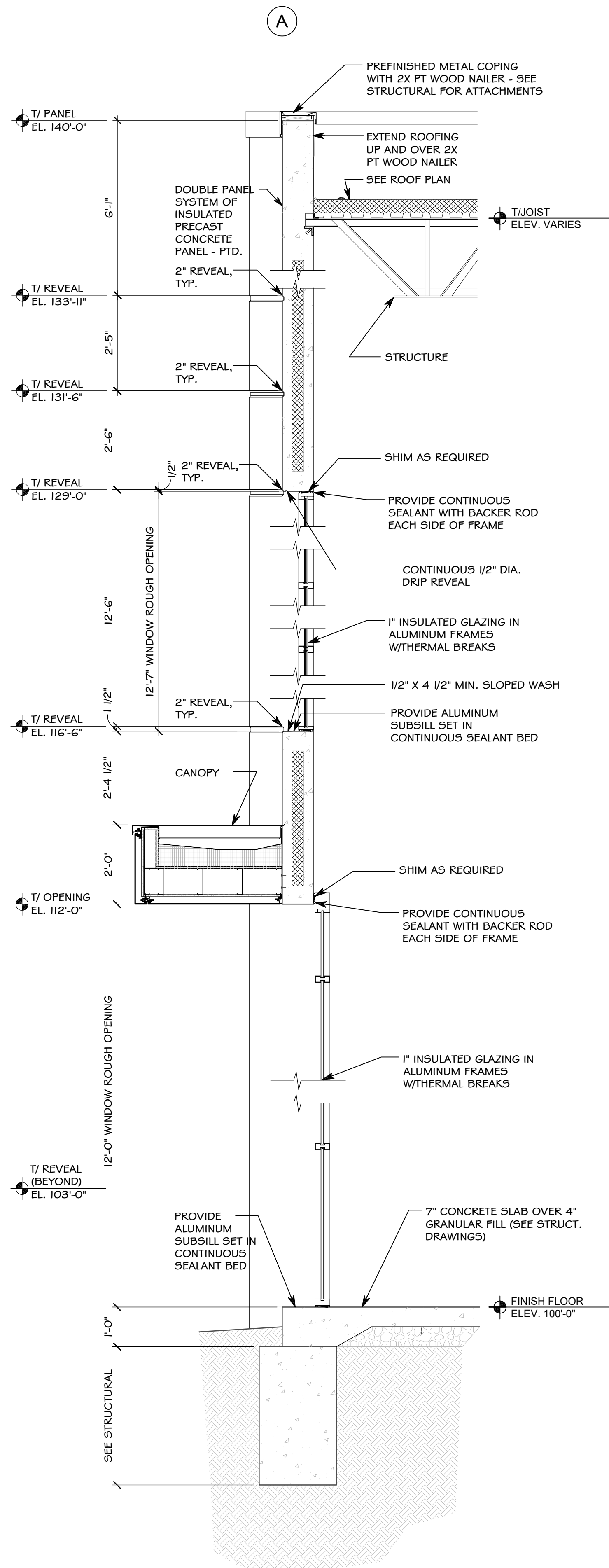
JOB NO : SJ1817  
PA : ZUK  
DATE : 10.30.2017

REVISIONS

11-08-2017 - ISSUED FOR ZONING BOARD REVIEW

SHEET NUMBER  
A6.1  
WALL SECTIONS





1 WALL SECTION  
A6.2 SCALE: 1/2" = 1'-0"

2 WALL SECTION  
A6.2 SCALE: 1/2" = 1'-0"

3 WALL SECTION  
A6.2 SCALE: 1/2" = 1'-0"

4 WALL SECTION  
A6.2 SCALE: 1/2" = 1'-0"

CONSULTING ENGINEERS  
JACOB AND REIFER  
1333 BUTTERFIELD ROAD, SUITE 300  
DOWNERS GROVE, ILL. 60515  
JACOBANDREIFER.COM  
STRUCTURAL  
SRI JACOBANDREIFER.COM  
DOWNERS GROVE, ILL. 60515  
TWOCHANGERS.COM

DESIGN / BUILDER  
ARCO MURRAY  
3110 WOODCREEK DRIVE  
DOWNERS GROVE, ILL. 60515  
ARCOMURRAY.COM  
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ARCHITECT  
GMA ARCHITECTS  
3110 WOODCREEK DRIVE  
DOWNERS GROVE, ILL. 60515  
GMA-ARCHITECTS.COM  
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PROJECT:  
DRG  
DISTRIBUTION  
DRG BENSENVILLE SPECULATIVE FACILITY  
220 NORTH YORK ROAD  
BENSENVILLE, ILLINOIS 60106

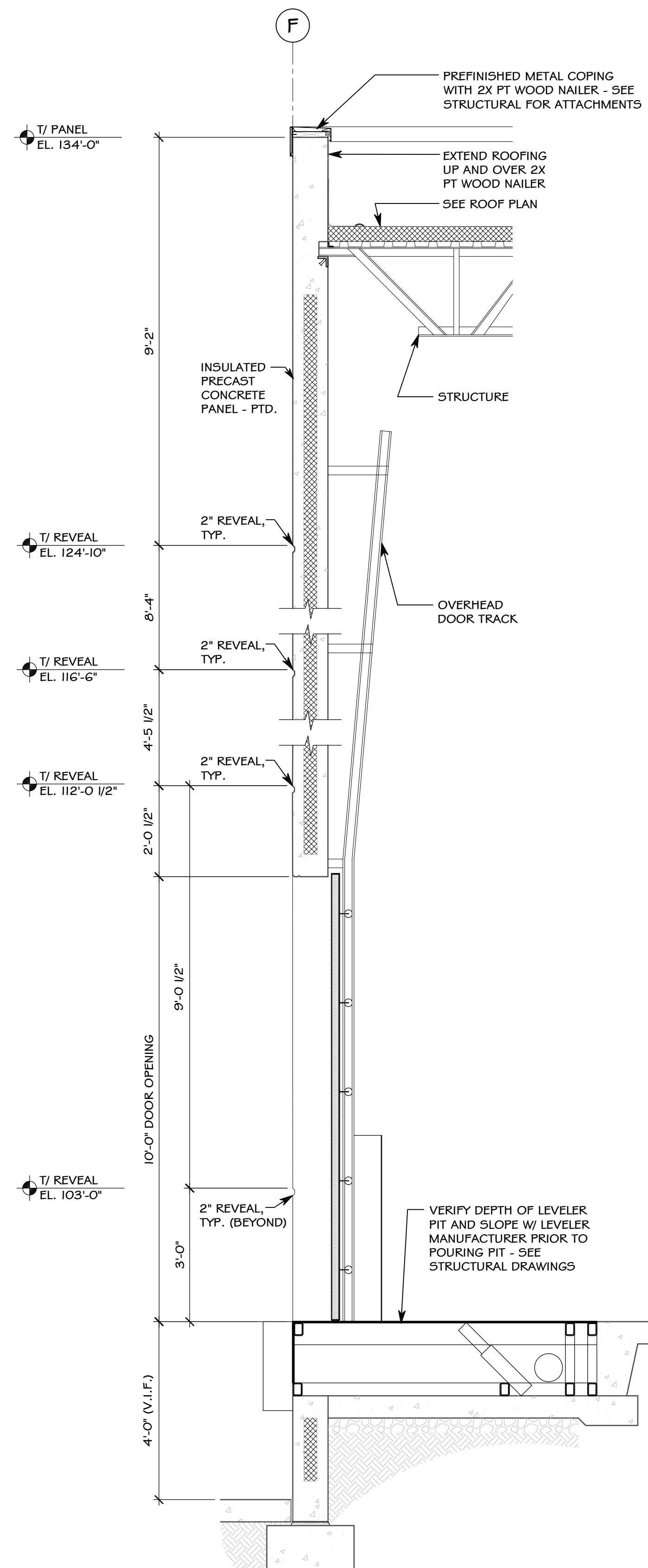
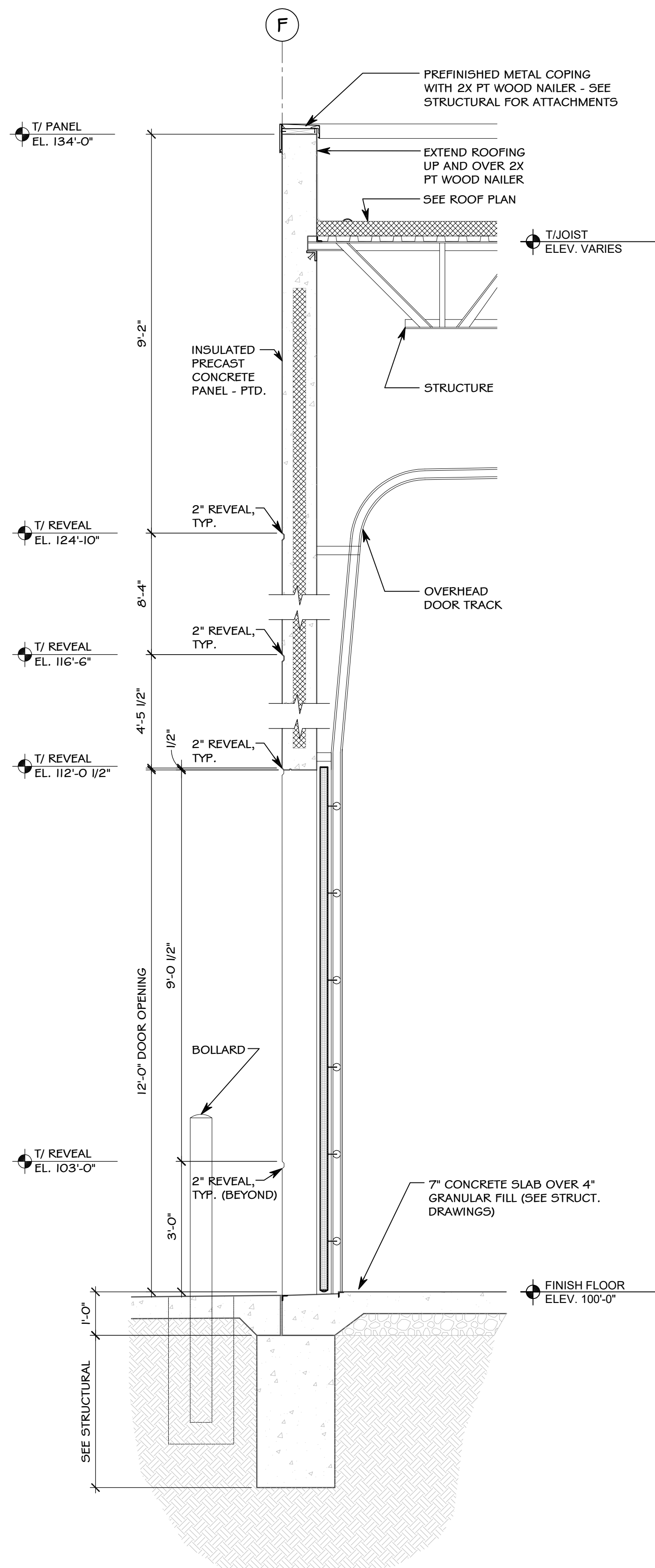
JOB NO : SJ1817  
PA : ZUK  
DATE : 10.30.2017

REVISIONS

11-08-2017 - ISSUED FOR  
ZONING BOARD REVIEW

SHEET NUMBER  
A6.2  
WALL SECTIONS





1 WALL SECTION  
A6.3 SCALE: 1/2" = 1'-0"

2 WALL SECTION  
A6.3 SCALE: 1/2" = 1'-0"

CONSULTING ENGINEERS  
JACOB AND JEFFER  
1333 BUTTERFIELD ROAD, SUITE 300  
DOWNERS GROVE, ILL. 60515  
JACOBANDJEFFER.COM  
STRUCTURAL  
SRI  
JACOBANDJEFFER.COM  
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GMA  
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PROJECT:  
DRG  
DISTRIBUTION  
DRG BENSENVILLE SPECULATIVE FACILITY  
220 NORTH YORK ROAD  
BENSENVILLE, ILLINOIS 60106

JOB NO : SJ1817  
PA : ZUK  
DATE : 10.30.2017

REVISIONS

11-08-2017 - ISSUED FOR  
ZONING BOARD REVIEW

SHEET NUMBER  
A6.3  
WALL SECTIONS

**ORDINANCE # \_\_\_\_\_**

**AN ORDINANCE GRANTING APPROVAL OF A REZONING FROM  
REZONING FROM C – 4 REGIONAL PUD COMMERCIAL DISTRICT TO I – 2 LIGHT  
INDUSTRIAL DISTRICT, VARIANCE TO ALLOW A REDUCTION IN TRUCK  
LOADING DOCK WIDTH, PLAT OF CONSOLIDATION, AND SITE PLAN  
AT 220 NORTH YORK ROAD, BENSENVILLE, ILLINOIS**

**WHEREAS**, Distribution Realty Group (“Owner”) and ARCO/Murray (“Applicant”) filed an application for Rezoning from C – 4 Regional PUD Commercial District to I – 2 Light Industrial District, Municipal Code Sections 10 – 7D and 10 – 9B; and Variance, Truck Loading Dock Width, Municipal Code Section 10 – 11 – 12D – 1a of the Village of Bensenville Zoning Ordinance (“Zoning Ordinance”); and Plat of Consolidation; and Site Plan Review for the property located at 220 North York Road, Bensenville, as legally described in Exhibit "A," attached hereto and incorporated herein by reference (the “Subject Property”), a copy of said application being contained on file in the Community and Economic Development Department; and

**WHEREAS**, Notice of Public Hearing with respect to the Rezoning, Variance, Plat of Consolidation and Site Plan sought by the Applicant was published in the Bensenville Independent on Thursday, November 16, 2017 by the Village of Bensenville, and notice was also given via posting of a Public Hearing Sign on the Subject Property and via First Class mail to taxpayers of record within 250 feet of the Subject Property, 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 December 5, 2017 as required by the statutes of the State of Illinois and the ordinances of the Village; and

**WHEREAS**, after hearing the application, the Community Development Commission approved the findings of fact submitted by Village Staff recommending approval of the Rezoning and, thereafter, voted unanimously (6 - 0) to recommend approval of the request, and forwarded its recommendations, including the Staff Report and findings relative to the Rezoning, Variance, Plat of Consolidation and Site Plan, to the Committee Of the Whole, which concurred in the recommendation made therein, as are attached hereto and incorporated herein by reference as Exhibit "B"; and

**WHEREAS**, on December 12, 2017 the Committee Of the Whole then forwarded its recommendation, along with that of the Community Development Commission, to the President and Board of Trustees; and

**WHEREAS**, the President and Board of Village Trustees have reviewed the matter herein and have determined that approval of the requested Rezoning, Variance, Plat of Consolidation and Site Plan as recommended by the Community Development Commission to allow the Rezoning, Variance, Plat of Consolidation and Site Plan is consistent with the Zoning Ordinance.

**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 Staff Report and Recommendation to approve the Rezoning, Variance, Plat of Consolidation and Site Plan sought, as allowed by the Zoning Ordinance, Sections 10 – 7D and 10 – 9B; and Section 10 – 11 – 12D – 1a, as adopted by the Community Development Commission as shown in Exhibit “B” is hereby adopted by the President and Board of Trustees, the Board of Trustees finding that said Rezoning is proper and necessary.

**SECTION THREE:** That the Rezoning from C – 4 Regional PUD Commercial District to I – 2 Light Industrial District, Variance to allow a reduction in Truck Loading Dock Width, Plat of Consolidation, and Site Plan as sought by the Applicant of the Subject Property is hereby granted.

**SECTION FOUR:** That all requirements of the Zoning Ordinance shall be applicable except as allowed by the rezoning granted herein.

**SECTION FIVE:** That all other ordinances and resolutions, or parts thereof, in conflict with the provisions of this Ordinance, are, to the extent of such conflict, expressly repealed.

**SECTION SIX:** 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 12th day of December 2017.

\_\_\_\_\_  
Frank DeSimone, Village President

ATTEST:

\_\_\_\_\_,  
Nancy Quinn, Village Clerk

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

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

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



Ordinance # \_\_\_\_ - 2017  
Exhibit "A"

The Legal Description is as follows:

LOT 1, (EXCEPT THE EAST 17 FEET THEREOF), LOTS 2 THRU 17, (INCLUSIVE), LOTS 18 AND 19 (EXCEPT THE EAST 17 FEET THEREOF), LOTS 20 THRU 27, (INCLUSIVE), IN BENSENVILLE GARDENS, BEING A RESUBDIVISION OF LOT 1 IN C.A. FRANZEN'S SUBDIVISION OF PART OF THE NORTHEAST 1/4 OF SECTION 14, TOWNSHIP 40 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 10, 1924 AS DOCUMENT NUMBER 178806, IN DUPAGE COUNTY, ILLINOIS, TOGETHER WITH ALL OF THE 60 FEET ROADWAY KNOWN AS BROOKWOOD STREET, LYING WEST OF THE WEST LINE OF THE EAST 17 FEET OF THE SAID LOTS 1 AND 18 AND EAST OF THE WEST LINE OF SAID LOT 9 AS EXTENDED SOUTH;

ALSO, ALL OF THE 30 FEET ROADWAY RECORDED AS ADDISON STREET, LYING SOUTH OF THE NORTH LINE OF SAID LOT 10 AS EXTENDED WEST AND NORTH OF THE SOUTH LINE OF SAID LOT 27 AS EXTENDED WEST;

ALSO, ALL OF THE 30 FEET ROADWAY KNOWN AS PLEASANT STREET LYING WEST OF THE WEST LINE OF THE EAST 17 FEET OF LOT 19 AS EXTENDED SOUTH AND EAST OF THE WEST LINE OF BENSENVILLE GARDENS, BEING A RESUBDIVISION OF LOT 1 IN C.A. FRANZEN'S SUBDIVISION OF PART OF THE NORTHEAST 1/4 OF SECTION 14, TOWNSHIP 40 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 10, 1924 AS DOCUMENT NUMBER 178806, IN DUPAGE COUNTY, ILLINOIS;

ALSO, ALL OF THE 33 FEET ROADWAY KNOWN AS PLEASANT STREET, LYING WEST OF THE WEST LINE OF THE EAST 17 FEET OF LOT 1, AS EXTENDED NORTH, AND EAST OF THE WEST LINE OF LOT 4, AS EXTENDED NORTH, IN LANDMEIR'S DIVISION OF PART OF THE NORTHEAST 1/4 OF SECTION 14, TOWNSHIP 40 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 10, 1950 AS DOCUMENT NUMBER 600863, IN DUPAGE COUNTY, ILLINOIS;

ALSO, THE NORTH 33 FEET OF LOTS 3 AND 4 IN C.A. FRANZEN'S SUBDIVISION OF PART OF THE NORTHEAST 1/4 OF SECTION 14, TOWNSHIP 40 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 11, 1919 AS DOCUMENT NUMBER 139197, ALL IN DUPAGE COUNTY, ILLINOIS

PROPERTY INDEX NUMBERS:

0314208004, 0314208019, 0314208007, 0314208008, 0314205067, 0314207020, 0314207013, 0314207014, 0314207015, 0314207011, 0314207012, 0314208010, 0314208001, 0314207009, 0314207010, 0314207008, 0314208017, 0314208018, 0314208009, 0314208015, 0314208016, 0314205032, 0314208006, 0314208003, 0314208002, 0314208011, 0314208012, 0314208013, 0314209006, AND 0314209033.

Commonly known as 220 North York Road, Bensenville, IL 60106.

**Ordinance # \_\_\_\_ - 2017**  
**Exhibit “B”**  
**Findings of Fact**

Mr. Pozsgay reviewed the approval criteria for rezoning consisting of:

**1. Support for Classification**

**a. Compatible with Use or Zoning**

The uses permitted under the proposed district are compatible with existing uses or existing Zoning of property in the environs.

**b. Supported by the Trend of Development**

The trend of development in the general area since the original zoning was established supports the proposed classification.

**c. Consistent with Village Plans**

The proposed classification is in harmony with objectives of the General Development Plan and other applicable Village plans as reviewed in light of any changed conditions since their adoption.

*Response: The sites immediately to the north of the proposed development are zoned I-2, the same as the proposed classification of this site. The rezoning of this site would result in contiguous I-2 zoning through this site.*

**2. Furthers the Public Interest**

The proposed zoning classification promotes the public interest. It does not solely further the interest of the applicant.

*Response: The proposed zoning promotes public interest. The current state of the site is a conglomerate of run-down residential and commercial properties. The proposed development will have an aesthetically pleasing façade facing York Road to the east.*

**3. Public Services Available**

Adequate public services – such as water supply, sewage disposal, fire protection, and street capacity are anticipated to be available to support the proposed classification by anticipated date of issuance of a Certificate of Occupancy.

*Response: Per conversations with Village Engineering and Public Works, there are adequate utilities (sewer/water) available on the west side of York Road.*

Mr. Pozsgay reviewed the approval criteria for the requested variances consisting of:

1. **Special Circumstances:** Special circumstances exist that are peculiar to the property for which the variances are sought and that do not apply generally to other properties in the same zoning district. Also, these circumstances are not of so general or recurrent a nature as to make it reasonable and practical to provide a general amendment to this Title to cover them.

*Response: Two (2) similar industrial buildings have recently been developed in Bensenville that were granted variances on the loading dock stall width. One building is the Geib Industries building at 901 E Jefferson Street, and the other is the Liberty building currently being developed at 350 N York Road. Both of these buildings are conventional warehouse/distribution centers, similar to our proposed building, with 12' wide truck dock stall widths.*

2. **Hardship or Practical Difficulties:** For reasons set forth in the findings, the literal application of the provisions of this Title would result in unnecessary and undue hardship or practical difficulties for the applicant as distinguished from mere inconvenience.

*Response: A 14' wide truck loading stall is not practical for a couple of different reasons. First, the maximum width of a precast panel is 12'. If a panel is over 12' wide, the truck transporting that panel must apply for and receive special road permits to transport the panel to the site. If the loading stall width were to be 14', our precast panels along the dock side of the building would have to be 14' wide, and thus cause issues with permitting the panel transportation. Second, the Chicagoland industry standard truck stall width is 12'. This allows for the maximization of the number of dock positions that will fit along the length of the building, and provides the most flexibility for the tenant's dock position needs.*

3. **Circumstances Relate to Property:** The special circumstances and hardship relate only to the physical character of the land or buildings, such as dimensions, topography or soil conditions. They do not concern any business or activity of present or prospective owner or occupant carries on, or seeks to carry on, therein, nor to the personal, business or financial circumstances of any party with interest in the property.

*Response: This variance relates directly to the dimensions of the truck stall width on the building.*

4. **Not Resulting from Applicant Action:** The special circumstances and practical difficulties or hardship that are the basis for the variance have not resulted from any act, undertaken subsequent to the adoption

of this Title or any applicable amendment thereto, of the applicant or of any other party with a present interest in the property. Knowingly authorizing or proceeding with construction, or development requiring any variance, permit, certificate, or approval hereunder prior to its approval shall be considered such an act.

***Response: The applicant has not yet taken any action as it relates to the matter at hand. Construction of the facility has not begun.***

- 5. Preserve Rights Conferred by District:** A variance is necessary for the applicant to enjoy a substantial property right possessed by other properties in the same zoning district and does not confer a special privilege ordinarily denied to such other properties.

***Response: As stated above, the (2) other industrial developments above have 12' wide truck stalls. As such, the granting of this variance will not result in this property having a special privilege.***

- 6. Necessary for Use of Property:** The grant of a variance is necessary not because it will increase the applicant's economic return, although it may have this effect, but because without a variance the applicant will be deprived of reasonable use or enjoyment of, or reasonable economic return from, the property.

***Response: This variance is necessary because an industrial building containing truck dock stalls that are 14' wide is not marketable. All industrial facilities in the Chicagoland area have truck stall widths of 12'.***

- 7. Not Alter Local Character:** The granting of the variance will not alter the essential character of the locality nor substantially impair environmental quality, property values or public safety or welfare in the vicinity.

***Response: This variance has no impact on environmental quality, property values, public safety, or public welfare.***

- 8. Consistent with Title and Plan:** The granting of a variance will be in harmony with the general purpose and intent of this Title and of the general development plan and other applicable adopted plans of the Village, as viewed in light of any changed conditions since their adoption, and will not serve in effect to substantially invalidate or nullify any part thereof.

***Response: Granting this variance will not disrupt the intent of the Village Ordinance in any way, as no other section of the code relates to the truck stall width.***

9. **Minimum Variance Needed:** The variance approved is the minimum required to provide the applicant with relief from undue hardship or practical difficulties and with reasonable use and enjoyment of the property.

***Response: Since a 12' wide truck stall is industry standard, it is the minimum required variance in order to provide this property with relief from undue hardship and/or practical difficulties.***

Mr. Pozsgay stated Staff recommends the approval of the findings of fact as they appear above and therefor recommend approval of the requests with the following conditions:

1. The site plan, floor plan and elevations be in substantial compliance of the plans dated 10.30.17 by GMA Architects; and
2. Final detention calculations shall be prepared as required by the DuPage County Stormwater and Floodplain Ordinance (DCSFO effective April 2013) and submitted to the Village for approval; and
3. Applicant to install a 10-foot wide ADA complaint HMA bike path along the York Rd frontage of this site as part of this development; and
4. Applicant to work with staff on the design of the York Road façade; and
5. The final signage plan shall be subject to staff review upon final permitting; and
6. The final landscape plan shall be subject to staff review upon final permitting.

There were no questions from the Commissioners.

Motion: Commissioner Moruzzi made a motion to close CDC Case No. 2017-29. Commissioner Marcotte seconded the motion.

ROLL CALL: Ayes: Rowe, Ciula, Czarnecki, Moruzzi, Marcotte, King

Nays: None

All were in favor. Motion carried.

Chairman Rowe closed the Public Hearing at 6:46 p.m.

Motion: Commissioner King made a combined motion to approve the Findings of Fact for CDC Case no. 2017-29 as presented by Staff and to approve the

Rezoning from C – 4 Regional PUD Commercial District to I – 2 Light Industrial District, Municipal Code Sections 10 – 7D and 10 – 9B with Staff’s recommendations. Commissioner Marcotte seconded the motion.

ROLL CALL: Ayes: Rowe, Ciula, Czarnecki, Moruzzi, Marcotte, King

Nays: None

Motion: All were in favor. Motion carried.  
Commissioner Marcotte made a combined motion to approve the Findings of Fact for CDC Case no. 2017-29 as presented by Staff and to approve the Variance, Truck Loading Dock Width, Municipal Code Section 10 – 11 – 12D – 1a with Staff’s recommendations. Commissioner Moruzzi seconded the motion.

ROLL CALL: Ayes: Rowe, Ciula, Czarnecki, Moruzzi, Marcotte, King

Nays: None

Motion: All were in favor. Motion carried.  
Commissioner Marcotte made a combined motion to approve the Findings of Fact for CDC Case no. 2017-29 as presented by Staff and to approve the Preliminary & Final Plat of Consolidation with Staff’s recommendations. Commissioner King seconded the motion.

ROLL CALL: Ayes: Rowe, Ciula, Czarnecki, Moruzzi, Marcotte, King

Nays: None

Motion: All were in favor. Motion carried.  
Commissioner Marcotte made a combined motion to approve the Findings of Fact for CDC Case no. 2017-29 as presented by Staff and to approve the Site Plan Review with Staff’s recommendations. Commissioner Moruzzi seconded the motion.

ROLL CALL: Ayes: Rowe, Ciula, Czarnecki, Moruzzi, Marcotte, King

Nays: None

All were in favor. Motion carried.

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Ronald Rowe, Chairman  
Community Development Commission

**TYPE:**Ordinance**SUBMITTED BY:**K. Pozsgay**DEPARTMENT:**CED**DATE:**12.12.17**DESCRIPTION:**

Consideration of an Ordinance Approving a Conditional Use Permit, Currency Exchange for the applicant Conexion Latina BV Corp, located at 229 W Grand Ave Ste E.

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

Committee of the Whole

**DATE:**

12.12.17

**BACKGROUND:**

The Petitioner is seeking a Conditional Use Permit to provide Currency Exchange services at their existing location in Plaza de Campana. They currently operate a Boost Mobile Store.

**KEY ISSUES:**

1. The current business is a Boost Mobile store which would like to provide money transfers/international remittance services at his exiting business in Plaza de Campana.
2. The ordinance states that there cannot be any other currency exchange within 1,000 feet. The closest currency exchange is Illinois Currency Exchange at 101 W Grand Avenue just west of York Road, which is greater than 1,000 feet away.
3. There were two previous Conditional Use Permits approved for currency exchanges at this plaza, neither of which still exist. The most recent, Enbioxpress Illinois was recently approved for their new location at 469 W Irving Park Road.

**ALTERNATIVES:**

Discretion of the Committee of the Whole.

**RECOMMENDATION:**

- 1) The staff respectfully recommends that the Conditional Use be approved.
- 2) At the Public Hearing on December 5, 2017, the Community Development Commission voted unanimously (6-0) to recommend approval of the Requests with the conditions recommended by staff (attached). Motion passed.

**BUDGET IMPACT:**

n/a

**ACTION REQUIRED:**

Approval of an Ordinance granting Conditional Use Permit for the applicant Conexion Latina BV Corp, located at 229 W Grand Ave Ste E.



**ATTACHMENTS:**

<b><u>Description</u></b>	<b><u>Upload Date</u></b>	<b><u>Type</u></b>
Aerial & Zoning Maps	11/29/2017	Backup Material
Legal Notice	11/29/2017	Backup Material
Application	11/29/2017	Backup Material
Staff Report	11/29/2017	Executive Summary
Survey	11/29/2017	Backup Material
Ordinance	12/6/2017	Cover Memo

CDC#2017 - 30

229 W Grand Ave Ste E  
Conexion Latina BV Corp  
Conditional Use Permit; Currency Exchange



## Village of Bensenville

229 W Grand Av.



**LEGAL NOTICE/PUBLIC NOTICE  
NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that on Tuesday, December 5, 2017 at 6:30 P.M., the Community Development Commission of the Village of Bensenville, Du Page and Cook Counties, will hold a Public Hearing to review Case No. 2017 – 30 to consider a request for:

Conditional Use Permit, Currency Exchange,  
Municipal Code Section 10 – 7B – 3;

229 West Grand Avenue Suite E is in a C – 2 Highway Commercial District. The Public Hearing will be held in the Village Board Room at Village Hall, 12 S. Center Street, Bensenville, IL.

The Legal Description is as follows:

THE EASTERLY 855.83 FEET AS MEASURED ON THE NORTHERLY LINE (EXCEPT THE EASTERLY 579.00 FEET AS MEASURED ON THE NORTHERLY LINE THEREOF) OF LOT 4 IN WHITE PINES CENTER FOR BUSINESS AND INDUSTRY BEING A SUBDIVISION OF PART OF THE NORTH 1/2 OF SECTION 26. TOWNSHIP 40 NORTH RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 7, 1977 AS DOCUMENT R77-102033. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 4.

THENCE SOUTH 88°48'23" WEST. A DISTANCE OF 579.00 FEET ALONG THE NORTHERLY LINE OF SAID LOT 4 TO THE POINT OF BEGINNING.

THENCE SOUTH 00°06'25" EAST. A DISTANCE OF 354.75 FEET.

THENCE SOUTH 86°43'32" WEST. A DISTANCE OF 102.81 FEET.

THENCE SOUTH 88°38'05" WEST. A DISTANCE OF 173.97 FEET.

THENCE NORTH 00°06'23" WEST. A DISTANCE OF 359.00 FEET ALONG THE WESTERLY LINE OF THE EASTERLY 855.63 FEET OF SAID LOT 4.

THENCE NORTH 88°48'23" EAST. A DISTANCE OF 276.63 TO THE POINT OF BEGINNING IN DUPAGE COUNTY, ILLINOIS.

Commonly known as 229 West Grand Avenue, Bensenville, IL 60106.

Mid Northern Holdings is the owner and Conexion Latina BV Corp the applicant for the subject property.

Any individual with a disability requiring a reasonable accommodation in order to participate in any public meeting held under the authority of the Village of Bensenville should contact the Village Clerk, Village of Bensenville, 12 S. Center St., Bensenville, IL 60106, (630) 766-8200, at least three (3) days in advance of the meeting.

Applicant's application and supporting documentation may be examined by any interested parties in the office of the Community and Economic Development Department, Monday through Friday, in the Village Hall, 12 South Center Street, Bensenville, IL 60106. All interested parties may attend and will be heard at the Public Hearing. Written comments will be accepted by the Community and Economic Development Department through December 5, 2017 until 5:00 P.M.

Office of the Village Clerk  
Village of Bensenville

**TO BE PUBLISHED IN THE BENSENVILLE INDEPENDENT**  
**November 16, 2017**

For Office Use Only		
Date of Submission: <u>11-10-17</u>	MUNIS Account #: _____	CDC Case #: <u>2017-30</u>

### COMMUNITY DEVELOPMENT COMMISSION APPLICATION

Address: 229 W. Grand Ave. Unit E Bensenville, IL

Property Index Number(s) (PIN): \_\_\_\_\_

**A. PROPERTY OWNER:**


MID-NORTHERN HOLDINGS, LLC  
Name Corporation (if applicable)

977 N. Oaklawn Ave. Suite 62  
Street

E/mburst, IL 60126  
City State Zip Code

EMIN TULUCE 773-983-8552  
Contact Person Telephone Number & Email Address

If Owner is a Land Trust, list the names and addresses of the beneficiaries of the Trust.

Property Owner Signature:  Date: Sep. 3rd, 2017

**B. APPLICANT:** ☐ Check box if same as owner

Conexion Latina BV Corp  
Name Corporation (if applicable)

229 W Grand Ave Suite 2  
Street

Bensenville IL 60106  
City State Zip Code

Eliseo Chavez 224-600-9394 eliseolatinasmusical@gmail.com  
Contact Person Telephone Number & Email Address

Tenant  
Relationship of Applicant to subject property

Applicant Signature:  Date: 9-3-17

**C. ACTION REQUESTED (Check applicable):**

- ☐ Annexation
- ☒ Conditional Use Permit
- ☐ Master Sign Plan
- ☐ Planned Unit Development\*\*
- ☐ Plat of Subdivision
- ☐ Rezoning (Map Amendment)
- ☐ Site Plan Review
- ☐ Variance

\*Item located within this application packet.

\*\*See staff for additional information on PUD requests

**SUBMITTAL REQUIREMENTS (1 original & 1 copy of each):**

- ☐ Affidavit of Ownership\* (signed/notarized)
- ☐ Application\*
- ☐ Approval Criteria
- ☐ Legal Description of Property
- ☐ Plat of Survey
- ☐ Site Plan
- ☐ Building Plans & Elevations
- ☐ Engineering Plans
- ☐ Landscape Plan
- ☐ Review Fee (Application Fee + Escrow)
- ☐ Escrow agreement and deposit\*
- ☐ Digital Submission of all application materials (CD)

**Brief Description of Request(s):** (Submit separate sheet if necessary)

Requesting permit to do Money Transfers (International Remittance)

**D. PROJECT DATA:**

1. General description of the site: Neighborhood Retail Center
2. Acreage of the site: \_\_\_\_\_ Building Size (if applicable): 39,000 sf
3. Is this property within the Village limits? (Check applicable below)
  - ☒ Yes
  - ☐ No, requesting annexation
  - ☐ No, it is under review by another governmental agency and requires review due to 1.5 mile jurisdiction requirements.
4. List any controlling agreements (annexation agreements, Village Ordinances, site plans, etc.)

**5. Character of the site and surrounding area:**

	Zoning	Existing Land Use	Jurisdiction
Site:	<u>C-2</u>		<u>Bensenville</u>
North:	<u>I-2</u>		<u>Bensenville</u>
South:			<u>Elmhurst</u>
East:	<u>C-2</u>		<u>Bensenville</u>
West:	<u>C-2</u>		<u>Bensenville</u>

**E. DEVELOPER'S STAFF (if applicable):**

**ARCHITECT**

Name: \_\_\_\_\_  
 Telephone: \_\_\_\_\_  
 Email: \_\_\_\_\_

**ENGINEER:**

Name: \_\_\_\_\_  
 Telephone: \_\_\_\_\_  
 Email: \_\_\_\_\_

**ATTORNEY**

Name: \_\_\_\_\_  
 Telephone: \_\_\_\_\_  
 Email: \_\_\_\_\_

**OTHER**

Name: \_\_\_\_\_  
 Telephone: \_\_\_\_\_  
 Email: \_\_\_\_\_

**F. APPROVAL CRITERIA:**

The applicant must compose a letter describing how the request(s) specifically meets the individual criteria from the Approval Criteria. The CDC will be unable to recommend approval of a request without a response to the pertinent "Approval Criteria."





### **STAFF REPORT**

**HEARING DATE:** December 5, 2017  
**CASE #:** 2017 – 30  
**PROPERTY:** 229 West Grand Avenue Suite E  
**PROPERTY OWNER:** Mid Northern Holdings  
**APPLICANT:** Conexion Latina BV Corp  
**SITE SIZE:** 98,000 SF  
**BUILDING SIZE:** 32,500 SF  
**PIN NUMBERS:** 03-26-208-014  
**ZONING:** C – 2 Highway Commercial District  
**REQUEST:** Conditional Use Permit, Currency Exchange  
Municipal Code Section 10 – 7B – 3

### **PUBLIC NOTICE:**

1. A Legal Notice was published in the Bensenville Independent on Thursday November 16, 2017. A Certified copy of the Legal Notice is maintained in the CDC file and is available for viewing and inspection at the Community & Economic Development Department during regular business hours.
2. Village personnel posted two Notice of Public Hearing signs on the property, visible from the public way on Thursday November 16, 2017.
3. On Thursday November 16, 2017, Village personnel mailed from the Bensenville Post Office via First Class Mail a Notice of Public Hearing to taxpayers of record within 250' of the property in question. An Affidavit of Mailing executed by C & ED personnel and the list of recipients are maintained in the CDC file and are available for viewing and inspection at the Community & Economic Development department during regular business hours.

### **SUMMARY:**

The Petitioner is seeking a Conditional Use Permit to include Currency Exchange services (money transfers/international remittance) at his exiting business in Plaza de Campana. The current business is a Boost Mobile store. The ordinance states that there cannot be any other currency exchange within 1,000 feet. The closest currency exchange is Illinois Currency Exchange at 101 W Grand Avenue just west of York Road, which is greater than 1,000 feet away. There were two previous Conditional Use Permits approved for currency exchanges at this plaza, neither of which still exist. The most recent, Enbioxpress Illinois was recently approved for their new location at 469 W Irving Park Road.

**SURROUNDING LAND USES:**

	<b>Zoning</b>	<b>Land Use</b>	<b>Comprehensive Plan</b>	<b>Jurisdiction</b>
<b>Site</b>	C – 2	Commercial	Local Commercial	Village of Bensenville
<b>North</b>	I – 2	Industrial	Industrial	Village of Bensenville
<b>South</b>	C – 3	Commercial	General Commercial	City of Elmhurst
<b>East</b>	C – 2	Commercial	Local Commercial	Village of Bensenville
<b>West</b>	C – 2	Commercial	Local Commercial	Village of Bensenville

**DEPARTMENT COMMENTS:*****SUPPORTS THE FOLLOWING APPLICABLE VILLAGE GOALS:***

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

Finance:

Past due by one billing cycle \$48.14 as of 11.15.17.

Police:

No police issues.

Engineering and Public Works:

No comments.

Community & Economic Development:

Economic Development:

No comment.

Fire Safety:

No comments.

Building:

Building has no comments at this time.

Planning:

- 1) The 2015 Comprehensive Plan indicates “Local Commercial” for this property.
- 2) Code requires that smoke shops are 1,000 feet from another currency exchange. The nearest school and smoke shop are greater than 1,000 feet from this location.
- 3) The closest currency exchange is Illinois Currency Exchange at 101 W Grand Avenue just west of York Road, which is greater than 1,000 feet away.
- 4) There were two previous Conditional Use Permits approved for currency exchanges at this plaza, neither of which still exist. The most recent, Enbioxpress Illinois was recently approved for their new location at 469 W Irving Park Road.



### **APPROVAL CRITERIA FOR CONDITIONAL USES:**

The Community Development Commission shall not recommend approval of the Conditional Use Permit without determining that the request meets the following approval criteria and making certain findings of fact. The Applicant has provided 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.

*Applicant's Response: There will be no adverse impact on traffic. There are already several retail spaces and there was a prior business doing this but have moved out of plaza.*

- 2. Environmental Nuisance:** The proposed use 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 the historic use of the property or permitted uses in the district.

*Applicant's Response: There will not be any environmental nuisance that is different or more than any other tenant in shopping center nor surrounding area.*

- 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.

*Applicant's Response: The proposed use will fit harmoniously with the existing character of the shopping center and contribute to all business in area.*

- 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.

*Applicant's Response: The proposed use will not put a strain or disproportionate strain on public services beyond what is normally provided.*

- 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.

*Applicant's Response: The people in the Village of Bensenville need this type of services, they were already provided by a prior business that relocated.*

- 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.

*Applicant's Response: We are already invested in two business in Bensenville, both location would make any city proud as far as look, ambient and service. We will remodel this space into a worth business for the people of Bensenville.*

	<b>Meets Criteria</b>	
<b>Conditional Use Approval Criteria</b>	Yes	No
1. Traffic	X	
2. Environmental Nuisance	X	
3. Neighborhood Character	X	
4. Public Services and Facilities	X	
5. Public Necessity	X	
6. Other Factors	X	

### **RECOMMENDATIONS:**

Staff recommends the Approval of the above Findings of Fact and therefore the Approval of the Conditional Use Permit for Conexion Latina BV Corp with the following condition:

1. The Conditional Use Permit be granted solely to the Conexion Latina BV Corp and shall be transferred only after a review by the Community Development Commission (CDC) and approval of the Village Board. In the event of the sale or lease of this property, the proprietors shall appear before a public meeting of the CDC. The CDC shall review the request and in its sole discretion, shall either; recommend that the Village Board approve of the transfer of the lease and / or ownership to the new proprietor without amendment to the Conditional Use Permit, or if the CDC deems that the new proprietor contemplates a change in use which is inconsistent with the Conditional Use Permit, the new proprietor shall be required to petition for a new public hearing before the CDC for a new Conditional Use Permit.

Respectfully Submitted,  
Department of Community  
& Economic Development



PART OF  
LOT 9

PART OF  
LOT 9

**UNITED SURVEY SERVICE, LLC**  
CONSTRUCTION AND LAND SURVEYORS  
9581 ELMS TERRACE, DES PLAINES, IL 60016  
TEL: (847) 299-1010 FAX: (847) 299-5887  
E-MAIL: USURVEY@IX.NETCOM.COM

# ALTA / ACSM LAND TITLE SURVEY

THIS SURVEY IS MADE FOR THE BENEFIT OF:

FIRST AMERICAN TITLE INSURANCE COMPANY  
COMMITMENT NO. 1229360  
EFFECTIVE DATE: APRIL 27, 2006

COLUMB FINANCIAL, INC., AS COLLATERAL AGENT (AND ITS SUCCESSORS AND ASSIGNS) FOR THE BENEFIT OF THE HOLDER OR HOLDERS OF THE A NOTE AND THE B NOTE AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS

DAVID L. ARGUILLA

THE UNDERSIGNED, ROY G. LAWNCZAK, PROFESSIONAL LAND SURVEYOR NO. 35-2290 DOES HEREBY CERTIFY TO THE AFORESAID PARTIES AS OF THE DATE SET FORTH BELOW THAT I HAVE MADE A CAREFUL SURVEY OF A TRACT OF LAND DESCRIBED AS FOLLOWS:

THE EASTERLY 855.83 FEET AS MEASURED ON THE NORTHERLY LINE (EXCEPT THE EASTERLY 579.00 FEET AS MEASURED ON THE NORTHERLY LINE THEREOF) OF LOT 4 IN WHITE PINES CENTER FOR BUSINESS AND INDUSTRY, BEING A SUBDIVISION OF PART OF THE NORTH 1/2 OF SECTION 26, TOWNSHIP 40 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 7, 1977 AS DOCUMENT R77-102033. MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 4;  
THENCE SOUTH 88°48'23" WEST, A DISTANCE OF 579.00 FEET ALONG THE NORTHERLY LINE OF SAID LOT 4, TO THE POINT OF BEGINNING;  
THENCE SOUTH 00°30'25" EAST, A DISTANCE OF 354.75 FEET;  
THENCE SOUTH 86°43'33" WEST, A DISTANCE OF 102.81 FEET;  
THENCE SOUTH 88°38'05" WEST, A DISTANCE OF 173.97 FEET;  
THENCE NORTH 00°00'00" WEST, A DISTANCE OF 359.00 FEET ALONG THE WESTERLY LINE OF THE EASTERLY 855.83 FEET OF SAID LOT 4;  
THENCE NORTH 88°48'23" EAST, A DISTANCE OF 276.63, TO THE POINT OF BEGINNING IN DUPAGE COUNTY, ILLINOIS.

KNOWN AS: 229 W. GRAND AVENUE, BENSENVILLE, ILLINOIS

PERMANENT INDEX NUMBER: 03 - 26 - 208 - 014

AREA: 99,002 SQ. FT. OR 2.273 ACRES

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH ALL APPLICABLE LAWS REGULATING SURVEYING IN THE STATE OF ILLINOIS AND WITH THE MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA / ACSM LAND TITLE SURVEYS JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS IN 2005, AND INCLUDES ITEMS 1, 2, 3, 4, 5, 7(a)(1)&(2), 8, 9, 10, 11a, 13 AND 14 OF TABLE THEREOF PURSUANT TO THE ACCURACY STANDARDS AS ADOPTED BY ALTA AND NSPS AND IN EFFECT ON THE DATE OF THIS CERTIFICATION. THE UNDERSIGNED FURTHER CERTIFIES THAT, IN MY PROFESSIONAL OPINION, AS A LAND SURVEYOR REGISTERED IN THE STATE OF ILLINOIS, THE RELATIVE POSITIONAL ACCURACY OF THIS SURVEY DOES NOT EXCEED THAT WHICH IS SPECIFIED THEREIN.

THE ACCOMPANYING SURVEY WAS MADE ON THE GROUND AND CORRECTLY SHOWS THE LOCATION OF ALL BUILDINGS, STRUCTURES AND OTHER IMPROVEMENTS SITUATED ON THE SUBJECT PROPERTY. THERE ARE NO VISIBLE ENCROACHMENTS ON THE SUBJECT PROPERTY OR UPON ADJACENT LAND ABUTTING SUBJECT PROPERTY EXCEPT AS SHOWN HEREON, AND THERE ARE NO PARTY WALLS.

THE SUBJECT PROPERTY IS THE SAME AS THE PROPERTY DESCRIBED IN THAT CERTAIN TITLE COMMITMENT NO. 1229360 ISSUED BY FIRST AMERICAN TITLE INSURANCE COMPANY WITH AN EFFECTIVE DATE OF SEPTEMBER 14, 2005 AND THAT ALL EASEMENTS, COVENANTS AND RESTRICTIONS REFERENCED IN SAID TITLE COMMITMENT OR APPARENT FROM PHYSICAL INSPECTION OF THE SUBJECT PROPERTY OR OTHERWISE KNOWN TO ME HAVE BEEN PLOTTED HEREON OR OTHERWISE NOTED AS TO THEIR EFFECT ON THE SUBJECT PROPERTY. THE SUBJECT PROPERTY DOES NOT LIE WITHIN A SPECIAL FLOOD HAZARD AREA AS DEFINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY. THE SUBJECT PROPERTY IS LOCATED WITHIN AN AREA HAVING A FLOOD ZONE DESIGNATION OF ZONE X: AREAS DETERMINED TO BE OUTSIDE THE 500-YEAR FLOOD PLAIN BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) ON FLOOD INSURANCE RATE MAP NO. 170200 0003 C, WITH A DATE OF IDENTIFICATION OF MARCH 2, 1993, FOR COMMUNITY OF BENSENVILLE, PANEL 3 OF 3, IN DUPAGE COUNTY, STATE OF ILLINOIS, WHICH IS THE CURRENT FLOOD INSURANCE RATE MAP FOR THE COMMUNITY IN WHICH THE SUBJECT PROPERTY IS SITUATED. THE ADDRESS OF THE SUBJECT PROPERTY IS 229 W. GRAND AVENUE, BENSENVILLE, ILLINOIS.

THE SUBJECT PROPERTY HAS DIRECT ACCESS TO GRAND AVENUE, A DEDICATED PUBLIC STREET OR HIGHWAY. THE WIDTHS OF ALL ADJACENT RIGHTS-OF-WAY ARE INDICATED BY PERPENDICULAR ARROWS ON THE SURVEY DRAWING TO CONFIRM THAT THE SUBJECT PROPERTY IS TIED TO SAME. THE TOTAL NUMBER OF STRIPED PARKING SPACES ON THE SUBJECT PROPERTY IS 144, INCLUDING 6 DESIGNATED HANDICAP SPACES.

DES PLAINES, ILLINOIS, APRIL 28, AD 2006

BY: *Roy G. Lawnczak*  
ROY G. LAWNCZAK, REGISTERED ILLINOIS LAND SURVEYOR NO. 35-2290  
PROFESSIONAL DESIGN FIRM LICENSE NO. 184-004576

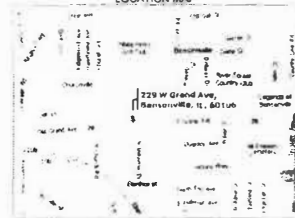
PART OF  
LOT 4

PART OF  
LOT 4

INDUSTRIAL DRIVE  
BY ROW HERETOFORE DEDICATED

W. GRAND AVENUE  
HERETOFORE DEDICATED FOR PUBLIC STREET  
(ROW VARIES)

LOCATION MAP



LEGEND

- SANITARY MANHOLE
- CATCH BASIN / INLET
- INLET
- MANHOLE
- WATER VALVE VAULT
- LIGHT POLE
- WIND TURBINE POLE
- ELECTRIC METER
- GAS METER
- CALIB. BOX
- GUARD POST (80" SP)
- TRAFFIC SIGN

ORDERED BY: JOHN T. GONNELLA ATTORNEY AT LAW	
SCALE: 1" = 30'	
DATE: MARCH 28, 2006	
FILE NO.: 2006-15572	
DATE: 04/28/06	REVISED:
DATE:	REVISION:

**ORDINANCE # \_\_\_\_\_**

**AN ORDINANCE APPROVING CONDITIONAL USE TO ALLOW  
A CURRENCY EXCHANGE FOR THE PROPERTY LOCATED AT  
229 WEST GRAND AVENUE SUITE E, BENSENVILLE, ILLINOIS**

**WHEREAS**, Mid Northern Holdings (“Owner”) and Conexion Latina BV Corp (“Applicant”), filed an application for approval of conditional use permit to allow for a currency exchange in a commercial zoning district as set forth in Section 10 – 7B – 3 of the Village of Bensenville Zoning Ordinance (“Zoning Ordinance”) for the property located at 229 W. Grand Avenue Ste. E, Bensenville, as legally described in Exhibit "A," attached hereto and incorporated herein by reference (the “Subject Property”), a copy of said application being contained on file in the Community and Economic Development Department; and

**WHEREAS**, Notice of Public Hearing with respect to the conditional use sought by the Applicant was published in the Bensenville Independent on November 16, 2017 by the Village of Bensenville, and notice was also given via posting of a Public Hearing Sign on the Subject Property and via First Class mail to taxpayers of record within 250 feet of the Subject Property, 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 Continued Public Hearing on December 5, 2017 as required by the statutes of the State of Illinois and the ordinances of the Village; and

**WHEREAS**, after hearing the application, the Community Development Commission agreed with the findings of fact submitted by Applicant recommending approval of the conditional use and, thereafter, voted unanimously (6-0) to recommend approval of the conditional use, and forwarded its recommendations, including the Staff Report and findings relative to the conditional use to the Village Board Committee of the Whole, which concurred in the recommendation made therein, as are attached hereto and incorporated herein by reference as Exhibit "B"; and

**WHEREAS**, on December 12, 2017 the Village Board Committee of the Whole then forwarded its recommendation, along with that of the Community Development Commission, to the President and Board of Trustees; and

**WHEREAS**, the President and Board of Village Trustees have reviewed the matter herein and have determined that approval of the requested conditional use as recommended by the

Community Development Commission to allow a currency exchange is consistent with the Zoning Ordinance.

**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 Subject Property is currently zoned under the Zoning Ordinance as C – 2 Highway Commercial District, which zoning classification shall remain in effect subject to the variance denied herein.

**SECTION THREE:** That the Staff Report and Recommendation to approve the conditional use sought, as allowed by the Zoning Ordinance, Section 10 – 7B – 3, as adopted by the Community Development Commission as shown in Exhibit “B” is hereby adopted by the President and Board of Trustees, the Board of Trustees finding that the approval of said conditional use are proper and necessary.

**SECTION FOUR:** That the conditional use sought by the Applicant to allow a smoke shop on the Subject Property is hereby approved subject to the following condition:

1. The Conditional Use Permit be granted solely to the Conexion Latina BV Corp and shall be transferred only after a review by the Community Development Commission (CDC) and approval of the Village Board. In the event of the sale or lease of this property, the proprietors shall appear before a public meeting of the CDC. The CDC shall review the request and in its sole discretion, shall either; recommend that the Village Board approve of the transfer of the lease and / or ownership to the new proprietor without amendment to the Conditional Use Permit, or if the CDC deems that the new proprietor contemplates a change in use which is inconsistent with the Conditional Use Permit, the new proprietor shall be required to petition for a new public hearing before the CDC for a new Conditional Use Permit.

**SECTION SIX:** That all other ordinances and resolutions, or parts thereof, in conflict with the provisions of this Ordinance, are, to the extent of such conflict, expressly repealed.

**SECTION SEVEN:** 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 12th day of December 2017.

\_\_\_\_\_  
Frank DeSimone, Village President

ATTEST:

\_\_\_\_\_  
Nancy Quinn, Village Clerk

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

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

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

**Ordinance # \_\_\_\_\_ - 2017**  
**Exhibit "A"**  
**Legal Description**

The Legal Description is as follows:

THE EASTERLY 855.83 FEET AS MEASURED ON THE NORTHERLY LINE (EXCEPT THE EASTERLY 579.00 FEET AS MEASURED ON THE NORTHERLY LINE THEREOF) OF LOT 4 IN WHITE PINES CENTER FOR BUSINESS AND INDUSTRY BEING A SUBDIVISION OF PART OF THE NORTH 1/2 OF SECTION 26. TOWNSHIP 40 NORTH RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 7, 1977 AS DOCUMENT R77-102033. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 4.

THENCE SOUTH 88°48'23" WEST. A DISTANCE OF 579.00 FEET ALONG THE NORTHERLY LINE OF SAID LOT 4 TO THE POINT OF BEGINNING.

THENCE SOUTH 00°06'25" EAST. A DISTANCE OF 354.75 FEET.

THENCE SOUTH 86°43'32" WEST. A DISTANCE OF 102.81 FEET.

THENCE SOUTH 88°38'05" WEST. A DISTANCE OF 173.97 FEET.

THENCE NORTH 00°06'23" WEST. A DISTANCE OF 359.00 FEET ALONG THE WESTERLY LINE OF THE EASTERLY 855.63 FEET OF SAID LOT 4.

THENCE NORTH 88°48'23" EAST. A DISTANCE OF 276.63 TO THE POINT OF BEGINNING IN DUPAGE COUNTY, ILLINOIS.

Commonly known as 229 West Grand Avenue, Bensenville, IL 60106.

**Ordinance # \_\_\_\_ - 2017**  
**Exhibit “B”**  
**Findings of Fact**

Mr. Pozsgay reviewed the approval criteria for the proposed request consisting of:

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.

***Applicant’s Response: There will be no adverse impact on traffic. There are already several retail spaces and there was a prior business doing this but have moved out of plaza.***

2. **Environmental Nuisance:** The proposed use 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 the historic use of the property or permitted uses in the district.

***Applicant’s Response: There will not be any environmental nuisance that is different or more than any other tenant in shopping center nor surrounding area.***

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.

***Applicant’s Response: The proposed use will fit harmoniously with the existing character of the shopping center and contribute to all business in area.***

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.

***Applicant’s Response: The proposed use will not put a strain or disproportionate strain on public services beyond what is normally provided.***

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.

***Applicant's Response: The people in the Village of Bensenville need this type of services, they were already provided by a prior business that relocated.***

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.

***Applicant's Response: We are already invested in two business in Bensenville, both location would make any city proud as far as look, ambient and service. We will remodel this space into a worth business for the people of Bensenville.***

Mr. Pozsgay stated Staff recommends the approval of the findings of fact as they appear above and therefor recommend approval of the request with the following condition:

1. The Conditional Use Permit be granted solely to the Conexion Latina BV Corp and shall be transferred only after a review by the Community Development Commission (CDC) and approval of the Village Board. In the event of the sale or lease of this property, the proprietors shall appear before a public meeting of the CDC. The CDC shall review the request and in its sole discretion, shall either; recommend that the Village Board approve of the transfer of the lease and / or ownership to the new proprietor without amendment to the Conditional Use Permit, or if the CDC deems that the new proprietor contemplates a change in use which is inconsistent with the Conditional Use Permit, the new proprietor shall be required to petition for a new public hearing before the CDC for a new Conditional Use Permit.

There were no questions from the Commissioners.

Motion: Commissioner Moruzzi made a motion to close CDC Case No. 2017-30. Commissioner Marcotte seconded the motion.

ROLL CALL: Ayes: Rowe, Ciula, Czarnecki, Moruzzi, Marcotte, King

Nays: None

All were in favor. Motion carried.

Chairman Rowe closed the Public Hearing at 6:56 p.m.

Motion: Commissioner Marcotte made a combined motion to approve the Findings of Fact for CDC Case no. 2017-30 as presented by Staff and to approve the Conditional Use Permit request for a currency exchange with Staff's recommendations. Commissioner King seconded the motion.

ROLL CALL: Ayes: Rowe, Ciula, Czarnecki, Moruzzi, Marcotte, King

Nays: None

All were in favor. Motion carried.

---

Ronald Rowe, Chairman  
Community Development Commission

**TYPE:**Resolution**SUBMITTED BY:**S. Viger**DEPARTMENT:**Community & Economic  
Development**DATE:**12.12.17**DESCRIPTION:**Consideration of a Resolution Authorizing the Sale of Surplus Property on Brookwood and Pleasant Streets  
and Adjacent Rights-Of-Way**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 checked="" type="checkbox"/>	Major Business/Corporate Center
<input type="checkbox"/>	Safe and Beautiful Village	<input checked="" type="checkbox"/>	Vibrant Major Corridors

**COMMITTEE ACTION:**

Committee of the Whole

**DATE:**

12.12.17

**BACKGROUND:**

1. The assemblage and redevelopment of this area was identified in the 2013 Comprehensive Economic Development Strategy (CEDS).
2. In November the Village Board authorized the Village Manager to obtain a contract proposal for the sale of the surplus property.

**KEY ISSUES:**

1. These properties are within Tax Increment Finance District 12 and returning them to the tax roll and their development will have a positive impact on the TIF District and the Village.
2. The Purchaser has plans to erect a 188,000 square foot industrial facility that mimics the vision presented in the CEDS.
3. The purchase price is significantly higher than the price the Village paid to acquire the property over the past several years.
4. The purchase price is higher than the price identified in a recent appraisal report.

**ALTERNATIVES:**

Discretion of the Committee.

**RECOMMENDATION:**

Staff respectfully recommends approval of the Resolution and the sale of the surplus property.

**BUDGET IMPACT:**

Purchase price is \$1,654,971.00

**ACTION REQUIRED:**

Approval of the attached Resolution.

**ATTACHMENTS:**

<u>Description</u>	<u>Upload Date</u>	<u>Type</u>
Aerial and Zoning Map	12/6/2017	Backup Material
Resolution	12/7/2017	Resolution Letter



CDC#2017 – 29

220 N York Rd  
Village of Bensenville  
Rezoning, Site Plan Review, Plat of Consolidation,  
and Variance, Truck dock Width from 14' to 12'

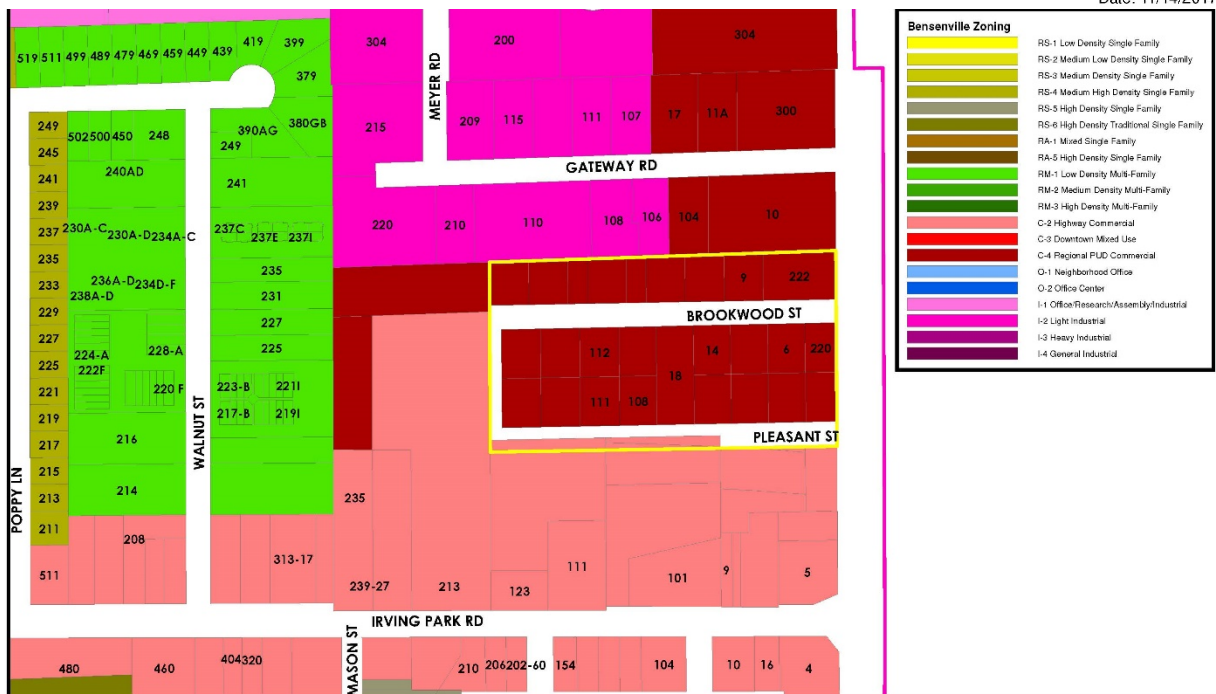


# Village of Bensenville

220 N York



Date: 11/14/2017



**RESOLUTION NUMBER \_\_\_\_\_**

**A RESOLUTION OF THE VILLAGE OF BENSENVILLE, DUPAGE AND COOK  
COUNTIES, ILLINOIS AUTHORIZING THE SALE OF SURPLUS REAL PROPERTY  
ON BROOKWOOD AND PLEASANT STREETS AND ADJACENT RIGHTS-OF-WAY**

---

**WHEREAS**, the Village of Bensenville, DuPage and Cook Counties, Illinois (the "*Village*") is a duly organized and existing municipal corporation created under the provisions of the laws of the State of Illinois and under the provisions of the Illinois Municipal Code, as from time to time supplemented and amended; and

**WHEREAS**, the Village is the record-title owner of certain parcels of vacant and undeveloped property in Bensenville, Illinois, commonly known as 6 Brookwood Street, identified by PIN 03-14-208-008-0000 and 11,959 square feet in size; 10 Brookwood Street, identified by PIN 03-04-208-007-0000 and 11,959 square feet in size; 18 Brookwood Street, identified by PIN 03-04-208-019-0000 and 23,917 square feet in size; and, 108 Brookwood Street, identified by PIN 03-04-208-004-0000 and 11,959 square feet in size (collectively the "*Vacant Parcels*"), which are further depicted and legally described on Exhibit A, a copy of which is attached hereto and made a part hereof; and

**WHEREAS**, the Village is also the record-title owner of certain portions of three dedicated and interconnecting undeveloped rights-of-way in Bensenville, Illinois, adjacent to the Vacant Parcels, and commonly known as the Brookwood Street Right-of-Way, 24,339 square feet in size; the Pleasant Street Right-of-Way, 36,232 square feet in size; and, the Addison Right-of-Way, 7,419 square feet in size, which extends between the Brookwood Street Right-of-Way to the north and the Pleasant Street Right-of-Way to the south (collectively the "*Right-of-Way Parcels*"),

which are further depicted and described on Exhibit A, a copy of which is attached hereto and made a part hereof; and

**WHEREAS**, the Vacant Parcels and Right-of-Way Parcels shall hereinafter collectively be known as the “*Property*”; and

**WHEREAS**, the Village President and Board of Trustees of the Village of Bensenville (the “*Corporate Authorities*”) find that the Property serves no public use to the residents of the Village, inhibits future development and unnecessarily deprives the Village, township, county, park, local school districts and other taxing bodies from realizing any real estate taxes while simultaneously creating an area of blight conducive to illegal dumping and the proliferation of criminal activities; and

**WHEREAS**, the Corporate Authorities further find that the Property is no longer necessary, appropriate, required for the use of, profitable to or serve any viable use to the Village and that the sale of the Property will eliminate burdensome maintenance cost and generate needed tax revenue for use in the general fund of the Village; and

**WHEREAS**, 65 ILCS 5/11-76-4.1 of the Illinois Municipal Code sets forth a statutory process for the sale of municipal owned real property through the utilization of a written certified appraisal; and

**WHEREAS**, the Village ascertained two appraisals on the Property, identified as the 6, 10, 18 and 108 Brookwood Street, Bensenville, Illinois,” dated October 9, 2017, and the “*Brookwood, Addison and Pleasant Rights-of-Way, Bensenville, Illinois,*” dated October 9, 2017, which were both prepared by an Illinois certified real estate appraiser (collectively known as the “*Appraisals*”); and

**WHEREAS**, the Appraisal for the 6, 10, 18 and 108 Brookwood Street, Bensenville,



*Illinois* determined the appraised value of the Vacant Parcels to be \$525,000.00 and the Appraisal for the *Brookwood, Addison and Pleasant Rights-of-Way, Bensenville, Illinois*, determined the appraised value of the Right-of-Way Parcels to be \$610,000.00 (collectively the “*Appraised Value*”); and

**WHEREAS**, copies of the Appraisals have been and remain available for public inspection or copying in the office of the Village Clerk of the Village of Bensenville and have been and remain available for public inspection or copying on the Village’s website at [www.bensenville.il.us](http://www.bensenville.il.us); and

**WHEREAS**, on November 23, 2017, the Village published in a newspaper of general circulation in the Village a copy of Resolution Number R-134-2017, dated November 14, 2017, which authorized the Village Manager to negotiate and obtain a contract proposal for the sale of the Property; and

**WHEREAS**, the Corporate Authorities find that it is in the best interest of the Village to convey the Property to DRG Brookwood Street, LLC, 921 Busse Road, Elk Grove Village, Illinois (the “*Developer*”) at the purchase price of \$1,654,971.00 (the “*Purchase Price*”), which exceeds the Appraised Value of the Property; and

**WHEREAS**, the Village and Developer desire to enter into an *Agreement for Purchase and Sale of Real Estate by and between DRG Brookwood Street, LLC and the Village of Bensenville* (the “*Agreement*”), a copy of which is attached hereto and made a part hereof, as Exhibit B, for purposes of conveying the Property to Developer in consideration of the payment of the Purchase Price; and



**WHEREAS**, the Corporate Authorities have determined it is in the best interests of the Village to sell the Property pursuant to the Agreement, and in accordance with 65 ILCS 5/11-76-4.1 of the Illinois Municipal Code.

**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 1.** That the above recitals and legislative findings are found to be true and correct and are hereby incorporated herein and made a part hereof, as if fully set forth in their entirety.

**Section 2.** That the conveyance and sale of the Property by the Village to the Developer for and in consideration of the Purchase Price, and subject to the conditions set forth herein, is hereby authorized and directed by the Corporate Authorities. That it is in the best interest of the Village to enter into the *Agreement for Purchase and Sale of Real Estate by and between DRG Brookwood Street, LLC and the Village of Bensenville*, a copy of which is attached hereto and made a part hereof as Exhibit B; and that the Agreement is hereby approved substantially in the form presented to this Board of Trustees, with such necessary changes as may be authorized by the Village Manager, the execution and delivery thereof by the Village President to constitute the authorization and approval of the Corporate Authorities of any and all changes or revisions therein contained.

**Section 3.** The Village President, Village Clerk, Village Manager and Village Attorney are hereby authorized to undertake any and all actions and execute any and all documents required to complete the conveyance of the Property.

**Section 4.** The officials and officers of the Village are hereby authorized to undertake actions on the part of the Village as contained in the Agreement to complete satisfaction of the

provisions, terms or conditions stated therein.

**Section 5.** The Village Clerk is hereby authorized and directed to publish a copy of this Resolution at the first opportunity following its passage and approval in a newspaper published within the Village.

**Section 6.** If any section, paragraph, clause or provision of this Resolution shall be held invalid, the invalidity thereof shall not affect any other provision of this Resolution.

**Section 7.** All ordinances, resolutions, motions or orders in conflict with this Resolution are hereby repealed to the extent of such conflict.

**Section 8.** This Resolution shall be in full force and effect immediately after its passage and publication as required by law.

*(Intentionally Left Blank)*

**PASSED AND APPROVED** by the President and Board of Trustees of the Village of Bensenville, DuPage and Cook Counties, Illinois, this \_\_\_\_\_ day of December 2017.

APPROVED:

\_\_\_\_\_  
Frank DeSimone, Village President

ATTEST:

\_\_\_\_\_  
Nancy Quinn, Village Clerk

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

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

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

Exhibit A

Vacant Parcels and  
Right-of-Way Parcels

EXHIBIT A

Pin Number: 03-14-208-004

LOT 13 IN BENSENVILLE HOME GARDENS, A SUBDIVISION OF LOT 1 IN C.A. FRANZEN'S SUBDIVISION OF THE EAST 20.15 CHAIN OF THAT PART OF THE NORTHEAST  $\frac{1}{4}$  OF SECTION 14, TOWNSHIP 40 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NORTH OF THE CENTER OF IRVING PARK BOULEVARD AND SOUTH OF THE NORTH 461.77 FEET THEREOF, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 10, 1924 IN BOOK 11 OF PLATS, PAGE 35, AS DOCUMENT 178806, IN DUPAGE COUNTY, ILLINOIS.

Pin Number: 03-14-208-007

PARCEL 2: LOT 16 IN BENSENVILLE HOME GARDENS, BEING A RESUBDIVISION OF LOT 1 IN C.A. FRANZEN'S SUBDIVISION OF PART OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 40 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 1, 1924 AS DOCUMENT 178806, IN DUPAGE COUNTY, ILLINOIS.

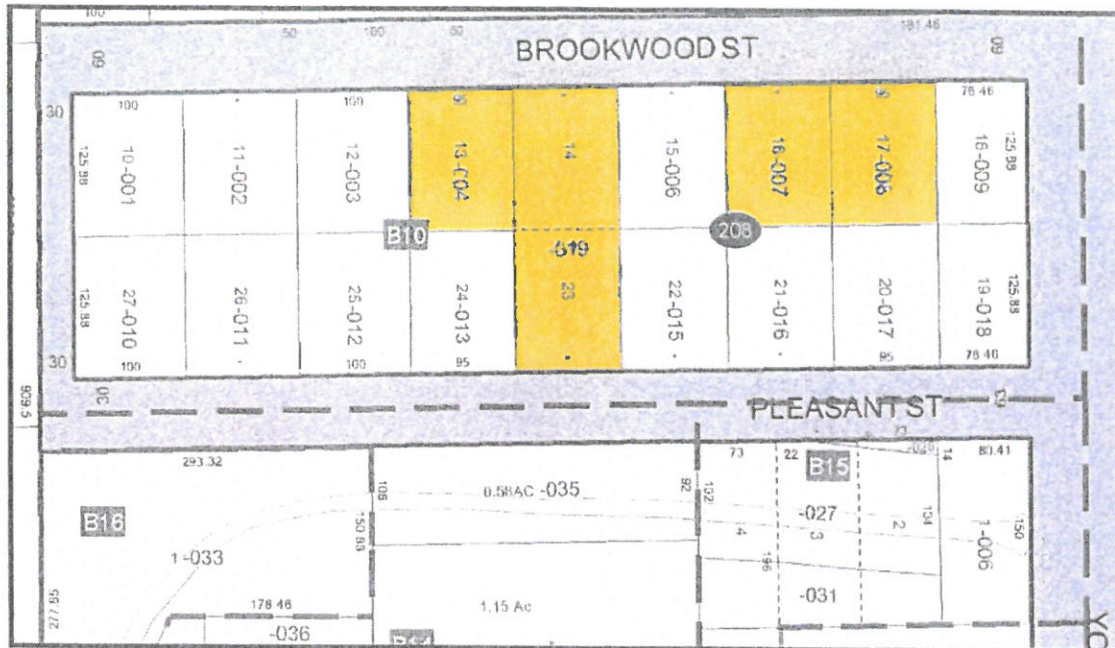
Pin Number: 03-14-208-008

LOT 17 IN BENSENVILLE HOME GARDENS, BEING A RESUBDIVISION OF LOT 1 IN C.A. FRANZEN'S SUBDIVISION OF PART OF THE NORTHEAST  $\frac{1}{4}$  OF SECTION 14, TOWNSHIP 40 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID BENSENVILLE HOME GARDENS, RECORDED JUNE 10, 1924, AS DOCUMENT 178806, IN DUPAGE COUNTY, ILLINOIS.

Pin Number: 03-14-208-019

LOTS 14 AND 23 IN BENSENVILLE HOME GARDENS, BEING A RESUBDIVISION OF LOT 1 IN C.A. FRANZEN'S SUBDIVISION OF PART OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 40 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID BENSENVILLE HOME GARDENS, RECORDED JUNE 10, 1924 AS DOCUMENT 178806 IN DUPAGE COUNTY, ILLINOIS.

## Sidwell Map



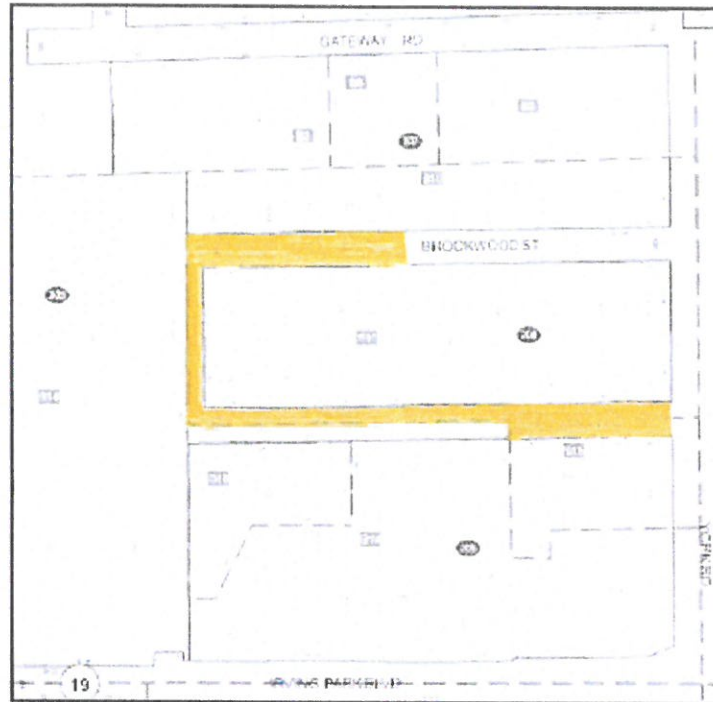
*Aerial View*



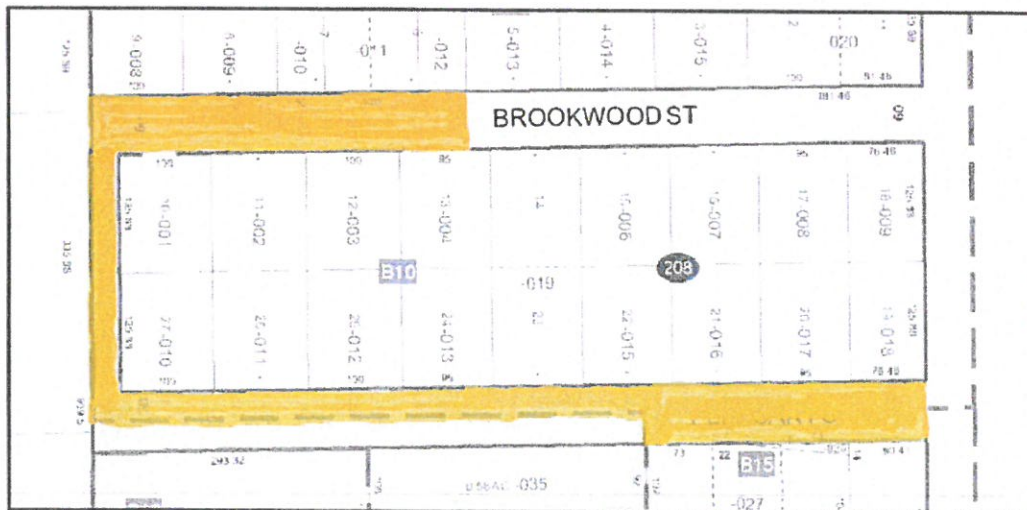
Subject property outlined in red above. Borders are approximate.  
Source: Google Earth



## Sidwell Map



## Enlarged Version



*Subject rights of way are highlighted in yellow above*



*Aerial View*



Subject rights of way are within the area outlined in red above.  
Source: Google Earth

Exhibit B

Agreement

## AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE

**THIS AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE** (this "Agreement") is entered into as of this \_\_\_ day of December, 2017 (the "Effective Date"), by and between **DRG Brookwood Street LLC**, a Delaware limited liability company (together with its nominees, designees, successors and assigns, "Purchaser") and **Village of Bensenville** ("Seller").

### WITNESSETH:

**WHEREAS**, Seller is the owner of the Property (as defined below); and

**WHEREAS**, Purchaser desires to purchase from Seller and Seller desires to sell to Purchaser all of the Property on the terms and conditions set forth below.

**NOW THEREFORE**, in consideration of the mutual covenants hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

### ARTICLE 1 AGREEMENT TO PURCHASE AND SELL

Seller agrees to sell and convey to Purchaser, and Purchaser agrees to purchase from Seller, upon the terms and conditions set forth in this Agreement, all of Seller's right, title and interest in and to the following: (i) the land legally described on Exhibit A attached hereto and made a part hereof and commonly known as 6, 10, 18, 108 Brookwood Street, Bensenville, Illinois, as well as the public street, Pleasant Street and a portion of the public street, Brookwood Street (which public streets or applicable portions thereof Seller shall cause to be vacated in accordance with Section 8.1(b) hereof) (for a total of 3.97 acres), together with all privileges, rights, easements, hereditaments, and appurtenances belonging to the land, and all right, title and interest of the titleholder thereof in and to any streets, alleys, passages and other rights-of-way included therein or adjacent thereto (before or after the vacation thereof) (collectively, the "Land"); any buildings, structures, parking areas and other improvements located on the Land and any and all fixtures attached thereto (collectively, the "Improvements"); the Land and the Improvements are collectively, the "Property".

### ARTICLE 2 PURCHASE PRICE

**2.1 Purchase Price.** The purchase price (the "Purchase Price") to be paid by Purchaser to Seller for the Property shall be One Million, Six Hundred Fifty Four thousand, Nine Hundred Seventy One and 00/100 Dollars (\$1,654,971). The Purchase Price, plus or minus any adjustments, credits or prorations provided for herein, shall be paid to Seller at the Closing by wire transfer of immediately available funds.

**2.2 Earnest Money.** Within five (5) Business Days after the Effective Date, Purchaser will pay into a strict joint order escrow with Seller at Chicago Title Insurance Company ("Title Company") the sum of \$25,000 as earnest money (the "Earnest Money"). The Earnest Money may be invested by the Title Company as Purchaser directs, at Purchaser's cost. Seller and Purchaser shall share equally the cost of the joint order escrow. If this Agreement is terminated by Purchaser before the end of the Due Diligence Period in accordance with Article 3 hereof or because of a default by Seller under this Agreement, then, the Earnest Money shall be promptly returned to Purchaser. Subject to the foregoing, the Earnest Money shall be applied to the Purchase Price at the Closing.

**2.3 Closing Costs.** Seller shall pay the cost of: (a) the Title Policy (defined below), including extended coverage; (b) the Survey (as defined below) (provided that if the Survey includes additional land not owned by Seller, then the credit shall be based upon Seller's pro-rata portion of the surveyed parcel; (c) obtaining and recording any releases of any mortgages, liens or other encumbrances that are not Permitted Exceptions (as defined below); and (d) any stamp or transfer taxes imposed by State and County law on the



Seller; Purchaser shall pay for the cost of recording the Deed. Purchaser and Seller shall share equally the escrow and New York "style" closing fees for the Closing (as defined below). Any local transfer tax shall be paid by the party(s) as specified under applicable law or ordinance. All other closing costs shall be apportioned according to prevailing local custom. Each party shall pay its own legal fees.

**2.4 Closing Prorations and Adjustments.** Unpaid real estate taxes, current installments of regular assessments, special assessments, sewer charges, and any similar taxes and charges (collectively, "Taxes") imposed in respect of the Property which are not yet due and payable on the Closing Date shall be prorated to the Closing Date on the basis of 105% of the most recent ascertainable bill or assessment therefor. Any and all delinquent Taxes shall be paid in full on or before Closing. All prorations shall be final. For purposes of proration, the Purchaser shall be deemed in title to the Property on the Closing Date.

**2.5 Multiple Property Closing.** The Property is being acquired by Purchaser as part of the acquisition of several additional parcels adjacent to or near the Property, as shown on Exhibit B attached hereto. Such parcels, including the Property, are collectively the "Development Property." It is a condition precedent to Purchaser's obligation to consummate the Closing hereunder that Purchaser closes on all other property in the Development Parcel on the Closing Date. In the event Purchaser determines it is unable to close on all or a portion of the other Development Property on the Closing Date, Purchaser may terminate this Agreement by providing written notice to Seller on or prior to the Closing Date that it is electing to terminate the Agreement, and the Earnest Money shall be promptly returned to Purchaser, and the parties shall have no further obligations hereunder except for those which expressly survive the Closing.

### ARTICLE 3 PURCHASER'S DUE DILIGENCE

**3.1 Review Period; Termination Right.** The Agreement is subject to Purchaser and their agents and representatives performing necessary due diligence on the Property as Purchaser deems necessary to ensure that the Property meets Purchaser's standards for land acquisition and development. All entry onto the Property by Purchaser and its agents shall be at the sole risk and expense of Purchaser. Purchaser shall indemnify, defend and hold harmless Seller and its officers, officials, employees, attorneys agents and representatives (collectively the "Indemnified Parties") from and against any and all claims or liens (including mechanics' or materialmen's claims or liens), demands, injuries, damages, costs, expenses (including reasonable attorney's fees) or liability incurred by or asserted against the Indemnified Parties as a result of, or in any way arising out of, any inspection, visit or work pertaining to the Property by the Purchaser or its agents pursuant to this Section. Following the Bulk Signing Date (as defined below) until the date that is **ninety (90) days** from the Bulk Signing Date (the "Due Diligence Period"), Purchaser shall perform such tests, inspections and studies as Purchaser deems necessary to ascertain if Purchaser wishes to proceed to acquire the Property. If the Property is found to not be acceptable to Purchaser, in its sole discretion, then Purchaser may terminate the Agreement by delivering written notice of such termination to Seller on or prior to the last day of the Due Diligence Period, in which event this Agreement shall be null and void, neither party shall have any further rights or obligations under this Agreement, except for those that expressly survive termination of this Agreement, and the Earnest Money shall be promptly returned to Purchaser. For purposes of this Agreement, the "Bulk Signing Date" shall be the date that the last of the contracts for the Development Property has been mutually executed by Purchaser and the seller thereunder. Purchaser shall notify Seller in writing of the Bulk Signing Date (and thus, the first day of the Due Diligence Period) once all such contracts for the Development Property have been fully executed.

### ARTICLE 4 TITLE INSURANCE AND SURVEY

**4.1 Title Commitment and Survey.** During the Due Diligence Period, Purchaser shall obtain the title commitment from Title Company and an ALTA survey of the Property and deliver copies thereof to Seller. Seller shall be obligated to cause any title exceptions relating to financing liens, mechanic's, materialmen's or similar liens, tax liens or delinquent taxes (including interest and penalties), and leases or other occupancy

rights or agreements (other than the Leases) to be deleted from the Title Commitment prior to or at the Closing, and if Seller fails to do so, Purchaser may, in addition to terminating this Agreement and all other rights and remedies, deduct from the Purchase Price any liens or encumbrances of a definite or ascertainable amount. Additionally, if the Survey or Title Commitment show any encroachments or other title or survey matters that are not acceptable to Purchaser, then Seller shall have said exceptions, survey matters or encroachments removed, or have the Title Company commit to either insure against loss or damage that may result from such exceptions. If Seller fails to have such exceptions waived or insured over prior to Closing, Purchaser may elect to terminate this Agreement and the Earnest Money shall be returned, or to take title as it then is with the right to deduct from the Purchase Price prior encumbrances of a definite or ascertainable amount. Seller agrees that it shall not from and after the date hereof cause or permit any actions that result in any additional exceptions to title.

**4.2 Title Policy.** At the Closing, Seller shall deliver to Purchaser an ALTA 2006 Form Owner's Title Insurance Policy from the Title Company or in lieu thereof a marked-up title commitment from the Title Company (either being referred to herein as the "Title Policy") which in either case shall: (i) be dated as of the date of the recording of the Deed; (ii) name Purchaser or its designee or assignee as the insured; (iii) have a liability amount equal to the Purchase Price; and (iv) show Purchaser as the owner of the Land in fee simple subject to no exceptions other than the Permitted Exceptions.

## **ARTICLE 5 REPRESENTATIONS AND WARRANTIES**

**5.1 Seller's Representations and Warranties.** Seller represents and warrants to Purchaser as follows: (1) With respect to the Property, Seller has no knowledge of nor has Seller received any written notice from any association or governmental entity regarding: a) zoning, building, fire or health code violations that have not been corrected; b) boundary line disputes; d) any pending condemnation or Eminent Domain proceeding; or e) easements or claims of easements not shown on the public records; (2) Seller has the full right, power and authority to enter into this Agreement and all of the documents to be executed and delivered by Seller at the Closing and to consummate the transactions contemplated hereby. All Seller representations shall be deemed re-made as of Closing. If prior to Closing Seller becomes aware of matters that require modification of the representations previously made herein, Seller shall promptly notify Purchaser. If the matters specified in such notice are not resolved prior to Closing, Purchaser may terminate this Agreement by notice to Seller and this Agreement shall be null and void and the Earnest Money shall be returned to Purchaser. Seller's representations contained in this paragraph shall survive the Closing.

**5.2 Purchaser's Representations and Warranties.** Purchaser represents and warrants to Seller as follows: Purchaser has the full right, power and authority to enter into this Agreement, to purchase the Land as provided for in this Agreement and to consummate the transactions contemplated hereby.

**5.3 As-Is.** Except as expressly set forth in this Agreement, Purchaser is purchasing the Land in "As-Is Where-Is" condition, with no representation or warranty from Seller whatsoever, including but not limited to the suitability or condition of the Property, or the existence of any hazardous material or environmental condition that may or may not exist anywhere on the Property.

**5.4 No Consequential Damages.** (i) Each Party, for itself and its successors and assigns, waives any right to pursue consequential, exemplary or punitive damages against the any other party to the Agreement or the Indemnified Parties, and (ii) in no event will any Party to this Agreement or the Indemnified Parties, be liable for any consequential, exemplary or punitive damages.

## **ARTICLE 6 CASUALTY AND CONDEMNATION**

**6.1. Casualty and Condemnation:** If prior to delivery of the Deed the Property shall be destroyed or materially damaged by fire or other casualty, or the Property is taken by condemnation, then Purchaser shall have the option of either terminating this Agreement (and receiving a refund of the Earnest Money) or accepting the Property as damaged or destroyed, together with the proceeds of the condemnation award or

any insurance payable as a result of the destruction or damage, which gross proceeds Seller agrees to assign to Purchaser and deliver to Purchaser at Closing. Seller shall not be obligated to repair or replace damaged improvements.

## **ARTICLE 7 PURCHASER'S CONDITIONS TO CLOSING**

**7.1 Conditions to Purchaser's Obligation to Close.** Purchaser's obligation to close on the purchase of the Property is conditioned on the following:

- (a) Seller shall have performed all of the covenants and obligations to be performed by Seller under this Agreement, and the representations and warranties of Seller set forth in this Agreement shall be true in all material respects on and as of the Closing Date;
- (b) Purchaser must have obtained **written approval by the Village of Bensenville to re-zone the Property as I-2 (the "Rezoning Approval")**. In the event Purchaser determines it will not have the Rezoning Approval by the Closing Date, Purchaser may terminate this Agreement by providing written notice to Seller at least three (3) days prior to the Closing Date that it is electing to terminate the Agreement, and the Earnest Money shall be promptly returned to Purchaser, and the parties shall have no further obligations hereunder except for those which expressly survive the Closing.

If any condition set forth above in this Section 7.1 has not been satisfied as of the Closing Date, then Purchaser may, in its sole discretion, terminate this Agreement by delivering written notice of such termination to Seller at any time on or before the Closing Date, in which case, the Earnest Money shall be immediately returned to Purchaser and neither party shall have any further rights or obligations hereunder, except that if the failure to satisfy any such condition is due to a breach or default by Seller under this Agreement, then the provisions of Section 9.2 shall apply.

## **ARTICLE 8 THE CLOSING**

**8.1 (a) Time and Place.** The Closing shall occur on or before the later of (i) the 30<sup>th</sup> day following the end of the Due Diligence Period and (ii) 5 days after Purchaser's receipt of the Rezoning Approval (the "Closing Date"), pursuant to a deed and money escrow, and at the downtown Chicago office of Title Company.

(b) Seller hereby covenants that it shall cause Pleasant Street and a portion of the public street, Brookwood Street, as depicted on Exhibit B, to be legally vacated within thirty (30) days of the Closing. The covenant set forth in this Section 8.1(b) shall survive the Closing.

**8.2 Escrow.** This sale shall be closed through a "New York style" escrow (the "Closing Escrow") with the Title Company. Payment of the Purchase Price and delivery of the Deed (as hereinafter defined) and other closing documents shall be made through the Closing Escrow and the Earnest Money shall be deposited in the Closing Escrow. The escrow fee for the Closing Escrow shall be shared equally by the parties.

**8.3 Seller's Deliveries.** At the Closing, Seller shall deliver to Purchaser, through the Closing Escrow, the following, each of which shall be in form reasonably satisfactory to Purchaser and (if applicable) the Title Company:

- (a) a Warranty Deed, with release of homestead rights (the "Deed"), conveying the Land to Purchaser or its designee subject only to the Permitted Exceptions;
- (c) the Title Policy;



- (d) evidence of the authorization of Seller as to the execution of this Agreement and the sale of the Land to Purchaser and the performance of other acts required hereunder;
- (e) an affidavit to the effect that Seller is not a foreign person under Section 1445(b) of the United States Internal Revenue Code;
- (f) such other instruments and documents, including, but not limited to, an ALTA and Gap Undertaking, as may be reasonably required by the Title Company in order to issue the Title Policy in the form required pursuant to Section 4.2 hereof;

**8.4 Purchaser's Deliveries.** At the Closing, Purchaser shall deliver to Seller through the Closing Escrow (a) the Purchase Price, plus or minus adjustments, credits and prorations as provided for herein; and (b) all other documents as may be reasonably required by the Title Company.

**8.5 Joint Deliveries.** At the Closing, Seller and Purchaser shall each execute and deliver, through the Closing Escrow, a Closing Statement and any applicable transfer tax declarations for the State of Illinois, DuPage County, and any necessary municipal transfer tax declarations, if any.

## **ARTICLE 9 DEFAULTS; REMEDIES**

**9.1 Purchaser's Default.** In the event there is a default by Purchaser, and such default is not cured within seven (7) days after written notice of such default is given by Seller to Purchaser, then Seller may, as its sole and exclusive remedy, terminate the Agreement and receive all of the Earnest Money (to the extent previously deposited) as liquidated damages and as Seller's sole and exclusive remedy. The parties acknowledge that Seller's actual damages in the event of a default by Purchaser under this Agreement will be difficult to ascertain, and that Seller's receipt of the Earnest Money as liquidated damages represents the parties' best estimate of such damages.

**9.2 Seller's Default.** In the event there is a default by Seller, and such default is not cured within seven (7) days after written notice of said default is given by Purchaser to Seller, then Purchaser may: (a) terminate the Agreement as its sole and exclusive remedy, in which case, Purchaser shall receive a return of all of the Earnest Money (to the extent previously deposited) as liquidated damages and as Purchaser's sole and exclusive remedy. The parties acknowledge that Purchase's actual damages in the event of a default by Seller under this Agreement will be difficult to ascertain, and that Purchaser's receipt of the Earnest Money as liquidated damages represents the parties' best estimate of such damages.

**9.3 Costs of Enforcement.** In the event any action or proceeding is brought by either party to enforce or interpret the terms of this Agreement, the prevailing party in such action or proceeding shall be entitled to have all of its costs, fees (including, without limitation, reasonable attorneys' fees) and expenses, paid or reimbursed by the non-prevailing party.

## **ARTICLE 10 MISCELLANEOUS**

**10.1 Payment of Real Estate Brokers and Consultants.** Each party represents to the other that, no real estate broker has been used in connection with this transaction. Purchaser agrees to indemnify, defend and hold Seller harmless from and against any claim for a real estate broker's commission or fee by any party claiming to have represented Purchaser in connection with this transaction. Seller agrees to indemnify, defend and hold Purchaser harmless from and against any claim for a real estate broker's commission or fee by any party claiming to have represented Seller in connection with this transaction. The indemnification obligations under this Section 10.1 shall survive the Closing or any termination of this Agreement for any reason whatsoever.

**10.2 Notices.** Any notice hereunder may be sent via e-mail, fax, personal delivery or overnight mail to the parties and at the addresses listed below. Delivery shall be effective as of the date and time of transmission or mailing.

**If to Seller:** Village of Bensenville  
Attn: Evan K. Summers  
12 South Center Street  
Bensenville, IL 60106

**with a copy to:** P. Joseph Montana  
Montana & Welch, LLC  
11950 South Harlem Avenue, Suite 102  
Palos Heights, Illinois 60463

**If to Purchaser:** DRG Brookwood Street LLC  
c/o Distribution Realty Group LLC  
921 Busse Road  
Elk Grove Village, IL 60007  
Attention: James Love

**with a copy to:** Adam E. Berman, Esq.  
Mason, Wenk & Berman, L.L.C.  
1033 Skokie Boulevard, Suite 250  
Northbrook, Illinois 60062  
Facsimile: 847-656-6067

or to such other address as either party may from time to time specify as its address for the receipt of notices hereunder, in a notice to the other party.

**10.3 Assignment.** Purchaser shall have the right to assign this Agreement, and all of Purchaser's rights and obligations hereunder, to an entity which directly or indirectly controls, is controlled by, or is under common control with Purchaser ("Assignee"), without the consent of Seller.

**10.4 Entire Agreement; Severability; Counterparts.** This Agreement embodies the entire understanding of the parties and there are no further or other agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof. This Agreement shall not be construed more strictly against one party hereto than against the other party merely by virtue of the fact that it may have been prepared primarily by counsel for one of the parties. If any term or provision of this Agreement or any application thereof shall be invalid or unenforceable, the remainder of this Agreement and other applications thereof shall not be affected thereby. This Agreement may be executed in two more counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument. Time is of the essence in this Agreement.

**10.5 Governing Law.** This Agreement and all rights, obligations and liabilities hereunder shall be governed by, and construed in accordance with, the internal laws of the State of Illinois.

**10.6 Personal Property.** Prior to Closing, Seller may remove from the Property all personal property located therein, provided that in no event shall the Property be left in a hazardous condition or in violation of any applicable codes or laws.

**10.7 Waiver.** Except as otherwise expressly provided in this Agreement, no waiver by a party of any breach of this Agreement or of any warranty or representation hereunder by the other party shall be deemed to be a waiver of any other breach by such other party and no acceptance of payment or performance by a party after any breach by the other party shall be deemed to be a waiver of any breach of this Agreement or of any representation or warranty hereunder by such other party whether or not the first party knows of such breach at the time it accepts such payment or performance.

**10.8 Waiver of Right to Jury Trial.** Each of the parties hereto acknowledge and agree that any controversy which may arise under this Agreement shall be tried in a court of competent jurisdiction by a judge sitting without a jury.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date first written above.

<p>SELLER: Village of Bensenville</p> <p>_____ Frank DeSimone, Village President</p> <p>Attest:</p> <p>_____ Nancy Quinn, Village Clerk</p>	<p>PURCHASER: DRG Brookwood Street LLC</p> <p>_____ James M. Love II</p> <p>_____ Managing Partner</p>
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**EXHIBIT A**  
**Legal Description**

EXHIBIT A

Pin Number: 03-14-208-004

LOT 13 IN BENSENVILLE HOME GARDENS, A SUBDIVISION OF LOT 1 IN C.A. FRANZEN'S SUBDIVISION OF THE EAST 20.15 CHAIN OF THAT PART OF THE NORTHEAST  $\frac{1}{4}$  OF SECTION 14, TOWNSHIP 40 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NORTH OF THE CENTER OF IRVING PARK BOULEVARD AND SOUTH OF THE NORTH 461.77 FEET THEREOF, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 10, 1924 IN BOOK 11 OF PLATS, PAGE 35, AS DOCUMENT 178806, IN DUPAGE COUNTY, ILLINOIS.

Pin Number: 03-14-208-007

PARCEL 2: LOT 16 IN BENSENVILLE HOME GARDENS, BEING A RESUBDIVISION OF LOT 1 IN C.A. FRANZEN'S SUBDIVISION OF PART OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 40 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 1, 1924 AS DOCUMENT 178806, IN DUPAGE COUNTY, ILLINOIS.

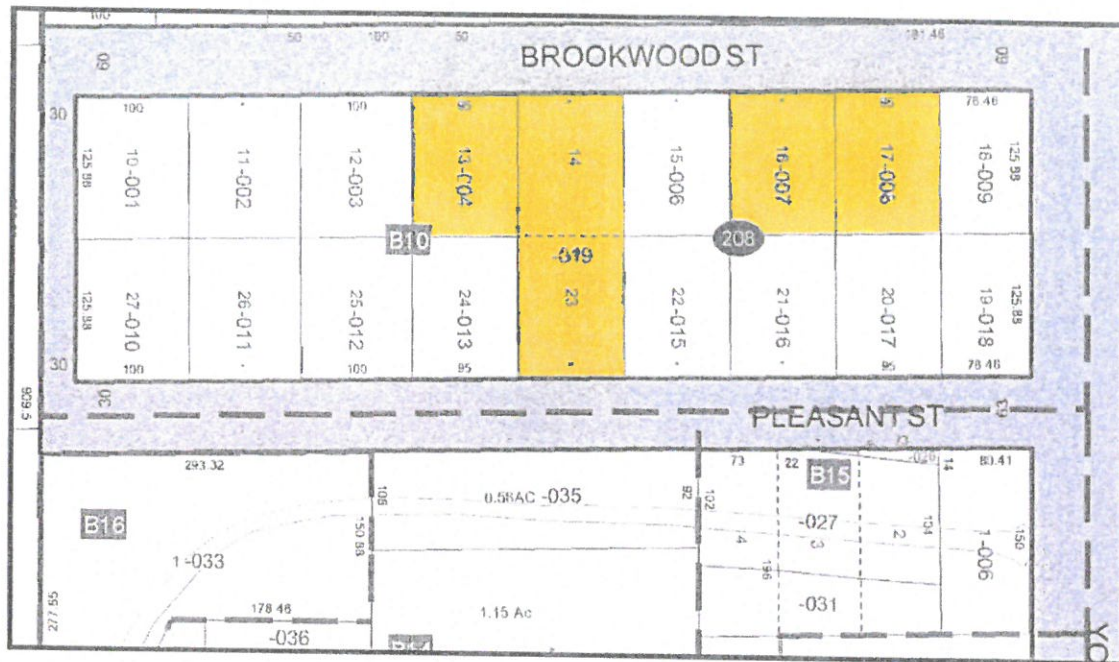
Pin Number: 03-14-208-008

LOT 17 IN BENSENVILLE HOME GARDENS, BEING A RESUBDIVISION OF LOT 1 IN C.A. FRANZEN'S SUBDIVISION OF PART OF THE NORTHEAST  $\frac{1}{4}$  OF SECTION 14, TOWNSHIP 40 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID BENSENVILLE HOME GARDENS, RECORDED JUNE 10, 1924, AS DOCUMENT 178806, IN DUPAGE COUNTY, ILLINOIS.

Pin Number: 03-14-208-019

LOTS 14 AND 23 IN BENSENVILLE HOME GARDENS, BEING A RESUBDIVISION OF LOT 1 IN C.A. FRANZEN'S SUBDIVISION OF PART OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 40 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID BENSENVILLE HOME GARDENS, RECORDED JUNE 10, 1924 AS DOCUMENT 178806 IN DUPAGE COUNTY, ILLINOIS.

# *Sidwell Map*



*Subject lots highlighted in yellow above*

PIN 03-14-208-008 has an address of 6 Brookwood Street  
 PIN 03-14-208-007 has an address of 10 Brookwood Street  
 PIN 03-14-208-019 has an address of 18 Brookwood Street  
 PIN 03-14-208-004 has an address of 108 Brookwood Street



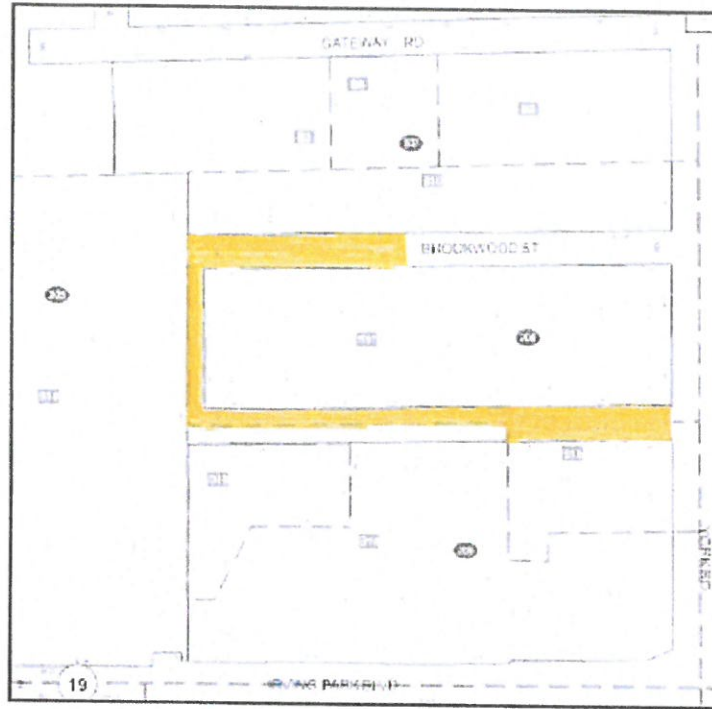
### *Aerial View*



Subject property outlined in red above. Borders are approximate.  
Source: Google Earth



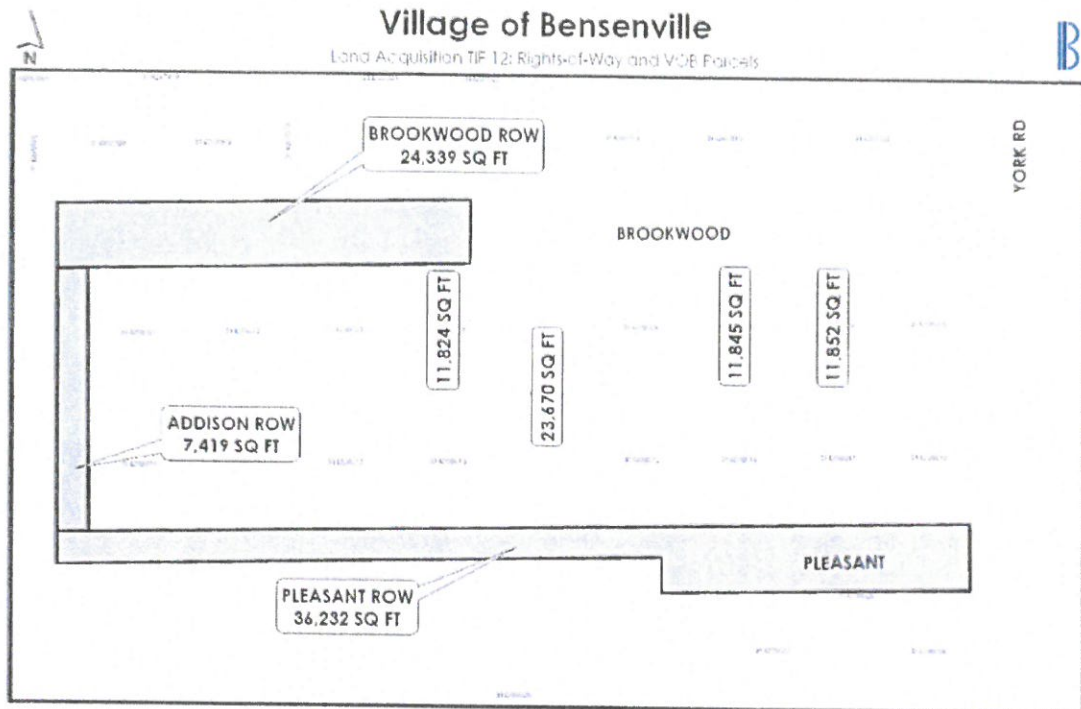
## Sidwell Map



## Enlarged Version



*Subject rights of way are highlighted in yellow above*



The subject property includes the Brookwood ROW, Addison ROW and Pleasant ROW.

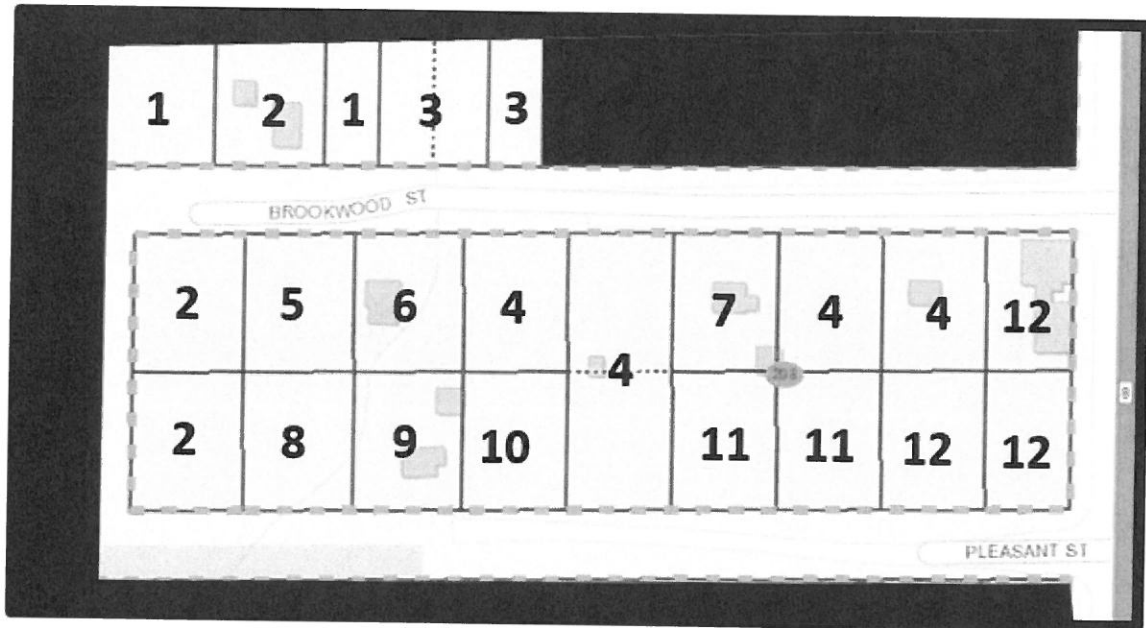
*Aerial View*



Subject rights of way are within the area outlined in red above.  
Source: Google Earth

# EXHIBIT B

#	Parcel Owner	Address	PIN(s)
1	Faith Community United Church of Christ in Bensenville	207 & 115 Brookwood Street	314207008 / 0314207010
2	Craig & Stella Weldon	203 & 204 W Brookwood Street	0314207009 / 0314208001 / 0314208010
3	ITASCA BK & TR 11659	113 Brookwood Street	314207012 / 0314207011
4	Village of Bensenville	6, 10, 18, 108 Brookwood Street	0314208008 / 0314208007 / 0314208019 / 0314208004
5	Leszek Rybak	116 Brookwood Street	314208002
6	MDH Real Estate LLC	112 Brookwood Street	314208003
7	Edwin & Yvette Chavez	14 Brookwood Street	314208006
8	Edith Peterson	— Pleasant Street	314208011
9	Abel S. & Celia L. Alfaro	111 W Pleasant Street	314208012
10	Piotr & D Pielaszewicz	108 Brookwood Street	314208013
11	Nicholas J. Selvaggi	9 Pleasant Street	314208016 / 0314208015
12	Pat Eliopoulos Trust	220 N York Road	314208009 / 0314208018 / 0314208017



**TYPE:**Ordinance**SUBMITTED BY:**Amit Thakkar**DEPARTMENT:**Finance**DATE:**December 12, 2017**DESCRIPTION:**

Consideration of an Ordinance Amending Section 8-7-7 of the Chapter Seven of the Village of Bensenville Code Establishing the Water/Sewer Rates Effective January 1, 2018 and Onwards

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

x	<i>Financially Sound Village</i>	x	<i>Enrich the lives of Residents</i>
x	<i>Quality Customer Oriented Services</i>		<i>Major Business/Corporate Center</i>
x	<i>Safe and Beautiful Village</i>		<i>Vibrant Major Corridors</i>

**COMMITTEE ACTION:**

Committee of the Whole

**DATE:**

December 12, 2017

**BACKGROUND:**

The Village owns and operates the Water and Sewer System. The water rate study carried out in 2014 automatically raised the rates by 7.5%. But by doing the financial analysis of the water and sewer system a new rate structure has been recommended. We have eliminated the capital recovery line item and the same has been added to water and sewer charges to simplify the rate structure. The fixed debt service fees have been reworded and is now indicated as a "Fixed Charge." The customers that are located outside the corporate limits of the Village of Bensenville will pay 50% more than the customers within the corporate limits of the Village of Bensenville.

**KEY ISSUES:**

- a) The rate study was carried out in 2014 and it automatically raised the rates by 7.5%.
- b) A new rate structure has been suggested and will be implemented by the passing of the attached Ordinance.
- c) The Village has lost more than 50 million gallons of billable consumption annually in last 3 years because of the water conservation efforts.

The new water bill amounts are described as below.

Details	1,000 Gallon	2,000 Gallon	5,000 Gallon	10,000 Gallon
Current Bill Total	\$ 26.84	\$ 45.01	\$ 99.52	\$ 190.37
Proposed Bill Total	\$ 28.49	\$ 46.98	\$ 102.45	\$ 194.90
\$ Charge	\$ 1.65	\$ 1.97	\$ 2.93	\$ 4.53
% Change	6.15%	4.38%	2.94%	2.38%

Details	20,000 Gallon	50,000 Gallon	100,000 Gallon	1,000,000 Gallon
Current Bill Total	\$ 399.33	\$ 1,026.19	\$ 2,070.97	\$ 20,876.92
Proposed Bill Total	\$ 414.90	\$ 1,074.90	\$ 2,174.90	\$ 21,974.90
\$ Charge	\$ 15.58	\$ 48.71	\$ 103.94	\$ 1,097.99
% Change	3.90%	4.75%	5.02%	5.26%

The Variable rate changes are as below.

Charges	Current Rate		New Rate	
	Upto 10000 Gallon	More than 10000 Gallon	Upto 10000 Gallon	More than 10000 Gallon
Water (per 1000 gallon)	9.68	9.05	10.00	12.00
Sewer (per 1000 gallon)	8.49	9.29	8.49	10.00
Total	18.17	18.34	18.49	22.00

The fixed rate changes are as below:

Detail	Meter Sizes						
	0.75	1.0	1.5	2.0	3.0	4.0	6.0
Current Fixed Charge	8.67	28.93	57.91	92.66	173.69	288.67	578.84
New Charge	10.00	30.00	60.00	100.00	180.00	300.00	600.00
Change	1.33	1.07	2.09	7.34	6.31	11.33	21.16

### ALTERNATIVES:

At the discretion of the Committee.

### RECOMMENDATION:

Staff recommends the approval of the Ordinance amending the water/sewer rates.

### BUDGET IMPACT:

With the new rates in place and by keeping the consumption constant at the level of 2017, the Village will receive \$11,872,880 in total revenue for water/sewer fund.

### ACTION REQUIRED:

Approval of the Ordinance.  
Discretion of the Committee.

### ATTACHMENTS:

<u>Description</u>	<u>Upload Date</u>	<u>Type</u>
Ordinance	12/4/2017	Cover Memo

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

**AN ORDINANCE OF THE VILLAGE OF BENSENVILLE, DUPAGE AND  
COOK COUNTIES, ILLINOIS AMENDING SECTION 8-7-7 OF CHAPTER  
SEVEN OF TITLE EIGHT OF THE BENSENVILLE VILLAGE CODE  
WITH REGARD TO WATER AND SEWER RATES**

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**WHEREAS**, the Village of Bensenville, DuPage and Cook Counties, Illinois (the “*Village*”) is a duly organized and existing municipal corporation created under the provisions of the laws of the State of Illinois and under the provisions of the Illinois Municipal Code, as from time to time supplemented and amended; and

**WHEREAS**, pursuant to the Illinois Municipal Code, 65 ILCS 5/1-1-1, *et seq.*, the Village owns and operates sewer and water infrastructure and facilities (the “*System*”) within and outside the corporate boundaries of the Village; and

**WHEREAS**, the Illinois Municipal Code further authorizes the Village to charge for the maintenance, use and operation of the System and to establish rates for that purpose; and

**WHEREAS**, in order to simplify the current rate structure, the debt service charge is being reclassified as a fixed charge and the capital recovery charge is being eliminated and incorporated into the base water and sewer charges; and

**WHEREAS**, the Village has carefully considered the operation, condition and maintenance of the System and the revenues and expenses associated therewith.

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



**Section 1.** That the above recitals and legislative findings are found to be true and correct and are hereby incorporated herein and made a part hereof, as if fully set forth in their entirety.

**Section 2.** The Corporate Authorities find and determine that it is necessary and desirable to amend the Bensenville Village Code for the purpose set forth herein and that the adoption of this Ordinance is in the best interests of the Village.

**Section 3.** Section 8-7-7 (“Rates”) of Chapter Seven (“*Water and Sewer Service Regulations*”) of Title 8 (“*Public Ways and Property*”) of the Bensenville Village Code, is hereby amended by deleting the following stricken language and adding the underlined language to read, as follows:

**SECTION 8-7-7: RATES**

A. Within the Corporate Limits: Effective January 1, ~~2017~~ 2018

	<b>Meter Size (Inches)</b>						
	<del>5/8</del> <u>or</u> <del>3/4</del>	1	1.5	2	3	4	6
<b><del>Water charge:</del></b>							
First 10,000 gallons per month (per 1,000 gallons)	\$6.85	<del>\$6.85</del>	<del>\$6.85</del>	\$6.85	\$6.85	\$6.85	\$6.85
Above 10,000 gallons per month (per 1,000 gallons)	7.88	7.88	7.88	7.88	7.88	7.88	7.88
<b><del>Sewer charge:</del></b>							
First 10,000 gallons per month (per 1,000 gallons)	5.42	5.42	5.42	5.42	5.42	5.42	5.42
Above 10,000 gallons per month (per 1,000 gallons)	6.22	6.22	6.22	6.22	6.22	6.22	6.22
Nonmetered account — fixed sewer fee	48.78	48.78	48.78	48.78	48.78	48.78	48.78
<b><del>Fixed debt service charge:</del></b>							
Water service fixed debt service fee	2.90	9.75	19.30	30.95	58.13	96.95	193.71
Sewer service fixed debt service fee	5.77	19.18	38.61	61.71	115.56	192.52	385.31

<b>Capital recovery charge:</b>							
Water capital recovery per 1,000 gallons	2.83	2.83	2.83	2.83	2.83	2.83	2.83
Sewer capital recovery per 1,000 gallons	3.07	3.07	3.07	3.07	3.07	3.07	3.07
Sewer capital recovery nonmetered (fixed)	27.63	27.63	27.63	27.63	27.63	27.63	27.63
<b>Senior discount per month</b>	1.54	1.54	1.54	1.54	1.54	1.54	1.54
<b>Industrial pretreatment:</b>							
First 1,000 gallons per month (per 1,000 gallons)	8.32	8.32	8.32	8.32	8.32	8.32	8.32
Above 1,000 gallons per month (per 1,000 gallons)	1.28	1.28	1.28	1.28	1.28	1.28	1.28

	<b><u>Meter Size (Inches)</u></b>						
	<u>5/8 or 3/4</u>	<u>1</u>	<u>1.5</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>6</u>
<b><u>Water charge:</u></b>							
First 10,000 gallons per month (per 1,000 gallons)	<u>\$10.00</u>	<u>\$10.00</u>	<u>\$10.00</u>	<u>\$10.00</u>	<u>\$10.00</u>	<u>\$10.00</u>	<u>\$10.00</u>
Above 10,000 gallons per month (per 1,000 gallons)	<u>12.00</u>	<u>12.00</u>	<u>12.00</u>	<u>12.00</u>	<u>12.00</u>	<u>12.00</u>	<u>12.00</u>
<b><u>Sewer charge:</u></b>							
First 10,000 gallons per month (per 1,000 gallons)	<u>8.49</u>	<u>8.49</u>	<u>8.49</u>	<u>8.49</u>	<u>8.49</u>	<u>8.49</u>	<u>8.49</u>
Above 10,000 gallons per month (per 1,000 gallons)	<u>10.00</u>	<u>10.00</u>	<u>10.00</u>	<u>10.00</u>	<u>10.00</u>	<u>10.00</u>	<u>10.00</u>
Nonmetered account - fixed sewer fee	<u>76.41</u>	<u>76.41</u>	<u>76.41</u>	<u>76.41</u>	<u>76.41</u>	<u>76.41</u>	<u>76.41</u>
<b><u>Fixed service charge:</u></b>	<u>10.00</u>	<u>30.00</u>	<u>60.00</u>	<u>100.00</u>	<u>180.00</u>	<u>300.00</u>	<u>600.00</u>
<b><u>Senior discount per month</u></b>	<u>1.54</u>	<u>1.54</u>	<u>1.54</u>	<u>1.54</u>	<u>1.54</u>	<u>1.54</u>	<u>1.54</u>
<b><u>Industrial pretreatment:</u></b>							
First 1,000 gallons per month (per 1,000 gallons)	<u>8.32</u>	<u>8.32</u>	<u>8.32</u>	<u>8.32</u>	<u>8.32</u>	<u>8.32</u>	<u>8.32</u>
Above 1,000 gallons per month (per 1,000 gallons)	<u>1.28</u>	<u>1.28</u>	<u>1.28</u>	<u>1.28</u>	<u>1.28</u>	<u>1.28</u>	<u>1.28</u>

- B. Outside the Corporate Limits: Effective January 1, ~~2017~~ 2018, one hundred fifty percent (150%) of the incorporated rates:

	<b>Meter Size (Inches)</b>						
	<del><math>\frac{5}{8}</math> or <math>\frac{3}{4}</math></del>	<del>1</del>	<del>1.5</del>	<del>2</del>	<del>3</del>	<del>4</del>	<del>6</del>
<b><del>Water charge:</del></b>							
<del>First 10,000 gallons per month (per 1,000 gallons)</del>	<del>\$10.28</del>	<del>\$10.28</del>	<del>\$10.28</del>	<del>\$10.28</del>	<del>\$10.28</del>	<del>\$10.28</del>	<del>\$10.28</del>
<del>Above 10,000 gallons per month (per 1,000 gallons)</del>	<del>11.82</del>	<del>11.82</del>	<del>11.82</del>	<del>11.82</del>	<del>11.82</del>	<del>11.82</del>	<del>11.82</del>
<b><del>Sewer charge:</del></b>							
<del>First 10,000 gallons per month (per 1,000 gallons)</del>	<del>8.13</del>	<del>8.13</del>	<del>8.13</del>	<del>8.13</del>	<del>8.13</del>	<del>8.13</del>	<del>8.13</del>
<del>Above 10,000 gallons per month (per 1,000 gallons)</del>	<del>9.33</del>	<del>9.33</del>	<del>9.33</del>	<del>9.33</del>	<del>9.33</del>	<del>9.33</del>	<del>9.33</del>
<del>Nonmetered account—fixed sewer fee</del>	<del>73.17</del>	<del>73.17</del>	<del>73.17</del>	<del>73.17</del>	<del>73.17</del>	<del>73.17</del>	<del>73.17</del>
<b><del>Fixed debt service charge:</del></b>							
<del>Water service fixed debt service fee</del>	<del>4.36</del>	<del>14.64</del>	<del>28.95</del>	<del>46.43</del>	<del>87.20</del>	<del>145.44</del>	<del>290.57</del>
<del>Sewer service fixed debt service fee</del>	<del>8.65</del>	<del>28.77</del>	<del>57.93</del>	<del>92.57</del>	<del>173.34</del>	<del>288.78</del>	<del>577.97</del>
<b><del>Capital recovery charge:</del></b>							
<del>Water capital recovery per 1,000 gallons</del>	<del>4.25</del>	<del>4.25</del>	<del>4.25</del>	<del>4.25</del>	<del>4.25</del>	<del>4.25</del>	<del>4.25</del>
<del>Sewer capital recovery per 1,000 gallons</del>	<del>4.60</del>	<del>4.60</del>	<del>4.60</del>	<del>4.60</del>	<del>4.60</del>	<del>4.60</del>	<del>4.60</del>
<del>Sewer capital recovery nonmetered (fixed)—</del>	<del>41.40</del>	<del>41.40</del>	<del>41.40</del>	<del>41.40</del>	<del>41.40</del>	<del>41.40</del>	<del>41.40</del>
<b><del>Industrial pretreatment:</del></b>							
<del>First 1,000 gallons per month (per 1,000 gallons)</del>	<del>12.48</del>	<del>12.48</del>	<del>12.48</del>	<del>12.48</del>	<del>12.48</del>	<del>12.48</del>	<del>12.48</del>
<del>Above 1,000 gallons per month (per 1,000 gallons)</del>	<del>1.92</del>	<del>1.92</del>	<del>1.92</del>	<del>1.92</del>	<del>1.92</del>	<del>1.92</del>	<del>1.92</del>

	<b>Meter Size (Inches)</b>						
	<del><math>\frac{5}{8}</math> or <math>\frac{3}{4}</math></del>	<del>1</del>	<del>1.5</del>	<del>2</del>	<del>3</del>	<del>4</del>	<del>6</del>
<b><u>Water charge:</u></b>							
<u>First 10,000 gallons per month (per 1,000 gallons)</u>	<u>\$15.00</u>	<u>\$15.00</u>	<u>\$15.00</u>	<u>\$15.00</u>	<u>\$15.00</u>	<u>\$15.00</u>	<u>\$15.00</u>

<u>Above 10,000 gallons per month (per 1,000 gallons)</u>	<u>18.00</u>	<u>18.00</u>	<u>18.00</u>	<u>18.00</u>	<u>18.00</u>	<u>18.00</u>	<u>18.00</u>
<b><u>Sewer charge:</u></b>							
<u>First 10,000 gallons per month (per 1,000 gallons)</u>	<u>12.74</u>	<u>12.74</u>	<u>12.74</u>	<u>12.74</u>	<u>12.74</u>	<u>12.74</u>	<u>12.74</u>
<u>Above 10,000 gallons per month (per 1,000 gallons)</u>	<u>15.00</u>	<u>15.00</u>	<u>15.00</u>	<u>15.00</u>	<u>15.00</u>	<u>15.00</u>	<u>15.00</u>
<u>Nonmetered account - fixed sewer fee</u>	<u>114.62</u>	<u>114.62</u>	<u>114.62</u>	<u>114.62</u>	<u>114.62</u>	<u>114.62</u>	<u>114.62</u>
<b><u>Fixed service charge:</u></b>	<u>15.00</u>	<u>45.00</u>	<u>90.00</u>	<u>150.00</u>	<u>270.00</u>	<u>450.00</u>	<u>900.00</u>
<b><u>Industrial pretreatment:</u></b>							
<u>First 1,000 gallons per month (per 1,000 gallons)</u>	<u>12.48</u>	<u>12.48</u>	<u>12.48</u>	<u>12.48</u>	<u>12.48</u>	<u>12.48</u>	<u>12.48</u>
<u>Above 1,000 gallons per month (per 1,000 gallons)</u>	<u>1.92</u>	<u>1.92</u>	<u>1.92</u>	<u>1.92</u>	<u>1.92</u>	<u>1.92</u>	<u>1.92</u>

**Section 4.** If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any other provision of this Ordinance.

**Section 5.** All ordinances, resolutions, motions or orders in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**Section 6.** This Ordinance shall be in full force and effect:

- i. upon its passage, approval and publication as provided by law; and
- ii. shall apply to all service charges on and after January 1, 2018.

*(Intentionally Left Blank)*

**PASSED AND APPROVED** by the President and Board of Trustees of the Village of Bensenville, DuPage and Cook Counties, Illinois, this \_\_\_\_ day of December 2017, pursuant to a roll call vote, as follows:

APPROVED:

\_\_\_\_\_  
Frank DeSimone, Village President

ATTEST:

\_\_\_\_\_  
Nancy Quinn, Village Clerk

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

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

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

**TYPE:**Resolution**SUBMITTED BY:**Amit Thakkar**DEPARTMENT:**Finance Department**DATE:**December 12, 2017**DESCRIPTION:**

Consideration of a Resolution Establishing the Refuse, Recycling and Yard Waste Rates with Republic Services for the Village of Bensenville from January 1, 2018 through December 31, 2018

**SUPPORTS THE FOLLOWING APPLICABLE VILLAGE GOALS:**

X	<i>Financially Sound Village</i>	X	<i>Enrich the lives of Residents</i>
X	<i>Quality Customer Oriented Services</i>		<i>Major Business/Corporate Center</i>
X	<i>Safe and Beautiful Village</i>		<i>Vibrant Major Corridors</i>

**COMMITTEE ACTION:**

Committee of the Whole.

**DATE:**

December 12, 2017

**BACKGROUND:**

On July 16, 2013 the Village entered into a new refuse, recycling and yard waste agreement with Republic Services (Allied Waste) establishing rates for the Village. The new proposed Agreement provides an annual rate increase based on the US City Transportation Index 10-year rolling average (subject to minimum of 2.00% over the past year). The 10 year rolling average of the transportation index is 0.91%. Per the terms of the contract, Republic Service will increase their rates by 2%. However, the new contract will establish senior citizen discounts of 15% for single family residents where the principal of the home is at least 65 years of age or older.

**KEY ISSUES:**

Billed By	Customer Type	Current Monthly Rate (2017)	Rate Starting Jan-1-2018	\$ Increase	% Increase
Village of Bensenville	Single Family	\$24.28	\$24.77	\$0.49	2.00%
Village of Bensenville	Single Family Senior Rate (15% discounted)	\$20.67	\$21.08	\$0.41	2.00%
Village of Bensenville	Multi Family - 2 Units	\$47.38	\$48.33	\$0.95	2.00%
Village of Bensenville	Multi Family - 3 Units	\$66.55	\$67.88	\$1.33	2.00%
Village of Bensenville	Multi Family - 4 Units	\$86.32	\$88.05	\$1.73	2.00%
Village of Bensenville	Multi Family - 5 Units	\$106.20	\$108.33	\$2.12	2.00%
Republic Services	Multi Family - 6 Units (Per Unit Charged)	\$20.09	\$20.50	\$0.40	2.00%
Republic Services	Multi Family - 7 Units to 12 Units (Per Unit Charged)	\$16.75	\$17.09	\$0.34	2.00%
Republic Services	Multi Family - 13 Units to 18 Units (Per Unit Charged)	\$16.09	\$16.41	\$0.32	2.00%
Republic Services	Multi Family - 19 or More Units (Per Unit Charged)	\$15.17	\$15.47	\$0.30	2.00%
Republic Services	Multi Family - 19 Units to 149 Units with Compactor Service or More Units (Per Unit Charged)	\$14.31	\$14.60	\$0.29	2.00%
Republic Services	Multi Family - 150 or More Units with Compactor Service (Per Unit Charged)	\$11.23	\$11.45	\$0.22	2.00%

**ALTERNATIVES:**

Approval of the Resolution authorizing the rate increase of the Refuse, Recycling and Yard Waste Rates with Republic Services for 2018.

or

At the discretion of the Committee.

**RECOMMENDATION:**

Staff recommends approving the Resolution authorizing the rate increases for 2018 with Republic Services.

**BUDGET IMPACT:**

This is a pass through expense and the budget impact should be close to \$0 except for the count discrepancies.

**ACTION REQUIRED:**

Consideration of the Resolution establishing the Refuse, Recycling and Yard Waste Rates for the Village of Bensenville with Republic Services from January 1, 2018 through December 31, 2018.

**ATTACHMENTS:**

<b><u>Description</u></b>	<b><u>Upload Date</u></b>	<b><u>Type</u></b>
Republic Memo	12/4/2017	Backup Material
Resolution	12/4/2017	Resolution Letter





December 1, 2017

Mr. Amit Thakkar  
Director of Finance  
Village of Bensenville  
12 S. Center Street  
Bensenville, Illinois 60106

Dear Mr. Thakkar:

According to our Agreement, the rates for residential solid waste, yard waste and recycling service are scheduled to be adjusted effective January 1, 2018. The rate adjustment formula is found in the "Escalator Clause" section (Section 24) of the Agreement found on Page 17. The Escalator Clause provides for a maximum increase of five percent and a minimum increase of two percent. The increase for 2018 will be two percent, the minimum found in the Escalator Clause.

A price adjustment worksheet and documentation is attached. Please let us know if you have any questions. I can be contacted at 708-498-5228. Thank you for your valued business.

Sincerely,

*Richard Van der Molen*  
Richard Van der Molen  
Municipal Affairs Manager

Attachment

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5050 W Lake Street  
Melrose Park, IL 60160  
708-498-5228  
Republicservices.com

**Village of Bensenville**  
**Price Adjustment Worksheet**  
**Effective Date: January 1, 2018**

Single-family solid waste and recycling rates: 2.00%  
 Multi-family property rates: 2.00%  
 Yard-waste collection: 2.00%  
 Bulk Pick-up/Special Pick-up: 2.00%

**Single-family Solid Waste and Recycling Per unit**

	Standard Rate	Senior Rate
Current rate	\$19.09	\$16.24
Adjustment	<u>\$0.38</u>	<u>\$0.32</u>
New rate	\$19.47	\$16.56

**Yard-waste Collection Per building**

	Standard Rate	Senior Rate
Current rate	5.19	\$4.43
Adjustment	<u>\$0.10</u>	<u>\$0.09</u>
New rate	\$5.29	\$4.52

**Multiple-family Residential Bulk Per unit**

	<u>6 unit</u>	<u>7-12 units</u>	<u>13-18 units</u>	<u>19- 199 units</u>	<u>200- 499 units</u>	<u>500+ units*</u>
Current rate	\$20.09	\$16.75	\$16.09	\$15.17	\$14.31	\$11.23
Adjustment	<u>\$0.40</u>	<u>\$0.34</u>	<u>\$0.32</u>	<u>\$0.30</u>	<u>\$0.29</u>	<u>\$0.22</u>
New rate	\$20.49	\$17.09	\$16.41	\$15.47	\$14.60	\$11.45

\* Buildings with compactor units

**Special Collections Per cubic yard**

Current rate	\$21.52
Adjustment	<u>\$0.43</u>
New rate	\$21.95

## Consumer Price Index - All Urban Consumers Original Data Value

Series Id: CUUR0000SAT

### Not Seasonally Adjusted

Area: U.S. city average

Item: Transportation

Base 1982-84=100

Period:

Years: 2007 to 2017

	<u>Index</u>	<u>Yr. to Yr. Change</u>
<b>2007</b>	189.064	
<b>2008</b>	211.787	12.02%
<b>2009</b>	183.735	-13.25%
<b>2010</b>	192.651	4.85%
<b>2011</b>	216.880	12.58%
<b>2012</b>	216.369	-0.24%
<b>2013</b>	220.044	1.70%
<b>2014</b>	223.543	1.59%
<b>2015</b>	208.012	-6.95%
<b>2016</b>	200.262	-3.73%
<b>2017</b>	201.263	<u>0.50%</u>
	Average	0.91%
<b>Minimum *</b>		<b>2.00%</b>

\* Contractual minimum (Section 24)

# **CPI-All Urban Consumers (Current Series) Original Data Value**

Series Id: CUUR0000SAT

Not Seasonally Adjusted

Series Title: Transportation in U.S. city average, all urban

Area: U.S. city average

Item: Transportation

Base Period: 1982-84=100

Years: 2007 to 2017

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2007	174.463	174.799	180.346	185.231	189.961	189.064	187.690	184.480	184.532	184.952	190.677	189.984
2008	190.839	190.520	195.189	198.608	205.262	211.787	212.806	206.739	203.861	192.709	173.644	164.628
2009	166.738	169.542	169.647	171.987	175.997	183.735	182.798	184.386	183.932	185.362	188.587	188.318
2010	190.512	189.577	192.130	193.994	194.761	192.651	193.038	193.454	192.412	194.283	195.659	198.280
2011	200.835	203.037	211.014	216.867	220.270	216.880	216.164	216.057	215.198	212.127	211.358	208.585
2012	210.799	214.429	220.842	223.083	220.768	216.369	214.294	219.110	221.745	220.232	214.525	211.853
2013	212.299	219.491	221.080	218.592	219.438	220.044	219.992	219.217	218.088	214.943	212.844	212.911
2014	213.450	214.673	218.435	221.972	223.392	223.543	221.867	218.279	216.383	212.626	206.874	199.777
2015	190.871	193.944	199.363	200.245	206.386	208.012	207.218	203.377	197.593	195.858	194.404	191.528
2016	190.162	187.345	191.257	195.491	198.613	200.262	197.145	195.198	195.402	196.185	195.411	196.252
2017	199.292	199.147	200.091	202.389	202.212	201.263	199.466	200.652	204.775	202.457		

Upon request of the **Village**, the **Contractor** shall also make available personnel for presentations at meetings or other similar gatherings to explain or reinforce the collection program throughout the term of the Contract. The **Village** retains the right to approve all materials to be delivered by the **Contractor** to **Village** residents including, but not limited to, door hangers, leaflets, fliers, etc.

#### **Section 24. Escalator Clause**

##### **A. Escalator Clause**

Effective January 1, 2015, and each anniversary thereof, the **Contractor** shall be entitled to an annual increase in the rates set forth for **Residential** properties in this Contract, with said increase to being equal to the average percentage change in the U.S. City Transportation Index (1982-84=100-CUUR0000SAT) as published by the United States Department of Labor for June for the most recent ten (10) years. Notwithstanding, said increase shall not be less than two (2) percent or more than five (5) percent. The **Village** at the request of the **Contractor** may grant additional increases; however, the **Village** is not obligated to grant additional increases. An illustration showing the sample calculation of the annual increase is found in Attachment D.

##### **B. Residential Escalator Clause Documentation**

No rate adjustment shall be made without written documentation, justifying said adjustment, being first tendered by the **Contractor** to the **Village**.

##### **C. Senior Citizen Discount**

The **Village** and the **Contractor** agree to re-negotiate unit prices in the event that the number of senior citizen rate customers equals or exceeds twenty (20) percent of curbside residential collection units.

#### **Section 25. Title to Waste**

Title to and liability to Unacceptable Waste shall at no time pass to the **Contractor**.

#### **Section 26. Assignment**

The **Village** and **Contractor** each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Except as set forth above, neither the **Village** nor the **Contractor** shall assign, sublet or transfer its interest in this Contract without the prior written consent of the other. Permission to assign the Contract to another subsidiary of the **Contractor's** parent company shall not be unreasonably withheld.

#### **Section 27. Notification**

All notices or communications provided for herein shall be in writing and shall be delivered to the **Village** or **Contractor** either in person or by United States mail, via certified mail, return receipt requested, postage prepaid, addressed to the **Village** as follows:

**Mr. Michael Cassidy**  
**Village Manager**  
**Village of Bensenville**  
**12 S Center Street**  
**Bensenville, Illinois 60106**

or addressed to the **Contractor** as follows:

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

**A RESOLUTION ESTABLISHING REFUSE, RECYCLING AND YARD WASTE RATES  
FOR JANUARY 1, 2018 THROUGH DECEMBER 31, 2018**

That the residential refuse, recycling and yard waste rates are hereby established and effective January 1, 2018 through December 31, 2018.

1. Single Family: \$24.77 per unit/month
2. Single Family Senior Rate: \$21.08 per unit / month  
For a resident to be eligible for the Single Family Senior Rate, the principal of the home must be 65 years of age, must provide proof to the Village, and request the discount.
3. Multi-family dwellings containing two (2) through five (5) units:
  - Two (2) units: \$48.33/month
  - Three (3) units: \$67.88/month
  - Four (4) units: \$88.05/month
  - Five (5) units: \$108.33/month
4. Multi-family dwellings containing six (6) units: \$20.50 per unit / month
5. Multi-family dwellings containing seven (7) through twelve (12) units: \$17.09 per unit / month.
6. Multi-family dwellings containing thirteen (13) through eighteen (18) units: \$16.41 per unit / month.
7. Multi-family dwellings containing nineteen (19) or more units: \$15.47 per unit / month.
8. Multi-family dwellings containing nineteen (19) through one hundred forty-nine (149) units with compactor service: \$14.60 per unit / month.
9. Multi-family dwellings containing one hundred fifty (150) or more units with compactor service: \$11.45 per unit / month.

That this Resolution shall be in full force and effect forthwith upon its adoption.

PASSED AND APPROVED by the President and Board of Trustees of the Village of Bensenville, Illinois this \_\_\_\_ day of \_\_\_\_\_, 2017.

APPROVED:

\_\_\_\_\_  
Frank DeSimone, Village President

ATTEST:

\_\_\_\_\_  
Nancy Quinn, Village Clerk

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

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

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

**TYPE:**Resolution**SUBMITTED BY:**Joe Caracci**DEPARTMENT:**Public Works**DATE:**December 12, 2017**DESCRIPTION:**

Consideration of a Resolution Authorizing the Execution of a Contract Extension with Stewart Spreading for Sludge Hauling and Land Application in the Not-to- Exceed Amount of \$100,000

**SUPPORTS THE FOLLOWING APPLICABLE VILLAGE GOALS:**

<input checked="" type="checkbox"/>	<i>Financially Sound Village</i>	<input checked="" 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>

**COMMITTEE ACTION:**

Committee of the Whole

**DATE:**

December 12, 2017

**BACKGROUND:**

The Village owns and operates a 4.7 Millions of Gallons per Day (MGD) Wastewater Treatment Facility. Proper disposal of sludge (byproduct of the process) is a major operational component. The Village has two options: land application or landfill disposal. Land application is an environmentally conscious option that hauls the sludge and applies it to local farm fields as fertilizer. Due to its positive environmental impact and cost saving nature versus landfill disposal, it is a preferred option for sludge removal.

The Village formally bid the contract for 2016 and 2017 prices, plus two (2) one-year optional extensions.

Stewart Spreading was awarded the contract. They are a major hauler of municipal sludge for beneficial reuse in our area. The benefits of working with Stewart Spreading are their relationships with local farmers, established agreements, careful managing and tracking of agronomic applications and timely reports to the Village that satisfy regulatory compliance. Limited farms in the area and strict IEPA requirements make finding good haulers a difficult process.

**KEY ISSUES:**

The Village generates approximately 5,000 cubic yards of sludge to be hauled each year. The unit price per cubic yard for 2018 is \$19.86/cy, yielding a contract total of \$99,292.25. We are requesting an award in the amount of \$100,000.

**ALTERNATIVES:**

Discretion of the Committee.

**RECOMMENDATION:**

Staff recommends extending the contract with Stewart Spreading, Inc.

**BUDGET IMPACT:**

Funds (\$110,000) are budgeted in CY18 under Wastewater Treatment - Other Contractual Services (Account Number 51050570 549990)

**ACTION REQUIRED:**

Consideration of a Resolution Authorizing the Execution of a Contract Extension with Stewart Spreading for Sludge Hauling and Land Application in the Not-to- Exceed Amount of \$100,000.

**ATTACHMENTS:****Description**

BID - 2016/2017 Sludge Hauling

**Upload Date**

12/7/2015

**Type**

Backup Material



BID - 2016/2017 Sludge Hauling

12/1/2015

Backup material

BID BACKUP - 2016/2017 Sludge Hauling

12/7/2015

Backup Material

RES - 2018 Sludge Hauling

12/4/2017

Resolution Letter

# Village of Bensenville

Invitation to Bid with Specifications

## SLUDGE HAULING



BENSENVILLE  
GATEWAY TO OPPORTUNITY

**Bensenville Public Works**  
**717 E. Jefferson St. Bensenville, IL 60106**  
**Phone: 630-350-3435 Fax: 630-594-1148**  
**[www.Bensenville.il.us](http://www.Bensenville.il.us)**

**LEGAL NOTICE**  
**SLUDGE HAULING**

**PLEASE TAKE NOTICE that Sealed Bids will be received in the Office of the Village Clerk, Village of Bensenville, 12 S. Center, Bensenville IL 60106 until 11:00 am local time on Monday, November 30, 2015.**

The Village of Bensenville is seeking a contractor for removal Class B Municipal Sludge, a product of the wastewater treatment process, from the Village's Wastewater Treatment Plant for application on agricultural land in a "cake" form by the Contractor.

Specifications and Bid forms can be found at [www.bensenville.il.us](http://www.bensenville.il.us) under "Business". They can also be picked up at the Public Works Department, 717 E. Jefferson, Bensenville IL 60106, or by e-mailing [kkatz@bensenville.il.us](mailto:kkatz@bensenville.il.us), or by calling [630-350-3400](tel:630-350-3400).

All bids require a Bid Bond, or Certified or Cashier's Check made payable to the Village of Bensenville for not less than ten percent (10%) of the bid amount.

Ilsa Rivera-Trujillo  
Village Clerk

## **GENERAL TERMS AND CONDITIONS**

**1. CONDITIONS** – Bidders should become familiar with all conditions, instructions and specifications governing their proposal. Once the award has been made, failure to have read all the conditions, instructions and specifications of their contract is not a reason to alter the original contract or to request additional compensation. The term "Village" in these bid documents means the Village of Bensenville, Cook and DuPage Counties, Illinois.

### **2. BID SECURITY**

**2.1** Each Bid must be accompanied by Bid security made payable to the Village in an amount of ten percent (10%) of the Bidder's maximum Bid price and in the form of a certified or bank check or a Bid Bond.

**2.2** Bid Bonds shall be duly executed by the Bidder as principal and having as surety thereon a surety company approved by the Village, having the minimum equivalent of a Best and Co. 5A Rating.

**2.3** Upon project starting, the Bid deposit will be returned. Failure of the bidder to execute a contract after notice of contract award will result in forfeiture of the Bid deposit. Bid deposit shall be retained by the Village as liquidated damages, not a penalty.

**2.4** Village will return Bid deposits from unsuccessful Bidders if requested after contract is awarded by the Village Board and all documents are executed.

**3. REFERENCES** - Included with bid proposal, provide a list of four current references to be used to determine the experience and capabilities in performing this type of work. Include company name, address, contact name, telephone number and email address.

### **4. VENDOR EXPERIENCE** - Include with Proposal

- a. Details of the company's experience handling and hauling similar materials: length of time of service in handling, removing, hauling, and applying Class B sludge or similar materials. If the materials are not Class B based, describe the similar materials. Provide history of experience in land applying biosolids.
- b. Detailed comprehensive management plan describing how the contractor will operate its entire biosolids land application program.
- c. Copies of any or all certifications/classifications required to haul materials.
- d. No bid will be considered unless party offering it furnishes evidence satisfactory to the Village of Bensenville that he has the necessary facilities, ability, and financial resources to fulfill the conditions of a sludge removal contract.

**5. Adjustments to Contract** - Village reserves the right to adjust the quantities of work, either up or down, dependent upon the current budget or until budgeted funds are depleted without prejudice to the Contract. Payment is based on accepted unit prices.

**6. COMPLETION TIME, PENALTY AND LIQUIDATED DAMAGES**

**6.1** The start of work is immediately after contract execution.

**6.2** If the CONTRACTOR does not complete the work within the specified Contract time or within allowed extended time, the CONTRACTOR is liable to the Village in the amount of One hundred dollars (\$100.00), as liquidated damages, for each calendar overrun day from the contract time or allowed extended time.

**6.3** Penalty or liquidated damages owed to the Village may be deducted from payments to the CONTRACTOR. If the deduction does not fully equal the CONTRACTOR'S penalty obligation, the CONTRACTOR shall pay the difference to the Village within ten business days after demand for payment. The parties further agree that the liquidated damages represent the minimum damage the Village will sustain for each calendar day of the delay in final completion of the work.

**7. TAX EXEMPT STATUS** – By law, the Village is exempt from paying State or Local Retailer's Occupation Tax, State Service Occupation and Use Tax, and Federal Excise Tax. The Illinois State Exemption Number will be provided after Contract is awarded.

**8. PRICING** – Bid pricing for goods and services are valid through December 31, 2017.

**9. MULTI-YEAR CONTRACTS** -- Contracts with a duration greater than 12 months require annual renewals to be signed by the Village and Contractor.

**10. CONTRACT EXTENSION & ESCALATOR CLAUSE** – Upon mutual agreement, this contract may be extended for two, one year periods, with the first extension running from January 1, 2018 through December 31, 2018; and the second extension from January 1, 2019 through December 31, 2019.

A one-time economic adjustment for labor, material, and equipment costs shall be allowed for each one year extension to the Contract after the initial one year Contract period. This economic adjustment may not exceed the Published Chicago Consumer Price Index (CPI) for the previous twelve month period.

## **SCOPE OF WORK**

Bid requirements, general terms and conditions, scope of work and other special requirements are all part of the bidding document and contract specifications. Standard specifications of technical or professional societies and federal, state or local agencies referred to shall include all amendments as of the date of advertisement for Bids.

**I. General Project Description** - This bid provides for Contractor to furnish all equipment, materials, labor, coordination, agricultural testing, farmer contacts and agreements, IEPA coordination, and other incidentals as may be necessary to remove Class B sludge from the Village's storage facility located at 711 E. Jefferson Street, Bensenville, Illinois.

The Village estimates that it creates 5,000 cubic yards of sludge per calendar year. This is only an opinion of probable volume and provides no guarantee.

### **II. Owner Responsibilities**

- A. Provide for a chemical analysis of the composite sludge samples to characterize the sludge to assure that sludge is not hazardous and meets the IEPA requirements for land application. Village is responsible for sample collecting and testing.
- B. Apply for and obtain an IEPA sludge application permit.
- C. Other contractual responsibilities as per proposed contract.

### **III. Contractor Responsibilities**

- A. Remove Class B sludge in compliance Village's IEPA Sludge Application Permit.
- B. Coordinate individual applications with road authorities and IEPA providing all necessary information and documentation.
- C. Contractor must comply with IEPA Standards and practices. If Contractor fails to comply, the contract may be immediately terminated.
- D. Employ a responsible person experienced and qualified to review each site's soil conditions, and recommend and ensure proper application rates.
- E. Contractor must have a Certified Crop Advisor CCA on staff to demonstrate agricultural professionalism.
- F. Accept sole responsibility for any charges made to farmers or property owners where sludge is applied.
- G. Accept sole responsibility for determination of a proper application rate.
- H. Report to Village Wastewater Supervisor the amount of sludge removed each haul. Provide copies of daily hauling logs.
- I. Contractor shall provide Village a copy of their sludge application report form to determine adequacy of information as part of this Bid Proposal.
- J. Provide Village with a completed sludge user sheet for each application site with each haul. Sludge user shall have signed form.
- K. Contractor shall keep sludge storage facility site clean as directed by Village WWTP staff. Contractor is totally responsible for all equipment and materials used in this operation that may be kept at the site.

L. Contractor will abide by and comply with all applicable governmental laws, regulations and rules in the performance of its activities under the contract.

M. Provide Village with documentation sufficient to the Village of Bensenville that contractor has all necessary applicable permits to land apply Class B municipal sludge.

N. Contractor shall notify Village immediately should any spill occur. The clean-up of any spilled sludge in any location other than the site is the sole responsibility of Contractor at his sole expense, in accordance with all applicable laws and regulations.

O. Contractor must use an agriculturally accepted method for the application of the sludge to the fields and provide a description for each site as to how the sludge application will be made to agricultural fields.

P. Upon removal of the Class B sludge from the Village said sludge shall become the property of selected Contractor. Village shall not be held liable for any illegal dumping of Class B sludge and selected Contractor shall so indemnify the Village.

Q. Contractor shall arrange with the WWTP Village staff the days and times of access to the sludge storage barn for hauling.

R. **PROOF OF LICENSE, PERMIT, CERTIFICATIONS, ETC.:** Contractor must provide proof of conformance with any applicable Federal/State/Local permits, licenses, certifications, etc., or the ability to obtain any applicable Federal/State/Local permits, licenses, certifications, etc., within a reasonable time after the proposal award and prior to the performance of the work. It is Bidder's responsibility to inquire about requirements of performing the job with the requesting department contact person.

#### **IV. Equipment – Contractor Responsibilities**

A. Contractor must provide a complete list of all equipment available for use to demonstrate company's ability to perform work in a timely and professional manner.

B. Contractor must possess equipment that is set up with tier 4 emissions ratings.

C. Contractor is solely responsible for the operation and maintenance of the equipment used by the Contractor.

**V. Price** - Based upon a base price per cubic yard hauled.

**VI. Basis of Payment** - Payment is based on the number of cubic yards removed from the storage facility.

## BIDDER INFORMATION SHEET

NAME: (PRINT) Greg Halmagyi - Business Development Manager

SIGNATURE: Greg Halmagyi

COMPANY NAME: Stewart Spreading, Inc.  
(PRINT)

ADDRESS: 3870 N. Route 71, Sheridan, Illinois 60551

TELEPHONE: 815-695-5667

FACSIMILE: 815-695-5770

EMAIL: gregh@stewartspreading.com

Please Return to:

Corey Williamson  
Deputy Village Clerk  
Village of Bensenville  
12 S Center St.  
Bensenville, IL 60106

Proposals must be in a **sealed opaque** envelope **marked**: SLUDGE HAULING – BID

The Proposals must be received by **11:00 am on Monday, November 30, 2015**. It is the responsibility of the proposer to deliver its bid to the designated person at the appointed place, prior to 3:00pm. Late delivery of a proposal for any reason, including faulty or late delivery by United States Mail or other carrier, will disqualify the proposal.

Proposals shall be opened in private to avoid disclosure of contents to competing offerors.



## **BID PRICE FORM**

If this Sludge Hauling bid is accepted, the undersigned, familiar with the specifications and conditions affecting the cost of proposed product agrees to enter into an agreement with the Village in the form of these contract documents for the contract sum, in the time stated and following all terms and conditions.

Price includes all aspects associated with the Contractor furnishing supervision, labor, delivery, tools, and equipment necessary to complete standards in the specifications.

January 1, 2016 – December 31, 2016 Hauling Price \$ 19.07 Per Cubic Yard

January 1, 2017 – December 31, 2017 Hauling Price \$ 19.45 Per Cubic Yard

**GRAND TOTAL (2016 + 2017) = \$ 38.52 Per Cubic Yard**

**Village Board reserves the right to reject any and all Proposals or portions thereof.**

Signed:

Where bidder is a corporation, add:

Michelle L Stewart, President  
Authorized Signature

Attest: Michelle L Stewart, Secretary  
(Secretary or other authorized officer)

Date: 11/25/2015

(CORPORATE SEAL)

## **GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERS**

These conditions apply to all purchases/services and become a part of each bid.

**1. NON-DISCRIMINATION IN EMPLOYMENT** - Contractor, in performing under this contract, shall not discriminate against any worker, employee or applicant, or any member of the public because of race, creed, color, age, sex or national origin, or otherwise commit an unfair employment practice. The proposer, his sub-contractors, or labor organizations furnishing skilled or unskilled workers, craft union skilled labor, or anyone who may perform any labor or service, shall not commit within the State of Illinois, under this contract, any unfair employment practices as defined in federal and state law.

**2. PERMITS AND LICENSES** - The successful Proposer shall obtain, at its own expense, all permits and licenses which may be required to complete the Contract, and /or required by municipal, state and federal regulations and law.

**3. REMOVAL OR SUSPENSION OF BIDDERS** - Village may remove or suspend bidder from the bidder's list for a specified period not to exceed two years. The Bidder will be given notice of such removal or suspension if:

- A. Services performed do not comply with contract specifications;
- B. Work is not done within the contract's specified timeframe;
- C. An offer is not kept firm for the length of time specified in the contract;
- D. Contractor fails to provide performance bond when required by invitation to bid;
- E. Contractor is found guilty of collusion;
- F. Bankruptcy or evidence of insolvency is found;
- G. An employee currently serves as a Bensenville Board member or Village employee and is financially involved in proposed work.

## **4. COMPLIANCE TO LAW**

**4.1** Bidder shall observe and comply with all laws, ordinances, regulations and codes of federal, state, county, and village governments and/or any other local governing agencies which may in any manner affect the preparation of proposal or the performance of this contract at all times.

**4.2** All merchandise, commodities and services must conform to all standards and regulations as set by the Occupation Safety Health Administration (O.S.H.A.).

**4.3** Bidder must complete and notarize the Bid Compliance Page with bid.

## **5. BIDDING CONDITIONS**

**5.1 BID ATTACHMENTS** - Bidders shall attach to the bid form any descriptive material necessary to fully describe the merchandise he/she proposes to furnish.

**5.2 BID BINDING** - Unless otherwise specified, all bids shall be binding for Ninety days following the bid opening date.

**5.3 BID OPENING** - At the precise time set for bid opening, bids will legally be made public. Bidders or their representatives are encouraged to attend the bid opening.

**5.4 BID PRICE FORM** – Submit prices on the enclosed Bid Price Form completed properly and signed in ink.

**5.5 BIDDER’S COMPETENCE** - The Village may require proof of facilities or equipment, insurance coverage and financial resources to perform the work. If required, the bidder shall submit to the Village a properly executed Contractor Qualification statement, AIA Document A305. The Village reserves the right to require specific references of communities or companies that have purchased like materials.

**5.6 CHANGES IN CONTRACT DOCUMENTS** - Changes or corrections may be made by the Village after they are issued by the Village. Addendum or addenda shall take precedence over that portion of the documents concerned, and become part of the contract documents. Addenda are written or graphic instruments issued prior to the execution of the contract that modify or interpret the bidding documents, including drawings and specifications, by additions, deletions, clarifications, or corrections. It is the bidder’s responsibility to regard all **addenda which will be posted on Village website** at least four days prior to date established for receipt of bids.

**5.7 EXAMINATION OF BIDDING DOCUMENTS** - Bidder shall carefully examine all contract documents and addenda to become thoroughly familiar with the detailed requirements prior to submitting proposal. If a bidder finds discrepancies or ambiguities in, or omissions from documents, or is in doubt as to their meaning, he/she shall notify the Village Clerk not later than ten days prior to bid due date. **All addenda will be posted on the Village website ([www.bensenville.il.us](http://www.bensenville.il.us)) under “Business”.** Addenda shall not be made less than four days prior to bid opening. Bid Documents shall be used by each Bidder in preparing its Bid and neither the Village nor the Architect or Engineer assumes any responsibility for errors or misinterpretations resulting from the use of an incomplete set of Bid Documents. The Village is not responsible for oral instructions. Direct inquiries to the Deputy Village Clerk. After the bids are received, no allowance will be made for bidder oversight.

**5.8 LATE BIDS** – Formal bids received after specified bid opening time will not be considered and will be returned unopened.

**5.9 MISTAKE IN BID AND BID CHANGES** – Bids cannot be modified after submittal. If an error is made in extending a total price, the unit price will govern. The bidder must initial erasures on the bid form.

**5.10 RESPONSE TO INVITATIONS** - Contractors unable to bid or not bidding will provide a letter of explanation and return the bid form. Contractors who fail to respond on two successive bids will be removed from the qualified bidder’s list.

**5.11 WITHDRAWAL OF BIDS** - A written withdrawal request must be received by the Deputy Village Clerk before bid opening. After bid opening, bids become a legal document and an integral part of the bid and shall not be withdrawn.

**6. AWARD, REJECTION OR DISQUALIFICATION OF BIDS** - The Village's has the right to reject any or all Bids and to waive informality or irregularity in any Bid received and to award each item to different Bidders or all items to a single Bidder (to accept, split, and or reject part(s) of any of all Bids). The Village has the right to reject a Bid if the Bidder failed to furnish required Bid security or to submit data required by the Bidding documents, or if the Bid is incomplete or irregular as determined by the Village.

**6.1** Responsibility of a bidder is determined by consideration of:

- A. Bidder's character, integrity, reputation, judgment, experience and efficiency;
- B. Bidder's ability, capability, and skill to perform the service required;
- C. Whether the Bidder can perform the contract or provide the service promptly, or within the service specified, without delay or interference;
- D. Bidder's performance quality in previous contracts of services;
- E. Bidder's previous and existing compliance with laws and ordinances relating to the contract or service;
- F. Bidder's ability to provide future maintenance and service for Contract subject;
- G. Number and scope of conditions attached to the Bid;
- H. Responsiveness to the exact requirements of the invitation to Bid;
- I. Current, uncompleted work in which Contractor is involved, which might hinder or prevent prompt delivery of the Merchandise;
- J. Bidder's financial resources;
- K. Cash discounts offered;
- L. Quality, utility, suitability of work or material: the quality of the commodity to be furnished, as well as the price is to be taken into consideration, and a bid which is low in price may be rejected if the furnished material is not the best;
- M. Direct, indirect and incidental costs to the Village;
- N. Ability to work cooperatively with the Village and its administration;
- O. Past Village records of the Bidder's transaction or with other entities as evidence of the Bidder's responsibility, character, integrity, reputation, judgment, experience, efficiency and cooperativeness; and,
- P. Any other evidence of bidder's responsibility as determined by the Village.

**6.2** The Village may reject any and all Bids, and may re-advertise for new bids.

**6.3** The following may be cause for disqualification of a submitted Bid:

- A. Prices excessively high and/or exceed monies available for the Contract;
- B. Failure to submit Bid deposit or surety;
- C. Failure to offer to meet specified delivery or performance schedules;
- D. Failure to price out the Bid in the required format; or qualification of price to protect the Bidder from unknown future market conditions;
- E. Rights of the purchasing agency limited under any contract clause;
- F. Bidder currently on "debarred" bidders list. "Debarred" bidders list are vendors who have not complied with the rules and regulations of Village contracts. If you have any questions, please contact Village Finance Director;
- G. Reasonable basis to suspect either conflict of interest or collusion among Bidders;
- H. Bidder does not provide requested data, literature, samples, or affidavits with Bid;



- I. Late Bids;
- J. Failure of any authorized person to sign the Bid; and
- K. Bidder is prohibited by local, state or federal law from entering into public contracts.

6.4 Village staff is authorized to independently investigate matters of bidder's responsibility and verify any statement made to the Village by the bidder.

6.5 NOTICE OF AWARD – After the acceptance and award of the bid, and upon receipt of a purchase order executed by proper Village officials, this instruction to bidders, including specifications, and bid price form constitutes part of the legal contract between the Village of Bensenville and the Contractor.

## 7. CONTRACT PROVISIONS

7.1 CATALOGS – If requested, Bidder will submit catalogs, descriptive literature, detailed feature drawings, designs, construction, finishes, operational manuals and the like not listed in the Specifications to fully illustrate and describe the material or Work proposed.

7.2 MATERIAL, EQUIPMENT, AND WORKMANSHIP - Unless otherwise specified, materials and equipment incorporated in Contract will be new and good quality. All workmanship will be good quality and free from defects. If asked, Contractor shall furnish satisfactory evidence as to source, kind and quality of materials and equipment.

7.3 SHOP DRAWINGS – Bidder will submit detailed shop drawings and layouts showing characteristics of equipment, installation and operation details.

7.4 SPECIAL HANDLING – Before delivering caustic, corrosive, flammable or dangerous to handle product, Contractor will provide written directions for how to handle such products, plus antidote or neutralizing material required in first aid. Contractor will notify Village and provide material safety data sheets for substances used in connection with Contract defined as toxic under the Illinois Toxic Substances Disclosure to Employees Act. Failing or delaying to provide data sheets may cause disqualification.

7.5 TRAINING, DEMONSTRATIONS – If requested Contractors are required to present a demonstration of bid item if Village has insufficient knowledge of the item's operation or performance capability. Such demonstrations and training must be at "no charge" to the Village and must be at a site convenient and agreeable to the affected Village personnel.

8. VILLAGE SUPERVISION - The Village Manager, or designee, has full authority over the contracted work and will interpret specifications in a dispute. He/she may order minor changes in a specification if necessary. Major changes will be "additions".

9. SAFETY/LOSS PREVENTION PROGRAM – The Village may request the contractor provide written confirmation that a safety/loss prevention program was in place at least 90 days prior to approval to work with the Village. Evidence of completed employee safety training shall be provided if requested by the Village.

**10. VENUE** – For the purposes of a lawsuit(s) between Contractor and Village regarding the Contract, its enforcement, or subject matter, the venue shall be in DuPage County, Illinois and the laws of the State of Illinois shall govern the cause of action.

**11. DELIVERY**

- A. Bid items must be delivered within four weeks from the Contract execution date. The Village may cancel the Contract without obligation if Delivery requirements are not met. If Contract is not canceled by the Village, liquidated damages may be due and owing to the Village pursuant to the liquidated damage provision.
- B. All deliveries must be made Monday - Friday, excluding Village holidays, between the hours of 7:00 a.m. and 3:30 p.m.
- C. Shipments become the property of the Village after delivery and acceptance.
- D. Bid price shall include delivery as indicated herein.
- E. All prices must be quoted F.O.B. Bensenville, Illinois.
- F. CONTRACTOR assumes all risk of loss or damage to the Goods prior to acceptance of delivery by OWNER at point of delivery; and shall purchase and maintain insurance on the Goods during fabrication process and while in transit to insure against the perils of fire and extended coverage including “all risk” insurance for physical loss and damage including theft, vandalism and malicious mischief, collapse, water damage and other perils, as CONTRACTOR deems appropriate.

**12. DAMAGES TO PROPERTY**

**12.1** CONTRACTOR is responsible for property damage caused by their work performed for this contract and shall replace or restore it to its original condition at no cost to the occupant, owner or Village. The Village shall be held harmless for all liability under the Scope of Work of this contract.

**12.2** CONTRACTOR is not authorized to drive equipment on private property without property owner’s written authority.

**12.3** If damage exists before work begins (i.e. sidewalk, driveway cracks) it is recommended that contractor notify Director of Public Works prior to starting work. Take pictures of preexisting damage before beginning. This is for the CONTRACTOR’S protection.

**13. VILLAGE INSURANCE REQUIREMENT** – Contractors shall procure and maintain for the contract duration insurance against claims for injuries to persons or property damages which may arise from or in connection with the performance of the Contracted, his agents, representatives, employees, or subcontractors.

**13.1 MINIMUM SCOPE OF INSURANCE COVERAGE SHALL BE AT LEAST AS BROAD AS:**

- A. Insurance Services Office Commercial General Liability occurrence form CG 0001 (Ed. 11/85) with Village of Bensenville named as additional insured; and
- B. Owners and Contractors Protective Liability (OCP) policy (if required) with the Village of Bensenville as insured; and

- C. Insurance Service Office Business Auto Liability coverage form number CA 0001 (ED. 10/90 or newer), Symbol 01 "Any Auto."
- D. Workers' Compensation as required by the Labor Code of the State of Illinois and Employers' Liability Insurance.

**13.2 MINIMUM LIMITS OF INSURANCE CONTRACTOR SHALL MAINTAIN:**

- A. Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury, and property damage. Minimum General Aggregate not less than \$1,000,000 or a project/contract specific aggregate of \$1,000,000.
- B. Business Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
- C. Workers' Compensation: Statutory Limits
- D. Employers' Liability limits of \$1,000,000 per accident.

**13.3 DEDUCTIBLES AND SELF-INSURED RETENTIONS** - Any deductibles or self-insured retentions must be declared to and approved by the Village of Bensenville. At the option of the Village of Bensenville, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Village of Bensenville, its officials, agents, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigation, claim administration, and defense expenses.

**13.4 OTHER INSURANCE PROVISIONS** - Policies are to contain, or be endorsed to contain:

**A. General Liability and Automobile Liability Coverages**

- 1. The Village of Bensenville, its officials, agents, employees, and volunteers are to be covered as insured's as respects: liability arising out of activities performed by or on behalf of the Contractor; premises owned, leased or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the Village of Bensenville, its officials, agents, employees, and volunteers.
- 2. The Contractor's insurance coverage shall be primary as respects to the Village of Bensenville, its officials, agents, employees, and volunteers. Any insurance maintained by the Village of Bensenville, its officials, agents, employees, and volunteers shall be excess of Contractor's insurance and shall not contribute with it.
- 3. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Village of Bensenville, its officials, agents, employees, and volunteers.
- 4. The Contractor's insurance shall contain a Severability of Interests/Cross Liability clause or language stating that Contractor's insurance shall apply separately to each insured against who claim is made or suit is brought, except with respect to the limits of the insurer's liability.

**B. Workers' Compensation and Employers' Liability Coverage** - The insurer agrees to waive all rights of subrogation against the Village of Bensenville, its

officials, agents, employees, and volunteers for losses arising from work performed by Contractor for the municipality.

- C. **All Coverages** - Each insurance policy required shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty days prior to written notice by certified mail, return receipt requested, has been given to the Village of Bensenville.

**13.5 ACCEPTABILITY OF INSURERS** - Insurance is to be placed with insurers with a Best's rating of no less than A-, VII, and licensed to do business in the State of Illinois.

**13.6 VERIFICATION OF INSURANCE COVERAGE** - Contractor shall give the Village of Bensenville certificates of insurance naming the Village of Bensenville, its officials, agents, employees, and volunteers as additional insured's, and with original endorsements affecting coverage require by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements may be on forms provided by the Village of Bensenville and are to be received and approved by the Village of Bensenville before any work commences. Village of Bensenville may request full certified copies of policies and endorsements.

**13.7 SUBCONTRACTORS ARE PROHIBITED**

**13.8 ASSUMPTION OF LIABILITY** - Contractor assumes liability for all injury to or death of any person(s) including employees of the Contractor, any sub-contractor, any supplier or other person(s) and assumes liability for all damage to property sustained by any person or persons occasioned by or in any way arising out of any work performed pursuant to this agreement.

**14. INDEMNITY/HOLD HARMLESS PROVISION**

To the fullest extent permitted by law, the Contractor agrees to defend, indemnify, and hold harmless the Village of Bensenville, its officials, agents, and employees against all injuries, deaths, loss, damages, claims, patent claims, suits, liabilities, judgments, cost and expenses, which may in anyway accrue against the Village of Bensenville, its officials, agents, and employees, arising in whole or in part or in consequence of the Contractor's performance of this work, its employees, or subcontractors, or which may in anywise result, except that arising out of the sole legal cause of the Village of Bensenville, its agents, or employees, the Contractor shall, at its own expense, appear, defend, and pay all charges of attorney and all costs and expenses arising therefore or incurred in connection with, and if any judgment shall be rendered against the Village of Bensenville, its officials, agents, and employees, in any such action, the Contractor shall at its own expense, satisfy and discharge same. Contractor expressly understands and agrees that any performance bond or insurance policies required by this contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Village of Bensenville, its officials, agents, and employees.

Contractor agrees that to the extent that money is due the Contractor by virtue of this contract as shall be considered necessary in the judgment of the Village of Bensenville, may be retained by the Village of Bensenville to protect itself against said loss until such



claims, suits, or judgments shall have been settled or discharged and/or evidence to that effect shall have been furnished to the satisfaction of the Village of Bensenville.

**15. DEFAULT** - The Village may, subject to the provisions specified, by written notice of default to the contractor, terminate the whole or any part of this contract if the Contractor/Vendor fails to:

- A. make material delivery or perform the services within specified time or any extension hereof; or
- B. make progress that endangers contract performance; or
- C. provide or maintain in full force and affect the liability and indemnification coverages or performance bond as required.

If the Board terminates this contract in whole or in part as provided above, the Village may procure, upon such terms and manner as the Village may deem appropriate, supplies or services similar to those terminated, and the contractor shall be liable to the Village for any excess costs for such similar supplies for services; PROVIDED that the contractor shall continue the performance of this contract to the extent not terminated under the provisions of this clause.

**16. ALTERNATE MATERIALS AND EQUIPMENT** - Where specifications read "or approved equal", contractor shall give written description to Public Works Director for approval. Generally, where specifications indicate a particular brand or manufacturer's catalog number, it shall be understood to mean that specification or equal, or item that performs a comparable function and is equal thereto to fill the needs of the Village, unless "No Substitutes" is specified. When offering alternatives identify by brand name and catalog number. Also include manufacturer's literature with the bid. Bidders will be required to furnish samples upon request and without charge to the Village.

**17. BIDDER'S ACCESS TO PROCUREMENT INFORMATION** - All procurement information shall be public record to extent provided in Illinois Freedom of Information Act and Public Act #85-1295 and shall be available to all bidders as provided by such acts.

**18. ACCEPTANCE** - Contracted work is accepted when final payment is made.

**19. PAYMENT** - The Village Board approves payouts to vendors at regular Village Board meetings which typically occur on the second and fourth Tuesdays of the month. Payment is made by check and issued the same week as payout approval. Payouts do not appear on the agenda until the appropriate Village staff has accepted the product to be delivered, or work performed under contract.

**20. PAYMENT WITHHELD** - The Village may withhold, or due to subsequently discovered evidence, nullify the whole or part of any payment certificate to such extent as may be necessary to protect itself from loss on account of:

- a. Defective work not remedied.
- b. Claims filed or reasonable evidence indicating probable filing of claims;
- c. Contractor's failure to properly pay subcontractors or for material or labor;
- d. Damage to other contractors' tools, materials, work or equipment;

- e. Damage to public or private property.

When issues are remedied, payment for amounts withheld because of it will be made.

**21. DEDUCTIONS FOR UNCORRECTED WORK** - If the Village deems it inexpedient to correct work done in accordance with the Contract, an equitable deduction from the Contract price shall be made.

**22. LIENS** – The Village reserves the right to request waivers of lien whether partial or final if the Contractor utilizes subcontractor(s).

**23. REORDERS** - Reorders for the same item(s) shall be furnished at the base contract price or shall be furnished pursuant to a schedule of prices attached by the contractor. Reordering shall be within the sole discretion of the Village.

**24. GUARANTEES AND WARRANTIES**

**24.1** All material, workmanship, services, and purchased commodities will be guaranteed from defects for at least one year, or for the period of time specified in the bid documents, based on the date of completion. Upon notice of defect, bidder shall make necessary repairs, without delay, at no extra charge to the Village. Said time period shall be based on date of completion. Upon written notice of defect, contractor shall make all necessary repairs, without delay, at no extra charge to the Village.

**24.2** All warranties for materials or equipment must be received with title before payment is recommended.

**25. CHANGES/ADDITIONAL SERVICES/DELETIONS** - Requests for changes or modifications to this contract must be submitted in writing and approved by the Village Director of Public Works or designee, prior to such changes or modifications being made. Additional service desired from the contractor under this contract will be requested in writing and the additional charges for these services will be in accordance with the rate submitted on the proposal page and will be agreed to with the contractor prior to additional work starting. If charges for additional services cannot be agreed upon, bids will be requested. The Village reserves the right to negotiate additional services based upon the contractor's price and performance, within all legal constraints.

**26. CHANGE ORDER AUTHORIZATION** - Pursuant to Public Act 85-1295 (720 ILCS 5/33E-1 et seq.) no change order may be made in this contract which authorizes or necessitates an increase or decrease in either the cost of the contract by \$10,000.00 or more, or the time of completion by 30 days or more unless one of the following certifications is made by either the Village Board or designee that:

- a. Circumstances said to necessitate the change in performance were not reasonably foreseeable at the time the contract was signed; or
- b. Circumstances said to necessitate the Change were not within the contemplation of the contract as signed; or
- c. The change is in the best interest of the Village.

*The party authorized to execute the above certification is the Village of Bensenville.*

**VENDOR:**

**Village of Bensenville:**

Michelle D. Stewart  
Signature

\_\_\_\_\_  
Signature

President  
Title

\_\_\_\_\_  
Title

11/25/15  
Date

\_\_\_\_\_  
Date

Acknowledge Addendum 1 & 2 By Hamon 11/30/15

**VILLAGE OF BENSENVILLE  
BID COMPLIANCE CERTIFICATION**

I, Michelle L. Stewart, having been first duly sworn, depose and state that:  
(owner/authorized company representative)

Stewart Spreading, Inc. ("Contractor"), having submitted a proposal for:  
(Name of Company)

Stewart Spreading, Inc. to the Village of Bensenville, hereby certifies that Contractor:

1. is operating in compliance with the federal Civil Rights Act, 42 USC §2000e, and the Illinois Human Rights Act, 775 ILCS 5/2-105(A).
2. is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, or if it is:
  - a. it is contesting its liability for the tax or the amount of tax in accordance with procedures established by the Illinois Revenue Act; or
  - b. it has entered into an agreement with the Department of Revenue for payment of all taxes due and is currently in compliance with that agreement.
3. is in full compliance with the Federal Highway Administration Rules on Controlled Substances and Alcohol Use and Testing, 49 CFR Parts 40 and 382 and that  
"All employee drivers"  
(Name of employee/driver or "all employee drivers")  
is/are currently participating in a drug and alcohol testing program pursuant to the aforementioned rules.
4. is in full compliance with the Drug Free Workplace Act, 30 ILCS 580/1 et. seq.
5. is in full compliance with the Criminal Code of 2012, 720 ILCS 5/33-1 et. seq.
6. is in full compliance with the Public Construction Act, 30 ILCS 557/1 (applicable if the contract is in excess of \$75,000.00).

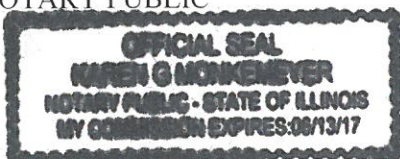
By: Michelle L. Stewart  
(Officer or Owner of Company stated above)

Title: President

SUBSCRIBED AND SWORN to before me

this 25<sup>th</sup> day of November, 2015.

[Signature]  
NOTARY PUBLIC





✓	<b>Submittal Checklist – Bid Packet must be returned in its entirety</b>
✓	Bidder Information Sheet
✓	Bid Price Sheets
N/A	Addenda Number Acknowledged, if applicable
✓	Vendor Experience (see page 3 #4)
✓	References
✓	Bid Security of 10%
✓	Signature Page
✓	Copy of bidder's sludge application report form
✓	Documentation sufficient to the Village of Bensenville that contractor has all necessary applicable permits to land apply Class B municipal sludge.

<b>AWARDED CONTRACTOR REQUIREMENTS</b>	
Performance Bond, if applicable	25% due within 10 days of notice of award
Payment Bond, if applicable	25% due within 10 days of notice of award
Certificate of Insurance	
Certificate of Compliance	
Executed Contract with Authorized Signatures	



**Included documents**

1. 10% Bid Bond
2. Comprehensive Biosolids Management Plan
3. Stewart Spreading Executive Summary, Corporate Profile, Relevant Experience and References.
4. Sludge Application Report
5. Health & Safety
6. Equipment Inventory
7. Permits and Certificates
  - I.E.P.A. Water Pollution Control Permit
  - Insurance certificate with the Village of Bensenville as additional insured
  - I.C.C. Transportation – Public Carrier Certificate
  - State of Illinois, Certificate of Good Standing
  - State of Illinois, Certificate of Registration – State Board of Elections

**F U L L   S E R V I C E   R E S I D U A L S   M A N A G E M E N T   C O M P A N Y**

### **COMPLETE BIOSOLIDS MANAGEMENT PLAN:**

Prepared for the City of Bensenville Wastewater Treatment Plant

#### **Complete biosolids management program includes the following:**

- Mobilize equipment and personnel to the site for safety conscious loading operations;
- Safely deliver, unload and land apply the correct agronomic amount of biosolids to field(s);
- Transport biosolids with IL DOT licensed trucks and trailers equipped with watertight seals and to ensure safe delivery to area farm fields;
- Load and spread biosolids at proper agronomic rates in accordance with IEPA 391 and IEMA 300 Radium guidelines;
- Provide monthly operating reports documenting IEPA and IEMA requirements for the city's use in creating required reports. Provided within 15 days after the end of each month;

#### **Stewart Spreading will be responsible for:**

***(In agreement with Scope of work (pg 5-6) of the "Invitation to Bid")***

- Mobilizing and demobilizing people and equipment to and from the City of Bensenville's storage area for safety conscious loading, transportation and land application.
- Maintaining a professional appearance of work sites;
- Remove Class B sludge in compliance with the Village's IEPA Sludge Application Permit;
- Comply with IEPA Standards and practices;
- Have a Certified Crop Advisor CCA on staff to demonstrate agricultural professionalism;
- Accept sole responsibility for determination of proper application rate;
- Accept sole responsibility for any charges made to farmers or property owners where sludge is applied;
- Providing a Project Manager as single point of contact, as well as a backup management contact, to ensure that the service level is consistent with City's expectations;
- Providing labor, equipment and agronomic technical expertise necessary for the loading, transportation and land application of Bensenville biosolids;
- Providing a master load sheets which shows each truck, to determine the time, date and volume for each truck load on each hauling day;
- Providing all proper licensing and insurance documentation to the City of Bensenville prior to commencement of work;
- Consulting with local agricultural producers and land owners to source the approximately 5000 cubic yards of biosolids produced on an annual basis;
- Performing all soil sampling necessary to comply with IEPA 391 and IEMA 330 requirements, compliance and reporting;
- Providing monthly operating reports documenting IEPA and IEMA requirements for the City's use in creating necessary reports within 15 days after the end of each month;
- Offering a two year fixed contract prices, in addition to 2 (optional) 1 year extensions, each extension reflecting an annual CPI price adjustment on the anniversary date of the contract, for a total of 4 years of service;

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**A F U L L S E R V I C E R E S I D U A L S M A N A G E M E N T C O M P A N Y**

**3870 N. Route 71 – Sheridan, IL 60551 – Office 815.695.5667 – Fax  
815.695.5770 Website: [www.Stewartspreading.com](http://www.Stewartspreading.com)**

November 25, 2015

Village of Bensenville  
Department of Public Works  
717 E. Jefferson Street  
Bensenville, Illinois 60101

**RE: Sludge Hauling**

Thank you for including Stewart Spreading, Inc. on your prospective bidders list for the Village of Bensenville's Sludge Hauling Contract. We sincerely appreciate the opportunity to be of service to the Village of Bensenville, Department of Public Works.

Stewart Spreading, Inc. is a local full service residuals management company. Our mission is to provide innovative, economical and timely service to our clients with our own equipment and employees. If you would like to tour our facility and inspect our equipment first hand, we would love to have you.

Please find our qualifications and a list of our references attached. If you have any questions, please contact me on my cell phone at (630) 768-3085 or at our office at (815) 695-5667.

Thank you for the opportunity to be of service in this project. We look forward to working with you.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Halmagyi".

Greg Halmagyi  
Stewart Spreading, Inc.

**A F U L L S E R V I C E R E S I D U A L S M A N A G E M E N T C O M P A N Y**

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## **Executive Summary**

Stewart Spreading, Inc.  
(Founded in 1994, Incorporated June 24, 2005)  
Principal Contact: Michelle Stewart, President  
3874 N. Illinois Route 71  
Sheridan, Illinois 60551  
(815) 695-5667 Office  
(815) 695-5770 Fax  
FEIN: 35-2257009

## **Corporate Profile**

Stewart Spreading Inc. is a Full Service Residuals Management Company. Founded in 1994 (See attached; Illinois Certificate of Good Standing) by John & Michelle Stewart, have been providing services to municipalities, agricultural producers and industrial facilities for twenty years. Services include field application, lagoon cleaning and dredging, plant closures, mobile dewatering, drinking water residuals, digester cleaning, livestock manure handling, transportation, EPA monitoring, agronomy, contract farming services and more. Our mission is to provide quality, timely and innovative service to every client, every time.

Over the years we have assembled a team of top professionals, developed unique proprietary reporting capabilities and implemented the business processes required to provide the highest levels of service and profitability to municipal land owners, clients and farming partners.

Our business was established to meet the needs of municipalities like the City of Elgin. We have a unique understanding of beneficial recycling, specializing in green solutions to the residuals management needs.

One of the keys to our success is innovation. Not satisfied with being just another residuals company, we are constantly analyzing vertical integration strategies to expertly combine the opportunities available in residuals management to progressively and consistently meet the demands of municipalities, agricultural producers and industries.

We commit ourselves to provide our clients with the best customer service in the residuals management business.

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A F U L L S E R V I C E R E S I D U A L S M A N A G E M E N T C O M P A N Y

3870 N. Route 71 – Sheridan, IL 60551 – Office 815.695.5667 – Fax  
815.695.5770 Website: [www.Stewartspreading.com](http://www.Stewartspreading.com)

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### **Summary of Services**

- Beneficial Recycling / Green Solutions
- Land Application
- Water Residuals Management
- Mobile Dewatering/Screening
- Digester Cleaning
- Lagoon Cleaning/Dredging/Decommissioning
- Plant Decommissioning
- Emergency Pumping Services
- EPA Reporting/Compliance
- Public Relations Services
- Crop Production
- Custom Farming Services

### **Stewart Spreading's on Staff Technical Service Personnel Experience Summary**

- Core management team with an average of 20 years of experience each
- Residuals Management for over 40 municipalities in Illinois annually

### **Stewart Spreading's Team Highlight of Education, Advanced Training and Licenses Held**

- B.S., Agricultural Sciences with an Ag-Science Sequence in Agronomy
- Multiple Certified Crop Advisors, American Society of Agronomy, 1999-Present
- Member of American Society of Agronomy
- B.S., Business, General Emphasis
- B.S., Business, Emphasis Marketing
- B.A., Business, Emphasis Accounting
- BBA in Industrial Relations and Human Resources
- Full Line of Insurance Licenses
- Financial Planning
- Department of Transportation (DOT) Compliance Certification
- Member of Illinois Association of Water Pollution Control Operators
- Member of Illinois Rural Water Association, 2009 Associate Member of the Year
- Member of Midwest Water Analysts, Steering Committee

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**A F U L L S E R V I C E R E S I D U A L S M A N A G E M E N T C O M P A N Y**

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**3870 N. Route 71 – Sheridan, IL 60551 – Office 815.695.5667 – Fax  
815.695.5770 Website: [www.Stewartspreading.com](http://www.Stewartspreading.com)**



- Certified Livestock Manager
- Pesticides Applicator License
- Member of Asmark Safety Initiative Program
- Various OSHA Safety Certifications

### **Relevant Experience**

Stewart Spreading, Inc. is an Illinois residuals management firm with over twenty years of experience servicing Illinois municipalities and farmers. Stewart Spreading Core Management Team has over 100 years of combined experience in the environmental and residuals management industry. Stewart Spreading, Inc. performs all transportation, land application, agronomy, EPA reporting and compliance in house with specialized equipment and our fully trained staff. This gives our clients the assurance that when contracting with Stewart Spreading the job is not complete until our client is satisfied and has all of the information that they need to comply with pertinent regulations.

### **References**

#### ***Metropolitan Water Reclamation District of Greater Chicago***

The contract requires Stewart Spreading to provide complete residuals management services for the transportation, and land application of 200,000 wet tons annually 2008 - 2014 contract. 2015 - 2019 new contract. Dan Collins, Supervising Civil Engineer, Biosolids Manager, (708) 588-4300. [daniel.collins@mwrdd.org](mailto:daniel.collins@mwrdd.org)

#### ***Rock River Water Reclamation District***

The contract requires Stewart Spreading to provide complete residuals management services for the transportation, and land application of 18,000-20,000 tons of Biosolids per year. Three year contract. Larry McFall, Plant Operations Manager, 815-387-7584. [LMcFall@rrwrd.dst.il.us](mailto:LMcFall@rrwrd.dst.il.us)

#### ***The City of Joliet, IL***

The contract requires Stewart Spreading to transport and land apply approximately 28.5 million gallons per year. Dewatering is completed during inclement weather. Cleaning of four 80' digesters completed during a construction project spanning 2008 and 2009. Nick Gornick, Plant Operations Superintendent, 815-724-3675. [ngornick@jolietcity.org](mailto:ngornick@jolietcity.org)

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A F U L L S E R V I C E R E S I D U A L S M A N A G E M E N T C O M P A N Y

3870 N. Route 71 – Sheridan, IL 60551 – Office 815.695.5667 – Fax  
815.695.5770 Website: [www.Stewartspreading.com](http://www.Stewartspreading.com)

***The City of Aurora, IL – Water Treatment Plant***

Maintenance, Excavation and Transportation of 33,000 tons per year of lime residuals from 5 lagoons to landfill in Davis Junction, IL. Client since 2005. We are proud to have taken the program from 100% landfill to a successful land application program. Dave Schumacher, Superintendent, 630-844-3632. DSchumacher@aurora-il.org

**Note: Additional References Gladly Furnished Upon Request**

**Partial listing of Stewart Spreading's, Current Projects**

Complete client listing available upon request.

- Metropolitan Water Reclamation District of Greater Chicago
- Fox River Water Reclamation Dist.
- City of Aurora, Illinois
- City of Batavia, Illinois
- City of Bensenville, Illinois
- City of St. Charles, Illinois
- City of Geneva, Illinois
- City of Joliet, Illinois

**Insurance coverage**

Stewart Spreading, at its sole expense and prior to engaging upon the work agreed to be done, shall procure, maintain and keep in force during the entire term of the Agreement such required insurance. See attached insurance certificate.

Insurance coverage; Worker's Compensation, Employer's Liability, Commercial General Liability, Business Auto Liability & Environmental Impairment.

See attached insurance certificate.

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A F U L L S E R V I C E R E S I D U A L S M A N A G E M E N T C O M P A N Y

3870 N. Route 71 – Sheridan, IL 60551 – Office 815.695.5667 – Fax  
815.695.5770 Website: [www.Stewartspreading.com](http://www.Stewartspreading.com)



### **Safety Summary**

Stewart Spreading is dedicated to employee health & safety. We recognize that most accidents are preventable & that in order to reduce injuries we must thoroughly understand what occurred & why. We are committed to creating a culture of safety. We believe that the why (why did the injury occur) behind the "what" (what occurred) is the key to improved safety. We have a behavior component to our safety training, tool box talks and daily job duty instruction. Owners, Managers, team leaders, every employee is trained that each one of us is our brother's keeper & it is our responsibility to speak up. If we recognize a safety concern it is our responsibility to bring it to the person's attention because we care about their safety. Additionally every injury and near-miss is investigated... what can we learn from this? How can we prevent this from occurring again? What behavior may have contributed to the incident? What needs to change, behavior, PPE, ergonomics, training...? We use that information to improve processes, training and PPE.

1. We are proud members of the **National Safety Council** and the **Asmark Insitute**.

Subjects that employees are trained on include but are not limited to are as follows;

- *Anhydrous Ammonia*
- *Back Safety*
- *Bloodborne Pathogens*
- *Confined Space*
- *Defensive Driving*
- *Drug & Alcohol Awareness*
- *Electrical Safety*
- *Farm Equipment Safety*
- *Fire Extinguisher*
- *FMCSR & You*
- *Forklift Safety*
- *Grain Safety*
- *Great Housekeeping*
- *Hazzard Communication*
- *Hazardous Materials*
- *Hearing Conservation*
- *Heat Related Illness*
- *Lock Out / Tag Out*
- *Oxy/Acetylene Safety*
- *Personal Protective Equipment*
- *PIT Skills*
- *Respiratory Protection*

**A F U L L S E R V I C E R E S I D U A L S M A N A G E M E N T C O M P A N Y**

- Safe Welding & Cutting
  - Security Wise
  - Slips, Trips & Falls
  - Tire & Wheel Rim Safety
2. In addition to onboarding safety training / new-hire safety training and annual safety training we provide supplemental tool box talks that cover additional safety items that are job specific such as safe equipment operation, winter driving, distracted driving etc. We also use news items regarding safety, incidents and near-misses within the company and the industry for training purposes. Attached are some examples of what is covered in supplemental / tool box talks, Farm safety fact sheet & No Second Chances.
  3. Every employee receives a pre-employment drug screening. All employees are subject to a random computer generated monthly drug and alcohol screening. Additionally, company policy dictates anytime that there is an injury or property damage the employee is taken for a drug and alcohol test.
  4. **Our company safety handbook.** Each employee is issued the handbook, it is covered extensively during onboarding and referred to during safety trainings. Additionally, each employee signs / *"acknowledges the last page of the handbook, "their obligation to read, understand and comply with it's contents and directives". Copy available upon request.*
  5. **Discipline** ( The following statement is taken from the first page of the company "Job Safety Handbook"). *"Employees who fail to adhere to job safety and health standards are subject to disciplinary action, including, but not limited to verbal reprimands, written warnings, suspension, and/or immediate discharge. The degree of discipline in any instance is at the sole discretion of management".*
  6. I use this video with new hires and during annual training to help begin the discussion on our attitudes towards safety. [http://youtu.be/B5\\_DFNXnCcE](http://youtu.be/B5_DFNXnCcE) It is the best tool that I have found to get a healthy discussion started. If you haven't seen it, it is well worth watching.

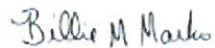
Village of Bensenville  
Attention: Mark Swayne  
711 E. Jefferson St.  
Bensenville, IL 60106

October 15, 2015

Dear Mark,

Enclosed please find a copy, for your records, of the Village of Bensenville's portion of our Illinois EPA report for September 2015. This report includes land application work done by Stewart Spreading in September 2015. Within the report you will find soil analysis and application rate information. Detailed daily records of load transportation are kept at our office. Should you require additional information, please contact me any time.

Sincerely-

A handwritten signature in cursive script that reads "Billie M Marko".

Billie Marko  
Stewart Spreading, Inc.

Enclosure

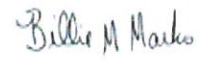


CERTIFICATION STATEMENT FOR  
MANAGEMENT PRACTICES

I certify, under penalty of law that the management practices in 503.14 have been met for each site on which bulk biosolids is applied. This determination has been made under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate the information used to determine that the vector attraction reduction requirement has been met. I am aware that there are significant penalties for false certification including fine and imprisonment.

Project: Bensenville

Reporting Period: September 2015

	10/15/15	815-695-5667
Name	Date	Telephone

A F U L L S E R V I C E R E S I D U A L S M A N A G E M E N T C O M P A N Y

# SUBURBAN LABORATORIES, Inc.

1950 S. Batavia Ave., Suite 150, Geneva, IL 60134 (708) 544-3260



## Laboratory Results

Client: Village of Bensenville

Report Date: August 28, 2015

Project: 503 / Fecal

Workorder: 1508C97

Client Sample ID: SDBSS 7

Matrix: Sludge

Lab ID: 1508C97-007

Date Received: 8/17/2015 13:30 PM

Collection Date: 8/17/2015 7:00 AM

Parameter	Result	Report Limit	Qual	Units	DF	Date Analyzed	BatchID
FECAL COLIFORM (MPN)		Method: SM-9221E-18Ed, 1992		Analyst: emk			
Fecal Coliform	503,000	0		MPN/g-dry	1	8/17/2015 4:30 PM	R62941
GEOMETRIC MEAN		Method: SM-CALC-CALC		Analyst: emk			
GEOMETRIC MEAN	131,000	0		MPN/g-Dry	1	8/17/2015 4:30 PM	R62941
PERCENT MOISTURE		Method: SM-D2216-2005		Analyst: drc			
Percent Moisture	84	1.0		wt%	1	8/21/2015 5:57 PM	R63163

Client Sample ID: 503

Matrix: Sludge

Lab ID: 1508C97-008

Date Received: 8/17/2015 13:30 PM

Collection Date: 8/17/2015 7:00 AM

Parameter	Result	Report Limit	Qual	Units	DF	Date Analyzed	BatchID
TOTAL SOLIDS		Method: SM-2540 B/D2216-2540B		Analyst: drc			
Percent Solids	31.3	0.001		wt%	1	8/21/2015 3:28 PM	R63153
TOTAL VOLATILE SOLIDS		Method: SM-2540G-18Ed, 1992		Analyst: drc			
Total Volatile Solids	51.1	0.001		wt%	1	8/21/2015 3:28 PM	R63153
AMMONIA, TITRIMETRIC		Method: SM-4500NH3 E-18Ed, 1992		Analyst: drc			
Nitrogen, Ammonia (As N)	949	16.0		mg/Kg-dry	1	8/17/2015 5:25 PM	30854
NITROGEN, TOTAL KJELDAHL (TKN)		Method: SM-4500NH3 E-18Ed, 1992		Analyst: drc			
Nitrogen, Kjeldahl, Total	35,100	314		mg/Kg-dry	1	8/20/2015 1:13 PM	30930
METALS by ICP		Method: SM-6010B-2, Dec-96		Analyst: jtl			
Arsenic	2.01	1.12	J	mg/Kg-dry	1	8/24/2015 6:45 PM	31007
Cadmium	0.802	0.0728		mg/Kg-dry	1	8/24/2015 6:45 PM	31007
Chromium	27.7	0.0583		mg/Kg-dry	1	8/24/2015 6:45 PM	31007
Copper	551	0.146		mg/Kg-dry	1	8/24/2015 6:45 PM	31007
Lead	22.2	0.583		mg/Kg-dry	1	8/24/2015 6:45 PM	31007

Rpt Ver: 8/28/2015 12:39 PM

# SUBURBAN LABORATORIES, Inc.

1950 S. Batavia Ave., Suite 150, Geneva, IL 60134 (708) 544-3260



## Laboratory Results

Client: Village of Bensenville

Project: 503 / Fecal

Client Sample ID: 503

Lab ID: 1508C97-008

Report Date: August 28, 2015

Workorder: 1508C97

Matrix: Sludge

Date Received: 8/17/2015 13:30 PM

Collection Date: 8/17/2015 7:00 AM

Parameter	Result	Report Limit	Qual	Units	DF	Date Analyzed	BatchID
METALS by ICP		Method: SM-6010B-2, Dec-96		Analyst: jtl			
Manganese	299	0.0583		mg/Kg-dry	1	8/24/2015 6:45 PM	31007
Molybdenum	10.4	0.102		mg/Kg-dry	1	8/24/2015 6:45 PM	31007
Nickel	17.1	0.228		mg/Kg-dry	1	8/24/2015 6:45 PM	31007
Phosphorus	15,000	2.23		mg/Kg-dry	1	8/24/2015 6:45 PM	31007
Potassium	2,560	2.43		mg/Kg-dry	1	8/24/2015 6:45 PM	31007
Selenium	6.41	1.26		mg/Kg-dry	1	8/24/2015 6:45 PM	31007
Zinc	477	0.971		mg/Kg-dry	1	8/24/2015 6:45 PM	31007
MERCURY by CVAA		Method: SM-7471B-1, Sep-94		Analyst: jmk			
Mercury	0.784	0.0576		mg/Kg-dry	1	8/25/2015 1:03 PM	31004
pH (in laboratory) <ATC>		Method: SM-9045C-3, Jan-95		Analyst: sjt			
pH	7.09	1.00		pH Units	1	8/17/2015 7:09 PM	R62946
PERCENT MOISTURE		Method: SM-D2216-2005		Analyst: drc			
Percent Moisture	69	1.0		wt%	1	8/21/2015 3:28 PM	R63153

# ESTIMATED BIOSOLID APPLICATION RATE AND NUTRIENT/POLLUTANT LOADINGS

## SURFACE APPLICATION

503 & IEPA Regs.

Generator: Village of Bensenville Sample Date: 8.17.15  
 Biosolids per acre: 58 cu.yds. Solids (%): 20  
 Dry tons per acre: 9.85 Yield /A: 110 Corn

## Macronutrients in pounds per acre

Plant Available Nitrogen (PAN): 144  
 Total Phosphorus as P2O5: 677 34 Available P2O5  
 Potassium as K2O: 61

## Micronutrients and Heavy Metals

ELEMENT or PARAMETER	LOADING (lbs./A)	MAXIMUM ALLOWED	SITE LIFE (years)
Cadmium	0.02	10	500
Copper	10.85	250	23
Manganese	5.89	900	153
Molybdenum	0.2	NA	NA
Nickel	0.34	100	294
Lead	0.44	267.7	608
Zinc	9.4	500	53
Arsenic	0.0396	36.6	924
Mercury	0.01544	15.2	984
Selenium	0.13	8	62

## Available Nitrogen in Subsequent Years

-----  
 54 lbs. for year 2  
 24 lbs. for year 3  
 12 lbs. for year 4  
 6 lbs. for year 5

Project: **Bensenville**

IEPA Generator Number:

**2010-SC-90193**

Reporting Period:

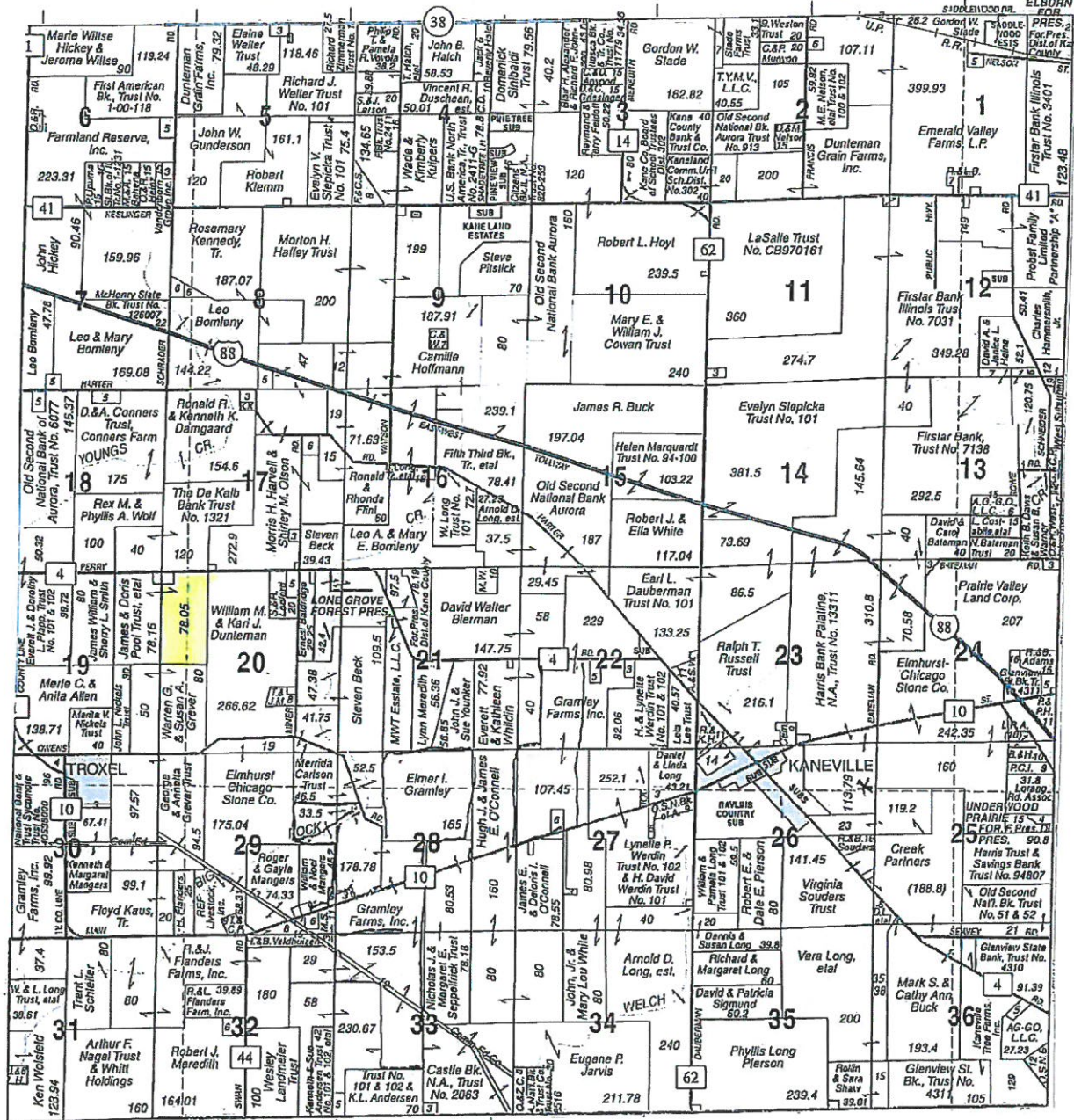
**September 2015**

Biosolids Field Record					
Site:		<a href="#">KA Gould 10</a>			
Date Hauled	Date Applied	Source	Cubic Yards	% Solids	Dry Tons
9/23/2015	9/23/2015	Bensenville	993.00	20.00	168.61
Total			993.00		168.61



Field 10  
155 acres  
Kane County  
Kaneville Township  
Section 19,20

T.39N.-R.6E





Chris Gould  
49W924 Perry Road  
Maple Park, IL 60151  
630-669-2829

Field 10  
155 acres  
Kane County  
Kaneville Township  
Section 19,20

59A	Lisbon silt loam, 0 to 2 percent slopes	0.2	0.1%	.20 to 0.60 in/hr
67A	Harpster silty clay loam, 0 to 2 percent slopes	0.0	0.0%	.60 to 2.00 in/hr
152A	Drummer silty clay loam, 0 to 2 percent slopes	51.2	28.7%	.60 to 2.00 in/hr
171A	Catlin silt loam, 0 to 2 percent slopes	0.0	0.0%	.20 to 0.60 in/hr
171B	Catlin silt loam, 2 to 5 percent slopes	4.1	2.3%	.20 to 0.60 in/hr
348B	Wingate silt loam, cool mesic, 2 to 5 percent slopes	40.1	22.5%	.20 to 0.60 in/hr
348C2	Wingate silt loam, 5 to 10 percent slopes, eroded	9.9	5.6%	.20 to 0.60 in/hr
356A	Elpaso silty clay loam, 0 to 2 percent slopes	34.0	19.1%	.20 to 0.60 in/hr
512A	Danabrook silt loam, 0 to 2 percent slopes	16.9	9.5%	.20 to 0.60 in/hr
512B	Danabrook silt loam, 2 to 5 percent slopes	17.6	9.9%	.20 to 0.60 in/hr
679A	Blackberry silt loam, 0 to 2 percent slopes	4.2	2.3%	.60 to 2.00 in/hr





# A & L GREAT LAKES LABORATORIES, INC.

3505 Conestoga Drive • Fort Wayne, Indiana 46808 • 260-483-4759  
www.algreatlakes.com • lab@algreatlakes.com



QUALITY ANALYSES FOR INFORMED DECISIONS®

ENDING  
71  
551-9541

For: CHRIS GOULD

Field: KA GOULD 10  
Grower Code: WHEAT201

LLO

ate Reported: 05/07/2015

## SOIL TEST REPORT

Page: 1 of 1

Phosphorus		Potassium K ppm	Magnesium Mg ppm	Calcium Ca ppm	Sodium Na ppm	pH		Cation Exchange Capacity meq/100g	Percent Cation Saturation				
Equiv P	Bray P2 ppm-P					Soil pH	Buffer pH		% K	% Mg	% Ca	% H	% Na
2 VH		193 H	355 VH	1150 L		6.2	6.8	11.6	4.3	25.5	49.6	20.7	
3 VH		184 H	430 VH	1250 L		6.5	6.9	11.5	4.1	31.1	54.3	10.4	
7 H		161 H	555 VH	1750 M		6.5	6.9	15.0	2.8	30.9	58.4	8.0	
1 VH		165 H	540 VH	1750 M		6.7	6.9	14.9	2.8	30.3	58.8	8.1	
2 VH		173 H	575 H	2350 M		6.3	6.7	20.6	2.2	23.3	57.1	17.5	
3 VH		196 H	755 VH	2750 M		6.5	6.8	22.9	2.2	27.4	59.9	10.5	
2 VH		227 H	670 VH	2500 M		6.2	6.7	22.3	2.6	25.1	56.1	16.2	
3 VH		255 H	590 H	2200 L		6.0	6.6	21.4	3.1	23.0	51.5	22.5	
3 VH		196 H	455 VH	1550 M		6.5	6.9	13.2	3.8	28.6	58.5	9.1	
2 VH		536 VH	485 VH	1800 M		6.9		14.6	9.4	27.6	61.5	1.5	

VL = VERY LOW L = LOW M = MEDIUM H = HIGH VH = VERY HIGH

Manganese Mn ppm	Iron Fe ppm	Copper Cu ppm	Boron B ppm	Soluble Salts mmhos/cm	Nitrate NO3-N ppm	Ammonium NH4-N ppm	Bicarb-P P ppm				Comments

# A & L GREAT LAKES LABORATORIES, INC.

3505 Conestoga Drive • Fort Wayne, IN 46808 • Phone 260-483-4759 • Fax 260-483-5274  
www.algreatlakes.com • lab@algreatlakes.com



QUALITY ANALYSES FOR INFORMED DECISIONS

NG

For: CHRIS GOULD

1-9541

Field: KA GOULD 10  
Grower Code: WHEAT201

## FIELD SUMMARY REPORT

Reported: 05/07/2015

Sample Numbers: 1 thru 10

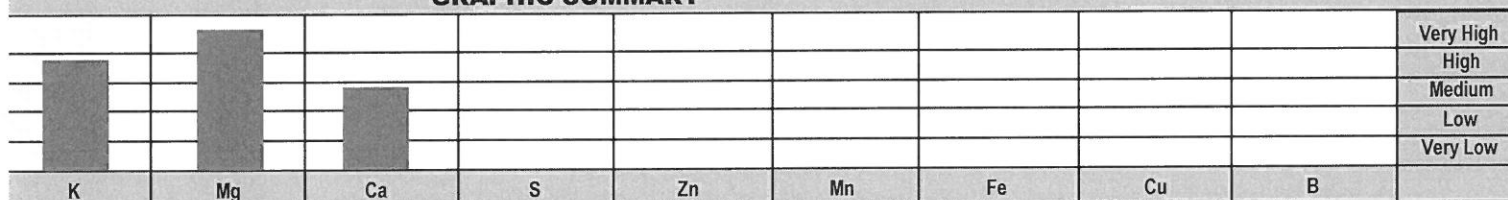
Lab Numbers: 31513 thru 31522

Page: 1

### SOIL TEST RESULTS

Potassium K ppm	Magnesium Mg ppm	Calcium Ca ppm	Sodium Na ppm	pH		CEC meq/100g	% K	% Mg	% Ca	% H	% Na
				Soil pH	Buffer pH						
229	541	1905		6.4	6.8	16.8	3.7	27.3	56.6	12.5	
Iron Fe ppm	Copper Cu ppm	Boron B ppm	Soluble Salts mmho/cm	Nitrate NO3-N ppm	Ammonium NH4-N ppm	Bicarbonate-P P ppm	Chloride Cl ppm				

### GRAPHIC SUMMARY



### SOIL FERTILITY RECOMMENDATIONS

Soil	Previous Crop	Lime Tons/A	Nitrogen N lb/A	Phosphate P2O5 lb/A	Potash K2O lb/A	Magnesium Mg lb/A	Sulfur S lb/A	Zinc Zn lb/A	Manganese Mn lb/A	Iron Fe lb/A	Copper Cu lb/A	Boron B lb/A
Soil	Soybeans	0.0	205	40	50	0						
Soil	Soybeans	0.0	0	0	60	0						

SITE NUMBER:	KA Gould 10	COUNTY:	Kane
ACREAGE:	155	TOWNSHIP:	Kaneville
		SECTION:	20
FARMER:	Chris Gould		
ADDRESS:	49W924 Perry Road		
	Maple Park, IL 60151		
PHONE #:	630-669-2829		

1 Wheaton  
2 Bensenville

	<u>DATE</u>	<u>Cadmium</u>	<u>Copper</u>	<u>Manganese</u>	<u>Nickel</u>	<u>Lead</u>	<u>Zinc</u>	<u>Arsenic</u>	<u>Mercury</u>	<u>Selenium</u>	<u>Moly</u>	<u>Radium (pci/g)</u>	<u>Gallons</u>	<u>Cu. Yrds</u>
1	8/1/2015	0.01	3.29	1.94	0.10	0.20	4.65	0.02	0.00	0.03	0.10			123
2	9/1/2015	0.00	1.12	0.61	0.03	0.05	0.97	0.00	0.00	0.01	0.02			99
TOTAL		0.01	4.41	2.55	0.13	0.25	5.62	0.02	0.01	0.04	0.12			
%of LIMIT		0.1	1.8	0.3	0.1	0	1.1	0	0	0.5	0.7			
								1 Background Radium						
								2 Cumulative Total to Date						
								3 % Increase of Allowable Radium						
								4 % of Total Cumulative Limit						

- 1 Background Radium determined from soil test results
- 2 Cumulative total includes background and land application
- 3 Allowable Radium increase is 1 pci/g up to 3 pci/g total (2)
- 4 Includes Background and Applied Radiums

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GOULD, ELDON F & SANDRA F .  
49W924 PERRY RD  
MAPLE PARK, IL 60151-9610

STEPHEN F RUH REVOCABLE TRUST, .  
C/O STEPHEN F RUH TRUSTEE  
772 WILD GINGER RD  
SUGAR GROVE, IL 60554--928

SMITH, JAMES WILLIAM REVOC TR,  
TRUSTEE, .  
743 W JOLIET RD  
HOBART, IN 46342-7086

GALLO, PHILIPPE J & MARY E .  
50W017 PERRY RD  
MAPLE PARK, IL 60151-

STROMEK, JOHN A & KRISTYN  
HOLMBERG  
49W981 PERRY RD  
MAPLE PARK, IL 60151-

\*Sent 6/9/2015

## Health and Safety

Stewart Spreading & Spirit Farms are dedicated to employee health & safety. The Occupational Safety and Health Act of 1970 (OSHA), "guarantees workers the right to a safe and healthful workplace." Under section 5(a) (1) of the OSHA Act, the employer must "furnish to each of his employees' employment and place employment which are free from recognized hazards that are causing or likely to cause death or serious physical harm to its employees.

We recognize that most accidents are preventable & that in order to reduce injuries we must thoroughly understand what occurred & why. We are committed to creating a culture of safety. We believe that the why (why did the injury occur) behind the "what" (what occurred) is the key to improved safety. We have a behavior component to our safety training, tool box talks and daily job duty instruction. Owners, Managers, team leaders, every employee is trained that each one of us is our brother's keeper & it is our responsibility to speak up. If we recognize a safety concern it is our responsibility to bring it to the person's attention because we care about their safety. Additionally every injury and near-miss is investigated... what can we learn from this? How can we prevent this from occurring again? What behavior may have contributed to the incident? What needs to change, behavior, PPE, ergonomics, training...? We use that information to improve processes, training and PPE.

1. We are proud members of the **National Safety Council** and the **Asmark Insitute**.

Subjects that employees are trained on include but are not limited to are as follows;

- Job specific training
- Equipment specific training
- Anhydrous Ammonia
- *Back Safety*
- *Bloodborne Pathogens*
- *Confined Space*
- *Defensive Driving*
- *Drug & Alcohol Awareness*
- *Electrical Safety*
- *Farm Equipment Safety*
- *Fire Extinguisher*
- *First Aid*
- *FMCSR & You*
- *Forklift Safety*
- *Grain Safety*

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A F U L L S E R V I C E R E S I D U A L S M A N A G E M E N T C O M P A N Y



- Great Housekeeping
  - Hazzard Communication
  - Hazardous Materials
  - Hearing Conservation
  - Heat Related Illness
  - Lock Out / Tag Out
  - Oxy/Acetylene Safety
  - Personal Protective Equipment
  - PIT Skills
  - Respiratory Protection
  - Safe Welding & Cutting
  - Security Wise
  - Slips, Trips & Falls
  - Tire & Wheel Rim Safety
2. In addition to onboarding safety training / new-hire safety training and annual safety training we provide supplemental tool box talks that cover additional safety items that are job specific such as safe equipment operation, winter driving, distracted driving etc. We also use news items regarding safety, incidents and near-misses within the company and the industry for training purposes. Attached are some examples of what is covered in supplemental / tool box talks, Farm safety fact sheet & No Second Chances.
3. Every employee receives a pre-employment drug screening. All employees are subject to a random computer generated monthly drug and alcohol screening. Additionally, company policy dictates anytime that there is an injury or property damage the employee is taken for a drug and alcohol test.
4. **Our company safety handbook.** Each employee is issued the handbook, it is covered extensively during onboarding and referred to during safety trainings. Additionally, each employee signs / *"acknowledges the last page of the handbook, "their obligation to read, understand and comply with it's contents and directives". Attached is a copy.*
5. **Discipline** ( The following statement is taken from the first page of the company "Job Safety Handbook"). *"Employees who fail to adhere to job safety and health standards are subject to disciplinary action, including, but not limited to verbal reprimands, written warnings, suspension, and/or immediate discharge. The degree of discipline in any instance is at the sole discretion of management".*

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A F U L L S E R V I C E R E S I D U A L S M A N A G E M E N T C O M P A N Y

Stewart Spreading Operating Equipment		
Row Crop Tractors		
16	2010	John Deere 4720
1168	2012	John Deere 9560RT
1184	2012	John Deere 9560R
3033	2012	John Deere 9560R
2933	2012	John Deere 9560R
2914	2012	John Deere 9560R
465	2012	John Deere 7130 Prem Cab Tractor
5554	2013	John Deere 8235R
9348	2013	John Deere 8260R
9375	2013	John Deere 8235R
9324	2013	John Deere 8260R
9725	2013	John Deere 8285R
6539	2013	John Deere 9560R Tractor
6499	2013	John Deere 9560R Tractor
6516	2013	John Deere 9560R Tractor
6617	2013	John Deere 9460R Tractor
6630	2013	John Deere 9460R Tractor
6605	2013	John Deere 9560R Tractor
9736	2013	John Deere 8285R Tractor
9908	2013	John Deere 8285R Tractor
9910	2013	John Deere 8285R Tractor
70307	2013	John Deere 8310R Tractor
70261	2013	John Deere 8335R Tractor
269	2013	John Deere 8335R Tractor
70303	2013	John Deere 8335R Tractor
335	2013	John Deere 8310R Tractor
364	2013	John Deere 8310R Tractor
381	2013	John Deere 8310R Tractor



70447	2013	John Deere 8310R Tractor
346	2013	John Deere 8335R Tractor
70219	2013	John Deere 8360R Tractor
348	2013	John Deere 8360R Tractor
385	2013	John Deere 8335R Tractor
70322	2013	John Deere 8335R Tractor
288	2013	John Deere 8360R Tractor
1260	2013	John Deere 8360R Tractor
70477	2013	John Deere 8360R Tractor
448	2013	John Deere 8360R Tractor
70445	2013	John Deere 8360R Tractor
1216	2013	John Deere 8285R Tractor
1089	2013	John Deere 8285R Tractor
722	2013	John Deere 8285R Tractor
70464	2013	John Deere 8310R Tractor
9340	2013	John Deere 8360R Tractor
9332	2013	John Deere 8335R Tractor
9330	2013	John Deere 8360R Tractor
903		Caterpillar 325L 60' Long Reach Excavator
905		American 395 BT 30 Ton Conventional Truck Crane
906		Lorain LRT445 45 Ton Rough Terrain Crane
907	2004	Hitachi ZX450LC Hydraulic Excavator
908	2010	Versatech Backhoe
2437	2003	John Deere 330 CL Long Reach Excavator
4780	2004	John Deere 200C LC Hydraulic Excavator
6817	2012	John Deere 50D Excavator
3671	2008	John Deere 450D LCHydraulic Excavator
537	1992	Case 1845C Skidsteer Loader
1247	2011	John Deere 326D Skid Steer Loader
5387	2011	John Deere 326D Skid Steer Loader

9512	2012	John Deere 244J Four Wheel Drive Loader
3271	2012	John Deere 644K Wheel Loader
3230	2012	John Deere 644K Wheel Loader
4038	2012	John Deere 624K 4WD Loader
3866	2012	John Deere 624K 4WD Loader
3448	2012	John Deere 544K Wheel Loader
3455	2012	John Deere 544K Wheel Loader
3694	2012	John Deere 724K Loader
275	2012	John Deere 244J Base Loader
8360	2012	John Deere 333D Compact Track Loader
1862	2012	John Deere 326D Skid Steer Loader
<b>Semi-Trucks</b>		
10133MR	1999	Kenworth T300 Truck Tractor (S/A)
36787TZ	2013	Kenworth T800
P772012	2013	Kenworth T800
P582482	2013	Kenworth T800
P578323	2013	Kenworth T800
P677871	2013	Kenworth T800
P650135	2013	Kenworth T800
36790TZ	2013	Kenworth T800
P772013	2013	Kenworth T800
36788TZ	2013	Kenworth T800
P625237	2013	Kenworth T800
36789TZ	2013	Kenworth T800
P677306	2013	Kenworth T800
P772014	2013	Kenworth T800
P677304	2013	Kenworth T800
P585860	2013	Kenworth T800
P716399	2013	Kenworth T800
P677305	2013	Kenworth T800

P774908	2013	Kenworth T800
P774909	2013	Kenworth T800
P592619	2013	Kenworth T800
P544646	2013	Kenworth T800
P629047	2013	Kenworth T800
P650134	2013	Kenworth T800
P629049	2013	Kenworth T800
P622296	2013	Kenworth T800
P664445	2013	Kenworth T800
P629048	2013	Kenworth T800
P752210	2013	Kenworth T800
P544647	2013	Kenworth W900B T/A Sleeper
P650136	2013	Kenworth W900B T/A Sleeper
P718317	1993	Kenworth
Tanker Trailers		
301	1982	Kari Kool T/A
303	1980	Polar American 6700 gallon SS
304	1967	Fruehauf 7000 gallon SS
305	1968	Fruehauf 7000 gallon SS
306	1982	Troxell 6500 gallon Vac Tank
307	1973	Heil 5400 gallon SS
310	1960	Heil 8500 gallon
312	1974	Progress 6800 gallon SS
313	1978	Trail Mobile 6700 gallon SS
314	1978	Fruehauf 6600 gallon
316	1962	Brennen 6000 gallon
317	1966	Kari Cool
318	1964	Fruehauf
319	1972	Trail Mobile
320	1970	Butler



321	1983	Bar Bell 6750 Gallon
322	1987	Polar 6700 gallon
323	1987	Polar 6700 gallon
324	1985	Polar 6700 gallon
325	1979	Fruehauf 6700 gallon
326	1979	Fruehauf 6700 gallon
327	1967	Fruehauf 6700 gallon
328	1967	Fruehauf 6700 gallon
329	1984	Brenner 6500 gallon
330	1978	Kari Cool 6500 gallon
331	1979	Stainless Tank & Equipment 6500 gallon
332	1977	Walker
333	1977	Kari Cool 6500 gallon
<b>Mobile Press</b>		
290014ST	2006	Fontaine Drop Deck 3DP BDP Press
426775ST	2004	Phoenix Trailer with 2004 BDP Press (VIN# 996-6-03)
427723ST	2005	Aztec Trailer with 2005 BDP Super E Press (VIN# 1040-01-05)
<b>Tractor Attachments/Tillage</b>		
810		White Disc 25'
811		John Deere Blade 155
818		McFarlane Drag 28'
823	2012	Howard Rotaspikes - 15 Ft. Rotatiller
824	2012	Howard Rotaspikes - 15 Ft. Rotatiller
825	2012	Howard Rotaspikes - 15 Ft. Rotatiller
826	2012	Howard Rotaspikes - 15 Ft. Rotatiller
827	2012	Howard Rotaspikes - 15 Ft. Rotatiller
828	2012	Howard Rotaspikes - 15 Ft. Rotatiller
829	2012	Howard Rotaspikes - 15 Ft. Rotatiller
830	2012	Howard Rotaspikes - 15 Ft. Rotatiller

831	2012	Howard Rotaspike - 15 Ft. Rotatiller
832	2012	Howard Rotaspike - 15 Ft. Rotatiller
833	2012	Howard Rotaspike - 15 Ft. Rotatiller
834	2012	Howard Rotaspike - 15 Ft. Rotatiller
5154	2012	John Deere 2310 Mulch Finisher
6341	2010	John Deere 2310 Mulch Finisher
3470	2010	Brillion WL-360 Mulcher
564	2011	John Deere 512 Folding Disk Ripper - 22 Ft 6 In 9 Std 52 Baldes
567	2011	John Deere 512 Folding Disk Ripper - 22 Ft 6 In 9 Std 52 Baldes
6669	2010	John Deere 512 Disk Ripper - 9 Shank
6676	2010	John Deere 512 Disk Ripper - 9 Shank
6677	2010	John Deere 512 Disk Ripper - 9 Shank
6298	2009	John Deere 995 MoldBoard Plow
5112	2012	John Deere 2100 Minimum Till Ripper
5113	2012	John Deere 2100 Minimum Till Ripper
5114	2012	John Deere 2100 Minimum Till Ripper
	2012	John Deere 2100 Minimum Till Ripper
	2012	John Deere 2310 Mulch Finisher
	2012	John Deere 2310 Mulch Finisher
5115	2012	John Deere 2310 Mulch Finisher
343	2013	John Deere 2310 Mulch Finisher
688	2013	John Deere 2623 Folding Disk 44Ft 11In
697	2013	John Deere 2623 Folding Disk 44Ft 11In
<b>Dredges</b>		
870	2009	Liquid Waste Technologies RCLPES Pit Hog Sludge Dredge
1804	2005	VMI MD815 Horizontal Dredge
1801	2003	VMI MD815 Horizontal Dredge
<b>Liquid Spreaders</b>		
705	1994/1999	Terra Gator/Husky Tank, Husky Injector,DMI injector
713	2003	Husky 7400 Manure Tank & DMI Injector

714	2003	Husky 7400 Manure Tank & DMI Injector
715	2008	Husky Manure Tank & M&W Ripper
716	2008	Husky 7400 Manure Tank & DMI Injector
742	2006	M & W 7 Shank Dragline Injector
791	1992	Terra Gator 1903
792	1994	Terra Gator 1903

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY  
WATER POLLUTION CONTROL PERMIT

LOG NUMBERS: 2014-59478

PERMIT NO.: 2014-SC-58345-1

FINAL PLANS, SPECIFICATIONS, APPLICATION  
AND SUPPORTING DOCUMENTS

DATE ISSUED: December 4, 2014

PREPARED BY: Stewart Spreading, Inc.

SUBJECT: STEWART SPREADING, Inc.-Land Application of Sewage Sludge

PERMITTEE TO OPERATE

Stewart Spreading, Inc.  
3870 North Illinois Route 71  
Sheridan, Illinois 60551

Supplemental Permit is hereby granted to the above designated permittee(s) to construct and/or operate water pollution control facilities, which were previously approved under Permit 2014-SC-58345, dated February 4, 2014. These facilities have been revised as follows:

Now included under this permit are the following sites which may be used for the application of sludge on ice and/or snow covered ground:

1. LS Eike 1 located in the NE ¼ of Section 23, T35N-R5E, Mission Township, La Salle County, Illinois,
2. LS Erickson 3 located in the NE ¼ of Section 23, T35N-R5E, Mission Township, La Salle County, Illinois, and
3. LS Loftus 17 located in the SE ¼ of Section 14, T35N-R5E, Mission Township, La Salle County, Illinois.

Also included under this permit is the deletion of the following fields from this permit:

1. KA Kohley 2 located in the W ½ of Section 2, T42N-R7E, Rutland Township, Kane County, Illinois, and
2. KA Fruin 1 located in the NW1/4 of Section 3 and the East ½ of Section 4, T42N-R7E, Rutland Township, Kane County, Illinois

This permit expires on December 31, 2018.

All Standard and Special Conditions and provisions of the original permit are also applicable to this permit unless specifically deleted or revised in this permit.

THE STANDARD CONDITIONS OF ISSUANCE INDICATED ON THE REVERSE SIDE MUST BE COMPLIED WITH IN FULL. READ ALL CONDITIONS CAREFULLY.

SAK:JCH:m:\permits\lwptemps  
59478.docx

- copy\2014-

DIVISION OF WATER POLLUTION CONTROL

cc: EPA-Rockford FOS  
EPA-Des Plaines FOS  
Records - Municipal

  
Alan Keller, P.E.  
Manager, Permit Section





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
7/2/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Esser Hayes Insurance Group 1811 High Grove, Suite 139 Naperville IL 60540-9100		<b>CONTACT</b> NAME: PHONE (A/C, No., Ext): 630-355-2077 FAX (A/C, No.): 630-355-7996 E-MAIL: ADDRESS:		
<b>INSURED</b> Stewart Spreading Inc 3870 N Rte 71 Sheridan IL 60551		<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
		INSURER A: Westfield Insurance Company		24112
		INSURER B: Tokio Marine Specialty Ins Co		
		INSURER C: Alterra America Insurance Co		
		INSURER D:		
		INSURER E:		
INSURER F:				

**COVERAGES****CERTIFICATE NUMBER:** 533230080**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	Y	CAG4041753	6/28/2015	6/28/2016	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$500,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	Y	Y	CAG4041753	6/28/2015	6/28/2016	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$0 <input type="checkbox"/> CLAIMS-MADE			CAG4041753	6/28/2015	6/28/2016	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000 \$
A	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> N	N/A	WCA4041338	6/28/2015	6/28/2016	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$500,000 E.L. DISEASE - EA EMPLOYEE \$500,000 E.L. DISEASE - POLICY LIMIT \$500,000
B A C	POLLUTION MOTOR TRUCK CARGO EXCESS LIABILITY			PPK1160082 CAG4041753 MKLA30LE102203	6/28/2015 6/28/2015 6/28/2015	4/14/2016 6/28/2016 6/28/2016	\$500 DED 5,000,000 \$25,000/VEHICLE 5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

THE CITY OF BENSENVILLE ARE ADDITIONAL INSURED ON THE ABOVE AUTO AND GENERAL LIABILITY POLICY ON A PRIMARY/NON-CONTRIBUTORY BASIS IF REQUIRED BY WRITTEN CONTRACT PER ATTACHED CG2010 04/13 AND CG2037 04/13.

**CERTIFICATE HOLDER****CANCELLATION**Village of Bensenville  
12 S. Center  
Bensenville IL 60106

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

ILLINOIS COMMERCE COMMISSION  
TRANSPORTATION DIVISION  
PUBLIC CARRIER CERTIFICATE

139573 MC  
STEWART SPREADING, INC.

Pursuant to the provisions of the Illinois Commercial Transportation Law (625 ILCS 5/1-10 (amended)), this certificate authorizes the above-named carrier to operate in interstate commerce transporting

ANY AND ALL COMMODITIES (except Household Goods)  
TO AND FROM ALL PORTS IN ILLINOIS

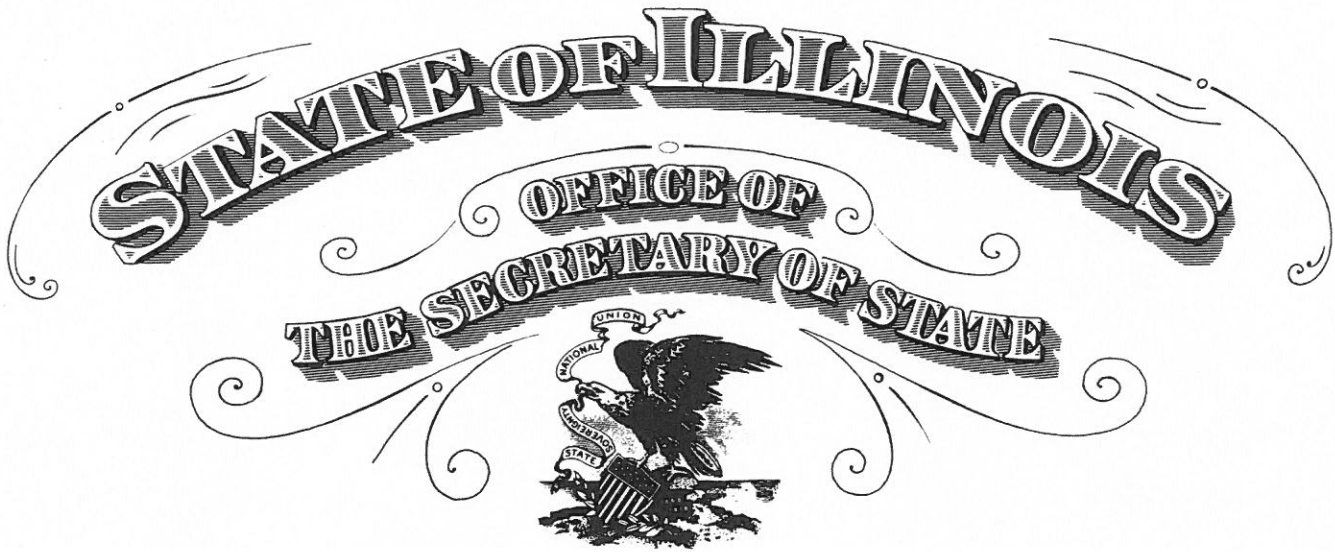
The privilege conferred by this certificate is conditioned upon compliance with all applicable provisions of law and rules.

The vehicles of this certificate holder must be identified in accordance with 92 Ill. Adm. Code 302.

The holder of this license certifies to the Commission that it will perform transportation services with the lawful amount of insurance in accordance with 92 Ill. Adm. Code 1425.

Issue Date: June 24, 2005

Processing Section  
Transportation Division



***To all to whom these Presents Shall Come, Greeting:***

***I, Jesse White, Secretary of State of the State of Illinois, do hereby certify that I am the keeper of the records of the Department of Business Services. I certify that***

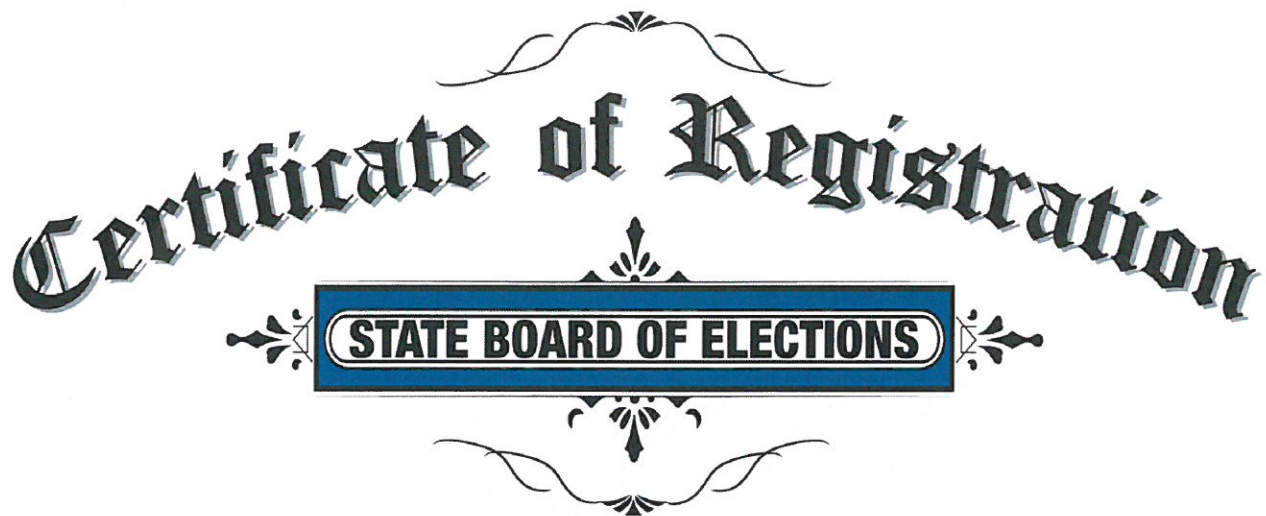
STEWART SPREADING, INC., A DOMESTIC CORPORATION, INCORPORATED UNDER THE LAWS OF THIS STATE ON JUNE 13, 2005, APPEARS TO HAVE COMPLIED WITH ALL THE PROVISIONS OF THE BUSINESS CORPORATION ACT OF THIS STATE RELATING TO THE PAYMENT OF FRANCHISE TAXES, AND AS OF THIS DATE, IS IN GOOD STANDING AS A DOMESTIC CORPORATION IN THE STATE OF ILLINOIS.



***In Testimony Whereof, I hereto set  
my hand and cause to be affixed the Great Seal of  
the State of Illinois, this 15TH  
day of JULY A.D. 2015 .***

*Jesse White*

SECRETARY OF STATE



**Registration No. 24717**

**Stewart Spreading**

3870 N. Route 71

Sheridan IL 60551

Information for this business last updated on:

Monday, January 26, 2015

Certificate produced on Monday, September 14, 2015 at 2:30 PM





**RESOLUTION NO.**

**AUTHORIZING A CONTRACT EXTENSION TO STEWART SPREADING FOR  
SLUDGE HAULING AND LAND APPLICATION  
IN THE NOT TO EXCEED AMOUNT OF \$100,000**

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 *es 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 the Village of Bensenville (the “Village”) is responsible for providing the necessary wastewater treatment to its residents, and

WHEREAS the Village owns a wastewater treatment facility (“Facility”) located at 711 E Jefferson Street, Bensenville, Illinois and

WHEREAS sludge hauling is a required process that takes the sludge byproduct from the treatment process and removes it from the site, and

WHEREAS, land application is the most environmentally and economical process available, and

WHEREAS, Stewart Spreading has been providing this service to the Village since 2010, and

WHEREAS, the Village of Bensenville entered into a contract with Stewart Spreading (R-4-2017) with two one-year provided prices with an optional two 12-month extensions for services to be adjusted in cost based on the Chicago Metro Area CPI (Consumer Price Index) from the previous 12 month period (2.1% increase), and

WHEREAS the Village of Bensenville desires to execute the contract renewal for January 1, 2018 through December 31, 2018, and

WHEREAS, and “Agreement Extension Form” has been attached to the resolution as Exhibit A.

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

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

SECTION TWO: The Village Board authorizes and approves the attached Resolution authorizing a contract extension to Stewart Spreading of Sheridan, Illinois to provide the necessary sludge hauling and land application for the Wastewater Treatment Facility in the not to exceed amount of \$100,000.

SECTION THREE: The Village Manger is hereby authorized and directed to execute on behalf of the Village of Bensenville, and the Deputy Clerk is hereby authorized to attest thereto, the necessary paperwork.

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

SECTION FIVE: This Resolution is passed and approved by the President and Board of Trustees of the Village of Bensenville, Illinois, dated December 12, 2017.

APPROVED:

\_\_\_\_\_  
Frank DeSimone

ATTEST:

\_\_\_\_\_  
Nancy Quinn, Village Clerk

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

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

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



**EXTENSION OF AGREEMENT FOR SLUDGE HAULING AND LAND APPLICATION AT THE  
WASTEWATER TREATMENT PLANT AT THE VILLAGE OF BENSENVILLE, ILLINOIS**

THIS EXTENSION OF AGREEMENT is made on this 26th day of October, 2017, between the Village of Bensenville, Illinois (hereinafter "OWNER"), whose principal address, for the purposes of any notice required herein, is: Director of Public Works, 717 E. Jefferson Street, Bensenville, Illinois 60106 and Stewart Spreading (hereinafter "CONTRACTOR"), whose principal addresses, for the purposes of any notice required herein are: 3870 N. Route 71, Sheridan, Illinois 60551.

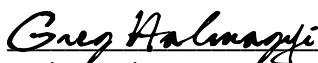
OWNER and CONTRACTOR acknowledge and mutually agree as follows:

1. OWNER and CONTRACTOR entered into a 12-month Agreement for 2016 Sludge Hauling and Land Application for the Village of Bensenville, Illinois. OWNER and CONTRACTOR agreed to the 2017 bid price of \$19.45/cy with a Not-to-Exceed amount of \$97,250.00.
2. The Agreement included two one-year extensions with a CPI increase. The CPI is 2.1% for the 2018 agreement term or \$19.85/cy.
3. The OWNER and CONTRACTOR hereby enacts the extension term of the Agreement for 12-months from January 1, 2018 through and including December 31, 2018 for a not-to-exceed cost of \$99,292.25.
4. The OWNER hereby informs CONTRACTOR that it may terminate contract in with a 60-day written notice.
5. Any and all other provisions of the Agreement (or subsequent Amendments) not otherwise amended herein shall remain applicable, governing and in full force and effect throughout the Extended Term of the Agreement.

Both parties indicate their approval of this Agreement by their signatures below.

Stewart Spreading By:

Village of Bensenville, By:



Authorized Signature

Greg Halmagyi

Printed Name

Business Development Manager

Title

October 26, 2017

Date

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**TYPE:**Resolution**SUBMITTED BY:**Joe Caracci**DEPARTMENT:**Public Works**DATE:**December 12, 2017**DESCRIPTION:**

Resolution Authorizing the 2018 Paratransit Service Provider Agreement by and Between Suburban Bus Division of the Regional Transportation Authority (Pace) and the Village of Bensenville

**SUPPORTS THE FOLLOWING APPLICABLE VILLAGE GOALS:**

<input type="checkbox"/>	<i>Financially Sound Village</i>	<input checked="" 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>

**COMMITTEE ACTION:**

Committee of the Whole

**DATE:**

December 12, 2017

**BACKGROUND:**

The Village of Bensenville has provided Dial-A-Bus services to the community since the 1970's. Pace provides equipment and funding to supplement the program and requires the execution of an annual Paratransit Service Provider Agreement.

**KEY ISSUES:**

Pace authorizes funding on an annual basis in the form of a Paratransit Service Provider Agreement. The agreement stipulates the rules, regulations and operational requirements for the Dial-A-Bus program.

Pace reimburses the Village \$3.00 for every one-way trip. The proposed subsidy for 2018 is based on 16,752 rides and totals \$49,716. The proposed PACE budget for Bensenville can be found in Appendix A of the attached agreement.

The program operates Monday through Friday from 6:00 AM to 6:00 PM and the first and third Saturdays of the month. Operations will be closed during the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Friday after Thanksgiving, and Christmas Day.

**ALTERNATIVES:**

Discretion of the Committee.

**RECOMMENDATION:**

Staff recommends approval of the 2018 Pace Paratransit Service Agreement.

**BUDGET IMPACT:**

Dial-A-Bus operations was budgeted in FY2018, Account No. 11050118-549990  
Revenue resulting from the Pace Agreement is in Account No. 1100000-457410

**ACTION REQUIRED:**

Consideration of a Resolution Authorizing the 2018 Paratransit Service Provider Agreement By and Between Suburban Bus Division of the Regional Transportation Authority (Pace) and the Village of Bensenville

**ATTACHMENTS:**

<u>Description</u>	<u>Upload Date</u>	<u>Type</u>
AGREEMENT - 2018 Pace Agreement	12/4/2017	Backup Material
RES - 2018 Pace Agreement	12/4/2017	Resolution Letter

2018

PARATRANSIT SERVICE PROVIDER AGREEMENT

BY AND BETWEEN

SUBURBAN BUS DIVISION

OF THE

REGIONAL TRANSPORTATION AUTHORITY (PACE)

AND

*Village of Bensenville*  
SERVICE PROVIDER

PROVIDER

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



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<b>EXHIBIT E</b>	Affirmative Action, Equal Employment Opportunity and Disadvantaged Business Enterprises
<b>EXHIBIT F</b>	Service Provider's Certification
<b>EXHIBIT G</b>	Form Of Opinion Of Service Provider's Counsel

## 2018 PARATRANSIT SERVICE PROVIDER AGREEMENT

THIS AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2017, to be effective as of January 1, 2018, by and between the **SUBURBAN BUS DIVISION OF THE REGIONAL TRANSPORTATION AUTHORITY**, operating under the name and hereinafter referred to as "Pace" and "Service Provider" as shown on the cover page to this Agreement.

### W I T N E S S E T H:

WHEREAS, the Regional Transportation Authority was created as a single authority to be responsible for providing, aiding and assisting public transportation in the northeastern area of the State of Illinois, including financial review and facilitation of public transportation and its providers, (70 ILCS 3615/1.02); and

WHEREAS, Pace was created as the Suburban Bus Division of the Regional Transportation Authority to be responsible for providing public transportation by bus, (70 ILCS 3615/3A.01); and

WHEREAS, Pace may enter into service provider agreements with governmental and private sector entities to obtain public bus service and to provide for payment of operating, capital and other expenses upon such terms and conditions as Pace shall provide in any such agreements; and

WHEREAS, Pace desires to have Service Provider provide the Transportation Services as described in this Agreement and Service Provider desires to provide such services;

NOW, THEREFORE, in consideration of the promises and agreements herein set forth, Pace and the Service Provider **HEREBY AGREE** as follows:

### **ARTICLE I**

#### DEFINITIONS

Agreement Term. The term specified in Section 11.1 of this Agreement, as such term may be reduced or extended pursuant to the provisions of this Agreement.

Approved Budget. The budget of approved expenses attached to this Agreement as Exhibit A, as the same may be revised from time-to-time pursuant to this Agreement.

Approved Maximum Service Reimbursement Amount. The amount shown on the Approved Budget for the line designated "Approved Maximum Service Reimbursement Amount," as such amount may be increased or decreased during the Agreement Term pursuant to the provisions of this Agreement.

Equipment. Pace Equipment and Service Provider Equipment.

Service Provider Application. The submission of a proposed budget and related material in accordance with Section 10.9 shall be the Service Provider's reimbursement application to Pace.

**Service Reimbursement Amount.** The total amount payable pursuant to Section 10.1 of this Agreement.

**Line Item.** A specific, separately identified category of expense listed on the Approved Budget.

**Line Item Budget.** The amount of the Approved Budget allocated to a specific Line Item.

**Line Item Budget Maximum.** The amount shown on the Approved Budget for each Line Item, as such amount may be increased or decreased during the Agreement Term pursuant to the provisions of this Agreement.

**Monthly Report.** The monthly report of revenue and expenses and other reports and information as described in the Pace Paratransit Manual.

**Pace Equipment.** All assets of every kind, including Pace Vehicles provided by Pace to the Service Provider, at any time, whether before or after the execution of this Agreement.

**Pace Paratransit Manual.** The manual of Pace policies, practices and procedures prepared and regularly amended, revised and supplemented by Pace, as it may be from time to time amended, revised or supplemented by Pace during the Agreement Term. All references to the Pace Paratransit Manual shall be deemed to be references to the most current provisions of the Pace Paratransit Manual. All references to any specific section, exhibit or provision of the Pace Paratransit Manual are for convenience only and shall be deemed to be references to any and all relevant provisions of the Pace Paratransit Manual.

**Pace Vehicle.** All Vehicles of every kind provided by Pace to the Service Provider at any time, whether before or after the execution of this Agreement and whether in connection with this Agreement or in connection with any prior agreement or relation between Pace and Service Provider or in connection with the provision of services pursuant to this Agreement or any prior agreement or relation, including, without limitation, all Vehicles listed in Exhibit B hereto, and all other Vehicles provided by Pace to Service Provider, whether or not listed on Exhibit B hereto.

**Operating Expenditure.** This term shall mean all expenses properly classified as operating expenses incurred by the Service Provider but in no event shall include:

- (a) any amount required to be paid by Service Provider to Pace pursuant to this Agreement or pursuant to any other agreement between Pace and Service Provider;
- (b) any expense not incidental to, or necessary for, the provision of the Transportation Services;
- (c) any excessive or unreasonable expense;
- (d) any expense for local government taxes, fees, licenses or other charges unless specifically included in the Approved Budget or its supporting documents or unless approved in writing by Pace;

- (e) any expense not made in conformance with the Approved Budget or at the direction or with the approval of Pace or pursuant to a requirement of federal or state law determined by Pace to be applicable;
- (f) any expense for insurance policies which are duplicative of coverage provided under Pace's Risk Management Program (as provided in Article XIII of this Agreement);
- (g) any expense resulting from the amortization or payment of any debt incurred prior to the Agreement Term or incurred without the approval of Pace;
- (h) any interest expense unless approved in writing by Pace;
- (i) any sinking fund expense;
- (j) any expense resulting from the amortization of any intangible cost to the extent it does not meet the evaluative criteria for allowable amortization established by Pace from time to time;
- (k) any depreciation expense;
- (l) any non-cash expense incurred or accrued without Pace's prior written approval; and
- (m) any expenses related to service identified in Exhibit D as not being reimbursed by Pace.

**Risk Financing Program.** The risk management program established by Pace to consolidate into a single comprehensive system the administration of all bodily injury and property damage claims asserted against Pace and Service Providers arising from Transportation Services provided with Pace vehicles, as the same may be from time to time amended or revised, as further described in Section 8.2 of this Agreement.

**Transportation Revenue.** All amounts properly classified as revenue or income generated by, derived from, attributable to or related to the Transportation Services during the Agreement Term, regardless of the date of collection. This term shall not include any funds agreed to by Pace to be designated as local share in an Approved Budget.

**Transportation Services.** The services specified in Subsection 2.1A of this Agreement and Exhibit D as the same may be modified from time to time pursuant to the provisions of Subsection 2.1B of this Agreement.

**Vehicle.** Any means of transportation or conveyance such as, but not limited to, a bus, a truck, a van, or an automobile.

## ARTICLE II

### SCOPE AND DESCRIPTION OF SERVICES

#### Section 2.1. Transportation Services.



A. Transportation Services. Throughout the Agreement Term, Service Provider, acting as an independent contractor for the benefit of Pace and not as an agent for Pace, agrees to provide the service as described in Exhibit D. As an integral part of providing such service, Service Provider shall at all times:

- (1) comply with all Pace service standards as set forth in the Pace Paratransit Manual;
- (2) comply with all of the other provisions of this Agreement;
- (3) take reasonable steps to assure the safety and reasonable comfort and convenience of the public utilizing such service;
- (4) comply with all policies, practices, procedures, terms and conditions as may be directed by Pace with regard to collection, security for and disposition of fares and other Transportation Revenue;
- (5) comply with all policies, practices, procedures, terms and conditions as may be directed by Pace with regard to matters such as passes, tickets, coupons, tokens, transfers, transfer systems, interconnections between different modes of transportation and interconnections between different transportation services;
- (6) comply with all of the policies, practices, procedures, terms and conditions required by use of federal, State of Illinois and RTA funds, including, without limitation, conditions pertaining to rates charged to students, elderly and handicapped persons, the prohibition of charter bus operations, the prohibition of school bus operations, employment, and reporting;
- (7) comply with all policies, practices, procedures, terms and conditions as may be directed by Pace with regard to the availability and distribution of schedules and other printed material related to such service and related transportation services;
- (8) conduct such services, and its business and operations as they relate to such services, in a safe, sound, economical and efficient manner;
- (9) comply with all Pace efforts to improve service efficiency; and
- (10) comply with all applicable provisions of federal, state and local law.

B. Changes in Transportation Services.

- (1) Service Provider Initiated Changes. Service Provider shall not, without the prior written approval of Pace, initiate or permit any change to the Transportation Services specified in Subsection 2.1A above or Exhibit D. Service Provider may propose changes in the Transportation Services by presenting a proposal therefore in writing to Pace at least 45 days in advance of the date on which the change is proposed to take effect. Such change shall not be implemented unless expressly approved in writing by Pace. Notwithstanding the foregoing, Service Provider may implement minor operational

changes that will neither (a) affect any fare or system for passes, transfers, interconnections or similar programs nor (b) substantially change the service area or service hours provided Service Provider first gives Pace at least 30 days notice of its intent to make such minor change and if Pace has not disapproved such proposed minor change in writing within 15 days following receipt of such notice. Service Provider may, in addition, make minor operational changes of an emergency nature without Pace approval; provided, however, that no such change shall be made that would increase reimbursement by Pace and provided, further, that Service Provider shall give Pace notice of each such minor change as soon as possible, and in no event later than 12 hours after it is made.

- (2) Pace Initiated Changes. Pace may modify the Transportation Services upon written notice to the Service Provider, to reflect decisions made by Pace with regard to the service design and operation of the service. Pace further reserves the right to modify the Transportation Services described in Exhibit D and to adjust the Approved Budget.
- (3) Pace Discretion. Nothing in this Subsection 2.1B shall be construed to require Pace to approve any change to the Transportation Services specified in Subsection 2.1A, and Pace may withhold its approval of any such change in its sole discretion.

**Section 2.2. Force Majeure.** Service Provider shall not be in default in its obligation to provide Transportation Services as herein required to the extent that it is unable to provide such services as a result of abnormally severe weather or road conditions, strikes or other labor stoppages, unavailability of sufficient vehicles through no fault of the Service Provider and other events and conditions that are beyond the reasonable ability of Service Provider to control or remedy and that render provision of such service impossible or not reasonably feasible. In any such case, Service Provider shall provide such modified or reduced services as are practicable under the circumstances and shall use all reasonable efforts to restore full services in accordance with this Agreement at the earliest possible time. Immediately upon the occurrence of, or the imminent threat of the occurrence of, any such event or condition, and prior to implementing any reduced or modified service, Service Provider shall notify Pace by telephone, with written confirmation as soon as possible thereafter, of:

- (1) The nature of the event or condition;
- (2) The actual or expected time of the occurrence of the event or condition and its expected duration;
- (3) The impact of the event or condition on Transportation Services;
- (4) The modified or reduced service that Service Provider proposes to provide during the continuation of the event or condition; and



(5) The steps Service Provider proposes to take to restore full service.

## **ARTICLE III**

### **EQUIPMENT**

#### **Section 3.1. Provision of Equipment By Pace.**

A. **Pace Rights With Respect to Pace Vehicles and Other Pace Equipment.** This Agreement applies to all Pace Equipment provided by Pace to Service Provider at any time. If Paragraph A of Exhibit B contains the word "NONE," and no Pace Equipment is provided to the Service Provider during the Agreement term, Section 3.1, Section 3.2, and Section 3.3 shall be of no force or effect; otherwise, it shall apply to any Vehicles listed in Exhibit B. Pace reserves the absolute right, in its sole discretion, (1) to determine the number and type of Pace Vehicles provided to Service Provider, (2) to substitute or replace any Pace Vehicles provided to Service Provider and (3) to direct the return to Pace or its designee of any or all Pace Vehicles at any time; provided, however, that in the absence of fault by Service Provider or other good cause, Pace shall not take action under this Paragraph 3.1A that would have the effect of preventing or materially and adversely affecting the ability of Service Provider to provide the Transportation Services as that service may be modified in accordance with Subsection 2.1(B)(2).

B. **Pace Equipment Provided; Inventory and Documentation.** Service Provider agrees to comply with all Pace procedures for handling Pace Equipment in accordance with the Pace Paratransit Manual. Service Provider agrees to cooperate fully with Pace in developing and maintaining an accurate inventory of all Pace Equipment from time to time in the possession of Service Provider. Service Provider shall complete and process all documentation necessary to evidence and record the receipt, possession, return or transfer of any Pace Equipment coming into, being in or leaving its possession, all as required by the Pace Paratransit Manual. Copies of all such documentation with respect to Pace Vehicles shall be attached to and become part of Exhibit B.

C. **No Consideration.** Service Provider shall not be required to pay any separate consideration for the use of the Pace Equipment during the Agreement Term.

D. **Service Provider Acceptance of Pace Equipment.** Service Provider shall accept delivery of Pace Equipment at such times and places within the six county region as Pace shall designate upon notice to Service Provider that such Equipment is available for delivery. In case of any unreasonable delay, neglect, refusal, or failure to accept any Pace Equipment

at the time and place designated, all costs and expenses incurred by Pace arising from such delay, neglect, refusal or failure shall be reimbursed by Service Provider immediately upon written demand by Pace. Such costs and expenses shall not be an Operating Expenditure for purposes of this Agreement.

**E. Pace Equipment Returns and Substitutions.** Any Pace Equipment that Pace designates to be returned or transferred shall, upon reasonable notice, be delivered by Service Provider at the time and to the place designated by Pace within the six county region. Service Provider also shall accept delivery of any substitute Pace Equipment at the time and place designated by Pace within the six county region. All terms and conditions of this Agreement shall apply to such substitute Pace Equipment.

**F. Surplus Pace Equipment.** Any Pace Vehicle not scheduled for use in providing or supporting the Transportation Services and not required as a spare, as determined by Pace, for a period of ten days or more shall be considered surplus Pace Equipment. Any other Pace Equipment not required, as determined by Pace, for providing Transportation Services or other services pursuant to this Agreement shall be considered surplus Pace Equipment. Pace may require Service Provider either to return such surplus Pace Equipment to Pace, to transfer it to Pace's designee or to store it at such locations as Pace may direct.

**G. Pace Right to Repossess Pace Equipment.** Upon the failure of Service Provider to return or deliver any Pace Equipment as directed by Pace, or if Service Provider fails to use, repair or maintain any Pace Equipment as required by this Agreement, Service Provider shall permit Pace, without demand, legal process, or a breach of the peace, to enter any premises where the Pace Equipment is or may be located and to take possession of and remove the Pace Equipment. Service Provider shall not prosecute or assist in the prosecution of any claim, suit, action, or other proceeding arising out of any such repossession by Pace. Service Provider shall reimburse Pace for any and all costs incurred by Pace in connection with actions taken by Pace pursuant to this Subsection. Such costs shall not be Operating Expenditures under this Agreement.

**H. Pace Equipment Inspection.** Pace shall have the right to inspect any and all Pace Equipment or cause any or all Pace Equipment to be inspected at any time, with or without prior notice to Service Provider. Pace shall also have the right to demand from time to time a written statement from Service Provider setting forth the condition of the Pace Equipment or any part of it. Service Provider shall furnish such a statement to Pace within ten days after receipt of Pace's demand therefore. Should Pace or its designee determine, in its sole discretion, that any Pace Equipment has not been maintained in accordance with this Agreement or the Pace Paratransit Manual, Pace or its designee shall report all deficiencies



to Service Provider in writing. Except for safety related deficiencies, which shall be corrected as soon as reasonably possible and prior to placing the vehicle in service, Service Provider shall have 30 days to correct the reported deficiencies.

I. Return of Pace Equipment and Related Records Upon Termination. Immediately following termination of this Agreement, whether by completion of the Agreement Term or any reason, Service Provider shall surrender and deliver to Pace all Pace Equipment and related records as required by Section 11.4 of this Agreement.

J. Title to Pace Equipment; Licensing and Registration. Service Provider acknowledges and agrees that Pace owns all the Pace Equipment. All Pace Vehicles shall be licensed and registered by Pace in the name of Pace and at the expense of Pace. Nothing contained herein shall affect Pace's absolute ownership of and title to the Pace Equipment, such ownership and title being hereby expressly reserved to and retained by Pace. Service Provider shall not obtain, acquire or otherwise be construed to own any property or other interest in the Pace Equipment except the right to use it for the purposes and on the conditions stated in this Agreement during the Agreement Term. Service Provider further agrees that it will not, in any manner, allow or permit the Pace Equipment, or any part of it, to be pledged, seized, or held for any tax, debt, lien or other obligation. Should the Pace Equipment, or any part of it, become subject to or encumbered by any tax, debt, lien or other obligation during the Agreement Term, or before the actual delivery of the Pace Equipment to Pace after the Agreement Term, Service Provider shall, subject to its right to in good faith protest any such tax, debt, lien or other obligation, promptly pay or discharge such tax, debt, lien or other obligation and relieve such Pace Equipment from the encumbrance thereof.

K. Warranty. NEITHER PACE NOR SERVICE PROVIDER IS THE MANUFACTURER OF THE PACE EQUIPMENT NOR THE MANUFACTURERS' AGENT, AND NEITHER MAKES ANY EXPRESS OR IMPLIED WARRANTY OF ANY NATURE REGARDING THE PACE EQUIPMENT, INCLUDING BUT NOT LIMITED TO: ITS MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE; ITS DESIGN OR CONDITION; ITS WORKMANSHIP; ITS FREEDOM FROM LATENT DEFECTS; ITS COMPLIANCE WITH THE REQUIREMENTS OF ANY LAW, RULE, SPECIFICATION OR CONTRACT; OR ITS NONINFRINGEMENT OF ANY PATENT, TRADEMARK OR LICENSE. Provided that Pace or the manufacturer has supplied required warranty documents to Service Provider, Service Provider shall take all actions it is authorized to take under this Agreement to preserve any and all manufacturers' warranties regarding the Pace Equipment. This Agreement shall not operate to release or waive any rights of Pace or Service Provider against any person not a party hereto, including the manufacturer of the Pace Equipment.

### **Section 3.2. Maintenance of Pace Equipment by Service Provider.**

**A. Maintenance Requirements.** Service Provider shall at all times maintain all Pace Equipment in good mechanical condition in conformity with all applicable safety practices, laws and regulations. In addition, Service Provider shall at all times maintain all Pace Equipment in accordance with the terms and provisions of this Agreement, all maintenance policies, practices, procedures, conditions and requirements contained in the Pace Paratransit Manual and all manufacturers' maintenance schedules and warranty requirements. Service Provider shall perform all preventive maintenance required pursuant to the Pace Paratransit Manual. Service Provider shall keep both the exterior and interior of all Pace Vehicles neat, clean and in first class condition at all times. Service Provider shall be responsible to assure that all Pace Vehicles are maintained at all times so as to meet the requirements of the Illinois Department of Transportation and to assure that all Pace Vehicles have valid Illinois Department of Transportation stickers affixed to them at all times.

**B. Maintenance Records.** Service Provider shall prepare and maintain accurate records relating to all maintenance work performed by or for Service Provider on all Pace Equipment and in that regard shall comply with the provisions of Article VII of this Agreement and with all applicable Pace policies, practices, procedures, conditions and requirements as set forth in the Pace Paratransit Manual. Service Provider shall maintain a separate maintenance file for each Pace Vehicle containing all maintenance records pertaining thereto. Service Provider shall also complete, maintain and transmit to Pace all maintenance forms required in the Pace Paratransit Manual, and any other records requested by Pace including, without limitation, Vehicle maintenance records, fuel consumption records and all records required under Pace's preventive maintenance program.

### **Section 3.3. Operation of Pace Equipment By Service Provider.**

**A. General Operating Standard.** Service Provider shall use and operate all Pace Equipment in accordance with the terms and provisions of this Agreement, the operating procedures set forth in the Pace Paratransit Manual and all applicable federal, state and local laws and regulations and solely for the purpose of providing the Transportation Services or as otherwise approved in writing by Pace.

**B. Pace Vehicle Identification.** Service Provider shall not change or obstruct in any way, and shall maintain, all identification markings and decals on all Pace Vehicles as supplied and affixed by Pace. Unless otherwise approved in writing by Pace, Service Provider shall



not affix to or display on any Pace Vehicle any identification marking or decal other than those supplied and affixed by Pace.

C. Storage of Pace Equipment. Service Provider shall store all Pace Equipment at suitable locations where such Equipment is protected from vandalism and theft. Indoor storage shall have adequate fire protection, which complies with all applicable federal, state and local laws and regulations and shall have the approval of the Fire Underwriters' Laboratory.

D. Fareboxes. Except as expressly approved in writing by Pace, Service Provider shall utilize only fareboxes and related equipment provided by Pace. Service Provider shall install and maintain such fareboxes in good condition.

#### Section 3.4. Service Provider Vehicles.

A. Applicability of Section. Vehicles, if any, to be supplied by Service Provider for use in connection with providing the Transportation Services must comply with the requirements of this section.

B. Duty to Maintain Service Provider Vehicles. Service Provider shall at all times maintain all Non-Pace Service Provider Equipment in good mechanical condition in conformity with all applicable safety practices, laws and regulations and in accordance with standards set forth in the Pace Paratransit Manual. Service Provider shall keep both the exterior and interior of all Service Provider Vehicles neat, clean and in first class condition at all times. Service Provider shall be responsible to assure that all Service Provider Vehicles are maintained at all times so as to meet the requirements of the Illinois Department of Transportation and the Pace Paratransit Manual and to assure that all applicable Service Provider Vehicles have valid Illinois Department of Transportation stickers affixed to them at all times.

## **ARTICLE IV**

### **EMPLOYEES**

Section 4.1. Compliance with Federal, State and Local Laws. Service Provider agrees that with respect to persons employed by it to provide the Transportation Services and Other Services, it will comply with all applicable federal, state, and local labor laws including, but not limited to, any and all laws relating to the minimum wages to be paid to its employees, limitations upon the employment of minors, minimum fair wage standards for minors, the payment of wages due employees, and all applicable regulations established to protect the health and safety of employees, passengers, and the public-at-large. Service Provider also agrees to provide the employee protection, if required, under Section 13(c) of the Urban Mass Transportation Act of 1964, as amended, 49 U.S.C. ' 1609(c), and Section 2.16 of

the Regional Transportation Authority Act, (70 ILCS 3615/2.16), for persons employed by it to provide the Transportation Services.

**Section 4.2 Employees.** Service Provider shall employ only such persons as are competent and qualified to provide the Transportation Services in accordance with the requirements of this Agreement and Pace policies, practices, procedures and standards. All employees shall meet all applicable qualifications established by federal, state and local laws and regulations. Drivers shall display proper courtesy toward passengers and maintain a neat and clean appearance. Service Provider shall comply with all federal and Pace requirements relating to drug and alcohol testing. Service Provider shall participate in driver training programs, if any, established by Pace during the Agreement Term and shall comply with driver and safety standards set forth in the Pace Paratransit Manual. Failure by Service Provider or any Third Party Provider of Service Provider to comply with said requirements shall constitute grounds for nonpayment of the Service Reimbursement Amount for the duration of such noncompliance.

**Section 4.3. Employment Contracts and Labor Agreements.** Service Provider shall notify Pace of any labor negotiations being conducted with its employees and shall keep Pace fully informed of the status and progress of such negotiations.

## **ARTICLE V**

### **NON-DISCRIMINATION, EQUAL EMPLOYMENT AND BUSINESS OPPORTUNITY**

**Section 5.1. Compliance With Federal, State and Local Laws.** Service Provider shall comply with all applicable federal, state and local anti-discrimination and equal employment and business opportunity laws and regulations, including, but not limited to, the Age Discrimination in Employment Act, as amended, 29 U.S.C. ' ' 621 et seq., Title VII of the Civil Rights Acts of 1964, as amended, 42 U.S.C. ' ' 2000e et seq., the Civil Rights Acts of 1866 and 1871, 42 U.S.C. ' ' 1981 and 1983; and the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq.

**Section 5.2. Equal Employment Opportunity.** Service Provider shall comply with all of the affirmative action, equal employment opportunity and disadvantaged business enterprise requirements in Exhibit E.

**Section 5.3. Failure to Comply.** In the event Service Provider's noncompliance with any provision set forth in Exhibit E or with any federal, state, or local anti-discrimination or equal employment or business opportunity law, including but not limited to those identified in Section 5.1 hereof, results in Service Provider being declared non-responsible and, therefore, ineligible for future contracts or subcontracts with the State of Illinois or any of its political



subdivisions or municipal corporations, this Agreement may be canceled or voided by Pace in whole or in part, and such other sanctions, penalties or remedies as may be provided by law or regulation may be imposed or invoked.

## ARTICLE VI

### REPORTS AND RECORDS

**Section 6.1. Reports, Forms and Statements Required.** Service Provider shall furnish Pace with all reports required by the Pace Paratransit Manual in accordance with the due dates specified therein. In addition, Service Provider shall furnish Pace, on a timely basis, with the following documents:

- (1) A monthly listing of any reports and documents in any way related to the Transportation Services filed by Service Provider with any government or government agency. Upon request, Service Provider shall provide Pace with a copy of any such reports and documents.
- (2) All written forms and documentation required for the administration of Pace's programs concerning students, the elderly and the handicapped. Said forms and documentation shall be furnished by Service Provider to the United States and Illinois Departments of Transportation upon Pace's request.
- (3) All correspondence, papers, notices, accident reports or documents of any nature received by Service Provider in connection with any claim or demand involving or related to Transportation Services or the Equipment.
- (4) All records required pursuant to Section 11.4 of this Agreement.
- (5) Such other reports, forms and statements as may be required by this Agreement or by federal, state or local laws or regulations or by order of any duly constituted authority.

**Section 6.2. Records.** Service Provider shall create and maintain accurate and complete records of all Transportation Services performed, all time spent, all materials, equipment and supplies purchased, and costs incurred in the performance of the Transportation Services pursuant to this Agreement, including all records required by this Agreement, the Pace Paratransit Manual or any applicable law or regulation. Unless Pace shall consent in writing to the destruction of any such records, and except for records required to be delivered to Pace at the end of the Agreement Term, Service Provider shall make said records available for review, inspection and audit in accordance with Section 6.3 below during the entire Agreement Term and for three years thereafter, or such longer period as may be required by law or any applicable grant; provided, however, that prior to the disposal or destruction of any such record by Service Provider following said period, Service Provider shall give notice to

Pace of any record or records to be disposed of or destroyed and the intended date, which shall be at least 90 days after the effective date of such notice, of disposal or destruction. Pace shall have 90 days after receipt of any such notice to give notice to Service Provider not to dispose of or destroy said record or records and to require Service Provider to deliver such record or records to Pace or its designee, at Pace's expense, on a confidential basis if appropriate.

**Section 6.3. Inspections and Audits.** Pace shall have the right, with or without prior notice to Service Provider, to review, inspect and audit all Transportation Services performed pursuant to this Agreement, and all information and records related thereto, at all reasonable times during and following the performance of the Transportation Services. The phrase "all information and records related thereto" as used in this Section shall mean all information and records under the control or supervision of, or reasonably available to, Service Provider relating to this Agreement or the Transportation Services that are reasonably necessary for Pace to verify or audit Service Provider's performance under this Agreement, or the accuracy or appropriateness of any Operating Expenditure or portion thereof, ridership information, or Service Provider's compliance with this Agreement or any portion thereof, including but not limited to all data, samples, records, reports, documents, memoranda, maps, estimates, specifications, notes, studies, tapes, photographs, film, computer programs or drawings, whether in preliminary, draft, final or other form. Pace shall perform such review, inspection or audit in a manner that will not unduly delay or interfere with Service Provider's performance under this Agreement. Service Provider shall cooperate with Pace, and provide reasonable facilities to Pace to assist Pace in any such review, inspection or audit. Pace may perform any such review, inspection or audit through an officer, employee, or other designated agent. Service Provider shall promptly remit to Pace any overpayments identified as a result of inspection and audit.

## ARTICLE VII

### THIRD PARTY PROVIDERS

**Section 7.1. Requirements.** "Third Party Providers" as used in this Agreement are any other parties who, pursuant to contract or agreement with the Service Provider, directly provide a significant part of the Transportation Services. Service Providers using Third Party Providers to provide the service shall follow the procedures in the Pace Paratransit Manual for obtaining and utilizing such providers. All service provided by a Third Party Provider to a Service Provider shall be competitively solicited at least once every four years and as frequently as once a year if required by Pace. Contracts with Third Party Providers shall be



made in accordance with applicable laws. All such agreements shall be in writing with a copy provided to Pace. Submission of the third party agreement to Pace does not release the Service Provider from any obligation under this Agreement, nor operate as a waiver of any rights of Pace under this Agreement. The Service Provider shall cause each of its Third Party Providers to comply with all applicable provisions of this Agreement and the Pace Paratransit Manual as if the name of the Third Party Provider has been substituted for the name of the Service Provider therein. In the event that Pace Equipment is to be used by a Third Party Provider, such Third Party Provider shall execute a written sublease in a form approved by Pace prior to the use of Pace Equipment.

## ARTICLE VIII

### RISK FINANCING PROGRAM AND INSURANCE REQUIREMENTS

Section 8.1. General Requirements. The Service Provider shall be required to comply with the Pace Paratransit Manual for all Vehicles used to provide the Transportation Services whether those Vehicles are owned by Pace, the Service Provider, or a Third Party Provider. Service Provider shall immediately notify Pace of any accidents or incidents.

Section 8.2. Risk Financing Program. All Pace Vehicles used in the provision of Transportation Services pursuant to this Agreement shall be included in Pace's Risk Financing Program. The Pace Risk Financing Program shall provide commercial auto liability coverage to Service Provider and any Third Party provider for any claims of bodily injury, death, or property damage arising directly out of the provision of Transportation Services provided with vehicles owned by Pace as described in this Agreement, within the scope of Pace's Self-Insured Retention and up to the liability limits of such excess insurance that Pace may purchase, *subject to the following terms, conditions, and exclusions:*

- (a) Pace specifically excludes from insurance coverage afforded to Service Provider and Third Party Provider herein any claims, actions, damages arising as the result of willful and wanton, reckless, or intentional conduct of Service Provider and/or Third Party Provider, its officers, agents, employees, contractors, sub-contractors, agents or volunteers.
- (b) Pace specifically excludes from insurance coverage afforded to Service Provider and Third Party Provider herein claims of injury or death brought directly or indirectly

against Pace, the Service Provider, or the Third Party Provider by any employee of the Service Provider, the Third-Party Provider, or any contractors or sub-contractors of the Service Provider or Third Party Provider arising out of or in connection with the Transportation Services described in this Agreement.

- (c) The policies of excess insurance purchased by Pace and Pace's Self-Insured Retention shall be primary over insurance carried by the Service Provider or its Third Party Provider for claims within the scope of Pace's Risk Financing Program. Any insurance or self insurance maintained by Service Provider and Third Party Provider shall be in excess of Pace's Self Insured Retention and the policies of excess insurance purchased by Pace, without right of contribution, for claims within the scope of Pace's Risk Financing Program.
- (d) The Service Provider and its third party provider shall be named as additional insureds in all policies of excess insurance for auto liability coverage purchased by Pace above its self-insured retention.
- (e) Service Provider and/or Third Party Provider shall provide immediate *written* notice of any and all accidents, incidents, claims, and lawsuits to Pace, in the form provided in accordance with the provisions of the Pace Paratransit Manual, including promptly updating Pace in writing when a previously reported incident or accident results in a claim or lawsuit, or a previously reported claim results in a lawsuit.
- (f) With respect to any lawsuit that is within the scope of coverage afforded by this Section 8.2, Pace shall have the right and duty to defend the Service Provider and/or Third-Party Provider, including the right to select defense counsel and control the defense of such lawsuit. In the event of any conflict of interest that would prevent Pace from controlling such defense or that would require Pace to allow the Service Provider or Third Party Provider to select independent defense counsel, Pace will reimburse the reasonable attorneys fees and expenses incurred in such defense by the Service Provider or Third Party Provider, provided however that the hourly rates of such counsel shall not exceed the hourly rates ordinarily paid by Pace to its outside counsel for defense of similar types of lawsuits. Pace shall not have any duty to defend the Service Provider or Third-Party Provider for any claims that are excluded from the coverage of this section, including any claims within the scope of



subparagraphs (a) or (b). If a lawsuit includes claims that are both covered and not covered by this Section 8.2, Pace's duty to defend only extends to those portions of the suit that are within the scope of coverage of Section 8.2, and not to any excluded claims. Pace's duty to defend under this paragraph shall cease if and when the limits of auto liability coverage are exhausted of any excess insurance policies purchased by Pace.

(g) Service Provider shall, and shall require its employees, subcontractors and any Third Party Provider, to cooperate with and assist Pace and any claims service agencies, investigators and attorneys employed by or on behalf of Pace in the administration, investigation and defense of any and all claims for bodily injury or property damage, or physical damage to any Pace vehicle asserted against Pace or Service Provider arising out of the provision of Transportation Services pursuant to this Agreement.

(h) The Service Provider's, its subcontractor's or its third party provider's failure to comply with the requirements of this Section shall relieve Pace of any and all obligations that Pace may have under this Article VIII.

**Section 8.3. Loss Prevention.** Service Provider shall, upon written notice from Pace specifying and documenting claims or other evidence of incompetence, inattention, carelessness or other fault on the part of Service Provider or any of Service Provider's employees, promptly take all lawful and reasonable steps to prevent claims or losses as a result of such incompetence, inattention, carelessness or other fault. This Section shall not, however, be construed to require Service Provider to take any action in violation of its obligations under any labor agreement or other employment contract.

**Section 8.4. Requirements for non-Pace Vehicles.** Claims arising from non-Pace owned Vehicles are not within the scope of the Pace Risk Financing Program. The Service Provider shall provide the following liability insurance coverage for all claims arising out of non-Pace owned Vehicles used in providing the Transportation Services:

- (1) For all taxicabs; a \$350,000 Limit of coverage for Automobile Liability including a Limit of \$350,000 for Uninsured and Underinsured Motorists coverage, and
- (2) for all other vehicles; commercial Automobile Liability Insurance Coverage with a minimum Combined Single Limit (CSL) of \$5,000,000 Each Occurrence and \$5,000,000 Aggregate and Commercial General Liability Coverage with at least the following limits:

\$5,000,000 General Aggregate  
\$5,000,000 Each Occurrence Limit  
\$5,000,000 Products/Completed Operations Hazard Aggregate  
Limit  
\$5,000,000 Personal & Advertising Injury Liability Limit  
\$10,000 Medical Expense Limit (Per Person)

Each Insurance Company providing all Pace required coverage must have a minimum A.M. Best rating of A- VII using the most current data available from A.M. Best Property/Casualty Rating Company.

Contractor, Third Party Provider or any subcontractor shall name Pace Suburban Bus Service as additional insured in its liability policies, as set forth below, and agrees to waive and will require its insurers to waive all rights against the other party, as relates to this Agreement on all of the insurance coverage required under this Agreement.

The insurance policies shall be endorsed to provide that the Suburban Bus Division of the Regional Transportation Authority d/b/a Pace, and the Regional Transportation Authority and their employees are named as additional insured for "liability for 'bodily injury', 'property damage', and 'personal injury' caused in whole or in part, by our acts or omissions or the acts or omissions of those acting on our behalf: (a) in the performance of our ongoing operations; or (b) for claims brought on behalf of our employees, agents, or subcontractors and their employees," in a form providing no less coverage than that provided by the Insurance Service Office's Owners, Lessees or Contractors - Form B [ISO 20 10], on a primary basis, without right of contribution from Pace, for any liability arising from the operation of non-Pace owned vehicles. The coverage shall contain no special limitations on the scope of its protection to the above listed insureds.

The Contractor's insurance must contain the standard Separation of Insureds provision or an endorsement providing that, except with respect to limits, the insurance applies separately to each insured.



The Contractor and any subcontractors shall provide that there will be no recourse against Pace Suburban Bus Service as additional insured for the payment of premiums, additional premiums or assessments, it being understood that these are obligations of the party providing such insurance pursuant to this Agreement.

The Contractor's insurance shall be primary over any other insurance carried by Pace, including self-insurance. In the event the policies should be changed or canceled, said change or cancellation shall not be effective until 30 days after Pace has received notice of such change or cancellation from the Insurance Company.

The Service Provider shall comply with all accident and incident notification and reporting requirements provided for in the Pace Paratransit Manual including Chapter 5 on accident incident reporting and Chapter 6 on personnel standards and rules including drug/alcohol testing requirements.

## **ARTICLE IX**

### **INDEMNIFICATION**

**Section 9.1 General.** To the fullest extent permitted by law and within the limits of Pace's self insured retention and the excess/umbrella auto liability insurance policies purchased by Pace, Pace shall indemnify and hold harmless Service Provider and its third party provider, their officers, agents, and employees from and against any and all auto liability claims, suits, losses, damages and expenses, which may arise out of the operation of transportation services provided with Pace owned vehicles pursuant to the 2017 Paratransit Service Provider Agreement, provided that Service Provider and its third party provider comply with the notice and cooperation requirements stated in Section 8.2 above, regardless of whether or not it is caused in whole or in part by any negligent act or omission of Service Provider or its Third Party Provider, their officers, agents or employees. This indemnification does not extend to willful and wanton, reckless or intentional conduct of the Service Provider or Third Party Provider and is specifically excluded from this indemnification and insurance coverage, including self-insurance.

Service Provider and its Third Party Provider shall indemnify, hold harmless, and defend Pace and the Regional Transportation Authority, their board members, officers, employees,

agents and attorneys from and against (a) all auto liability claims, suits, losses, damages and expenses, which may arise out of the operation of transportation services provided with non owned Pace vehicles in providing services pursuant to the 2017 Paratransit Service Provider Agreement; (b) any claims, suits, actions, damages which arise out of the willful and wanton, reckless or intentional acts of the Service Provider or its Third Party Provider in the performance of this agreement; and (c) claims brought directly or indirectly against Pace by an employee of the Service Provider, or an employee of Service Provider's contractors or sub-contractors (Third Party Provider), or arising out of any injury or death of Service Provider's employee, or an employee of Service Provider's contractors or subcontractors (Third Party Provider), in connection with the Transportation Services described in this Agreement..

The indemnities contained in this Section shall survive termination of this Agreement.

**Section 9.2. Service Provider's Damages.** Except as expressly provided in Article VIII or Article IX of this Agreement, Pace shall not be responsible to Service Provider or to any of its officers, employees, agents or attorneys for any loss of business or other damage caused by an interruption of the Transportation Services, or for the time lost in repairing or replacing any Pace Equipment, or for any loss, injury, or damage arising out of or relating to Pace's failure to deliver Pace Equipment, or for any other losses or damages sustained by the Service Provider hereunder. Except as expressly provided in Article VIII or Article IX of this Agreement, Pace assumes no liability or responsibility for any acts or omissions of Service Provider, or of Service Provider's officers, employees, agents or attorneys, or for any property of Service Provider or any other person that is damaged, lost, or stolen in the performance, or as a result of the performance, of this Agreement.

## **ARTICLE X**

### **PAYMENT, BUDGET AND ACCOUNTING**

**Section 10.1. Maximum Service Reimbursement Amount.** Pace hereby agrees to pay the Service Provider a service reimbursement in an amount as limited by the Approved Budget and further limited by (i) the Paratransit Service Reimbursement Guidelines shown in Exhibit C and (ii) the other provisions of this Article X. Pace may change the Paratransit Service Reimbursement Guidelines of the Paratransit Program and/or level of fares and such new guidelines and fare shall be used to determine Pace's maximum reimbursement obligation. If the Pace Board revises the Paratransit Reimbursement Guidelines during the term of this



Agreement, then such new guidelines shall be effective for the remainder of the Agreement Term subject only to a sixty day notice period during which time the old guidelines would remain in effect.

**Section 10.2. Payment of Reimbursement.** Pace shall make monthly payment installments of the service reimbursement based on the receipt of a properly prepared Monthly Report and related required documentation. During January and February, the monthly installments shall be one-twelfth of the Service Reimbursement Amount in accordance with the Approved Budget. Each of the remaining monthly payment installments shall be based on the Monthly Report for the month that is two months prior to the month during which the report is submitted and payment is due. Such material must be received by Pace by the close of business on the day specified in the Pace Paratransit Manual in order to be processed and paid during the submitted month. Any late or improperly prepared submissions shall not be considered for payment until the next month. After all Monthly Reports have been received for the Agreement Term, a final calculation of the service reimbursement amount shall be made. If a credit is due to either party, such party shall pay the amount of such credit to the other party within 30 days following demand therefore.

**Section 10.3. Limitations on Payments.** In addition to any other remedy provided herein, if Service Provider materially fails to comply with any term of this Agreement, or fails to take corrective action as directed by Pace, Pace may withhold payments pending Service Provider's actions to achieve compliance or take corrective action.

Notwithstanding any other provision of this Article, no payment of the Service Reimbursement Amount, or any installment thereof, shall be due, owing or made in violation of any of the following limitations:

- (1) No monthly installment due in any month shall be paid unless the Reports required pursuant to the Pace Paratransit Manual have been filed with Pace in accordance with said Section.
- (2) No payment shall be made if Pace should find or has reason to believe that the Monthly Reports have not been prepared in accordance with sound financial and management practices. Pace shall withhold payment until such issues are resolved.
- (3) Payments shall not exceed the Approved Maximum Service Reimbursement Amount. Any payments made after January 1, 2018 pursuant to any prior reimbursement agreement between the parties whose term extended into calendar year 2017 shall be deemed to be payments made under this Agreement with the exception of payments due for service provided prior to January 1, 2018.
- (4) No payment shall be made with respect to any Operating Expenditure incurred or accrued in violation of this Agreement or any provision of the Pace Paratransit Manual.

**Section 10.4. Funding Availability.** Notwithstanding anything to the contrary, including in particular (but not limited to the provisions of Section 10.1), it is expressly agreed that the obligation of Pace to pay the Service Reimbursement Amount shall be limited to the availability of funds from Pace's revenues and budget for Pace's fiscal year so that in the event Pace determines that funds are not available, Pace's obligations to pay any such unpaid part or parts of the Service Reimbursement Amount shall be terminated forthwith and Pace shall have no further obligations to make any payments to Service Provider under the Agreement. In the event that Pace determines that no funds will be available to pay the Service Reimbursement Amount, the Service Provider shall be given written notice thereof in accordance with Section 11.2.

**Section 10.5. Transportation Revenue.** All Transportation Revenue shall be the property of the Service Provider. Service Provider shall comply with Pace policies, practices and procedures relating to the collection, security, and accounting of all Transportation Revenue as set forth in the Pace Paratransit Manual. Should the Service Provider decide to allow any passengers to travel at less than the minimum fares for paratransit established by the Pace Board, then the difference between the minimum Pace fare and fares charged shall be funded by the Service Provider and such funds shall be considered Transportation Revenue.

**Section 10.6. Accounting and Reporting Standards.** Service Provider shall maintain its books and records, and shall prepare, maintain and file reports, relating to this Agreement and the Transportation Services in accordance with generally accepted governmental accounting principles, Section 15 of the United States Urban Mass Transit Act, the Pace Paratransit Manual, the Approved Budget and any documentation submitted by Service Provider, and approved by Pace, in support of the Approved Budget. In case of any conflict in the aforesaid standards, Service Provider shall seek specific direction from Pace and, pending receipt of such direction, shall comply with that standard that most fairly, accurately and completely records and reports the results of operations.

**Section 10.7. Budget Amendments.** Pace shall have no obligation to revise the Approved Budget or to increase the Approved Maximum Service Reimbursement Amount or any Line Item Budget Maximum.

**Section 10.8. Capital Expenditures.** Pace is not obligated to provide any grant funds to the Service Provider for capital purchases. Any Capital Asset paid for with the proceeds of any payment made by Pace shall be the property of Pace and shall be added to Exhibit B or to the inventory of Pace Equipment required pursuant to Subsection 3.1B and shall be returned to Pace at the end of the Agreement Term.



**Section 10.9. Subsequent Service Reimbursement.** In order to permit Pace to evaluate the merits of entering into a new service reimbursement agreement for Transportation Services with Service Provider following the end of the Agreement Term, Service Provider shall, during the Agreement Term and pursuant to this Section, cooperate with Pace to develop a proposed budget for the calendar year following the Agreement Term. On or before July 1 of the Agreement Term, or such other date as Pace may specify in a service reimbursement application solicitation request, Service Provider shall submit its formal Service Provider application to Pace in the format specified by Pace. Nothing in this Section shall, however, obligate either Pace or Service Provider to agree to any reimbursement estimate or to enter into any new agreement.

## ARTICLE XI

### TERM

**Section 11.1. Term.** The term of this Agreement shall be one year commencing on the 1st day of January, 2018, and terminating after the last scheduled service on the 31st day of December, 2018.

**Section 11.2. Termination for Impossibility of Performance.** This Agreement may be terminated, in whole or in part, upon seven days written notice given by Pace to Service Provider in the event that the Illinois General Assembly, the Regional Transportation Authority or any funding source fails in any fiscal year to appropriate or otherwise make available sufficient funds, as determined in the sole discretion of Pace, to cover payments to be made to Service Provider pursuant to Article X hereof, or if any Vehicle(s) necessary to perform the Transportation Services hereunder (are) is unavailable for any reason, as determined in the sole discretion of Pace.

The termination of this Agreement shall not be in any manner prevented or affected by the fact that Service Provider may have already partially or fully performed its obligations under this Agreement in respect to any unpaid part or parts of this Agreement by the time it is determined by Pace that it will be unable to pay the remaining unpaid part or parts of this Agreement.

### **Section 11.3 Termination for Service Provider Default**

**A. Immediate Termination.** This Agreement shall be terminated, and the Agreement Term shall end, 24 hours after written notice of such termination given by Pace to Service Provider in the event that Service Provider shall, for any reason, other than as specified in Section 2.2 of this Agreement, cancel, eliminate or reduce or diminish service without prior written approval from Pace.

**B. Termination Following Failure To Cure.** This Agreement shall be terminated, and the Agreement Term shall end, if the Service Provider violates any other material obligation under this Agreement or fails to timely perform any other material obligation under this Agreement and such violation or failure shall continue for a period of 21 days after Service Provider receives written notice from Pace describing in reasonable detail the nature of the violation or failure; provided, however, that in the event such violation or failure cannot be cured within said 21 day period notwithstanding diligent and continuous effort by Service Provider and Service Provider shall have promptly commenced to cure the violation or failure and shall have thereafter prosecuted the curing of same with diligence and continuity, then the period for curing such violation or failure shall be extended for such period as Pace may determine to be necessary for curing such violation with diligence and continuity.

**C. Obligations Following Termination.** Pace's obligations upon termination of this Agreement in any manner and for any purpose authorized by this Article XI shall be limited to payment of reimbursement obligations for services rendered by Service Provider up to the date of said termination. Immediately upon termination of this Agreement in any manner and for any purpose, Service Provider shall comply with the provisions of Section 11.4 below. In addition, Service Provider shall be liable to Pace for all damages incurred as a result of any violation or failure that leads to termination of this Agreement. Said damages shall include, but shall not be limited to, all court costs, and attorneys' fees and disbursements incurred in connection with enforcing or defending Pace's rights hereunder.

**Section 11.4. Return of Pace Equipment and Records Upon Termination.** Immediately following the Agreement Term, Service Provider shall surrender and deliver to Pace at such time or times and at such location or locations within the six-county region as Pace may designate:

- (1) All Pace Vehicles and Other Pace Equipment in good operating order, repair and condition, reasonable wear and tear and normal depreciation excepted; and
- (2) All records pertaining to all Pace Vehicles and Other Pace Equipment, including, without limitation, all preventative maintenance reports and vehicle repair reports.

Pace shall have the right to inspect the premises of the Service Provider and to remove any Pace Equipment or any such records that remain in the possession of Service Provider. Pace, in its sole discretion, shall determine the condition of surrendered and returned Pace Equipment and the extent of any wear and tear, depreciation or damage. Service Provider shall make, or cause to be made, any and all repairs deemed necessary by Pace to place the surrendered and returned Pace Equipment in the condition required by Sections 3.1 and



3.2 of this Agreement. Such repairs shall be completed within 21 days following Pace's written demand that they be undertaken. If any such repairs are the result of Service Provider's failure to comply with the provisions of this Agreement, the cost thereof shall not be reimbursable by Pace under this Agreement. If Service Provider fails to make such repairs, then Pace shall have such repairs performed and Service Provider shall reimburse Pace for the cost of such repairs within 30 days after a receipt for such costs is provided to Service Provider.

## ARTICLE XII

### COVENANTS AND REPRESENTATIONS

**Section 12.1. General.** Service Provider hereby makes the covenants and representations with and to Pace as described in this Article and hereby agrees to abide by each and every one of them.

**Section 12.2. Corporate Existence and Power.** Service Provider is duly organized, validly existing and in good standing under the laws of the State of Illinois, and has the legal power and authority to enter into this Agreement and to provide, engage in and carry out the Transportation Services. Service Provider shall maintain its corporate identity and shall make no attempt to cause its corporate existence to be abolished during the Agreement Term.

**Section 12.3. Authorization.** Service Provider has been duly authorized to execute this Agreement by its corporate authorities by ordinance duly adopted, and the execution and delivery of this Agreement by all of the parties signatory hereto shall constitute a valid and binding obligation of Service Provider, enforceable in accordance with its terms, and the making of and compliance by Service Provider with the terms and conditions of this Agreement will not result in any breach or violation of, or default under, any judgment, decree, mortgage, contract, agreement, indenture or other instrument applicable to Service Provider.

**Section 12.4. Approvals Received.** All such approvals, consents, permits, licenses, authorizations, or modifications as may be required to permit the performance by Service Provider of its obligations under this Agreement have been obtained from the appropriate governmental authorities or other persons or entities.

**Section 12.5. No Material Litigation.** No litigation, investigation or proceeding of or before any court, governmental authority or arbitrator is pending or, to the knowledge of Service Provider, threatened by or against Service Provider, or against any of its properties or revenues (1) with respect to this Agreement, or (2) which is reasonably likely to have a material adverse effect on the operations, property or financial condition of Service Provider.

**Section 12.6. No Default.** Service Provider is not in default under or with respect to any obligation in any respect that could be materially adverse to the business, operations, property or financial condition of Service Provider or that is reasonably likely to materially adversely affect the ability of Service Provider to perform its obligations under this Agreement.

**Section 12.7. No Burdensome Restrictions.** No obligation of Service Provider and no requirement of law materially adversely affects, or insofar as Service Provider Agency may reasonably foresee may so affect, the business, operations, property or financial condition of Service Provider or the ability of Service Provider to perform its obligations under this Agreement.

**Section 12.8. No Sale, Lease or Encumbrance.** Service Provider will not sell, lease, loan, or in any manner dispose of any Pace Equipment during the Agreement Term.

**Section 12.9. Payment of Obligations.** Service Provider shall pay and discharge all of its obligations and indebtednesses with respect to the Transportation Services and with respect to the Service Provider Vehicles, if any; provided, however, that any such obligation or indebtedness need not be paid if the validity thereof shall currently be contested in good faith by appropriate proceedings and if Service Provider shall have set aside on its books adequate reserves with respect thereto, except that all such obligations and indebtednesses shall be paid forthwith upon an adverse decision in such proceedings and the exhaustion of available appellate relief with respect thereto.

**Section 12.10. Compliance With Applicable Laws.** Service Provider shall comply with all federal, state and local statutes, laws, rules, regulations and orders applicable to the Transportation Services.

**Section 12.11. Compliance With Agreement Conditions.** Service Provider shall comply with all conditions of, and all laws and regulations and all Pace policies, practices and procedures applicable to, any federal, state or local grant received by Pace or by Service Provider at any time with respect to the Transportation Services or the Equipment, including the Pace Paratransit Manual.

**Section 12.12. No Bar From Public Contracts.** Service Provider warrants and represents that the statements contained in the Service Provider=s Certification in Exhibit F hereto are true and correct.

**Section 12.13. Opinion of Counsel.** Service Provider shall provide to Pace, at or before the time Service Provider executes this Agreement, an opinion of an attorney licensed to practice law in the State of Illinois in the form provided in Exhibit G.

## ARTICLE XIII



## GENERAL PROVISIONS

**Section 13.1. Complete Agreement.** This Agreement, including the Exhibits hereto and the Pace Paratransit Manual, constitutes the entire Agreement between the parties hereto, except as it may be amended as provided by this Article.

**Section 13.2. Exhibits; Pace Paratransit Manual; Conflicts.** Exhibits A through G attached to this Agreement and the Pace Paratransit Manual (as such Manual may be amended from time to time and as supplemented with Pace directives) are incorporated herein and made a part hereof by this reference. In case of any conflict among the provisions of this Agreement, including the Exhibits hereto and the Pace Paratransit Manual, that provision which, in the opinion of Pace, best promotes safe, efficient and economical transportation service and best protects the Equipment shall control.

**Section 13.3. Amendments.** No modification, addition, deletion, revision, alteration or other change to this Agreement shall be effective unless and until such change is reduced to writing and executed and delivered by the authorized representatives of the parties hereto.

**Section 13.4. Notices.** All notices and other communications in connection with this Agreement shall be in writing, and any notice or other communication hereunder shall be deemed received by the addressee thereof when delivered in person at the address set forth below, or three business days after deposit thereof in any main or branch United States post office, certified or registered mail, return receipt requested, postage prepaid, properly addressed to Pace as follows:

Attention: Executive Director  
*Pace Suburban Bus*  
550 W. Algonquin Road  
Arlington Heights, IL 60005-4412

Notices and communications to Service Provider shall be addressed as shown on the cover page to this Agreement. By notice complying with the foregoing requirements of this Section, each party shall have the right to change the address or addressee or both for all future notices and communications to such party, but no notice of a change of address shall be effective until actually received.

**Section 13.5. Calendar Days and Time.** Any reference herein to "day" or "days" shall mean calendar and not business days. If the date for giving or receiving of any notice required to be given hereunder or the performance of any obligation hereunder falls on a Saturday, Sunday or federal or State of Illinois holiday, then said notice or obligation may be given or performed on the next business day after such Saturday, Sunday or federal or State

of Illinois holiday. Any reference herein to time of day shall refer to local time for Arlington Heights, Illinois.

**Section 13.6. Singular and Plural.** The use of the singular or the plural herein shall be construed to be the plural or singular as the context requires.

**Section 13.7. Governing Laws.** This Agreement and the rights of the parties hereunder shall be interpreted and enforced in accordance with the laws of the State of Illinois.

**Section 13.8. Changes in Laws.** Unless otherwise explicitly provided in this Agreement, any reference to laws, ordinances, rules or regulations shall include such laws, ordinances, rules or regulations as they may be amended or modified from time to time.

**Section 13.9. No Assignment.** Service Provider shall not assign either its rights or its obligations under this Agreement without the prior written consent of Pace, which consent may be granted or withheld at the sole discretion of Pace. Any attempted or purported assignment of such rights or obligations without the prior written consent of Pace shall be void and of no effect. Any successor to Service Provider's rights under this Agreement shall be bound by, and shall comply with, all of the provisions, conditions and requirements of this Agreement.

**Section 13.10. Headings.** The section headings of this Agreement are for convenience and reference only and in no way define, extend, limit, or describe the scope or intent of this Agreement or the intent of any provision hereof.

**Section 13.11. Prohibited Interests.** No member of the Illinois General Assembly, no member of the Congress of the United States and no director or employee of Pace or of Service Provider shall, during his or her tenure or for one year thereafter, have any interest, direct or indirect, in this Agreement or be admitted to any share or part of this Agreement or to any benefit arising there from or any proceeds thereof.

**Section 13.12. Independent Contractor.** In the performance of the Transportation Services and Other Services pursuant to this Agreement, Service Provider is an independent contractor with the authority to control and direct the performance of the details of the Transportation Services and Other Services to be performed pursuant to this Agreement. All personnel necessary for Service Provider's performance pursuant to this Agreement shall be employees of Service Provider or of Service Provider's subcontractors. None of the said personnel shall be deemed for any purpose to be employees, agents or representatives of Pace.

**Section 13.13. Litigation Against Service Provider.** If, during the term of this Agreement, any lawsuits or proceedings are filed or initiated against Service Provider or any subcontractor of Service Provider, before any court, commission, board, bureau, agency, unit of government



or sub-unit thereof, arbitrator, or other instrumentality, that may materially affect or inhibit the ability of Service Provider to perform its obligations under, or otherwise to comply with, this Agreement, Service Provider shall promptly deliver a copy of the complaint or charge related thereto to Pace and shall thereafter keep Pace fully informed concerning all aspects of such lawsuit or proceeding.

**Section 13.14. Non-Waiver.** Pace shall not be deemed to have waived any right under this Agreement unless such waiver is in writing and signed by an authorized officer or director of Pace. No delay or omission by Pace in exercising any right under this Agreement shall operate as a waiver of such right or any other right by Pace. All the rights and remedies of Pace under this Agreement shall be cumulative and not exclusive and may be exercised singly or concurrently by Pace. The waiver or exercise of any remedy by Pace shall not be construed as a waiver of any other remedy available under this Agreement or under general principles of law or equity.

**Section 13.15. Time of Essence.** Time is of the essence in the performance of all terms and provisions of this Agreement.

**Section 13.16. Survival Clause.** If any provision of this Agreement is construed or held to be void, invalid or unenforceable in any respect, the remaining provisions of this Agreement shall not be affected thereby, but shall remain in full force and effect.

**Section 13.17. Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original.

**Section 13.18. Other Agreements Not Prohibited.** Nothing in this Agreement shall be deemed to prohibit Pace from entering into additional or alternative agreements or arrangements to provide replacement, additional, supplementary or duplicative service in the area served by Service Provider.

**Section 13.19. No Future Obligations.** Nothing in this Agreement or the parties' performance thereof shall be construed to create any obligation to renew this Agreement after the Agreement Term or to enter into any other agreement of any kind or nature.

## **ARTICLE XIV**

### **REMEDIES**

**Section 14.1. Remedies.** In addition to Pace's right to terminate this Agreement pursuant to Article XI and any other rights otherwise provided in this Agreement, in the event of a breach or an alleged breach of this Agreement by either party, either party may, by suit, action, mandamus or any other proceeding, in law or in equity, including specific performance, enforce or compel the performance of this Agreement. Any cost or expense

associated with pursuing any such remedy shall not be an Operating Expenditure under this Agreement.

**Section 14.2. Notice and Cure.** Neither party may exercise the right to bring any suit, action, mandamus or any other proceeding pursuant to Section 14.1 of this Agreement without first providing written notice to the other party of the breach or alleged breach and allowing a period of 15 days for the curing of said breach or alleged breach; provided, however, that in the event such violation or failure cannot be cured within said 15 day period notwithstanding diligent and continuous effort by the party receiving notice and said party shall have promptly commenced to cure the violation or failure and shall have thereafter prosecuted the curing of same with diligence and continuity, then the period for curing such violation or failure shall be extended for such period as may be necessary for curing such violation with diligence and continuity.



IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

**SERVICE PROVIDER**

**PACE**

By: \_\_\_\_\_

By \_\_\_\_\_

Thomas J. Ross, Executive Director

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

# Exhibit A

## 2018 PARATRANSIT SERVICE PROVIDER AGREEMENT

### PROPOSED 2018 BUDGET

PROJECT: VILLAGE OF BENSENVILLE

REVENUE \$ 21,714

#### EXPENSES

OPERATIONS \$ 274,128

MAINTENANCE \$ -0-

ADMINISTRATION \$ -0-

TOTAL EXPENSE \$ 274,128

OPERATING DEFICIT \$ 252,414

PACE SUBSIDY \$ 49,716

LOCAL SHARE \$ 202,398

RIDERSHIP 16,572

VEHICLE HOURS 3,835

# **Exhibit B**

## **2018 PARATRANSIT SERVICE PROVIDER AGREEMENT**

### **PACE VEHICLES**

### **VILLAGE OF BENSENVILLE**

(List of any Pace vehicles provided to the Service Provider)

14208

14214

14216

# Exhibit C

## 2018 PARATRANSIT SERVICE PROVIDER AGREEMENT

### PARATRANSIT REIMBURSEMENT GUIDELINES

The maximum Service Reimbursement shall be the lesser of the amounts calculated in each of the following way:

1. 75% of the projected Operating Deficit in the Approved Budget; or
2. 75% of the actual Operating Deficit; or
3. \$3.00 multiplied by the number of annual one-way passenger trips not to exceed the maximum number of trips in the Approved Budget.

The Approved Budget shall be the maximum estimated expenses, deficit, hours of service, and ridership upon which Pace's maximum Service Reimbursement amount will be calculated.

The total of the year to date subsidy payments shall not exceed an amount equal to 1/12<sup>th</sup> of the annual budgeted subsidy times the number of months elapsed in the year.

# Exhibit D

## 2018 PARATRANSIT SERVICE PROVIDER AGREEMENT

### TRANSPORTATION SERVICES FUNDED BY PACE

#### VILLAGE OF BENSENVILLE

TYPE OF SERVICE	Dial-A-Ride Bus Service
SERVICE OPERATED BY	First Transit, Chicago
TRIP RESERVATION METHOD	One hour in advance for appointments; 30 Min. in advance for destinations with flexible arrival times; 24 hours in advance for wheelchair lift preferred. Work trips scheduled for one week by calling on Friday or a Monday.
SERVICE AREA	Village of Bensenville and destinations outside of the Village as authorized by Bensenville.
SERVICE HOURS	Monday through Friday 6:00 a.m. to 6:00 p.m. Saturdays (10:00 a.m. to 3:00 p.m.) 1st and 3 <sup>rd</sup> Saturday of the month
HOLIDAYS	Service will <u>not</u> operate on the following holidays: <ul style="list-style-type: none"><li>➤ New Year's Day</li><li>➤ Memorial Day</li><li>➤ Independence Day (observed Holiday)</li><li>➤ Labor Day</li><li>➤ Thanksgiving Day</li><li>➤ Day after Thanksgiving</li><li>➤ Christmas Day</li></ul>
ONE-WAY FARE	Adults \$5.00 Persons (65+) \$1.00 Disabled \$1.00 Students (to/from school) \$5.00 Child (under 7 years of age) Free
RIDER ELIGIBILITY	General Public

## Exhibit E

### 2018 PARATRANSIT SERVICE PROVIDER AGREEMENT

#### **AFFIRMATIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY AND DISADVANTAGED BUSINESS ENTERPRISES**

- A. Affirmative Action. Service Provider shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability or an unfavorable discharge from military service. Such action shall include, but not be limited to, the following: employment, hiring, upgrading, demotion, transfer, recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Prior to the execution of this Agreement, Service Provider shall furnish Pace with evidence that it has filed with the Illinois Department of Human Rights (the "Department") an affirmative action program covering the Service Provider's employment practices, if a plan is required by the Department. Service Provider shall promptly furnish Pace with a copy of any and all documents filed by it with the Department.
- B. Equal Employment Opportunity Clause. Service Provider shall comply with the following provisions, collectively referred to as the "Equal Employment Opportunity Clause".
- (1) That it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status, and national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service; and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.
  - (2) That, if it hires additional employees in order to perform this Agreement or any portion hereof, it will determine the availability (in accordance with the Department's Rules and Regulations for Public Contracts) of minorities and Women in the area(s) from which it may reasonably recruit and it will hire persons in such a way that minorities and women are not underutilized.
  - (3) That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service.
  - (4) That it will send a notice to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding advising such labor organization or representative of its obligation under the Illinois Human Rights Act and the Department's Rules and Regulations



for Public Contracts. If any such labor organization or representative fails or refuses to cooperate with Service Provider in its efforts to comply with such Act and Rules and Regulation, Service Provider shall promptly so notify the Department, and Service Provider shall recruit employees for other sources when necessary to fulfill its obligations thereunder.

(5) That it will submit reports as required by the Department's Rules and Regulations for Public Contracts, furnish all relevant information as may from time to time be requested by the Department of Pace, and in all respects comply with the Illinois Human Rights Act and the Department's Rules and Regulations for Public Contracts.

(6) That it will permit access by Pace and the Department to all relevant books, Records, accounts, and work sites for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and the Department's Rules and Regulations for Public Contracts.

C. Subcontracts. Service Provider shall insert the following provisions in all subcontracts relating to the provision of Transportation Services and Other Service except subcontracts for standard commercial supplies or raw materials:

"No discrimination shall be made in any term or aspect of employment because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service, or political reasons or factors.

In addition, Service Provider shall insert verbatim or by reference the provisions of the Equal Employment Opportunity Clause in every performance subcontract as defined in Section 1.1(17) (b) of the Department's Rules and Regulations so that such provisions will be binding upon every such subcontractor. In the same manner as with other provisions of this Agreement, Service Provider will be liable for compliance by all its subcontractors with applicable provisions of this Section; and further it will promptly notify Pace and the Department in the event any subcontractor fails or refuses to comply therewith. In addition, Service Provider will not utilize any subcontractor declared by the Department to be non-responsible and, therefore, ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

D. Disadvantaged Business Enterprises. Service Provider shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. Service Provider shall carry out application requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by Service Provider to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such remedy as Pace deems appropriate.

## Exhibit F

## 2018 PARATRANSIT SERVICE PROVIDER AGREEMENT

## SERVICE PROVIDER'S CERTIFICATION

STATE OF ILLINOIS                   )  
  )  
COUNTY OF \_\_\_\_\_)          SUBURB-TO-SUBURB.

\_\_\_\_\_, being first duly sworn on oath, deposes and state that all statements herein made are made on behalf of the Service Provider; that this deponent is authorized to make them, and that the statements contained herein are true and correct.

The Service Provider deposes, states and certifies that the Service Provider is not barred from contracting with Pace on the Paratransit Service Provider Agreement as a result of a violation of either Section 33E-3 of Section 33E-4 of Article 33E of the Criminal Code of 1961 (720 ILCS 5/33E-3 and 33E-4).

DATED: \_\_\_\_\_

**SERVICE PROVIDER**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Attest: \_\_\_\_\_

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**NOTARY PUBLIC**

# Exhibit G

## 2018 PARATRANSIT SERVICE PROVIDER AGREEMENT

### FORM OF OPINION OF GRANTEE'S COUNSEL

Attention: Executive Director  
PACE Suburban Bus  
550 W. Algonquin Road  
Arlington Heights, IL 60005-4412

Please be advised that I represent (Name of Service Provider). Pursuant to Article XII of the Service Provider Agreement ("Agreement") this Opinion of Council is being provided:

1. (Name of Service Provider) is duly organized, validly existing and in good standing under the laws of the State of Illinois, and has the legal authority to engage in and carry on the public transportation services as described in said Agreement.
2. Said Agreement has been duly authorized by the (Board\Council) of the (Name of Service Provider) pursuant to Ordinance No. \_\_, and the execution and delivery of said Agreement by all of the parties hereto will constitute a valid and binding obligation to the (Name of Service Provider), enforceable in accordance with its terms, and the making of and compliance with the terms and conditions of said Agreement by the (Name of Service Provider) will not result in any breach or violation of, or default under, any judgment, decree, mortgage, contract, agreement, indenture or other instrument applicable to the (Name of Service Provider) known to this council.
3. All such approvals, consents, permits, licenses, authorizations or modifications as may be required to permit the performance by the (Name of Service Provider) of its obligations under said Agreement have been obtained, whether from the appropriate government authorities or other persons or entities known to this council.
4. No litigation, investigation or proceeding of or before any court, government authority or arbitrator is pending or, to the knowledge of this counsel threatened by or against the Service Provider, or against any of its properties or revenues (a) with respect to said Agreement, or (b) which is reasonably likely to have a material adverse effect on the operations, property or financial condition or the Service Provider.
5. The Service Provider is not in default under or with respect to any obligation in any respect that could be materially adverse to the business, operations, property or financial condition of the Service Provider, or that is reasonably likely to materially adversely affect the ability of the Service Provider to perform its obligations under said Agreement.
6. No obligation of the Service Provider and no requirement of law materially adversely affects, or insofar as Counsel may reasonably foresee based on facts known to (him or her) may so affect, the business, operation, property or financial condition or the Service Provider or the ability of the Service Provider to perform its obligations under said Agreement.

**RESOLUTION NO.**

**AUTHORIZING THE 2018 PARATRANSIT SERVICE PROVIDER  
AGREEMENT BY AND BETWEEN SUBURBAN BUS DIVISION OF THE  
REGIONAL TRANSPORTATION AUTHORITY (PACE) AND VILLAGE OF  
BENSENVILLE**

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 the Village provides a subsidized Dial-a-Bus service to its residents, and

WHEREAS the Village chooses to continue to provide this service for the 2018 calendar year, and

WHEREAS Pace authorizes funding on an annual basis in the form of a Paratransit Service Provider Agreement, and

WHEREAS the Pace agreement stipulates the rules, regulations and operational requirements for the Dial-A-Bus program, and

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

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

SECTION TWO: The Village Board authorizes and approves the attached Resolution authorizing the execution of a Paratransit service provider agreement with the Regional Transportation Authority (Pace).

SECTION THREE: The Village Manager is hereby authorized and directed to execute on behalf of the Village of Bensenville, and the Deputy Clerk is hereby authorized to attest thereto, the necessary paperwork.

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

SECTION FIVE: This Resolution is passed and approved by the President and Board of Trustees of the Village of Bensenville, Illinois, dated December 12, 2017.

APPROVED:

\_\_\_\_\_  
Frank DeSimone

ATTEST:

\_\_\_\_\_  
Nancy Quinn, Village Clerk

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

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

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

**TYPE:**Resolution**SUBMITTED BY:**Joe Caracci**DEPARTMENT:**Public Works**DATE:**December 12, 2017**DESCRIPTION:**

Consideration of a Resolution Authorizing the Execution of a Contract Extension with First Transit, Inc. for the Dial-a-Bus Services in the Not-to-Exceed Amount of \$277,815

**SUPPORTS THE FOLLOWING APPLICABLE VILLAGE GOALS:**

<input type="checkbox"/>	<i>Financially Sound Village</i>	<input checked="" 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>

**COMMITTEE ACTION:**

Committee of the Whole

**DATE:**

December 12, 2017

**BACKGROUND:**

First Transit has provided Dial-A-Bus transportation services to Village residents since 2005. First Transit provides dispatch services, bus drivers, fare collections, and reporting. In general, the Village has been satisfied with their services.

Staff is proposing providing the same services, staffing, and hours for 2018. The contract covers 402 service hours per month. Service hours: Monday - Friday 6:00 am to 6:00 pm. Saturdays six hours gate-to-gate on the first and third Saturdays of each month from 10:00 am to 3:00 pm.

This contract has been bid in the past, but it is difficult to find a service that can meet all the program needs. The ability to service disabled riders with ADA compliant vehicles on demand is a big issue that continues to arise. First Transit works well with staff and has accommodated the Village's needs over the years.

**KEY ISSUES:**

This purpose of this item is to approve a contract for services associated with the Dial-a-Bus Program for 2018.

The 12-month contract extension for January 1, 2018 through December 31, 2018 is **\$57.59/hour to total \$277,814.16**. This equates to no increase over last year. The contract includes a 60-day cancellation clause engaged upon the written notice by First Transit or the Village. Furthermore, the hours of service can be modified with First Transit by issuing 30 days written notice.

**ALTERNATIVES:**

Discretion of the Committee. The Village continues to assess alternatives as the annual price tag of this service is costly for the benefits provided.

**RECOMMENDATION:**

Staff recommends approval of the contract extension with First Transit.

**BUDGET IMPACT:**

The net cost of the Dial-a-Bus Program to the Village is the difference between our contracted cost with First Transit for the management of the Program and the subsidy we receive from PACE as part of our Paratransit Agreement.

The CY2018 budget includes \$275,000 in the Public Works Administration budget (Account No. 11050118-549990).

**ACTION REQUIRED:**



Consideration of a Resolution Authorizing the Execution of a Contract Extension with First Transit, Inc. for the Dial-a-Bus Services in the Not-to-Exceed Amount of \$277,815.

**ATTACHMENTS:**

<b><u>Description</u></b>	<b><u>Upload Date</u></b>	<b><u>Type</u></b>
PROPOSAL - 2018 Dial-a-Bus - First Transit	12/4/2017	Backup Material
RES - 2018 Dial-a-Bus - First Transit	12/4/2017	Resolution Letter

**PROPOSAL**

**VILLAGE OF BENSENVILLE**

**Presented 13 November 2017**


First Transit is pleased to submit its response to the Village of Bensenville request for extending the current Dial-A-Bus contract. First Transit submits the following rate effective January 1, 2018 through December 31, 2018

\$57.59 per hour based on 402 hours per month, or 4,824 annual hours.

Annual: \$277,814.16

All other provisions of the contract will prevail.

**Submitted by First Transit, Inc.**

Signed Name: 

Printed Name: Susan Spry

Title: Region Vice President

Date: 13 November 2017

**Approved by Village of Bensenville**

Signed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

**RESOLUTION NO.**

**AUTHORIZING THE APPROVAL OF A CONTRACT EXTENSION  
WITH FIRST TRANSIT, INC. FOR DIAL-A-BUS SERVICE  
IN THE NOT TO EXCEED AMOUNT OF \$277,815**

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 *es 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 the Village provides a subsidized Dial-a-Bus service to its residents, and

WHEREAS the Village chooses to continue to provide this service for the 2018 calendar year, and

WHEREAS First Transit, Inc. of Cincinnati, Ohio has provided this service for the Village of Bensenville since 2005, and

WHEREAS First Transit submitted a cost for the 2018 calendar year that is the same as 2017 (no increase).

WHEREAS, and “Agreement Extension Form” has been attached to the resolution as Exhibit A.

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

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

SECTION TWO: The Village Board authorizes and approves the attached Resolution authorizing the approval of a contract extension to First Transit, Inc. of Cincinnati, Ohio to provide Dial-a-Bus Services in the not to exceed amount of \$277,815.

SECTION THREE: The Village Manager is hereby authorized and directed to execute on behalf of the Village of Bensenville, and the Deputy Clerk is hereby authorized to attest thereto, the necessary paperwork.

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

SECTION FIVE: This Resolution is passed and approved by the President and Board of Trustees of the Village of Bensenville, Illinois, dated December 12, 2017.

APPROVED:

\_\_\_\_\_  
Frank DeSimone

ATTEST:

\_\_\_\_\_  
Nancy Quinn, Village Clerk

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

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

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

**EXTENSION OF AGREEMENT FOR DIAL-A-BUS SERVICES FOR THE  
VILLAGE OF BENSENVILLE, ILLINOIS**

THIS EXTENSION OF AGREEMENT is made on this 12<sup>th</sup> day of December, 2017, between the Village of Bensenville, Illinois (hereinafter "OWNER"), whose principal address, for the purposes of any notice required herein, is: Director of Public Works, 717 E. Jefferson Street, Bensenville, Illinois 60106, and First Transit, Inc. (hereinafter "CONTRACTOR"), whose principal addresses, for the purposes of any notice required herein are: 2040 Indian Boundary Drive, Melrose Park, IL 60160

OWNER and CONTRACTOR acknowledge and mutually agree as follows:

1. OWNER and CONTRACTOR entered into a one-year Agreement for Dial-A-Bus Services for the Village of Bensenville, Illinois dated December 11, 2012.
2. The OWNER and CONTRACTOR have approved five (5) one-year extensions from 2013-2017
3. The OWNER and CONTRACTOR hereby enacts a one-year extension of the Agreement for 12-months from January 1, 2018 through and including December 31, 2018 at the hourly service rate of \$57.59 for a total cost of \$277,814.16.
4. Any and all other provisions of the Agreement (or subsequent Amendments) not otherwise amended herein shall remain applicable, governing and in full force and effect throughout the Extended Term of the Agreement.

Both parties indicate their approval of this Extension of Agreement by their signatures below.

First Transit, Inc. By:

  
Authorized Signature

Susan Spry

Printed Name

Region Vice President

Title

4 December 2017

Date

Village of Bensenville, By:

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**TYPE:**Resolution**SUBMITTED BY:**Joe Caracci**DEPARTMENT:**Public Works**DATE:**December 12, 2017**DESCRIPTION:**

Consideration of a Resolution Authorizing the Execution of an Purchase Order with Networkfleet, Inc. for the GPS Tracking Services in the Not-To-Exceed amount of \$20,000

**SUPPORTS THE FOLLOWING APPLICABLE VILLAGE GOALS:**☒*Financially Sound Village*☐*Enrich the lives of Residents**X**Quality Customer Oriented Services**Major Business/Corporate Center**Safe and Beautiful Village**Vibrant Major Corridors***COMMITTEE ACTION:**

Committee of the Whole

**DATE:**

December 12, 2017

**BACKGROUND:**

The Village tracks select Village vehicles with GPS tracking. The Village started tracking activities like snow plowing, street sweeping, brush pickup and sewer cleaning with 30 Public Works and CED vehicles. In 2016, all Police vehicles were added to the system. To date, all Village-owned Public Works, Police and CED vehicles have GPS tracking.

Vehicles can be monitored from a website in real time. Activities such as speeding, leaving Village boundaries, idling, and locations can also be tracked by the software.

**KEY ISSUES:**

The Village has been utilizing the technology of Network Fleet for the past four years.

Network Fleet ties directly into the On-Board Diagnostic (OBD) Panel of the vehicle, thus providing us real time alerts from the vehicle like engine problems and trouble codes. These codes can then be transferred to our Work Management software package (Cartegraph) to generate maintenance work orders.

Network Fleet monthly rate to monitor each vehicle that is equipped with ODB-2 capabilities is \$18.95 per month, which is less than half the cost of previous competitors. The price for off-road and vehicles older than 1996 (that do not have ODB-2 capabilities) is \$17.00 per month. This rate provides all the tracking capabilities without diagnostic reporting. This is a GSA pricing structure in which the Village participates.

Currently, the Village monitors 84 vehicles. This number fluctuates as vehicles are purchased and sold. The rates are monthly and the Village can terminate the contract on any or all devices remotely.

**ALTERNATIVES:**

Discretion of the Committee.

**RECOMMENDATION:**

Staff recommends approval of the purchase order.

**BUDGET IMPACT:**

Funds (\$20,000) have been allocated in the CY2017 Budget - Account Number 11050490 549990

**ACTION REQUIRED:**

Consideration of a Resolution Authorizing the Execution of an Purchase Order with Networkfleet, Inc. for the GPS Tracking Services in the Not-To-Exceed amount of \$20,000.



**ATTACHMENTS:****Description**

RES - 2018 GPS Tracking

PROPOSAL - 2018 GPS Tracking

**Upload Date**

12/5/2017

12/5/2017

**Type**

Resolution Letter

Backup Material

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

**AUTHORIZING THE EXECUTION OF A PURCHASE ORDER WITH  
NETWORKFLEET FOR GPS TRACKING SERVICES  
IN THE NOT TO EXCEED AMOUNT OF \$20,000.00**

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 the Village owns and maintains a fleet of vehicles for the purpose of servicing the public, and

WHEREAS the Village from time desires to track the whereabouts of each vehicle for the purposes of responding to customer concerns and efficiency tracking, and

WHEREAS the Village currently has 84 vehicles tracked by a system called NetworkFleet providing the best package for our needs, and

WHEREAS NetworkFleet extended GSA pricing to the Village, and

WHEREAS the Village desires to maintain equipping our entire fleet of licensed vehicles with the NetworkFleet system, and

WHEREAS the cost of the monthly monitoring service is \$1,570.35, for a total annual cost of \$18,844.20, and

WHEREAS the requested purchase order amount is \$20,000 to account for changes in the number of village vehicles.

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

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

SECTION TWO: The Village Board authorizes and approves the attached Resolution authorizing a Purchase Order to Network Fleet for GPS Tracking Services in the not to exceed amount of \$20,000.

SECTION THREE: The Village Manger is hereby authorized and directed to execute on behalf of the Village of Bensenville, and the Deputy Clerk is hereby authorized to attest thereto, the necessary paperwork.

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

SECTION FIVE: This Resolution is passed and approved by the President and Board of Trustees of the Village of Bensenville, Illinois, dated December 12, 2017.

APPROVED:

\_\_\_\_\_  
Frank DeSimone

ATTEST:

\_\_\_\_\_  
Nancy Quinn, Village Clerk

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

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

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



## Networkfleet Pricing Proposal

Date: 12-04-17

Please review your custom Pricing Proposal below.  
For questions, please inquire with your sales contact.

Renata Falls-Jefferson

858-410-7209

renata.falls-jefferson@verizon.com

### BILLING INFORMATION

**Bill To Company:** BENS002/ Bensenville, IL  
**Billing Address:** 12 S CENTER ST  
**City:** BENSENVILLE  
**State:** IL  
**Zip:** 60106-2130

### SHIPPING INFORMATION

**Ship-To Company :** BENS002/Bensenville, IL  
**Shipping Address:** 12 S Center St  
**City:** Bensenville  
**State:** IL  
**Zip:** 60106-2130

### PRODUCTS & SERVICES

SEQ	ITEM	SKU	CATEGORY	QTY TERM	NRC PRICE	NRC TOTAL	MRC PRICE	MRC TOTAL
1	SOL-GPS ONLY NO HARDWARE	SOL-GPS ONLY NO HARDWARE-VERIZON	SOLUTION	11 12 Months	0.00	0.00	0.00	187.00
1.1	MONTHLY SERVICE 5200	MOH5200120	SERVICE	11 12 Months	0.00	0.00	17.00	187.00
1.2	CONFIGURABLE UPDATE RATE (1 MINUTE)	CURS60MS	ACCESSORY	11 12 Months	0.00	0.00	0.00	0.00
2	SOL-GPS WITH DIAGNOSTICS NO HARDWARE	SOL-GPS WITH DIAGNOSTICS NO HARDWARE-VERIZON	SOLUTION	73 12 Months	0.00	0.00	0.00	1,383.35
2.1	MONTHLY SERVICE 5500	MOH5500120	SERVICE	73 12 Months	0.00	0.00	18.95	1,383.35
2.2	CONFIGURABLE UPDATE RATE (1 MINUTE)	CURS60MS	ACCESSORY	73 12 Months	0.00	0.00	0.00	0.00
* Sales Tax and Shipping are additional to this subtotal			* ONE TIME CHARGE:	\$ 0.00	* MONTHLY RECURRING CHARGES:		\$ 1,570.35	

### COMMENTS

### TERMS AND CONDITIONS

- Pricing provided is valid for GSA procurements only. Any future contract shall be issued under Networkfleet's Federal Supply Schedule No. GS-07F-5559R.
- Should a Purchase Order (PO) be issued to Networkfleet for the procurement of the items quoted, the PO number will be used for reference purposes ONLY on any invoice from Networkfleet. Any terms and conditions contained in the purchase order are rejected, void and have no force or effect.
- Pricing provided does not include taxes. Taxes (if applicable) are applied to the monthly invoice.
- Shipping: FOB Destination. Shipping cost is \$2.00 per unit and is not included in the price above.
- Any of the listed equipment marked as OPEN MARKET are products that are not listed on GSA Federal Supply Schedule Contract No. GS-07F-5559R (and, pursuant to FAR 8.402(f), should be noted applicably on all procurement documents including but not limited to Purchase Orders, BPAs, or individual task or delivery orders). OPEN MARKET products are manufactured by third parties and may be manufactured or substantially transformed in non-designated countries. Please contact us if you need country of origin information for a specific product.



**TYPE:**Resolution**SUBMITTED BY:**Joe Caracci**DEPARTMENT:**Public Works**DATE:**December 12, 2017**DESCRIPTION:**

Consideration of a Resolution Authorizing the Execution of a Purchase Order to Al Warren Oil Company, Inc. for Providing Fuel Tank Rental and Fleet Fueling Services in the Not-to-Exceed amount of \$125,500

**SUPPORTS THE FOLLOWING APPLICABLE VILLAGE GOALS:**

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Financially Sound Village          | <input checked="" type="checkbox"/> Enrich the lives of Residents |
| <input checked="" 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                  |

**COMMITTEE ACTION:**

Committee of the Whole

**DATE:**

December 12, 2017

**BACKGROUND:**

The Village purchases bulk fuel as a cost benefit to purchasing retail from local gas stations. Purchasing is typically based of current OPIS (Oil Price Information Service) average rack pricing plus an overhead and delivery cost.

The Village utilizes two 2,500 gallon above ground storage tanks for our unleaded and road diesel fuel. The Village also recently installed an additional 2,500 gallon above ground storage tank for off-road diesel fuel to supply our two backup generators at the Wastewater Treatment Plant (WWTP). The Village prefers above ground tanks as underground tanks have the potential to leak causing need for costly and time-consuming mitigation of contaminated soils.

The Village uses fuel management software to track fuel use for budgeting and commodity control purposes. Police and Public Works are the largest department fuel users.

In 2012, the Village Board passed Resolution R-67-2012 authorizing a contract with Al Warren Oil Co., Inc. to provide the tanks and fuel services. The agreed upon fuel cost was the Chicago OPIS rack average plus \$.1485. The contract term was three years.

In 2015, the Village passed Resolution R-73-2015 authorizing a contract extension that included a month to month contract at a reduced rate of \$.10 above the Chicago OPIS rack average rate.

**KEY ISSUES:**

Staff would like to continue to utilize Al Warren Oil for our fueling needs. They are very responsive to our fuel needs. Changing suppliers would also require the change out of our three above ground storage tanks and management software; this essentially creates a "sole source" situation.

Annual fuel usage has averaged around 44,500 gallons of unleaded and 20,500 gallons of diesel fuel. Fuel prices are very difficult to predict. For the past six years our costs have been as follows:

2013	\$193,776
2014	\$198,427
2015	\$104,135
2016	\$83,250
2017 (Thru October)	\$74,159



Our budget number have been reduced, but are still conservative totally \$125,500.

**ALTERNATIVES:**

Discretion of the Committee.

**RECOMMENDATION:**

Staff recommends continuing on a month to month contract and approval of the Purchase Order.

**BUDGET IMPACT:**

Funds are allocated in multiple accounts in the CY18 budget as follows:

Police	11040110-554110	\$50,000
Fleet (PW General Fund)	11050490-554110	\$40,000
Utility Fund (Water)	51050540-554110	\$25,000
Utility Fund (WWTP)	51050570-554110	\$5,000
CED	11060640-554110	\$3,000
Recreation	11070720-554110	\$2,500
TOTAL		\$125,500

**ACTION REQUIRED:**

Consideration of a Resolution Authorizing the Execution of a Purchase Order to Al Warren Oil Company, Inc. for Providing Fuel Tank Rental and Feet Fueling Services in the Not-to-Exceed amount of \$125,500.

**ATTACHMENTS:**

<b><u>Description</u></b>	<b><u>Upload Date</u></b>	<b><u>Type</u></b>
RES - 2018 Fuel Purchase	12/5/2017	Resolution Letter
EXT - 2018 Fuel Purchase	12/5/2017	Backup Material

**RESOLUTION NO.**

**AUTHORIZING THE EXECUTION OF A PURCHASE ORDER WITH  
AL WARREN OIL COMPANY, INC. FOR FUEL PURCHASE AND SERVICES  
IN THE NOT-TO-EXCEED AMOUNT OF \$125,500**

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 *es 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, the VILLAGE has determined that having fueling services on sight for the Village fleet and equipment is cost effective and enables the Village to be better stewards of public funds,

WHEREAS, the VILLAGE has determined it beneficial to rent the fuel tanks and fuel monitoring software, and

WHEREAS, the VILLAGE previously approved Resolution No. 67-2012 for Al Warren Oil Company, Inc. (hereinafter "CONTRACTOR") to perform these services by providing fuel at OPIS rack average plus \$0.1485, and

WHEREAS, the VILLAGE previously approved Resolution No. 73-2015 for Al Warren Oil Company, Inc. (hereinafter "CONTRACTOR") to perform these services by providing fuel at OPIS rack average plus \$0.1000, and

WHEREAS, the CONTRACTOR has agreed to honor the 2015 pricing on a month to month basis for the 2018 calendar year,

WHEREAS the VILLAGE typically purchases approximately 44,500 gallons on unleaded fuel and 20,500 gallons of diesel fuel annually.

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

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

SECTION TWO: The Village Board authorizes and approves the attached Resolution authorizing the execution of a purchase order to Al Warren Oil Company, Inc. for fuel purchases and services in the not to exceed amount of \$125,500.

SECTION THREE: The Village Manger is hereby authorized and directed to execute on behalf of the Village of Bensenville, and the Deputy Clerk is hereby authorized to attest thereto, the necessary paperwork.

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

SECTION FIVE: This Resolution is passed and approved by the President and Board of Trustees of the Village of Bensenville, Illinois, dated December 12, 2017.

APPROVED:

\_\_\_\_\_  
Frank DeSimone

ATTEST:

\_\_\_\_\_  
Nancy Quinn, Village Clerk

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

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

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



**EXTENSION OF AGREEMENT FOR FUEL SERVICES, FUEL TANK RENTAL, AND SOFTWARE  
FOR THE VILLAGE OF BENSENVILLE, ILLINOIS**

THIS EXTENSION OF AGREEMENT is made on this 12<sup>th</sup> day of December, 2017, between the Village of Bensenville, Illinois (hereinafter "OWNER"), whose principal address, for the purposes of any notice required herein, is: Director of Public Works, 717 E. Jefferson Street, Bensenville, Illinois 60106, and Al Warren Oil Company, Inc. (hereinafter "CONTRACTOR"), whose principal addresses, for the purposes of any notice required herein are: 7439 West Archer Avenue, Summit, Illinois 60501.

OWNER and CONTRACTOR acknowledge and mutually agree as follows:

1. OWNER and CONTRACTOR agree upon a month-to-month agreement for fuel services, fuel tank rental, and software at the Chicago OPIS Rack Average Rate PLUS \$0.10.
2. OWNER and CONTRACTOR agree that these rates will be effective from January 1, 2018 through December 31, 2018.
3. OWNER and CONTRACTOR acknowledge original agreement executed on June 26, 2012 (R-67-2012) and amended agreement executed on June 23, 2015 (R-73-2015).
4. OWNER AND CONTRACTOR acknowledge that a third 2,500 gallon above ground storage tank has been installed by CONTRACTOR and added to the agreement under the same terms as the first two tanks.
5. Any and all other provisions of the Agreement (or subsequent Amendments) not otherwise amended herein shall remain applicable, governing and in full force and effect throughout the Extended Term of the Agreement.

Both parties indicate their approval of this Extension of Agreement by their signatures below.

Al Warren Oil Company, Inc. By:

Village of Bensenville, By:

  
Authorized Signature

\_\_\_\_\_  
Authorized Signature

**Jerome A. Piszczor**

Printed Name

\_\_\_\_\_  
Printed Name

**CHIEF FINANCIAL OFFICER**

Title

\_\_\_\_\_  
Title

Date

12/5/17

\_\_\_\_\_  
Date

**TYPE:**Resolution**SUBMITTED BY:**Joe Caracci**DEPARTMENT:**Public Works**DATE:**December 12, 2017**DESCRIPTION:**

Consideration of a Resolution Concerning the Determination of the Bensenville Village Board that Change Order Number One with R.W. Dunteman Company for an Increase of \$29,000 is Required for the Downtown Streetscape Project – North Half for a Revised Contract Cost of \$2,122,866

**SUPPORTS THE FOLLOWING APPLICABLE VILLAGE GOALS:**

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

**COMMITTEE ACTION:**

Committee of the Whole

**DATE:**

December 12, 2017

**BACKGROUND:**

The Village Board authorized a construction contract award with R.W. Dunteman Company for Downtown Streetscape Project – North Half on May 24, 2017 in the amount of \$2,093,866. The scope of original contract work included in Phase I consisted of improvements north of the railroad tracks (Addison and Center St from Main to Roosevelt; Main St from York to west of Addison St and minor aesthetic improvements along York Rd from Roosevelt to Main). Addison St/Center St from Main St to Roosevelt Rd were reconstructed with a new Hot-Mix Asphalt pavement, stamped sidewalk, C&G, driveway aprons, watermain replacement on Addison St along with new services, 30-inch storm sewer as identified in the master plan along Center St, striping and landscape restoration. Main St and York Rd received aesthetic upgrades such as stamped sidewalk, benches, planter boxes, stamped cross walks, trash receptacles, bike racks, etc.

**KEY ISSUES:**

A geotechnical and environmental investigation performed during the design stage revealed the soils within the project limits were contaminated. Subsequently, the designer had included earth excavation removal and disposal quantity for the project based on available information and some typical design assumptions. However, the soils encountered during the earth excavation process for the roadway, sidewalk and underground utility work were far worse. As a result, more excavation was required which also resulted in more soils being disposed at a landfill due to contamination. An additional 1,400 cubic yards of soil was removed and disposed.

Additional work items related to watermain and sanitary was required for an overall better quality final product. This work included a new water valve as well as removal and replacement of old brick sanitary manholes, which were found buried under the existing roadway pavement. Additionally, some adjustments were also required to existing light poles to prevent standing water around the poles, which can freeze in the winter months.

Village staff and consulting construction engineer has worked with the contractor throughout the project to eliminate some of the work items from original scope of work to balance the overall project costs. After all such efforts and completing required additional contract work, a change order for \$29,000 is necessary to pay for the remaining contractor invoices. Staff is currently working with the contractor to agree upon final quantities. A final balancing change order will be presented to the Committee in Jan/Feb 2018.

**ALTERNATIVES:**

Discretion of the Committee.

**RECOMMENDATION:**

Staff recommends approval of the Change Order No 1.

**BUDGET IMPACT:**

Original contract award of \$2,093,866 was to be paid for by \$1,794,498.00 of CIP funds and \$299,368 of Utility funds. Based on work completed to date the total value of the contract is estimated at \$2,122,866 of which \$1,795,750 is CIP related and remainder of \$326,729 is utility related.

The additional change order amount of \$29,000 is comprised of both utility funds and capital funds. A total of \$27,400 will be charged to utility funds while the remaining \$1,600 will be charged to CIP funds. Negotiated design engineering savings of \$56,000 for the 2018 watermain project can supplement the additional burden on utility funds.

**ACTION REQUIRED:**

Consideration of a Resolution Concerning the Determination of the Bensenville Village Board that Change Order Number One with R.W. Dunteman Company for an Increase of \$29,000 is Required for the Downtown Streetscape Project – North Half for a Revised Contract Cost of \$2,122,866

**ATTACHMENTS:**

<b><u>Description</u></b>	<b><u>Upload Date</u></b>	<b><u>Type</u></b>
RES - CO#1 Downtown Streetscape Phase I	12/5/2017	Resolution Letter
CHANGE ORDER - CO#1 Downtown Streetscape Phase I	12/5/2017	Backup Material
LOCATION MAP	12/5/2017	Backup Material



## **RESOLUTION NO.**

### **A RESOLUTION CONCERNING THE DETERMINATION OF THE BENSENVILLE VILLAGE BOARD THAT CHANGE ORDER NUMBER ONE WITH R.W. DUNTEMAN COMPANY FOR AN INCREASE OF \$29,000 IS REQUIRED FOR THE DOWNTOWN STREETScape PROJECT – NORTH HALF FOR A REVISED CONTRACT COST OF \$2,122,866**

WHEREAS, Chapter 720, Section 5/33-E-9 of the Illinois Compiled Statutes 2002 requires change orders on public contracts involving total cumulative changes of more than Ten Thousand Dollars (\$10,000) in value or a cumulative total of thirty (30) days in time to be made by written determination; and

WHEREAS, it has been determined that it would be beneficial to the Village to revise original contract quantities to match actual as-constructed amounts, to compensate the contractor for additional work performed as directed and approved by the project engineer and Village staff, and to deduct monies for various contract work eliminated; and

WHEREAS the Village Board entered into a construction contract with R.W. Dunteman Company for the Downtown Streetscape Project- North Half on May 24, 2017 in the amount of \$2,093,866; and

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

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

SECTION TWO: The Village President and Board of Trustees authorizes and approves the attached Resolution authorizing a change order number one in the amount of \$29,000 with R.W. Dunteman for the Downtown Streetscape Project – North Half for a revised contract amount of \$2,122,866. The nature of the change order includes increased quantity of Removal and Disposal of Unsuitable Material, Non-special waste disposal, Porous Granular Embankment, as well as additional watermain and sanitary sewer work.

SECTION THREE: The Village Manager is hereby authorized and directed to execute on behalf of the Village of Bensenville, and the Deputy Clerk is hereby authorized to attest thereto, the necessary paperwork.

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

SECTION FIVE: This Resolution is passed and approved by the President and Board of Trustees of the Village of Bensenville, Illinois, dated December 12, 2017.

APPROVED:

\_\_\_\_\_  
Frank DeSimone

ATTEST:

\_\_\_\_\_  
Nancy Quinn, Village Clerk

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

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

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

**REQUEST FOR AUTHORIZATION OF CHANGES  
CHANGE ORDER NO. 1**



Project Name: Downtown Streetscape Project - North Half

To: Village of Bensenville  
717 E. Jefferson Street  
Bensenville, IL 60106

Contractor: R.W. Duntzman Company  
600 S Lombard Rd  
Addison, IL 60101

Date: 12/4/2017

The following change from the Plans in the construction of the above designated project is recommended:

ITEM	DESCRIPTION	ADDITIONS	DEDUCTIONS
1	Contract quantity Adjustments		\$227,643.00
2	Contract quantity Adjustments	\$241,021.32	
FRC01	Water Valve Replacement	\$9,067.29	
FRC02	Sanitary Manahole Reconstruction	\$1,392.52	
FRC03	Watermain - Extra Work	\$9,562.97	
FRC04	Light Pole Adjustments	\$12,000.00	
X01	Aggregate Fill	\$364.59	
3	Stamped Colored PCC Sidewalk, 5-in; Price Reduction		\$13,152.50
4	Traffic Control & Protection (special); Price Reduction		\$4,000.00

Amount of this Order:	\$28,613.19
Amount of Previous Orders:	\$0.00
Original Contract Amount:	\$2,093,866.00
Original Contract Amount and Orders:	\$2,122,479.19

The work covered by this Order shall be performed under the same terms and conditions as that included in the Original Contract.

Requested by:	Joe Kozial, P.E., Civiltech Engineering Inc		12/5/17
Reviewed by:	Mehul Patel, P.E., Assistant Director of Public Works, VOB		12/5/17
Recommended by:	Joe Caracci, Director of Public Works, VOB		12/5/17
Approved by:	Evan Summers, Village Manager, VOB		
Accepted by:	R.W. Duntzman Company		12/5/17

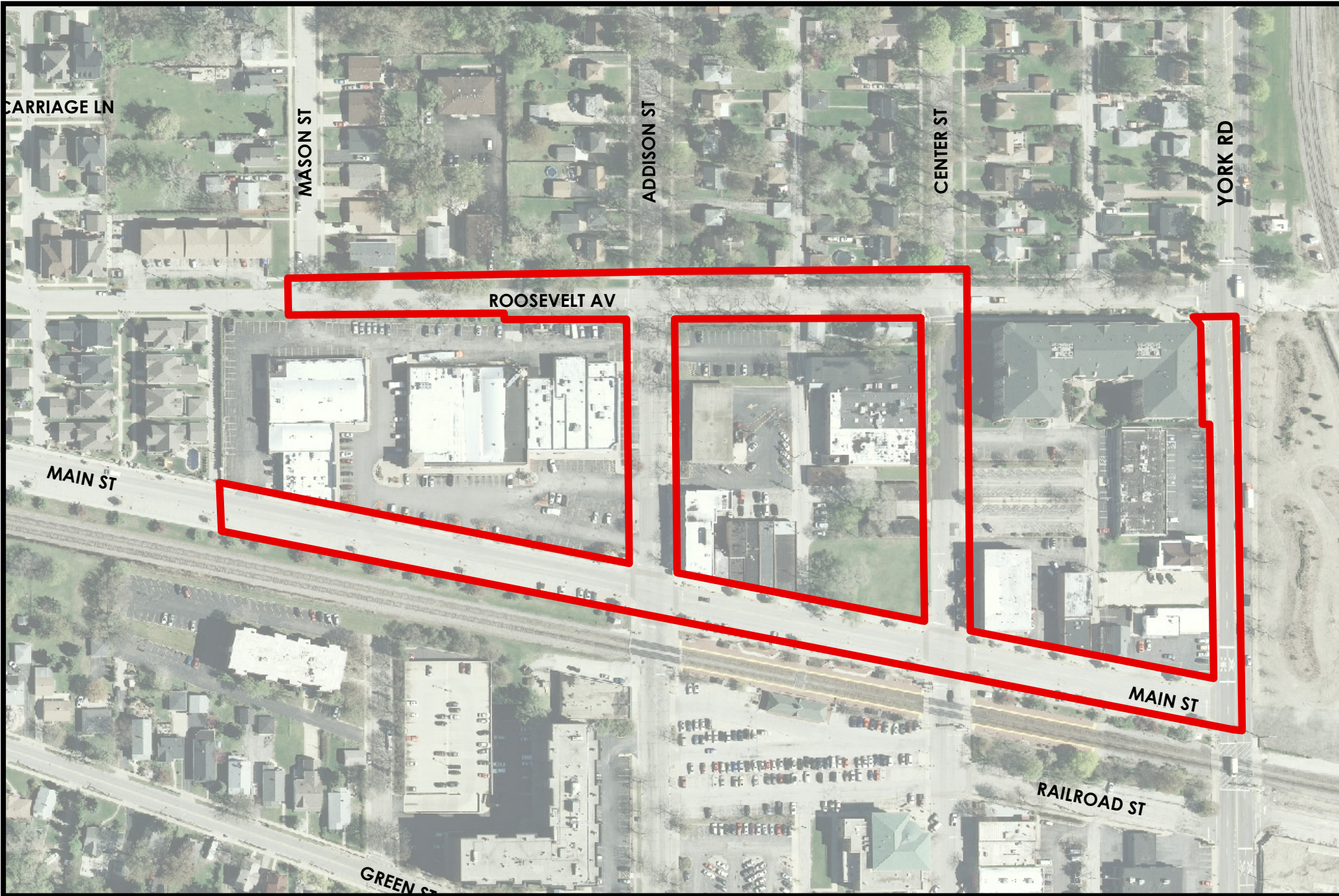
Village Copy      Contractor Copy      Engineer Copy      File Copy





# Village of Bensenville

## Downtown Streetscape Phase I





**TYPE:**Resolution**SUBMITTED BY:**December 12, 2017**DEPARTMENT:**Public Works**DATE:**December 12, 2017**DESCRIPTION:**Consideration of a Resolution Urging the Governor to Veto Senate Bill 1451**SUPPORTS THE FOLLOWING APPLICABLE VILLAGE GOALS:**

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

**COMMITTEE ACTION:**

Committee of the Whole

**DATE:**

December 12, 2017

**BACKGROUND:**

Senate Bill 1451 establishes the Small Wireless Facilities Deployment Act and severely limits municipal authority to regulate, site, or charge permit fees for wireless facilities. SB 1451 permits a private business entity to use public right-of-way at a rate far below market value, distorting the private market for small wireless facilities. SB 1451 also permits wireless providers, and third parties who act as agents or contractors for wireless providers, to locate telecommunications equipment with an antenna as large as six (6) cubic feet in size, and associated equipment up to twenty-five (25) cubic feet in size, on existing or new utility poles subject to minimal zoning regulations by the municipality.

In addition, SB 1451 creates an automatic approval timeline, which is one-sided and detrimental to the public, presuming that municipalities are negligent—and providers not—when a permit is incomplete or inadequate.

Recently, state legislators amended SB 1451 to exempt the City of Chicago in an effort to pass the legislation.

Many municipalities, including Bensenville (tonight), have already enacted ordinances, or are in the process of updating their codes to address small wireless facilities, or are developing right-of-way use agreements with the industry, indicating that municipalities are making a significant effort to develop reasonable standards for the deployment of wireless facilities.

**KEY ISSUES:**

The Village of Bensenville supports the goal of ensuring reliable wireless services in our communities and the advancement of technology in the telecommunications industry. Staff urges the Village Board to approve this Resolution to urge Governor Rauner to veto SB 1451.

**ALTERNATIVES:**

Discretion of the Committee.

**RECOMMENDATION:**

Staff recommends approval of this support Resolution.

**BUDGET IMPACT:**

No budget impact.

**ACTION REQUIRED:**

Consideration of a Resolution Urging the Governor to Veto Senate Bill 1451.

**ATTACHMENTS:**

<b><u>Description</u></b>	<b><u>Upload Date</u></b>	<b><u>Type</u></b>
RES - SB 1451 Veto	12/5/2017	Resolution Letter
TEXT - SB 1451	12/5/2017	Backup Material



**BENSENVILLE, ILLINOIS  
RESOLUTION NO. \_\_\_\_**

**A RESOLUTION URGING THE GOVERNOR TO VETO SENATE BILL 1451**

WHEREAS, the Village of Bensenville supports the goal of ensuring reliable wireless services in our communities and the advancement of technology in the telecommunications industry; and

WHEREAS, Senate Bill (“SB”) 1451 establishes the Small Wireless Facilities Deployment Act and severely limits municipal authority to regulate, site, or charge permit fees for wireless facilities; and

WHEREAS, SB 1451 permits a private business entity to use public right-of-way at a rate far below market value, distorting the private market for small wireless facilities; and

WHEREAS, SB 1451 permits wireless providers, and third parties who act as agents or contractors for wireless providers, to locate telecommunications equipment with an antenna as large as six (6) cubic feet in size, and associated equipment up to twenty-five (25) cubic feet in size, on existing or new utility poles subject to minimal zoning regulations by the municipality; and

WHEREAS, SB 1451 creates an automatic approval timeline, which is one-sided and detrimental to the public, presuming that municipalities are negligent—and providers not—when a permit is incomplete or inadequate; and

WHEREAS, state legislators amended SB 1451 to exempt the City of Chicago in an effort to pass the legislation; and

WHEREAS, many municipalities have already enacted ordinances, or are in the process of updating their codes to address small wireless facilities, or are developing right-of-way use agreements with the industry, indicating that municipalities are making a significant effort to develop reasonable standards for the deployment of wireless facilities; and

WHEREAS, Illinois municipalities are diverse and each one must be given the opportunity to develop reasonable regulations that will protect their specific needs;

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

SECTION ONE: The Village of Bensenville opposes SB 1451 as passed by the Illinois General Assembly and urges the Governor to veto the legislation..

SECTION TWO: The Village of Bensenville is committed to developing reasonable regulations for the deployment of wireless technology and is eager to work with stakeholders to develop regulations that ensure reliable wireless services while also preserving the rights of the municipality, property owners, and citizens.

SECTION THREE: This Resolution is passed and approved by the President and Board of Trustees of the Village of Bensenville, Illinois, dated December 12, 2017.

APPROVED:

\_\_\_\_\_  
Frank DeSimone

ATTEST:

\_\_\_\_\_  
Nancy Quinn, Village Clerk

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

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

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

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Small  
5 Wireless Facilities Deployment Act.

6 Section 5. Legislative intent. Small wireless facilities  
7 are critical to delivering wireless access to advanced  
8 technology, broadband, and 9-1-1 services to homes,  
9 businesses, and schools in Illinois. Because of the integral  
10 role that the delivery of wireless technology plays in the  
11 economic vitality of the State of Illinois and in the lives of  
12 its citizens, the General Assembly has determined that a law  
13 addressing the deployment of wireless technology is of vital  
14 interest to the State. To ensure that public and private  
15 Illinois consumers continue to benefit from these services as  
16 soon as possible and to ensure that providers of wireless  
17 access have a fair and predictable process for the deployment  
18 of small wireless facilities in a manner consistent with the  
19 character of the area in which the small wireless facilities  
20 are deployed, the General Assembly is enacting this Act, which  
21 specifies how local authorities may regulate the collocation of  
22 small wireless facilities.

1 Section 7. Applicability. This Act does not apply to a  
2 municipality with a population of 1,000,000 or more.

3 Section 10. Definitions. As used in this Act:

4 "Antenna" means communications equipment that transmits or  
5 receives electromagnetic radio frequency signals used in the  
6 provision of wireless services.

7 "Applicable codes" means uniform building, fire,  
8 electrical, plumbing, or mechanical codes adopted by a  
9 recognized national code organization or local amendments to  
10 those codes, including the National Electric Safety Code.

11 "Applicant" means any person who submits an application and  
12 is a wireless provider.

13 "Application" means a request submitted by an applicant to  
14 an authority for a permit to collocate small wireless  
15 facilities as well as any applicable fee for the review of such  
16 application.

17 "Authority" means a unit of local government that has  
18 jurisdiction and control for use of public rights-of-way as  
19 provided by the Illinois Highway Code for placements within  
20 public rights-of-way or has zoning or land use control for  
21 placements not within public rights-of-way.

22 "Authority utility pole" means a utility pole owned or  
23 operated by an authority in public rights-of-way.

24 "Collocate" or "collocation" means to install, mount,  
25 maintain, modify, operate, or replace wireless facilities on or

1 adjacent to a wireless support structure or utility pole.

2 "Communications service" means cable service, as defined  
3 in 47 U.S.C. 522(6), as amended; information service, as  
4 defined in 47 U.S.C. 153(24), as amended; telecommunications  
5 service, as defined in 47 U.S.C. 153(53), as amended; mobile  
6 service, as defined in 47 U.S.C. 153(33), as amended; or  
7 wireless service other than mobile service.

8 "Communications service provider" means a cable operator,  
9 as defined in 47 U.S.C. 522(5), as amended; a provider of  
10 information service, as defined in 47 U.S.C. 153(24), as  
11 amended; a telecommunications carrier, as defined in 47 U.S.C.  
12 153(51), as amended; or a wireless provider.

13 "FCC" means the Federal Communications Commission of the  
14 United States.

15 "Fee" means a one-time charge.

16 "Law" means a federal or State statute, common law, code,  
17 rule, regulation, order, or local ordinance or resolution.

18 "Micro wireless facility" means a small wireless facility  
19 that is not larger in dimension than 24 inches in length, 15  
20 inches in width, and 12 inches in height and that has an  
21 exterior antenna, if any, no longer than 11 inches.

22 "Permit" means a written authorization required by an  
23 authority to perform an action or initiate, continue, or  
24 complete a project.

25 "Person" means an individual, corporation, limited  
26 liability company, partnership, association, trust, or other

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1 entity or organization, including an authority.

2 "Rate" means a recurring charge.

3 "Right-of-way" means the area on, below, or above a public  
4 roadway, highway, street, public sidewalk, alley, or utility  
5 easement dedicated for compatible use. "Right-of-way" does not  
6 include authority-owned aerial lines.

7 "Small wireless facility" means a wireless facility that  
8 meets both of the following qualifications: (i) each antenna is  
9 located inside an enclosure of no more than 6 cubic feet in  
10 volume or, in the case of an antenna that has exposed elements,  
11 the antenna and all of its exposed elements could fit within an  
12 imaginary enclosure of no more than 6 cubic feet; and (ii) all  
13 other wireless equipment associated with the facility is  
14 cumulatively no more than 28 cubic feet in volume. The  
15 following types of associated ancillary equipment are not  
16 included in the calculation of equipment volume: electric  
17 meter, concealment elements, telecommunications demarcation  
18 box, ground-based enclosures, grounding equipment, power  
19 transfer switch, cut-off switch, and vertical cable runs for  
20 the connection of power and other services.

21 "Utility pole" means a pole or similar structure that is  
22 used in whole or in part by a communications service provider  
23 or for electric distribution, lighting, traffic control,  
24 signage, or a similar function.

25 "Wireless facility" means equipment at a fixed location  
26 that enables wireless communications between user equipment

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1 and a communications network, including: (i) equipment  
2 associated with wireless communications; and (ii) radio  
3 transceivers, antennas, coaxial or fiber-optic cable, regular  
4 and backup power supplies, and comparable equipment,  
5 regardless of technological configuration. "Wireless facility"  
6 includes small wireless facilities. "Wireless facility" does

7 not include: (i) the structure or improvements on, under, or  
8 within which the equipment is collocated; or (ii) wireline  
9 backhaul facilities, coaxial or fiber optic cable that is  
10 between wireless support structures or utility poles or  
11 coaxial, or fiber optic cable that is otherwise not immediately  
12 adjacent to or directly associated with an antenna.

13 "Wireless infrastructure provider" means any person,  
14 including a person authorized to provide telecommunications  
15 service in the State, that builds or installs wireless  
16 communication transmission equipment, wireless facilities,  
17 wireless support structures, or utility poles, but that is not  
18 a wireless services provider.

19 "Wireless provider" means a wireless infrastructure  
20 provider or a wireless services provider.

21 "Wireless services" means any services provided using  
22 licensed or unlicensed spectrum, whether at a fixed location or  
23 mobile, provided using wireless facilities.

24 "Wireless services provider" means a person who provides  
25 wireless services.

26 "Wireless support structure" means a freestanding

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1 structure, such as a monopole; tower, either guyed or  
2 self-supporting; billboard; or other existing or proposed  
3 structure designed to support or capable of supporting wireless  
4 facilities. "Wireless support structure" does not include a  
5 utility pole.

6 Section 15. Regulation of small wireless facilities.

7 (a) This Section applies to activities of a wireless  
8 provider within or outside rights-of-way.

9 (b) Except as provided in this Section, an authority may  
10 not prohibit, regulate, or charge for the collocation of small  
11 wireless facilities.

12 (c) Small wireless facilities shall be classified as  
13 permitted uses and not subject to zoning review or approval if  
14 they are collocated (i) in rights-of-way in any zone, or (ii)  
15 outside rights-of-way in property not zoned primarily for  
16 residential use.

17 (d) An authority may require an applicant to obtain one or  
18 more permits to collocate a small wireless facility, provided  
19 that the permits are of general applicability. An authority  
20 shall receive applications for, process, and issue permits  
21 subject to the following requirements:

22 (1) An authority may not directly or indirectly require  
23 an applicant to perform services unrelated to the  
24 collocation for which approval is sought, such as in-kind  
25 contributions to the authority, including reserving fiber,

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1 conduit, or pole space for the authority on the wireless  
2 provider's utility pole. An authority may reserve space on  
3 authority utility poles for future public safety uses or  
4 for the authority's electric utility uses, but a  
5 reservation of space may not preclude the collocation of a  
6 small wireless facility if the authority utility pole can  
7 accommodate both uses.

8 (2) An applicant shall not be required to provide more  
9 information to obtain a permit than the authority requires  
10 of a communications service provider that is not a wireless  
11

provider that requests to attach facilities to a structure;  
however, a wireless provider may be required to provide the  
following information when seeking a permit to collocate  
small wireless facilities on an authority utility pole:

(A) site specific structural integrity and  
make-ready analysis prepared by a structural engineer,  
as that term is defined in Section 4 of the Structural  
Engineering Practice Act of 1989;

(B) the location where each proposed small  
wireless facility or utility pole would be installed  
and photographs of the location and its immediate  
surroundings depicting the poles or structures on  
which each proposed small wireless facility would be  
mounted or location where utility poles or structures  
would be installed;

(C) specifications and drawings prepared by a

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structural engineer, as that term is defined in Section  
4 of the Structural Engineering Practice Act of 1989,  
for each proposed small wireless facility covered by  
the application as it is proposed to be installed;

(D) a proposed schedule for the installation and  
completion of each small wireless facility covered by  
the application, if approved; and

(E) certification that the collocation complies  
with paragraph (6) to the best of the applicant's  
knowledge.

(3) Subject to paragraph (6), an authority may not  
require the placement of small wireless facilities on any  
specific utility pole, or category of poles, or require  
multiple antenna systems on a single utility pole; however,  
with respect to an application for the collocation of a  
small wireless facility associated with a new utility pole,  
an authority may propose that the small wireless facility  
be collocated on an existing utility pole or existing  
wireless support structure within 50 feet of the proposed  
collocation, which the applicant shall accept if it has the  
right to use the alternate structure on reasonable terms  
and conditions and the alternate location and structure  
does not impose technical limits or additional material  
costs as determined by the applicant.

(4) Subject to paragraph (6), an authority may not  
limit the placement of pole-mounted small wireless

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facilities by minimum horizontal separation distances.

(5) An authority may limit the maximum height of a  
small wireless facility to 10 feet above the utility pole  
or wireless support structure on which the small wireless  
facility is collocated. Subject to any exception process in  
an authority's zoning ordinance, the authority may limit  
the height of new or replacement utility poles or wireless  
support structures on which small wireless facilities are  
collocated to the higher of: (i) 10 feet in height above  
the tallest existing utility pole, other than a utility  
pole supporting only wireless facilities, that is in place  
on the date the application is submitted to the authority,  
that is located within 500 feet of the new or replacement



14 wireless support structure and that is in the same right of  
15 way within the jurisdictional boundary of the authority; or  
16 (ii) 45 feet above ground level.

17 (6) An authority may require that:

18 (A) the wireless provider's operation of the small  
19 wireless facilities in the right-of-way does not  
20 interfere with the frequencies used by the authority's  
21 public safety communications;

22 (B) the wireless provider comply with requirements  
23 that are imposed by a contract between an authority and  
24 a private property owner that concern design or  
25 construction standards applicable to utility poles and  
26 ground-mounted equipment located in the right-of-way;

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1 (C) the wireless provider comply with applicable  
2 spacing requirements in applicable codes and  
3 ordinances concerning the location of ground-mounted  
4 equipment located in the right-of-way if the  
5 requirements include a waiver, zoning, or other  
6 process that addresses wireless provider requests for  
7 exception or variance and do not prohibit granting of  
8 such exceptions or variances;

9 (D) the wireless provider comply with local code  
10 provisions or regulations concerning undergrounding  
11 requirements that prohibit the installation of new or  
12 the modification of existing utility poles in a right  
13 of way without prior approval if the requirements  
14 include a waiver, zoning, or other process that  
15 addresses requests to install such new utility poles or  
16 modify such existing utility poles and do not prohibit  
17 the replacement of utility poles;

18 (E) the wireless provider comply with generally  
19 applicable standards adopted by an authority for  
20 construction in the rights-of-way; and

21 (F) a wireless provider not collocate small  
22 wireless facilities on authority utility poles that  
23 are part of an electric distribution or transmission  
24 system within the communication worker safety zone of  
25 the pole or the electric supply zone of the pole;  
26 however, the antenna and support equipment of the small

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1 wireless facility may be located in the communications  
2 space on the pole and on the top of the pole, if not  
3 otherwise unavailable, if the wireless provider  
4 complies with applicable codes for work involving the  
5 top of the pole; for purposes of this subparagraph (F),  
6 the terms "communications space", "communication  
7 worker safety zone", and "electric supply zone" have  
8 the meanings given to those terms in the National  
9 Electric Safety Code as published by the Institute of  
10 Electrical and Electronics Engineers.

11 (7) Within 30 days after receiving an application, an  
12 authority must determine whether the application is  
13 complete and notify the applicant. If an application is  
14 incomplete, an authority must specifically identify the  
15 missing information. An application shall be deemed  
16 complete if the authority fails to provide notification to

17 the applicant within 30 days after when all documents,  
18 information, and fees specifically enumerated in the  
19 authority's permit application form are submitted by the  
20 applicant to the authority. Processing deadlines are  
21 tolled from the time the authority sends the notice of  
22 incompleteness to the time the applicant provides the  
23 missing information.

24 (8) An application shall be processed on a  
25 nondiscriminatory basis and deemed approved if the  
26 authority fails to approve or deny the application within

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1 90 days; however, if an applicant intends to proceed with  
2 the permitted activity on a deemed approved basis, the  
3 applicant must notify the authority in writing of its  
4 intention to invoke the deemed approved remedy no sooner  
5 than 75 days after the submission of a completed  
6 application. The permit shall be deemed approved on the  
7 latter of the 90th day after submission of the complete  
8 application or the 10th day after the receipt of the deemed  
9 approved notice by the authority. The receipt of the deemed  
10 approved notice shall not preclude the authority's denial  
11 of the permit request within the time limits as provided  
12 under this Act.

13 (9) An authority shall approve an application unless  
14 the application does not meet the applicable codes, local  
15 code provisions or regulations that concern public safety,  
16 written design standards that are generally applicable for  
17 decorative utility poles or reasonable stealth and  
18 concealment requirements, and the requirements of  
19 paragraph (6). If an authority determines that applicable  
20 codes, local code provisions or regulations, or the  
21 requirements of paragraph (6) require that the utility pole  
22 or wireless support structure be replaced before the  
23 requested collocation, approval may be conditioned on the  
24 replacement of the utility pole or wireless support  
25 structure. The authority must document the basis for a  
26 denial, including the specific code provisions or

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1 application conditions on which the denial was based, and  
2 send the documentation to the applicant on or before the  
3 day the authority denies an application. The applicant may  
4 cure the deficiencies identified by the authority and  
5 resubmit the application within 30 days after notice of  
6 denial is sent to the applicant without paying an  
7 additional application fee. The authority shall approve or  
8 deny the revised application within 30 days after the  
9 applicant resubmits the application or it is deemed  
10 approved; however, the applicant must notify the authority  
11 in writing of its intention to proceed with the permitted  
12 activity on a deemed approved basis, which may be submitted  
13 with the resubmitted application. Any subsequent review  
14 shall be limited to the deficiencies cited in the denial.

15 (10) The time period for applications may be further  
16 tolled by:

17 (A) the express agreement in writing by both the  
18 applicant and the authority; or

19 (B) a local, State, or federal disaster  
20 declaration or similar emergency that causes the  
21 delay.

22 (11) An applicant seeking to collocate small wireless  
23 facilities within the jurisdiction of a single authority  
24 shall be allowed, at the applicant's discretion, to file a  
25 consolidated application and receive a single permit for  
26 the collocation of up to 25 small wireless facilities if

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1 the collocations each involve substantially the same type  
2 of small wireless facility and substantially the same type  
3 of structure. If an application includes multiple small  
4 wireless facilities, the authority may remove small  
5 wireless facility collocations from the application and  
6 treat separately small wireless facility collocations for  
7 which incomplete information has been provided or that do  
8 not qualify for consolidated treatment or that are denied.  
9 The authority may issue separate permits for each  
10 collocation that is approved in a consolidated  
11 application.

12 (12) Collocation for which a permit is granted shall be  
13 completed within 180 days after issuance of the permit,  
14 unless the authority and the wireless provider agree to  
15 extend this period or a delay is caused by make-ready work  
16 for an authority utility pole or by the lack of commercial  
17 power or backhaul availability at the site. Otherwise, the  
18 permit shall be void unless the authority grants an  
19 extension in writing to the applicant.

20 (13) The duration of a permit shall be for a period of  
21 not less than 10 years, and the permit shall be renewed for  
22 equivalent durations unless the authority makes a finding  
23 that the small wireless facilities or the new or modified  
24 utility pole do not comply with the applicable codes or  
25 local code provisions or regulations in paragraphs (6) and  
26 (9).

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1 (14) An authority may not prohibit, either expressly or  
2 de facto, the (i) filing, receiving, or processing  
3 applications, or (ii) issuing of permits or other  
4 approvals, if any, for the collocation of small wireless  
5 facilities unless there has been a local, State, or federal  
6 disaster declaration or similar emergency that causes the  
7 delay.

8 (15) Applicants shall submit applications, supporting  
9 information, and notices by personal delivery or as  
10 otherwise required by the authority. An authority may  
11 require that permits, supporting information, and notices  
12 be submitted by personal delivery at the authority's  
13 designated place of business, by regular mail postmarked on  
14 the date due, or by any other commonly used means,  
15 including electronic mail, as required by the authority.

16 (e) Application fees are subject to the following  
17 requirements:

18 (1) An authority may charge an application fee only if  
19 the fee is required for similar types of commercial  
20 development within the authority's jurisdiction.

21 (2) An authority shall only charge fees for the actual,

22 direct, and reasonable costs incurred by the authority  
23 relating to the granting or processing of an application.  
24 The fees shall be reasonably related in time to the  
25 incurring of such costs.  
26 (3) A fee may not include: (i) travel expenses incurred

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1 by a third party in its review of an application; or (ii)  
2 direct payment or reimbursement of fees charged on a  
3 contingency basis or a result-based arrangement.

4 (4) Total application fees, where permitted, shall not  
5 exceed the lesser of: (i) the amount charged by the  
6 authority for a building permit for any similar commercial  
7 construction, activity, or land use development; or (ii)  
8 \$350 for each small wireless facility addressed in the  
9 application.

10 (f) An authority shall not require an application,  
11 approval, or permit, or require any fees or other charges, from  
12 a communications service provider authorized to occupy the  
13 rights-of-way, for: (i) routine maintenance; (ii) the  
14 replacement of wireless facilities with wireless facilities  
15 that are substantially similar, the same size, or smaller; or  
16 (iii) the installation, placement, maintenance, operation, or  
17 replacement of micro wireless facilities that are suspended on  
18 cables that are strung between existing utility poles in  
19 compliance with applicable safety codes. However, an authority  
20 may require a permit to work within rights-of-way for  
21 activities that affect traffic patterns or require lane  
22 closures.

23 (g) Nothing in this Act authorizes a person to collocate  
24 small wireless facilities on: (1) private property or a  
25 privately owned utility pole or wireless support structure  
26 without the consent of the property owner; (2) property owned,

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1 leased, or controlled by a park district, forest preserve  
2 district, or conservation district for public park,  
3 recreation, or conservation purposes without the consent of the  
4 affected district, excluding the placement of facilities on  
5 rights-of-way located in an affected district that are under  
6 the jurisdiction and control of a different unit of local  
7 government as provided by the Illinois Highway Code; or (3)  
8 property owned by a rail carrier registered under Section  
9 18c-7201 of the Illinois Vehicle Code, Metra Commuter Rail or  
10 any other public commuter rail service, or an electric utility  
11 as defined in Section 16-102 of the Public Utilities Act,  
12 without the consent of the rail carrier, public commuter rail  
13 service, or electric utility. The provisions of this Act do not  
14 apply to an electric or gas public utility or such utility's  
15 wireless facilities if the facilities are being used,  
16 developed, and maintained consistent with the provisions of  
17 subsection (i) of Section 16-108.5 of the Public Utilities Act.  
18 For the purposes of this subsection, "public utility" has the  
19 meaning given to that term in Section 3-105 of the Public  
20 Utilities Act. Nothing in this Act shall be construed to  
21 relieve any person from any requirement (1) to obtain a  
22 franchise or a state-issued authorization to offer cable  
23 service or video service or (2) to obtain any required  
24 permission to install, place, maintain, or operate  
25 communications facilities, other than small wireless

(h) Agreements between authorities and wireless providers that relate to the collocation of small wireless facilities in the right-of-way, including the collocation of small wireless facilities on authority utility poles, that are in effect before the wireless provider accepts rates or fees under this Act remain in effect for all small wireless facilities collocated on the authority's utility poles pursuant to applications submitted to the authority before the effective date of this Act, subject to applicable termination provisions. The wireless provider may accept the rates, fees, and terms provided under this Act for the collocation of small wireless facilities that are the subject of an application submitted after the rates, fees, and terms become effective.

(i) An authority shall allow the collocation of small wireless facilities on authority utility poles subject to the following:

(1) An authority may not enter into an exclusive arrangement with any person for the right to attach small wireless facilities to authority utility poles.

(2) The rates and fees for collocations on authority utility poles shall be nondiscriminatory regardless of the services provided by the collocating person.

(3) An authority may charge an annual recurring rate to collocate a small wireless facility on an authority utility pole that equals (i) \$200 per year or (ii) the actual, direct, and reasonable costs related to the wireless

provider's use of space on the authority utility pole. In any controversy concerning the appropriateness of a cost-based rate for an authority utility pole, the authority shall have the burden of proving that the rate does not exceed the actual, direct, and reasonable costs for the applicant's proposed use of the pole. Nothing in this paragraph (3) prohibits a wireless provider and an authority from mutually agreeing to an annual recurring rate of less than \$200 to collocate a small wireless facility on an authority utility pole.

(4) If an authority has an existing pole attachment rate, fee, or other term that does not comply with the requirements in this Section, the authority shall, no later than 6 months after the effective date of this Act, reform the rate, fee, or term in compliance with this Section.

(5) Authorities or other persons owning or controlling authority utility poles shall offer rates, fees, and other terms that comply with subparagraphs (A) through (D) of this paragraph (5). Within 6 months after the effective date of this Act or 3 months after receiving a request to collocate its first small wireless facility on an authority utility pole, whichever is later, a person owning or controlling authority utility poles shall make available, through ordinance or otherwise, the rates, fees, and terms for the collocation of small wireless facilities on such poles that comply with subparagraphs (A) through (D) of

1 this paragraph (5).

2 (A) The rates, fees, and terms must be  
3 nondiscriminatory, competitively neutral, and  
4 commercially reasonable and must comply with this  
5 subsection (i).

6 (B) For authority utility poles that support  
7 aerial facilities used to provide communications  
8 services or electric service, wireless providers shall  
9 comply with the process for make-ready work under 47  
10 U.S.C. 224 and its implementing regulations, and the  
11 authority shall follow a substantially similar process  
12 for make-ready work except to the extent that the  
13 timing requirements are otherwise addressed in this  
14 Act. The good-faith estimate of the person owning or  
15 controlling the pole for any make-ready work necessary  
16 to enable the pole to support the requested collocation  
17 shall include pole replacement, if necessary.

18 (C) For authority utility poles that do not support  
19 aerial facilities used to provide communications  
20 services or electric service, the authority shall  
21 provide a good-faith estimate for any make-ready work  
22 necessary to enable the pole to support the requested  
23 collocation, including pole replacement, if necessary,  
24 within 90 days after receipt of a complete application.  
25 Make-ready work, including any pole replacement, shall  
26 be completed within 60 days of written acceptance of

1 the good-faith estimate by the applicant.  
2 Alternatively, if the authority determines that  
3 applicable codes or public safety regulations require  
4 the authority utility pole to be replaced to support  
5 the requested collocation, the authority may require  
6 the wireless provider to replace the authority utility  
7 pole.

8 (D) The authority shall not require more  
9 make-ready work than required to meet applicable codes  
10 or industry standards. Fees for make-ready work,  
11 including any pole replacement, shall not exceed  
12 actual costs or the amount charged to communications  
13 service providers for similar work and shall not  
14 include any consultants' fees or expenses for  
15 authority utility poles that do not support aerial  
16 facilities used to provide communications services or  
17 electric service.

18 (j) An authority shall authorize the collocation of small  
19 wireless facilities on utility poles owned or controlled by the  
20 authority that are not located within rights-of-way to the same  
21 extent the authority permits access to utility poles for other  
22 commercial projects or uses. The collocations shall be subject  
23 to reasonable and nondiscriminatory rates, fees, and terms as  
24 provided in an agreement between the authority and the wireless  
25 provider.

26 (k) Nothing in this Section precludes an authority from

1 adopting reasonable rules with respect to the removal of



2 abandoned small wireless facilities. A small wireless facility  
3 that is not operated for a continuous period of 12 months shall  
4 be considered abandoned and the owner of the facility must  
5 remove the small wireless facility within 90 days after receipt  
6 of written notice from the authority notifying the owner of the  
7 abandonment. The notice shall be sent by certified or  
8 registered mail, return receipt requested, by the authority to  
9 the owner at the last known address of the owner.

10 (1) Nothing in this Section requires an authority to  
11 install or maintain any specific utility pole or to continue to  
12 install or maintain utility poles in any location if the  
13 authority makes a non-discriminatory decision to eliminate  
14 above-ground utility poles of a particular type generally, such  
15 as electric utility poles, in all or a significant portion of  
16 its geographic jurisdiction. For authority utility poles with  
17 collocated small wireless facilities in place when an authority  
18 makes a decision to eliminate above-ground utility poles of a  
19 particular type generally, the authority shall either (i)  
20 continue to maintain the authority utility pole or install and  
21 maintain a reasonable alternative utility pole or wireless  
22 support structure for the collocation of the small wireless  
23 facility, or (ii) offer to sell the utility pole to the  
24 wireless provider at a reasonable cost or allow the wireless  
25 provider to install its own utility pole so it can maintain  
26 service from that location.

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1 Section 20. Local authority. Subject to this Act and  
2 applicable federal law, an authority may continue to exercise  
3 zoning, land use, planning, and permitting authority within its  
4 territorial boundaries, including with respect to wireless  
5 support structures and utility poles; except that no authority  
6 shall have or exercise any jurisdiction or authority over the  
7 design, engineering, construction, installation, or operation  
8 of any small wireless facility located in an interior structure  
9 or upon the site of any campus, stadium, or athletic facility  
10 not otherwise owned or controlled by the authority, other than  
11 to comply with applicable codes and local code provisions  
12 concerning public safety. Nothing in this Act authorizes the  
13 State or any political subdivision, including an authority, to  
14 require wireless facility deployment or to regulate wireless  
15 services.

16 Section 25. Dispute resolution. A circuit court has  
17 jurisdiction to resolve all disputes arising under this Act.  
18 Pending resolution of a dispute concerning rates for  
19 collocation of small wireless facilities on authority utility  
20 poles, the authority shall allow the collocating person to  
21 collocate on its poles at annual rates of no more than \$200 per  
22 year per utility pole, with rates to be determined upon final  
23 resolution of the dispute.

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1 Section 30. Indemnification. A wireless provider shall  
2 indemnify and hold an authority harmless against any and all  
3 liability or loss from personal injury or property damage  
4 resulting from or arising out of, in whole or in part, the use  
5 or occupancy of the authority improvements or right-of-way  
6 associated with such improvements by the wireless provider or  
7 its employees, agents, or contractors arising out of the rights

8 and privileges granted under this Act. A wireless provider has  
9 no obligation to indemnify or hold harmless against any  
10 liabilities and losses as may be due to or caused by the sole  
11 negligence of the authority or its employees or agents. A  
12 wireless provider shall further waive any claims that they may  
13 have against an authority with respect to consequential,  
14 incidental, or special damages, however caused, based on the  
15 theory of liability.

16 Section 35. Insurance.

17 (a) Except for a wireless provider with an existing  
18 franchise to occupy and operate in the rights-of-way, during  
19 the period in which the wireless provider's facilities are  
20 located on the authority improvements or rights-of-way, the  
21 authority may require the wireless provider to carry, at the  
22 wireless provider's own cost and expense, the following  
23 insurance: (i) property insurance for its property's  
24 replacement cost against all risks; (ii) workers' compensation  
25 insurance, as required by law; or (iii) commercial general

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1 liability insurance with respect to its activities on the  
2 authority improvements or rights-of-way to afford minimum  
3 protection limits consistent with its requirements of other  
4 users of authority improvements or rights-of-way, including  
5 coverage for bodily injury and property damage. An authority  
6 may require a wireless provider to include the authority as an  
7 additional insured on the commercial general liability policy  
8 and provide certification and documentation of inclusion of the  
9 authority in a commercial general liability policy as  
10 reasonably required by the authority.

11 (b) A wireless provider may self-insure all or a portion of  
12 the insurance coverage and limit requirements required by an  
13 authority. A wireless provider that self-insures is not  
14 required, to the extent of the self-insurance, to comply with  
15 the requirement for the naming of additional insureds under  
16 this Section. A wireless provider that elects to self-insure  
17 shall provide to the authority evidence sufficient to  
18 demonstrate its financial ability to self-insure the insurance  
19 coverage and limits required by the authority.

20 Section 40. Home rule. A home rule unit may not regulate  
21 small wireless facilities in a manner inconsistent with this  
22 Act. This Section is a limitation under subsection (i) of  
23 Section 6 of Article VII of the Illinois Constitution on the  
24 concurrent exercise by home rule units of powers and functions  
25 exercised by the State.

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1 Section 90. Repeal. This Act is repealed on June 1, 2020.

2 Section 100. The Counties Code is amended by changing  
3 Section 5-12001.2 as follows:

4 (55 ILCS 5/5-12001.2)

5 Sec. 5-12001.2. Regulation of telecommunications  
6 facilities; Lake County pilot project. In addition to any other  
7 requirements under this Division concerning the regulation of  
8 telecommunications facilities and except as provided by the  
9 Small Wireless Facilities Deployment Act, the following  
10 applies to any new telecommunications facilities in Lake County  
11

that are not AM telecommunications towers or facilities:

(a) For every new wireless telecommunications facility requiring a new tower structure, a telecommunications carrier shall provide the county with documentation consisting of the proposed location, a site plan, and an elevation that sufficiently describes a proposed wireless facility location.

(b) The county shall have 7 days to review the facility proposal and contact the telecommunications carrier in writing via e-mail or other written means as specified by the telecommunications carrier. This written communication shall either approve the proposed location or request a meeting to review other possible alternative locations. If

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requested, the meeting shall take place within 7 days after the date of the written communication.

(c) At the meeting, the telecommunications carrier shall provide the county documentation consisting of radio frequency engineering criteria and a corresponding telecommunications facility search ring map, together with documentation of the carrier's efforts to site the proposed facility within the telecommunications facility search ring.

(d) Within 21 days after receipt of the carrier's documentation, the county shall propose either an alternative site within the telecommunications facility search ring, or an alternative site outside of the telecommunications search ring that meets the radio frequency engineering criteria provided by the telecommunications carrier and that will not materially increase the construction budget beyond what was estimated on the original carrier proposed site.

(e) If the county's proposed alternative site meets the radio frequency engineering criteria provided by the telecommunications carrier, and will not materially increase the construction budget beyond what was estimated on the original carrier proposed site, then the telecommunications carrier shall agree to build the facility at the alternative location, subject to the negotiation of a lease with commercially reasonable terms

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and the obtainment of the customary building permits.

(f) If the telecommunications carrier can demonstrate that: (i) the county's proposed alternative site does not meet the radio frequency engineering criteria, (ii) the county's proposed alternative site will materially increase the construction budget beyond what was estimated on the original carrier proposed site, (iii) the county has failed to provide an alternative site, or (iv) after a period of 90 days after receipt of the alternative site, the telecommunications carrier has failed, after acting in good faith and with due diligence, to obtain a lease or, at a minimum, a letter of intent to lease the alternative site at lease rates not materially greater than the lease rate for the original proposed site; then the carrier can proceed to permit and construct the site under the provisions and standards of Section 5-12001.1 of this Code.



**TYPE:**Ordinance**SUBMITTED BY:**Joe Caracci**DEPARTMENT:**Public Works**DATE:**December 12, 2017**DESCRIPTION:**

Consideration of an Ordinance Amending the Bensenville Village Code to Regulate the Location and License Small Cell Antenna or Tower Facilities in the Right-of-Way

**SUPPORTS THE FOLLOWING APPLICABLE VILLAGE GOALS:**

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

**COMMITTEE ACTION:**

Committee of the Whole

**DATE:**

December 12, 2017

**BACKGROUND:**

Wireless carriers have been struggling with filling "dead pockets" for years. A new technology call small cells have been introduced into the market to close these gaps. These small cells are typically installed in locations with high traffic - such as downtowns, train stations, parks, and other gathering places.

The irony of the small cell is that compared to their big brother (antennas on top of buildings, water towers, lawns large towers), they can be very large and obtrusive when placed closer to the ground in direct view of pedestrians. Small cells are typically installed on new or existing utility poles. Due to their size, many municipalities have been introducing ordinances to provide Code revisions to limit impact on the community.

We have discussed small cells at the Committee level twice in the past two years (August 16, 2016 and again on October 18, 2016).

With a pending State Bill (SB 1451) currently in legislation, we feel it appropriate to modify our Code to enhance our protection of Village ROW and permitting process.

**KEY ISSUES:**

Local COGs (Councils of Government) have developed a model ordinance that many municipalities are adopting that provides as much protection as possible. Staff feels it is appropriate at this time to do the same and enhance our Code with these revisions. Without these Code revisions, staff's hands can be tied during the permitting process and our control of our ROWs will be limited.

Our Village Attorney has reviewed the model ordinance and drafted the Ordinance attached. Staff has also reviewed the Ordinance and find it to be in order.

**ALTERNATIVES:**

Discretion of the Committee.

**RECOMMENDATION:**

Staff recommends approval of this Ordinance.

**BUDGET IMPACT:**

No budget impact.

**ACTION REQUIRED:**

Consideration of an Ordinance Amending the Bensenville Village Code to Regulate the Location and License Small Cell Antenna or Tower Facilities in the Right-of-Way.

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**ATTACHMENTS:****Description****Upload Date****Type**

Ordinance

12/7/2017

Cover Memo



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

**AN ORDINANCE OF THE VILLAGE OF BENSENVILLE, DUPAGE AND  
COOK COUNTIES, ILLINOIS AMENDING THE BENSENVILLE VILLAGE  
CODE TO REGULATE THE LOCATION AND LICENSE SMALL CELL  
ANTENNA OR TOWER FACILITIES IN THE RIGHT-OF-WAY**

---

**WHEREAS**, the Village of Bensenville, DuPage and Cook Counties, Illinois (the “*Village*”) is a duly organized and existing municipal corporation created under the provisions of the laws of the State of Illinois and under the provisions of the Illinois Municipal Code, as from time to time supplemented and amended; and

**WHEREAS**, the President and Board of Trustees of the Village of Bensenville (the “*Corporate Authorities*”) have the power and authority to amend the Bensenville Village Code as deemed necessary and advisable to protect the health, safety and welfare of the residents of the Village; and

**WHEREAS**, the Village is authorized under the Illinois Municipal Code, 65 ILCS 5/1-1-1, *et seq.*, and Illinois law to adopt ordinances pertaining to the public health, safety and welfare; and,

**WHEREAS**, the Village is further authorized to adopt the amendments contained herein pursuant to its authority to regulate the public right-of-way under section 11-80-1 *et seq.*, of the Illinois Municipal Code; and

**WHEREAS**, the Village uses the public right-of-way within its corporate limits to provide essential public services to its residents and businesses. The public right-of-way within the Village is a limited public resource held by the Village for the benefit of its citizens and the Village has a custodial duty to ensure that the public right-of-way is used, repaired, and maintained in a manner that best serves the public interest; and

**WHEREAS**, growing demand for personal wireless telecommunications services has resulted in increasing requests nationwide and locally from the wireless industry to place small cell facilities, distributed antenna systems, and other personal wireless telecommunication facilities on utility and street light poles and other structures in the public right-of-way. While State and federal law limit the authority of local governments to enact laws that unreasonably discriminate among providers of functionally equivalent services, prohibit, or have the effect of prohibiting the provision of telecommunications services by wireless service providers, the Village is authorized, under existing State and federal law, to enact appropriate regulations and restrictions relative to small cell facilities, distributed antenna systems, and other personal wireless telecommunication facility installations in the public right-of-way; and

**WHEREAS**, in anticipation of continued increased demand for placement of small cell facilities, distributed antenna systems, and other personal wireless telecommunication facilities within the public right-of-way, the Corporate Authorities find that it is in the best interests of the public health, safety and general welfare of the Village to amend the Bensenville Village Code in order to establish generally applicable standards for construction, installation, use, maintenance and repair of such facilities, systems and installations within the public right-of-way in the Village so as to, among other things: (i) prevent interference with the facilities and operations of the Village's utilities and of other utilities lawfully located in public right-of-way or property, (ii) provide specific regulations and standards for the placement and siting of personal wireless telecommunication facilities within public right-of-way in the Village, (iii) preserve the character of the neighborhoods in which facilities are installed, (iv) minimize any adverse visual impact of personal wireless telecommunication facilities and prevent visual blight in the neighborhoods in which facilities are installed, (v) facilitate the location of personal wireless

telecommunication facilities in permitted locations within the public right-of-way in the Village, and (vi) assure the continued safe use and enjoyment of private properties adjacent to personal wireless telecommunication facilities; and

**WHEREAS**, in order for the Village to properly license, regulate and inspect small cell facilities, distributed antenna systems, and other personal wireless telecommunication facilities, the Village must adopt procedures and charge licensing and inspection fees; and

**WHEREAS**, the Corporate Authorities have determined that it is in the best interests of the public health, safety and welfare and to ensure the efficient operation of government to adopt certain rules, regulations and fees related to the licensing, regulating and inspecting of small cell facilities, distributed antenna systems, and other personal wireless telecommunication facilities and the installation and maintenance of same in order to adequately reimburse the Village for the financial burden of licensing, regulating and inspecting small cell facilities, distributed antenna systems, and other personal wireless telecommunication facilities.

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

**Section 1.** That the above recitals and legislative findings are found to be true and correct and are hereby incorporated herein and made a part hereof, as if fully set forth in their entirety.

**Section 2.** The Corporate Authorities find and determine that it is necessary and desirable to amend the Bensenville Village Code for the purpose set forth herein and that the adoption of this Ordinance is in the best interests of the Village.

**Section 3.** Title 12 ("*Telecommunications*") of the Bensenville Village Code, is hereby amended by adding the following new Chapter to read, as follows:

## **CHAPTER 13: SMALL CELL ANTENNAS OR TOWERS IN THE RIGHT-OF-WAY**

### **12-13-1: DEFINITIONS:**

For purposes of this Ordinance, the following terms will have the following meanings:

ALTERNATIVE ANTENNA STRUCTURE	An existing pole or other structure within the public right-of-way that can be used to support an antenna and is not a utility pole or a Village-owned infrastructure.
ANTENNA	Communications equipment that transmits or receives electromagnetic radio signals used in the provision of any type of wireless communications services.
APPLICANT	Any person or entity submitting an application to install personal wireless telecommunication facilities or structures to support the facilities within a public right-of-way.
VILLAGE-OWNED INFRASTRUCTURE	Infrastructure in public right-of-way within the boundaries of the Village, including, but not limited to, streetlights, traffic signals, towers, structures, or buildings owned, operated or maintained by the Village.
DISTRIBUTED ANTENNA SYSTEM (DAS)	A network or facility to which all the following apply: (1) it distributes radio frequency signals to provide Wireless Service; (2) it meets the size limitations of a Small Cell Facility; and (3) it consists of all the following: (a) remote antenna nodes deployed throughout a desired coverage area; (b) a high-capacity signal transport medium connected to a central hub site; and (c) equipment located at the hub site to process or control the radio frequency signals through the antennas.
LANDSCAPE SCREENING	The installation at grade of plantings, shrubbery, bushes or other foliage intended to screen the base of a personal wireless telecommunication facility from public view.
MONOPOLE	A structure composed of a single spire, pole or tower designed and used to support antennas or related equipment and that is not a utility pole, an alternative antenna structure, or a Village-owned infrastructure.

PERSONAL WIRELESS TELECOMMUNICATION ANTENNA	An antenna that is part of a personal wireless telecommunications facility.
PERSONAL WIRELESS TELECOMMUNICATION EQUIPMENT	Equipment, exclusive of an antenna, that is part of a personal wireless telecommunications facility.
PERSONAL WIRELESS TELECOMMUNICATIONS FACILITY	An antenna, equipment, and related improvements used, or designed to be used, to provide wireless transmission of voice, data video streams, images, or other information including, but not limited to, cellular phone service, personal communication service, paging, and Wi-Fi antenna service.
REPLACE OR REPLACEMENT	To substitute a new facility, in its entirety, for an existing facility.
RIGHT-OF-WAY	Land dedicated or utilized for a street, trail, sidewalk, utility, railroad or other similar purpose.
SMALL CELL FACILITIES	A Personal Wireless Telecommunications Facility consisting of an antenna and related equipment either installed singly or as part of a network to provide coverage or enhance capacity in a limited defined area. Generally single-service provider installation.
TOWER	Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers, and that is not a utility pole, an alternative antenna structure, or a Village-owned infrastructure. Except as otherwise provided for herein, the requirements for a tower and associated antenna facilities shall be those required in this Chapter.
UTILITY POLE	An upright pole designed and used to support electric cables, telephone cables, telecommunication cables, cable service cables, which are used to provide lighting, traffic control, signage, or a similar function.

VARIANCE/ VARIATION	A grant of relief by the Village Manager or designee of the Village Manager.
WI-FI ANTENNA	An antenna used to support Wi-Fi broadband Internet access service based on the IEEE 802.11 standard that typically uses unlicensed spectrum to enable communication between devices.
WIRELESS SERVICE	Any telecommunications service using licensed or unlicensed wireless spectrum, whether at a fixed location or mobile, provided using Distributed Antenna Systems or Small Cell Facilities.

### **12-13-2: STANDARDS AND REGULATIONS:**

Personal wireless telecommunication facilities will be permitted to be placed in right-of-way within the jurisdiction of the Village as attachments to existing utility poles, alternative antenna structures, or Village-owned infrastructure subject to the following regulations:

- A. *Number Limitation and Co-Location.* The Village Manager or designee of the Village Manager may regulate the number of personal wireless telecommunications facilities allowed on each utility pole or unit of Village-owned infrastructure. No more than two (2) personal wireless telecommunications facilities will be permitted on utility poles or Alternative Antenna Structure of ninety (90) feet or less. No more than three (3) personal wireless telecommunications facilities will be permitted on utility poles or Alternative Antenna Structures in excess of ninety (90) feet and less than one-hundred and twenty (120) feet. This Chapter does not preclude or prohibit co-location of personal wireless telecommunication facilities on towers or monopoles that meet the requirements as set forth elsewhere in this Chapter or as required by federal law. In all cases, the Applicant shall provide the longitude and latitude for the location(s) for which the Applicant is applying to place the personal wireless telecommunications facilities described in this Chapter.
- B. *Separation and Clearance Requirements.* Personal wireless telecommunication facilities may be attached to a utility pole, alternative antenna structure, monopole, or Village-owned infrastructure only where such pole, structure or infrastructure is located no closer than a distance equal to one hundred (100) percent of the height of such facility to any residential building or twenty-five (25) feet from any residential building, excluding garages, whichever is greater, and no closer than three hundred (300) feet from any other personal wireless telecommunication facility. These requirements shall not apply to Village-owned equipment or facilities. A separation or lesser clearance may be allowed by the Village Manager or designee of the Village Manager as an administrative variance to this Chapter when the Applicant establishes that the lesser separation or clearance is necessary to close a significant coverage or capacity gap in the Applicant's services or to



otherwise provide adequate services to customers, and the proposed antenna or facility is the least intrusive means to do so within the right-of-way.

- C. *Village-Owned Infrastructure*. Personal wireless telecommunication facilities can only be mounted to Village-owned infrastructure including, but not limited to, streetlights, traffic signal, towers or buildings, if authorized by a license or other agreement between the owner or Applicant and the Village.
- D. *New Towers*. No new monopole or other tower to support personal wireless telecommunication facilities in excess of sixty (60) feet is permitted to be installed on right-of-way within the jurisdiction of the Village unless the Corporate Authorities find, based on clear and convincing evidence provided by the Applicant, that locating the personal wireless telecommunications facilities on the right-of-way is necessary to close a significant coverage or capacity gap in the Applicant's services or to otherwise provide adequate services to customers, and the proposed new monopole or other tower within the right-of-way is the least intrusive means to do so.
- E. *Attachment Limitations*. No personal wireless telecommunication antenna or facility within the right-of-way will be attached to a utility pole, alternative antenna structure, tower, or Village-owned infrastructure unless all of the following conditions are satisfied:
  - 1. *Surface Area of Antenna*: The personal wireless telecommunication antenna, including antenna panels, whip antennas or dish-shaped antennas, cannot have a surface area of more than seven (7) cubic feet in volume.
  - 2. *Size of Above-Ground Personal Wireless Telecommunication Facility*: The total combined volume of all above-ground equipment and appurtenances comprising a personal wireless telecommunication facility, exclusive of the antenna itself, cannot exceed thirty-two (32) cubic feet.
  - 3. *Personal Wireless Telecommunication Equipment*: The operator of a personal wireless telecommunication facility must, whenever possible, locate the base of the equipment or appurtenances at a height of no lower than eight (8) feet above grade.
  - 4. *Personal Wireless Telecommunication Services Equipment Mounted at Grade*: In the event that the operator of a personal wireless telecommunication facility proposes to install a facility where equipment or appurtenances are to be installed at grade, screening must be installed to minimize the visibility of the facility. Screening must be installed at least three (3) feet from the equipment installed at-grade and eight (8) feet from a roadway.
  - 5. *Height*: The top of the highest point of the antenna cannot extend more than seven (7) feet above the highest point of the utility pole, alternative antenna support structure, tower or Village-owned infrastructure. If necessary, the replacement or new utility pole, alternative support structure or Village-owned infrastructure located within the public right-of-way may be no more than ten to seventy (10 – 70) feet higher than existing poles adjacent to the replacement or new pole or structure, or no

more than ninety (90) feet in height overall, whichever is less, and shall be of a similar look and structure of other poles within a five hundred (500) foot area.

6. Color: A personal wireless telecommunication facility, including all related equipment and appurtenances, must be a color that blends with the surroundings of the pole, structure tower or infrastructure on which it is mounted and use non-reflective materials which blend with the materials and colors of the surrounding area and structures. Any wiring must be covered with an appropriate cover.
7. Antenna Panel Covering: A personal wireless telecommunication antenna may include a radome, cap or other antenna panel covering or shield, to the extent such covering would not result in a larger or more noticeable facility and, if proposed, such covering must be of a color that blends with the color of the pole, structure, tower or infrastructure on which it is mounted.
8. Wiring and Cabling: Wires and cables connecting the antenna to the remainder of the facility must be installed in accordance with the electrical code currently in effect in the Village. No wiring and cabling serving the facility will be allowed to interfere with any wiring or cabling installed by a cable television or video service operator, electric utility or telephone utility.
9. Grounding: The personal wireless telecommunication facility must be grounded in accordance with the requirements of the electrical code currently in effect in the Village.
10. Guy Wires: No guy or other support wires will be used in connection with a personal wireless telecommunication facility unless the facility is to be attached to an existing utility pole, alternative antenna support structure, tower or Village-owned infrastructure that incorporated guy wires prior to the date that an Applicant has applied for a permit.
11. Pole Extensions: Extensions to utility poles, alternative support structures, towers and Village-owned infrastructure utilized for the purpose of connecting a personal wireless telecommunications antenna and its related personal wireless telecommunications equipment must have a degree of strength capable of supporting the antenna and any related appurtenances and cabling and capable of withstanding wind forces and ice loads in accordance with the applicable structural integrity standards, as set forth in the subsection entitled Structural Integrity. An extension must be securely bound to the utility pole, alternative antenna structure, tower or Village-owned infrastructure in accordance with applicable engineering standards for the design and attachment of such extensions.
12. Structural Integrity: The personal wireless telecommunication facility, including the antenna, pole extension and all related equipment must be designed to withstand a wind force and ice loads in accordance with applicable standards established in Chapter 25 of the National Electric Safety Code for utility poles, Rule 250-B and 250-C standards governing wind, ice, and loading forces on utility poles, in the American National Standards Institute (ANSI) in TIA/EIA Section 222-G established by the Telecommunications Industry Association (TIA) and the

Electronics Industry Association (EIA) for steel wireless support structures and the applicable industry standard for other existing structures. For any facility attached to Village-owned infrastructure or, in the discretion of the Village, for a utility pole, tower, or alternative antenna structure, the operator of the facility must provide the Village with a structural evaluation of each specific location containing a recommendation that the proposed installation passes the standards described above. The evaluation must be prepared by a professional structural engineer licensed in the State of Illinois.

- F. *Signage.* Other than signs required by federal law or regulations or identification and location markings, installation of signs on a personal wireless telecommunication facility is prohibited.
- G. *Screening.* If screening is required under Section (e)(4), it must be natural landscaping material or a fence subject to the approval of the Village and must comply with all other regulations of the Village. Appropriate landscaping must be located and maintained and must provide the maximum achievable screening, as determined by the Village, from view of adjoining properties and public or private streets. Notwithstanding the foregoing, no such screening is required to extend more than nine (9) feet in height. Landscape screening when permitted in the right-of-way must be provided with a clearance of three (3) feet in all directions from the facility. The color of housing for ground-mounted equipment must blend with the surroundings. For a covered structure, the maximum reasonably achievable screening must be provided between such facility and the view from adjoining properties and public or private streets. In lieu of the operator installing the screening, the Village, at its sole discretion, may accept a fee from the operator of the facility for the acquisition, installation, or maintenance of landscaping material by the Village.
- H. *Permission to Use Utility Pole or Alternative Antenna Structure.* The operator of a personal wireless telecommunication facility must submit to the Village written copies of the approval from the owner of a utility pole, monopole, or an alternative antenna structure, to mount the personal wireless telecommunication facility on that specific pole, tower, or structure, prior to issuance of the Village permit.
- I. *Licenses and Permits.* The operator of a personal wireless telecommunication facility must verify to the Village that it has received all concurrent licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operation of said facility have been obtained and will be maintained within the corporate limits of the Village.
- J. *Variance Requirements.* Each location of a personal wireless telecommunication facility within a right-of-way must meet all of the requirements of this Chapter, unless a variance has been obtained. An Applicant requesting a variance from one or more of the provisions of this Chapter must do so in writing to the Public Works Director as a part of the permit application. The request shall identify each provision of this Chapter from which a variance is requested and the reasons why a variance should be granted.

1. The Public Works Director shall decide, on an individual basis, whether a variance is authorized for each provision of this Chapter identified in the variance request. The Public Works Director may authorize a variance only if the Applicant requesting the variance has demonstrated that:
    - a. One or more conditions not under the control of the Applicant (such as terrain features or an irregular right-of-way line) create a special hardship that would make enforcement of the provision unreasonable, given the public purposes to be achieved by the provision; and
    - b. All other designs, methods, materials, locations, or facilities that would conform with the provision from which a variance is requested are impracticable in relation to the requested approach.
  2. As a condition for authorizing a variance, the Public Works Director may require the Applicant requesting the variance to meet reasonable standards and conditions that may or may not be expressly contained within this Chapter, but which carry out the purposes of this Chapter.
  3. Any Applicant aggrieved by any order, requirement, decision or determination, including the denial of a variance, made by the Public Works Director under the provisions of this Chapter shall have the right to appeal to the Village Manager, or such other designee as may be designated by the Village Board. The application for appeal shall be submitted in writing to the Village Clerk within thirty (30) calendar days after the date of such order, requirement, decision, or determination. The Village Manager shall commence consideration of the appeal at a scheduled public meeting occurring at least ten (10) calendar days after the filing of the appeal. The Village Manager shall timely decide the appeal.
- K. *Abandonment and Removal.* Any personal wireless telecommunication facility located within the corporate limits of the Village that is not operated for a continuous period of twelve (12) months, shall be considered abandoned and the owner of the facility must remove same within ninety (90) days of receipt of written notice from the Village notifying the owner of such abandonment. Such notice shall be sent by certified mail, return-receipt-requested, by the Village to such owner at the last known address of such owner. In the case of personal wireless telecommunication facilities attached to Village owned infrastructure, if such facility is not removed within ninety (90) days of such notice, the Village may remove or cause the removal of such facility through the terms of the applicable license agreement or through whatever actions are provided by law for removal and cost recovery.

### **12-13-3: PERMIT REQUIRED; PERMIT APPLICATION:**

- A. Permit required. Permits, applications, and fees related to personal wireless facilities and applications for the same in the right of way shall be governed by of this Chapter; however, where this Chapter is silent related to certain building permit fees or

licensing fees, any other applicable provisions of the Bensenville Village Code shall control. No person shall construct any facility on, over, above, along, upon, under, across or within any Village right-of-way which: (1) changes the location of the facility; (2) adds a new facility; (3) disrupts the right-of-way; or (4) materially increases the amount of area or space occupied by the facility on, over, above, along, under, across or within the right-of-way, without first filing an application and obtaining a permit from the Village, except as otherwise provided in this Chapter. No permit shall be required for the installation and maintenance of service connections to customers' premises where there will be no disruption of a right-of-way. All applications shall go through site review and approval with the Public Works Director, or the designee of the Public Works Director.

- B. Permit application. All applications for permits pursuant to this Chapter shall be filed on a form provided by the Village and shall be filed in such number of duplicate copies as the Village may require.
- C. Minimum general application requirements. The application shall be made by the Applicant or its duly authorized representative and shall contain, at a minimum, the following:
  - 1. The Applicant's name, address and telephone and facsimile numbers and a statement of the Applicant's interest in the work;
  - 2. The names, addresses, telephone and facsimile numbers and e-mail addresses of all professional consultants, if any, advising the Applicant with respect to the application;
  - 3. A general description of the proposed work and the purposes and intent of the facility and the uses to which the facility will be put. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed. The scope of work shall also indicate the type of equipment or facilities being installed and whether the equipment or facilities are new, a swap-out or exchange of facilities or equipment, or an upgrade to existing facilities and equipment.
  - 4. Evidence that the Applicant has placed on file with the Village:
    - i. A written traffic control plan demonstrating the protective measures and devices that will be employed, which shall be consistent with IDOT's Illinois Manual on Uniform Traffic Control Devices, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic; and
    - ii. An emergency contingency plan, which shall specify the nature of potential emergencies including, without limitation, construction and

hazardous materials emergencies and the intended response by the Applicant. The intended response shall include notification to the Village and shall promote protection of the safety and convenience of the public. Compliance with ICC regulations for emergency contingency plans constitutes compliance with this Chapter, unless the Village finds that additional information or assurances are needed.

5. Drawings, plans and specifications showing the work proposed, including the certification of an engineer that such drawings, plans and specifications comply with applicable laws, codes, rules and regulations;
  6. Evidence of insurance as herein required;
  7. Any request for a variance from one or more provisions of this Chapter;
  8. Such additional information as may be reasonably required by the Village or Public Works Director; and
  9. Evidence that any "Certificate of Public Convenience and Necessity" or other regulatory authorization that the Applicant is required by law to obtain, or that the Applicant has elected to obtain, has been issued by the ICC or another entity with jurisdictional authority.
- D. Applicant's duty to update information. Throughout the entire permit application review period and the construction period authorized by the permit, any amendments to information contained in a permit application shall be submitted by the Applicant in writing to the Village within thirty (30) calendar days after the change necessitating the amendment.
- E. Application fees. Unless otherwise provided by the applicable franchise, license or similar agreement, all applications for permits pursuant to this Chapter shall be accompanied by a fee as herein provided. No application fee is required to be paid by any electricity utility that is paying the municipal electricity infrastructure maintenance fee pursuant to the Electricity Infrastructure Maintenance Fee Law (35 ILCS 645/15, et seq.).

#### **12-13-4: INSURANCE REQUIREMENT:**

- A. Required coverages and limits. Unless otherwise provided by a franchise, license or similar agreement, each Applicant or utility occupying a right-of-way or constructing any facility in a right-of-way shall secure and maintain the following liability insurance policies insuring the Applicant as a named insured and naming the Village and its elected and appointed officers, officials, agents and employees as additional insureds on the policies listed in subsections (1) and (2) below:



1. Commercial general liability insurance, including premises-operations, explosion, collapse and underground hazard and products-completed operations coverage with limits not less than:
    - i. Five million dollars (\$5,000,000.00) for bodily injury or death to each person;
    - ii. Five million dollars (\$5,000,000.00) for property damage resulting from any one accident; and
    - iii. Five million dollars (\$5,000,000.00) for all other types of liability.
  2. Automobile liability for owned, non-owned and hired vehicles with a combined single limit of \$1,000,000.00 for personal injury and property damage for each accident;
  3. Worker's compensation with statutory limits; and
  4. Employer's liability insurance with limits of not less than \$1,000,000.00 per employee and per accident.
  5. If the Applicant is not providing such insurance to protect the contractors and subcontractors performing the work, then such contractors and subcontractors shall comply with this section.
- B. Excess or umbrella policies. The coverages required by this section may be in any combination of primary, excess, and umbrella policies. Any excess or umbrella policy must provide excess coverage over underlying insurance on a following-form basis such that when any loss covered by the primary policy exceeds the limits under the primary policy, the excess or umbrella policy becomes effective to cover such loss.
- C. Copies required. The Applicant shall provide copies of any of the policies required by this section to the Village within ten (10) calendar days following the receipt of the filing of its application.
- D. Maintenance and renewal of required coverages. The insurance policies required by this section shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be canceled nor may the intention not to renew be stated until thirty (30) calendar days after receipt by the Village, by registered or certified mail, return receipt requested, of a written notice addressed to the Public Works Director of such intent to cancel or not to renew."

Within ten (10) calendar days after receipt by the Village of said notice, and in no event later than ten calendar days prior to said cancellation, the Applicant shall obtain

and furnish to the Village evidence of replacement insurance policies meeting the requirements of this section.

- E. Self-insurance. An Applicant may self-insure all or a portion of the insurance coverage and limit requirements required herein. Self-insurers are not required, to the extent of such self-insurance, to comply with the requirement of the naming of additional insureds under subsection (A), or to comply with the requirements of subsections (B), (C) and (D) of this section. An Applicant that elects to self-insure shall provide to the Village evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage and limit requirements required under subsection (A) of this section, which evidence may include that the Applicant is a "private self-insurer" under the Workers' Compensation Act (820 ILCS 305/1, et seq.).
- F. Effect of insurance and self-insurance on an Applicant's liability. The legal liability of an Applicant to the Village and any person for any of the matters that are the subject of the insurance policies or self-insurance required by this section shall not be limited by such insurance policies or self-insurance or by the recovery of any amounts thereunder. The Applicant's insurance shall be primary, and any Village policies of insurance shall be deemed noncontributory.
- G. Insurance companies. All insurance provided pursuant to this section shall be effected under valid and enforceable policies, issued by insurers legally able to conduct business with the licensee in the State of Illinois.

#### **12-13-5: PERMIT APPLICATION FEES:**

Permits for placement of personal wireless telecommunication facilities in right-of-way within the Village are required. Any application must demonstrate compliance with the requirements of this Chapter. The procedures for the application for, approval of, and revocation of such a permit must be in compliance with Village permit application requirements, except as otherwise provided for in this Chapter. Unless otherwise provided by franchise, license, or similar agreement, or federal, State or local law, all applications for permits pursuant to this Chapter must be accompanied by a fee in the amount herein imposed. The application fee will reimburse the Village for its internal administrative costs related to processing an application made under this Chapter with respect to the work being performed. In addition, the Applicant shall reimburse the Village for any fees charged to the Village for professional services (engineering fees, legal fees, site review fees, etc.) related to the processing of the application. No application fee is required to be paid by any electricity utility that is paying the municipal electricity infrastructure maintenance fee pursuant to the Electricity Infrastructure Maintenance Fee Law (35 ILCS 645/15, et seq.). However, such Applicant shall remain responsible for reimbursing the Village for the cost of its professional services employed in reviewing the application.

For the installation of a Distributed Antenna System or Small Cell Facility, a telecommunications retailer shall pay the following application fees:

1. One thousand five hundred dollars (\$1,500.00) or three percent (3%) of the estimated cost of constructing the telecommunications facility, whichever is greater, for a new facility.
2. One thousand five hundred dollars (\$1,500.00) or three percent (3%) of the estimated cost of constructing the telecommunications facility, whichever is greater, for the attachment to and, if applicable, replacement of a Village-owned facility.
3. One thousand dollars (\$1,000.00) or three percent (3%) of the estimated cost of constructing the telecommunications facility, whichever is greater, for the attachment to a utility-owned facility.

#### **12-13-6: CONFLICT OF LAW:**

Where the conditions imposed by any provisions of this Chapter regarding the siting and installation of personal wireless telecommunication facilities are more restrictive than comparable conditions imposed elsewhere in any other local law, ordinance, resolution, rule or regulation, the regulations herein provided shall govern however, where this Chapter conflicts with federal laws or state laws pre-empting the Village's power, the federal or State law will govern.

**Section 4.** If any provision of this Ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

**Section 5.** The findings and recitals herein are declared to be prima facie evidence of the law of the Village and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

**Section 6.** All ordinances, resolutions, motions or orders in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**Section 7.** This Ordinance shall be in full force and effect upon its passage, approval and publication as provided by law.

**PASSED AND APPROVED** by the President and Board of Trustees of the Village of Bensenville, DuPage and Cook Counties, Illinois, this \_\_\_\_ day of December 2017, pursuant to a roll call vote, as follows:

APPROVED:

\_\_\_\_\_  
Frank DeSimone, Village President

ATTEST:

\_\_\_\_\_  
Nancy Quinn, Village Clerk

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

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

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