



Village of Winnetka

Village Council Regular Meeting

March 21, 2023 at 7:00 PM
Village Hall
510 Green Bay Road

AGENDA

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Quorum**
 - a. Monday, April 3, 2023 Regular Meeting
 - b. April 11, 2023 Study Session
 - c. April 18, 2023 Regular Meeting
4. **Public Comments**
5. **Reports**
6. **Approval of Consent Agenda**
7. **Consent Agenda**
 - a. Approval of Warrant List Dated February 24, 2023 - March 9, 2023
 - b. Ordinance No. MC-02-2023: Amending Chapter 9.12 of the Winnetka Village Code Concerning Firearm Regulations (Adoption)
 - c. Resolution No. R-36-2023: Awarding a Contract to Great Lakes Urban Forestry Management for Forestry Professional Services in 2023 (Adoption)
 - d. Resolution No. R-37-2023: Awarding a Contract to Advanced Tree Care, Inc. for Tree Watering Services (Adoption)
 - e. Resolution No. R-38-2023: Approving an Extension Agreement for Professional Services with Strand Associates for the Engineering and Other Related Work Related to the Hibbard Preserve Stormwater Project (Adoption)
 - f. Resolution No. R-39-2023: Approving and Establishing Changes in the Compensation of the Village Manager (Adoption)
 - g. Resolution No. R-40-2023: Approving and Establishing the Compensation of Department Heads Effective January 1, 2023 (Adoption)

NOTICE

All agenda materials are available at villageofwinnetka.org (Governance > Agendas & Minutes); the Reference Desk at the Winnetka Library; or in the Manager's Office at Village Hall (2nd floor).

The Village of Winnetka, in compliance with the Americans with Disabilities Act, requests that all persons with disabilities who require certain accommodations to allow them to observe and/or participate in this meeting or have questions about the accessibility of the meeting or facilities, contact the Village ADA Coordinator, 510 Green Bay Road, Winnetka, Illinois 60093, 847-716-3543; T.D.D. 847-501-6041.

8. Ordinances and Resolutions

- a. Ordinance No. MC-04-2023: Amending the Winnetka Village Code Regarding the Class X Special Use Liquor Permit Classification (Introduction/Adoption)
- b. Ordinance No. MC-05-2023: Village Code Update - Lakefront Regulations (Adoption)

9. Old Business

10. New Business

11. Appointments

12. Closed Session

13. Adjournment



Agenda Item Executive Summary

TITLE: Approval of Warrant List Dated February 24, 2023 - March 9, 2023

PRESENTER: Robert M. Bahan

AGENDA DATE: March 21, 2023

CONSENT: Yes

ITEM TYPE: Consent Agenda

ITEM HISTORY:

None.

EXECUTIVE SUMMARY:

The Warrant List Dated February 24, 2023 - March 9, 2023

RECOMMENDATION:

Consider approving the Warrant List dated February 24, 2023 - March 9, 2023

ATTACHMENTS:

None



Agenda Item Executive Summary

TITLE: Ordinance No. MC-02-2023: Amending Chapter 9.12 of the Winnetka Village Code Concerning Firearm Regulations (Adoption)

PRESENTER: Brian O'Connell, Peter Friedman

AGENDA DATE: March 21, 2023

CONSENT: Yes

ITEM TYPE: Ordinances and Resolutions

ITEM HISTORY:

At its December 13, 2022 Study Session, the Village Council directed the Village Attorney to prepare an ordinance amending certain provisions of the Village Code related to firearms.

EXECUTIVE SUMMARY:

In response to the July 4 mass shooting in Highland Park, the Village Council held a public listening session regarding firearms safety on August 9, 2022. On September 20, 2022, the Village Council adopted Resolution No. R-100-2022, a Resolution calling for federal and state action on gun safety and violence. On December 13, 2022, the Village Council held a Study Session to specifically review the Village's existing firearms regulations as set forth in Section 9.12 of the Village Code and to consider amendments to these regulations. The Council specifically reviewed the Village Attorney's public November 4, 2022 memorandum and the amendment recommendations made in that memo. Following a full and detailed discussion of the existing regulations and the state of constitutional restrictions and litigation related to firearms, the Council directed the Village Attorney to prepare an ordinance amending the existing firearms regulations as recommended in the November 4 memorandum. Accordingly, the Village Attorney has prepared Ordinance No. MC-02-2023, which provides amendments to the provisions in Section 9.12 relating to (i) safe storage and transportation of firearms, (ii) handgun and ammunition surrender, (iii) and penalties for violating the code provisions on firearms.

RECOMMENDATION:

Consider adopting Ordinance No. MC-02-2023, Amending Chapter 9.12 of the Winnetka Village Code Concerning Firearm Regulations.

ATTACHMENTS:

1. Ordinance No. MC-02-2023: Amending Chapter 9.12 of the Village Code Concerning Firearms Regulations
2. Firearms Regulations Memorandum from Village Attorney

**AN ORDINANCE AMENDING CHAPTER 9.12 OF THE
WINNETKA VILLAGE CODE CONCERNING FIREARM REGULATIONS**

WHEREAS, the Village of Winnetka ("***Village***") is a home rule municipal corporation in accordance with Article VII, Section 6(a) of the Constitution of the State of Illinois of 1970; and

WHEREAS, the Village has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs; and

WHEREAS, Chapter 9.12 of the Winnetka Village Code, as amended ("***Village Code***"), regulates firearms in the Village ("***Firearm Regulations***"); and

WHEREAS, the Village Council has reviewed the existing Firearms Regulations in light of the July 4, 2022 mass shooting in Highland Park and other similar tragedies around the County as well as existing Illinois statutes and recent court decisions from the United States Supreme Court and other federal and state courts relating to the nature and extent of Illinois local government authority over firearms; and

WHEREAS, the Village Council has determined that it will serve and be in the best interests of the Village to amend the existing Firearm Regulations as set forth in this Ordinance;

NOW, THEREFORE, the Council of the Village of Winnetka does ordain as follows:

SECTION 1: RECITALS. The recitals are incorporated into this Section as the findings of the Village Council, as if fully set forth in this Section.

SECTION 2: SAFE STORAGE AND TRANSPORTATION. Section 9.12.025, titled "Safe Storage and Transportation of Assault Weapons," of Chapter 9.12, titled "Weapons," of Title 9, titled "Public Peace, Morals and Welfare," of the Village Code shall be amended to read as follows:

"Section 9.12.025 Safe Storage and Transportation of Assault Weapons.

- A. Safe Storage of Assault Weapons. It is unlawful and a violation of this subsection A to store or keep any assault weapon in the Village unless such weapon is secured in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by any person other than the owner or other lawfully authorized user. ~~For purposes of this section, such weapon shall not be deemed stored or kept when being carried by or under the control of the owner or other lawfully authorized user.~~

B. Transportation of Assault Weapons. It is unlawful and a violation of this subsection B for any person to carry or possess an assault weapon in the Village, except when on his own land or in his own abode, legal dwelling or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission, except that this section does not apply to or affect transportation of assault weapons that meet ~~one of~~ the following conditions:

1. Are broken down in a non-functioning state; ~~or~~ and
2. Are not immediately accessible; ~~or~~ and
3. Are unloaded and enclosed in a case, firearm carrying box, shipping box, or other container by a person who has been issued a currently valid Firearm Owner's Identification Card.

C. Exceptions.

1. Self-defense. No person shall be punished for a violation of this section if an assault weapon is used in a lawful act of self-defense or in defense of another.
2. The provisions of this section do not apply (i) to any law enforcement officer, agent or employee of any municipality of the State of Illinois, (ii) to any law enforcement officer, agent or employee of the State of Illinois, of the United States, or of any other state, or (iii) to any member of the military or other service of any state or the United States, including national guard and reserves; provided, that the persons described are authorized by a competent authority to so carry an assault weapon ~~loaded on a public way~~ and such person is acting within the scope of his duties or training."

SECTION 3: HANDGUN AND AMMUNITION SURRENDER. Section 9.12.030, titled "Surrender of Handguns and Ammunition," of Chapter 9.12, titled "Weapons," of Title 9, titled "Public Peace, Morals and Welfare," of the Village Code Shall be amended to read as follows:

"Section 9.12.030 Surrender of handguns and ammunition.

- A. Voluntary Surrender. ~~Subject to the provisions of the following subsection (B), any~~ Any person within the Village may voluntarily and peaceably deliver and abandon to the Chief of Police any handgun or ammunition. ~~Except as provided in the following subsection (B), no~~ No person shall be asked for identification nor will such person be subject to prosecution for the possession of any handgun or ammunition voluntarily surrendered.
- B. Conditions. The voluntary surrender of any handgun or ammunition ~~shall be subject to the following conditions:~~ shall not moot or in any manner invalidate any pending or future investigation, arrest, charge, or prosecution for a violation of any provision of this Chapter 9.12 or any other law or regulation concerning the use or possession of firearms or ammunition.

- a. ~~The voluntary delivery or abandonment of any handgun or ammunition after an arrest or charge for violation of any provision of this section shall not moot or in any manner invalidate such arrest or charge.~~
 - b. ~~The voluntary delivery or abandonment of any handgun or ammunition shall not moot or in any manner invalidate the investigation, arrest, charge or prosecution for any offenses other than possession.~~
- C. Destruction of Surrendered Handguns **and Ammunition**. Whenever any handgun or ammunition is surrendered pursuant to the terms of this section, the Chief of Police shall ascertain whether such handgun or ammunition is needed as evidence in any matter. If such handgun or ammunition is not required for evidence it shall be destroyed at the direction of the Chief of Police. A record of the date and method of destruction and an inventory of the handgun or ammunition so destroyed shall be maintained.”

SECTION 4: PENALTIES. Section 9.12.050, titled “Penalties,” of Chapter 9.12, titled “Weapons,” of Title 9, titled “Public Peace, Morals and Welfare,” of the Village Code shall be amended to read as follows:

“Section 9.12.050 Penalties

- A. Any person found in violation of Section 9.12.010 of this chapter shall be subject to a fine of not less than ~~one hundred fifty dollars (\$150.00)~~ **three hundred dollars (\$300.00)** nor more than ~~one thousand dollars (\$1,000.00)~~ **two thousand dollars (\$2,000.00)**.
- B. Any person found in violation of Section 9.12.025 or Section 9.12.040 of this chapter shall be subject to a fine of not less than ~~five hundred dollars (\$500.00)~~ **one thousand dollars (\$1,000.00)** nor more than ~~one thousand dollars (\$1,000.00)~~ **two thousand dollars (\$2,000.00)** for each offense.”

SECTION 6: SEVERABILITY. If any provision of this Ordinance or any part of this Ordinance is held invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance shall remain in full force and effect, and shall be interpreted, applied, and enforced so as to achieve, as near as may be, the purpose and intent of this Ordinance to the greatest extent permitted by applicable law.

SECTION 7: EFFECTIVE DATE. This Ordinance will be in full force and effect upon its passage and approval in the manner provided by law.

PASSED this 21 day of March, 2023, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED this 21 day of March, 2023.

Signed:

Village President

Countersigned:

Village Clerk

Published by authority of the
President and Board of Trustees
of the Village of Winnetka,
Illinois, this 22 day of March
2023.

Introduced: March 7, 2023

Passed and Approved: March 21, 2023

March 21, 2023

MC-02-2023

Peter M. Friedman
312.528.5192
peter.friedman@elrodfriedman.com

Memorandum

Date: November 4, 2022

To: Robert Bahan, Village Manager

From: Peter M. Friedman
Hart M. Passman

Re: Village Firearms Regulations

At your request, we have analyzed the Village's existing firearms regulations, as set forth in Chapter 9.12 of the Village Code, to identify any necessary or advisable amendments. We have reviewed the existing ordinances in light of recent court decisions affecting other Illinois local governments, including: *Wilson v. Cook County*, 2012 IL 112026 (2012), in which the Illinois Supreme Court held that the Cook County assault weapons ban was not impermissibly vague and did not violate the Equal Protection Clause of the United States Constitution; *Friedman v. City of Highland Park*, 784 F.3d 406 (7th Cir. 2015), *cert. denied*, 577 U.S. 1039 (2015), in which the United States Circuit Court for the Seventh Circuit held that the Highland Park assault weapons ban did not violate the Second Amendment to the U.S. Constitution; and *Easterday v. Village of Deerfield*, 2020 IL App (2d) 190879, in which the Illinois Appellate Court upheld Deerfield's 2018 ordinance amendments by which that Village converted a safe storage law into a full assault weapons ban.

In Sections 1 through 6 of this Memorandum, we identify key firearms regulations and components of the existing Village regulations, and discuss whether, and to what extent, we recommend amendments based on the current state of constitutional and Illinois preemption law. In Section 7, we review whether and how the Village might consider implementation of a full ban on assault weapons. In Section 8, we identify the opportunity to increase fines for violations of firearms regulations.

1. Regulation of Handguns.

There is a distinct difference between the Village's authority to regulate handguns and the Village's authority to regulate assault weapons. Recall that the Village Council adopted a prohibition on handguns in the aftermath of the 1988 shooting at the Hubbard Woods Elementary School. The Village Council repealed this ban following the U.S. Supreme Court's 2008 decision in *District of Columbia v. Heller*, 554 U.S. 570 (2008), in which the Court recognized for the first time a right under the Second Amendment to possess handguns in the home for self-defense. Additionally, in Illinois, Section 13.1(b) of the Illinois Firearm Owners Identification Card Act ("**FOID Act**") specifically pre-empts home rule authority with respect to "the regulation, licensing, possession, and registration of handguns and ammunition for a handgun."

Accordingly, we do not recommend that the Village adopt new code provisions regarding the regulation, possession, or registration of handguns or of the ammunition for handguns, as these types of code provisions will be subject to challenge as violations of the Second Amendment and outside the Village's home rule powers. The Village should also be careful not to enforce any of its existing or future firearms regulations in a manner that impermissibly affects handguns.

2. Parental Responsibility.

Section 24-9 of the Illinois Criminal Code generally prohibits access to firearms to minors 14 years or younger if the minor causes death or great bodily harm with the firearm, except if the firearm was secured or used by the minor for self-defense or obtained through illegal means. The City of Chicago has a far broader provision. Under Section 8-20-050 of the Chicago City Code ("Firearms – Protection of Minors"), parental/adult liability attaches to anybody under the age 18 (rather than 14) and is not limited to just when the minor "causes death or great bodily harm," but rather applies if "the person knows or had reason to believe that a minor under the age of 18 years is likely to gain access to the firearm or ammunition." We are concerned that Chicago's provision, to the extent that it applies to handguns (that is, a regulation on how one can legally or illegally possess a handgun) runs afoul of the FOIA Act handgun preemption.

Section 8-20-050 was adopted in 2010, three years before the FOIA Act preemption took effect. It is possible that this provision is not being enforced in light of the FOIA Act preemption even though it has not been officially repealed. We are in discussions on this issue with the Chicago Corporation Counsel's office to determine the City's legal position on Section 8-20-050 and whether there is a legal justification to support inclusion of a similar provision in the Winnetka Village Code. We will be able to provide a more definitive answer on this distinct issue at or prior to the Study Session discussion on November 10.

3. Definition of Assault Weapons.

Section 9.12.20.C of the Village Code sets forth a long definition of the term "assault weapon." In Sections 9.12.20.C.1 through C.6, the Code sets forth general descriptions of the features of firearms that, if present, render the weapon an "assault weapon." Section 9.12.20.C.7 then names over 60 specific types of firearms that are expressly identified as "assault weapons."

As you know, the 2013 amendments to the Illinois Firearm Owners Identification Card Act, 430 ILCS 65/0.01 *et seq.*, greatly restricted local authority to regulate assault weapons. Under those amendments, no municipality may regulate assault weapons unless it enacted local assault weapons regulations on or before the date that was 10 days after the statutory amendments became law.¹ 430 ILCS 65/13.1(c). If a municipality enacted its regulations by the end of that 10-Day Window, then it may maintain, and even amend, assault weapons regulations. *Id.* The statute explains that a proper local regulation of assault weapons must "designate...either make or model or by a test or list of cosmetic features that cumulatively would place the firearm into a definition of 'assault weapon' under the ordinance." *Id.*

Winnetka's current definition of assault weapons appears to be the same as the then-existing definition of "assault weapons" in Cook County ordinance that survived scrutiny in the

¹ This provision is often referred to as the "10-Day Window". Governor Quinn issued an amendatory veto of the bill that proposed the amendments on July 2, 1993. The General Assembly overrode the veto on July 9, 2013. Accordingly, the "10-Day Window" closed on July 19, 2013. Winnetka adopted its current assault weapons regulations on that last day of the 10-Day Window.

Wilson litigation.² That same definition was adopted by the City of Highland Park, and upheld in the *Friedman* case. Because the Village's definition matches the definitions that have been upheld against vagueness, equal protection, and Second Amendment challenges, we do **not** recommend that the Village amend its definition at this time. Unless the Village expands its law to include a partial or full ban on assault weapons (see Section 6 of this Memorandum), the definition thus makes these weapons subject to the safe storage and transportation regulations (see Section 4), but not more.

4. Definition of Large Capacity Magazine for Assault Weapons Only.

Following the 2013 statutory amendments, many communities that adopted assault weapons regulations included provisions governing "large capacity magazines." Generally, a large capacity magazine is one that can hold more than 10 rounds of ammunition at a time. The Village is among the municipalities that defines "large capacity magazine" in this fashion (with three exceptions that are also common across these types of ordinances). The Village's ordinance only uses the term "large capacity magazine" in one substantive manner: one of the definitions of "assault weapon" is "a semiautomatic rifle that has the capacity to accept a large capacity magazine detachable or otherwise..." See Sec. 9.12.020.C.1.

In *Easterday v. Village of Deerfield*, while the Appellate Court upheld nearly all of Deerfield's assault weapons ban, the Court ruled against the Village with respect to its large capacity magazine provisions. The Court noted that while the 2013 statutory amendments contemplated some local assault weapons regulations, they completely banned local regulation of ammunition for handguns. See 2020 IL App (2d) 190879, ¶ 69. Thus, the Court ruled that "to the extent that Deerfield's ban of large capacity magazines regulates ammunition for handguns, it is preempted in its application to holders of valid FOID cards and concealed carry licenses by section 13.1(b) of the FOID Card Act and section 90 of the Concealed Carry Act." *Id.* at 2020 IL App (2d) 190879, ¶ 71.

Accordingly, to avoid any confusion and to minimize the risk of a challenge, we recommend amendment of the definition of "large capacity magazine" so that it applies only to assault weapons.

5. Safe Storage and Transportation Regulations for Assault Weapons Only.

When the Village adopted its 2013 ordinance, it elected not to pursue a full ban on assault weapons, as Highland Park did. Rather, Winnetka adopted a "safe storage" law, set forth in Section 9.12.025 of the Village Code. The Village's ordinance has two components: a requirement that assault weapons are safely stored in the Village, and regulations on transportation of assault weapons. Each of these is discussed in turn below.

a. Safe Storage.

Section 9.12.025.A provides that it is unlawful "to store or keep any assault weapon in the Village unless such weapon is secured in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by any person other than the owner or other lawfully authorized user." The Code further explains

² Cook County has since amended its definition further to add several more categories of assault weapons. Highland Park has not followed suit. We are not aware of any legal challenge to the amended County definition.

that “[f]or purposes of this section, such weapon shall not be deemed stored or kept when being carried by or under the control of the owner or other lawfully authorized user.”

We are not aware of any legal challenge to a safe storage law; to date, the gun rights lobby has focused its efforts on more drastic local regulations like full bans. We do believe that *some* type of safe storage law is legal (for municipalities that acted by the end of the 10-Day Window), given the Appellate Court’s decision in the *Easterday v. Village of Deerfield* case, in which the Court rejected the plaintiffs’ claims that the 2013 statutory amendments prohibited all local assault weapons regulations of any kind. See 2020 IL App (2d) 190879, ¶¶ 39-42. But we cannot be certain as to whether the Village’s current ordinance would survive such a challenge.

With that in mind, we find that the safe storage provisions in Section 9.12.025.A are not as clear as they could be. Specifically, the second sentence of Sec. 9.12.025.A – which states that a weapon is not being “stored or kept” if “under the control” of the owner or an “authorized user” – is vague and unnecessarily repetitive. Sec. 9.12.025.B provides rules on how an assault weapon must be handled when it is not being “stored or kept” -- that is, when it is being carried or otherwise possessed. This Subsection B provides that it is generally unlawful to carry or possess an assault weapon except when the owner of the gun is on the owner’s own land or in the owner’s own home, or as a permitted invitee to another property or another home. Subsection B further provides that these carry-and-possess regulations do not apply if the gun is inoperable, not immediately accessible, or unloaded and enclosed in a case by a proper FOID card holder. Given these provisions, we believe that the second sentence of Subsection A may be deleted.

b. Transportation.

Sec. 9.12.025.B of the Village Code generally outlaws the carrying or possession of assault weapons. That provision contains three exceptions: (1) on the owner’s own land, dwelling, or place of business; (2) on someone else’s land or dwelling, with the owner’s permission; and (3) in transportation, but only if the weapon satisfies one of three conditions:

- The weapon is “broken down in a non-functioning state; or”
- The weapon is “not immediately accessible; or”
- The weapon is “unloaded and enclosed” in a case or box by someone with a FOID card.

As with safe storage laws, we are not aware of a legal challenge to transportation laws, and we believe the general authority upheld in *Easterday* validates the Village’s general authority to enforce its own transportation law. However, we are troubled by the disjunctive connection between the three conditions for permissible transportation. In contrast, Highland Park’s transportation regulation is *conjunctive*: a weapon cannot be transported unless it is “broken down *and* in a nonfunctioning state *and* ... not immediately accessible.” Highland Park City Code, Sec. 136.006(C) (emphasis added). We do not believe that the Village’s transportation regulation is legally problematic; rather, we believe it is substantively insufficient. We recommend amending this provision to make the three conditions conjunctive, such that all three must be met for the exception to apply. Simply, the two instances of “or” should be revised to “and.”

c. Police and Military Exception.

Section 9.12.025.C.2 of the Village Code contains a general exception from both the safe storage and transportation regulations for law enforcement officers and members of the military. The exception is limited to only those who “are authorized by a competent authority to so carry an assault weapon loaded on a public way” and who are “acting within the scope of his duties or training.”

As written, it is not clear if the police and military exception only applies when those personnel are “on a public way” or if it applies anywhere in the Village, if the personnel’s authorization includes carrying on a public way. We recommend that this provision be amended to eliminate the “public way” reference. We note that the Village of Deerfield’s ordinance contains similar language as Winnetka’s, but that Highland Park’s ordinance does not have the “public way” reference.

6. Other Existing Provisions.

We have identified the following additional concerns about other existing provisions of Chapter 9.12:

a. Surrender of Handguns and Ammunition.

Section 9.12.030 sets forth a process for the “voluntary” and “peaceable” surrender of handguns and ammunition to the Village Chief of Police. The Section contains two conditions in Sec. 9.12.030.B, each of which provides that the surrender does not “moot or in any manner invalidate” arrests or prosecutions for certain firearm-related actions. Some of the text of Sec. 9.12.030.B is vague, and we recommend clarifying amendments as part of any approved set of changes to Chapter 9.12. Specifically, we would re-write 9.12.030 as follows (with additions in bold and double-underlined text, and deletions struck through):

“Section 9.12.030 Surrender of handguns and ammunition.

A. Voluntary Surrender. ~~Subject to the provisions of the following subsection (B), any Any person within the Village may voluntarily and peaceably deliver and abandon to the Chief of Police any handgun or ammunition. Except as provided in the following subsection (B), no No person shall be asked for identification nor will such person be subject to prosecution for the possession of any handgun or ammunition voluntarily surrendered.~~

B. Conditions. The voluntary surrender of any handgun or ammunition shall be subject to the following conditions: **shall not moot or in any manner invalidate any pending or future investigation, arrest, charge, or prosecution for a violation of any provision of this Chapter 9.12 or any other law or regulation concerning the use or possession of firearms.**

1. ~~The voluntary delivery or abandonment of any handgun or ammunition after an arrest or charge for violation of any provision of this section shall not moot or in any manner invalidate such arrest or charge.~~

2. ~~The voluntary delivery or abandonment of any handgun or ammunition shall not moot or in any manner invalidate the investigation, arrest, charge or prosecution for any offenses other than possession.~~

C. Destruction of Surrendered Handguns. Whenever any handgun or ammunition is surrendered pursuant to the terms of this section, the Chief of Police shall ascertain whether such handgun or ammunition is needed as evidence in any matter. If such handgun or ammunition is not required for evidence it shall be destroyed at the direction of the Chief of Police. A record of the date and method of destruction and an inventory of the handgun or ammunition so destroyed shall be maintained.”

b. Firearms Dealers.

Section 9.12.040 imposes a blanket prohibition on firearms dealer businesses in the Village. This ordinance applies with equal force to handgun and assault weapons dealers. It appears that this provision dates back at least to 2008.

We have the following observations regarding this provision. Section 9.12.040 is, functionally, a zoning regulation – it prohibits a particular land use. As a best practice, zoning regulations belong in zoning codes. Further, because of the public hearing requirement in Illinois for zoning code amendments, zoning code provisions enjoy a somewhat-greater presumption of validity.

That said, the United States District Court for the Northern District of Illinois has, in the past, ruled that complete bans on firearm sales do not pass Second Amendment muster. In *Ass’n of Firearms Retailers v. City of Chicago*, 961 F. Supp. 2d 928 (N.D. Ill. 2014), the Court held that Chicago’s “blanket ban” on the sale of weapons impermissibly burdened citizens’ Second Amendment rights. Winnetka’s provision is not the same: it does not ban all sales, but merely bans the *business* of being a gun salesman. We are not aware of a reported decision analyzing how the Second Amendment analysis should or should not distinguish between a ban on gun sales versus a ban on gun businesses. As a result, the Village’s total prohibition on this business could be challengeable.

As you may know, earlier this year, the City of Naperville adopted an ordinance banning the sale of assault weapons throughout its jurisdiction. That ordinance is now being reviewed in the federal court. Although we have concerns about the Village’s current firearm dealer ban, we recommend waiting at this time to observe the outcome of the Naperville litigation. We also do not believe that an amendment now (to move the provision into the zoning code or otherwise remove or amend it) is in the Village’s best interests, as it will call unwanted attention to an ordinance that has not captured the attention of those that might want to challenge local firearms regulations. We can re-evaluate this recommendation after the Naperville case and other pending assault weapons cases are fully adjudicated.

7. Implementation of an Assault Weapons Ban.

If the Village desires to implement a partial or complete assault weapons ban, as Highland Park and Deerfield have done, it can do so either through amending its own Code to expressly prohibit these weapons, or it can coordinate with Cook County for local enforcement of the County’s ban. Each of these is described below.

a. Amendment to the Village Code.

Deerfield, like Winnetka, adopted a safe storage law in 2013 – but then converted its ordinance to a full assault weapons ban in 2018. That amendment was reviewed and upheld by the courts in the *Easterday* decision described above. If the Village would like to implement a ban,

it can do so by simply adopting language similar to Highland Park's and Deerfield's ordinances. The *Easterday* decision secures the rights of Illinois municipalities that acted before the expiration of the 10-Day Window to later tighten their laws to include a ban.

It is possible that adoption of a ban will lead to litigation. At this time, an organization called the National Association for Gun Rights (NAGR) has initiated at least four lawsuits earlier this year against the States of Connecticut, Hawaii, Massachusetts, and against the City of Highland Park, challenging those jurisdictions' assault weapons bans.³ NAGR bases its lawsuits on the U.S. Supreme Court's recent decision in *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 142 S. Ct. 2111 (2022), in which the Court invalidated the New York State concealed carry law. The *Bruen* decision sets forth a new framework for review of local firearms regulations that is considerably tougher than the analysis employed to uphold assault weapons bans in *Friedman* and other prior cases. Many scholars and attorneys have surmised that a court applying *Bruen* would find an assault weapons ban to be unconstitutional.

We do not think there would be much value to NAGR or a similar organization to suing Winnetka, given that the same court that would review the Village's ban is the same one that is reviewing Highland Park's – and so we think there is no ground to be gained by suing Winnetka that cannot be covered in the pending litigation. Nevertheless, there is an obvious possibility that the Village would be sued if it adopts a ban.

b. Enforcement of Cook County Ban.

Alternatively, the Village could seek to prohibit assault weapons through the County's ordinance – either through direct enforcement by the County, or through an arrangement by which the County authorizes the Village to enforce the County ordinance on its behalf. Either of these options would require an intergovernmental agreement with the County. In prior conversations that we have had concerning other Cook County municipalities, the County has indicated that it is open to either of these options.

There is one potential legal infirmity to this approach. Despite the County's apparent willingness to cooperate, its ordinance may not be applicable in the Village, precisely because the Village has its own regulation. Section 54-92 of the County ordinance states that the County's law is not applicable to the extent that it conflicts with a home rule municipality's own ordinance. It is not clear whether that provision applies only to firearms dealers' regulations, or to the entire County ordinance – which would include assault weapons. If the Village desires to pursue this option, we will need to contact the appropriate County officials to make sure that the County and Village ordinances contain the correct language to ensure the desired cooperation.

8. Fines.

Fines for violations of the Winnetka firearms code provisions are generally set at a maximum of \$750 per violation. However, Illinois courts have determined that home rule municipalities are not limited to a maximum of \$750. The Village may, therefore, consider whether to increase the fine amounts for violations of Village's firearms regulations, as set forth in Chapter 9.12 of the Village Code.

³ NAGR is also the entity behind the pending challenge to Naperville's prohibition on the sale of assault weapons.



Agenda Item Executive Summary

TITLE: Resolution No. R-36-2023: Awarding a Contract to Great Lakes Urban Forestry Management for Forestry Professional Services in 2023 (Adoption)

PRESENTER: Andrew Lueck

AGENDA DATE: March 21, 2023

CONSENT: Yes

ITEM TYPE: Consent Agenda

ITEM HISTORY:

The FY 2023 Village budget contains \$50,000 for Forestry Professional Services (Landscaping Maintenance and Seasonal Support) in account 100.35.26-545.

EXECUTIVE SUMMARY:

The Forestry Division in recent years has assumed a lead role in new landscaping initiatives in the Village. This includes the management of the downtown floral program, increased streetscape oversight and perennial installations throughout the Downtown areas. Forestry has also seen a need for increased construction monitoring, code enforcement and updating of the Village tree inventory. These increased programs have been added to the existing work activities typically performed by the Forestry Division, being performed primarily by a single staff member, the Village Forester, and a seasonal intern.

Based on this increased workload, funds were budgeted for Forestry professional services for FY 2023. Having additional professional Forestry services under contract will allow for improved tree management during the busiest cycle of the year. Specific duties to be completed under this agreement include tree preservation monitoring, tree ordinance enforcement, tree risk and management assessments on Village-owned trees, permit and plan reviews and updating the Village tree inventory, among other related tasks.

On January 31, 2023, the Village distributed a request for proposals for Forestry professional services. The RFP was sent to seven firms known to have the capability to perform the requested work. The RFP required interested firms to submit a cost proposal (price per hour), and details of the firm's qualifications.

We received one proposal from Great Lakes Urban Forestry Management, for a proposed cost of \$95 per hour. A review of the firm's qualifications, overall proposal and references was performed. An interview was also conducted with the firm's owner and the principal assigned to the Village. Upon review, it was determined that the firm is well qualified to perform the requested services. Staff believes they will meet the Village's expectations and work performance standards.

The consultant will mainly work during the peak season for Forestry activities, between April and October. An hourly cost of \$95 will allow for approximately 526 professional service hours to be completed in 2023. That will allow for the consultant to be in the Village an average of two days per week between April and October, with remaining hours being allocated based on future workload.

Village staff is recommending, for Village Council consideration, approving Resolution No. R-36-2023, awarding the 2023 Forestry Professional Services contract to Great Lakes Urban Forestry Management, for an amount not to exceed \$50,000.

RECOMMENDATION:

Consider adopting Resolution No. R-36-2023 awarding a contract to Great Lakes Urban Forestry Management for Forestry Professional Services in an amount not to exceed \$50,000.

ATTACHMENTS:

1. Resolution No. R-36-2023: Forestry Professional Services Contract
2. Proposal for Forestry Consulting Services

RESOLUTION NO. R-36-2023

**A RESOLUTION AWARDING A CONTRACT TO
GREAT LAKES URBAN FORESTRY MANAGEMENT FOR FORESTRY
PROFESSIONAL SERVICES IN 2023**

WHEREAS, Article VII, Section 10 of the 1970 Illinois Constitution authorizes the Village of Winnetka ("**Village**") to contract with individuals, associations, and corporations in any manner not prohibited by law or ordinance; and

WHEREAS, the Village desires to improve forestry efficiencies and tree management in the Village, which includes, but is not limited to: tree preservation monitoring, tree ordinance enforcement, tree risk and management assessments on Village-owned trees, permit and plan reviews, and updating the Village tree inventory (collectively, "**Work**"); and

WHEREAS, the Village has budgeted \$50,000.00 for the Work; and

WHEREAS, the Village issued a request for proposals on January 23, 2023 ("**Request for Proposals**") seeking qualified consultants to provide the Work; and

WHEREAS, the Village received one proposal to provide the Work ("**Proposal**") and opened the Proposal on February 13, 2023; and

WHEREAS, pursuant to Chapter 4.12 of the Village Code and the Village's purchasing manual, the Village Council has determined that Great Lakes Urban Forestry Management ("**Consultant**") provided the proposal that best meets the needs of the Village; and

WHEREAS, the Village Council desires to enter into a contract with Contractor to provide the Work from Consultant in an amount not to exceed \$50,000.00 ("**Contract**"); and

WHEREAS, the Village Council has determined that it is in the best interests of the Village and its residents to enter into the Contract with Consultant;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Village of Winnetka, Cook County, Illinois, as follows:

SECTION 1: RECITALS. The Village Council hereby adopts the foregoing recitals as its findings, as if fully set forth herein.

SECTION 2: APPROVAL OF CONTRACT. The Village Council approves the Contract in substantially the form attached to this Resolution as **Exhibit A** and in final form approved by the Village Attorney.

SECTION 3: AUTHORIZATION TO EXECUTE CONTRACT. The Village Council authorizes and directs the Village President and the Village Clerk to execute and attest, respectively, on behalf of the Village, the final Contract after receipt by the Village Manager of two executed copies of the final Contract from the Consultant; provided, however, that if the

March 21, 2023

R-36-2023

Village Manager does not receive two executed copies of the final Contract from the Consultant within 60 days after the date of adoption of this Resolution, then this authority to execute and seal the Contract will, at the option of the Village Council, be null and void.

SECTION 4: EFFECTIVE DATE. This Resolution shall be in full force and effect from and after its passage and approval according to law.

ADOPTED this 21st day of March, 2023, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

ABSTAIN: _____

Signed

Village President

Countersigned:

Village Clerk

EXHIBIT A
CONTRACT

APPENDIX A

VILLAGE OF WINNETKA PROFESSIONAL SERVICES AGREEMENT

This **PROFESSIONAL SERVICES AGREEMENT** ("**Agreement**") is dated as of the 21 day of March, 2023, and is by and between the **VILLAGE OF WINNETKA**, an Illinois home rule municipal corporation ("**Village**"), and the Consultant identified in Section 1.A of this Agreement.

IN CONSIDERATION OF the recitals and the mutual covenants and agreements set forth in this Agreement, and pursuant to the Village's statutory and home rule powers, the parties agree as follows:

SECTION 1. CONSULTANT.

A. Engagement of Consultant. The Village desires to engage the Consultant identified below to perform and to provide all necessary professional consulting services to perform the work in connection with the project identified below:

Consultant Name ("Consultant**"):** Great Lakes Urban Forestry Management

Address: 1485 Louis Bork Drive. Unit #113, Batavia, IL 60510

Telephone No.: (630) 762-2400

Email: phil@graftreecare.com

Project Name/Description: Forestry Professional Services

Agreement Amount: \$50,000

B. Project Description. Provide the Village forestry consulting services, as more fully described in the proposal attached to this Agreement as **Exhibit A ("**Proposal**")**.

C. Representations of Consultant. The Consultant represents that it is financially solvent, has the necessary financial resources, and is sufficiently experienced and competent to perform and complete the consulting services that are set forth in the Proposal ("**Services**") in a manner consistent with the standards of professional practice by recognized consulting firms providing services of a similar nature.

SECTION 2. SCOPE OF SERVICES.

A. Retention of the Consultant. The Village retains the Consultant to perform, and the Consultant agrees to perform, the Services.

B. Services. The Consultant shall provide the Services pursuant to the terms and conditions of this Agreement.

C. Commencement; Term. The Consultant shall commence the Services immediately upon receipt of written notice from the Village that this Agreement has been fully executed by the Parties ("***Commencement Date***"). The Consultant shall diligently and continuously prosecute the Services until the completion of the Services or upon termination of this Agreement by the Village, but in no event later than the date that is ____ days after the Commencement Date ("***Time of Performance***").

D. Reporting. The Consultant shall regularly report to the Village Manager, or his designee, regarding the progress of the Services during the term of this Agreement.

SECTION 3. COMPENSATION AND METHOD OF PAYMENT.

A. Agreement Amount. The total amount paid by the Village for the Services pursuant to this Agreement shall not exceed the amount identified as the Agreement Amount in Section 1.A of this Agreement. No claim for additional compensation shall be valid unless made in accordance with Sections 3.D or 3.E of this Agreement.

B. Invoices and Payment. The Consultant shall submit invoices in an approved format to the Village for costs incurred by the Consultant in performing the Services. The amount billed in each invoice for the Services shall be based solely upon the rates set forth in the Proposal. The Village shall pay to the Consultant the amount billed within 60 days after receiving such an invoice.

C. Records. The Consultant shall maintain records showing actual time devoted and costs incurred, and shall permit the Village to inspect and audit all data and records of the Consultant for work done pursuant to this Agreement. The records shall be made available to the Village at reasonable times during the term of this Agreement, and for one year after the termination of this Agreement.

D. Claim In Addition To Agreement Amount.

1. The Consultant shall provide written notice to the Village of any claim for additional compensation as a result of action taken by the Village, within 15 days after the occurrence of such action.

2. The Consultant acknowledges and agrees that: (a) the provision of written notice pursuant to Section 3.D.1 of this Agreement shall not be

deemed or interpreted as entitling the Consultant to any additional compensation; and (b) any changes in the Agreement Amount shall be valid only upon written amendment pursuant to Section 8.A of this Agreement.

3. Regardless of the decision of the Village relative to a claim submitted by the Consultant, the Consultant shall proceed with all of the work required to complete the Services under this Agreement, as determined by the Village, without interruption.

E. Additional Services. The Consultant acknowledges and agrees that the Village shall not be liable for any costs incurred by the Consultant in connection with any services provided by the Consultant that are outside the scope of this Agreement ("***Additional Services***"), regardless of whether such Additional Services are requested or directed by the Village, except upon the prior written consent of the Village.

F. Taxes, Benefits, and Royalties. Each payment by the Village to the Consultant includes all applicable federal, state, and Village taxes of every kind and nature applicable to the Services, as well as all taxes, contributions, and premiums for unemployment insurance, old age or retirement benefits, pensions, annuities, or similar benefits, and all costs, royalties, and fees arising from the use on, or the incorporation into, the Services, of patented or copyrighted equipment, materials, supplies, tools, appliances, devices, processes, or inventions. All claims or rights to claim additional compensation by reason of the payment of any such tax, contribution, premium, cost, royalty, or fee are hereby waived and released by the Consultant.

G. Final Acceptance. The Services, or, if the Services are to be performed in separate phases, each phase of the Services, shall be considered complete on the date of final written acceptance by the Village of the Services or each phase of the Services, as the case may be, which acceptance shall not be unreasonably withheld or delayed.

SECTION 4. PERSONNEL: SUBCONSULTANTS.

A. Key Project Personnel. The Key Project Personnel identified in the Proposal shall be primarily responsible for carrying out the Services on behalf of the Consultant. The Key Project Personnel shall not be changed without the Village's prior written approval.

B. Availability of Personnel. The Consultant shall provide all personnel necessary to complete the Services including, without limitation, any Key Project Personnel identified in this Agreement. The Consultant shall notify the Village as soon as practicable prior to terminating the employment of, reassigning, or receiving notice of the resignation of, any Key Project Personnel. The Consultant shall have no claim for damages and shall not bill the Village for additional time and materials charges as the result of any portion of the Services which must be

duplicated or redone due to such termination or for any delay or extension of the Time of Performance as a result of any such termination, reassignment, or resignation.

C. Approval and Use of Subconsultants. The Consultant shall perform the Services with its own personnel and under the management, supervision, and control of its own organization unless otherwise approved in advance by the Village in writing. All subconsultants and subcontracts used by the Consultant shall be acceptable to, and approved in advance by, the Village. The Village's approval of any subconsultant or subcontract shall not relieve the Consultant of full responsibility and liability for the provision, performance, and completion of the Services as required by this Agreement. All Services performed under any subcontract shall be subject to all of the provisions of this Agreement in the same manner as if performed by employees of the Consultant. For purposes of this Agreement, the term "Consultant" shall be deemed also to refer to all subconsultants of the Consultant, and every subcontract shall include a provision binding the subconsultant to all provisions of this Agreement.

D. Removal of Personnel and Subconsultants. If any personnel or subconsultant fails to perform the Services in a manner satisfactory to the Village and consistent with commonly accepted professional practices, the Consultant shall immediately upon notice from the Village remove and replace such personnel or subconsultant. The Consultant shall have no claim for damages, for compensation in excess of the amount contained in this Agreement, or for a delay or extension of the Time of Performance as a result of any such removal or replacement.

SECTION 5. CONFIDENTIAL INFORMATION.

A. Confidential Information. The term "***Confidential Information***" shall mean information in the possession or under the control of the Village relating to the technical, business, or corporate affairs of the Village; Village property; user information, including, without limitation, any information pertaining to usage of the Village's computer system, including and without limitation, any information obtained from server logs or other records of electronic or machine readable form; and the existence of, and terms and conditions of, this Agreement. Village Confidential Information shall not include information that can be demonstrated: (1) to have been rightfully in the possession of the Consultant from a source other than the Village prior to the time of disclosure of such information to the Consultant pursuant to this Agreement ("***Time of Disclosure***"); (2) to have been in the public domain prior to the Time of Disclosure; (3) to have become part of the public domain after the Time of Disclosure by a publication or by any other means except an unauthorized act or omission or breach of this Agreement on the part of the Consultant or the Village; or (4) to have been supplied to the Consultant after the Time of Disclosure without restriction by a third party who is under no obligation to the Village to maintain such information in confidence.

B. No Disclosure of Confidential Information by the Consultant. The Consultant acknowledges that it shall, in performing the Services for the Village under this Agreement, have access, or be directly or indirectly exposed, to Confidential Information. The Consultant shall hold confidential all Confidential Information and shall not disclose or use such Confidential Information without the express prior written consent of the Village. The Consultant shall use reasonable measures at least as strict as those the Consultant uses to protect its own confidential information. Such measures shall include, without limitation, requiring employees and subconsultants of the Consultant to execute a non-disclosure agreement before obtaining access to Confidential Information.

SECTION 6. STANDARD OF SERVICES AND INDEMNIFICATION.

A. Representation and Certification of Services. The Consultant represents and certifies that the Services shall be performed in accordance with the standards of professional practice, care, and diligence practiced by recognized consulting firms in performing services of a similar nature in existence at the Time of Performance. The representations and certifications expressed shall be in addition to any other representations and certifications expressed in this Agreement, or expressed or implied by law, which are hereby reserved unto the Village.

B. Indemnification. The Consultant shall, and does hereby agree to, indemnify, save harmless, and defend the Village against all damages, liability, claims, losses, and expenses (including attorneys' fees) that may arise, or be alleged to have arisen, out of or in connection with the Consultant's performance of, or failure to perform, the Services or any part thereof, or any failure to meet the representations and certifications set forth in Section 6.A of this Agreement.

C. Insurance. The Consultant shall provide, at its sole cost and expense, liability insurance in the aggregate amount of \$1,000,000, which insurance shall include, without limitation, protection for all activities associated with the Services. The insurance shall be for a minimum of \$1,000,000 per occurrence for bodily injury and \$1,000,000 per occurrence for property damage. The Consultant shall cause the Village to be named as an additional insured on the insurance policy described in this Section 6.C. Not later than 10 days after the Commencement Date, the Consultant shall provide the Village with either: (a) a copy of the entire insurance policy; or (b) a Certificate of Insurance along with a letter from the broker issuing the insurance policy to the effect that the Certificate accurately reflects the contents of the insurance policy. The insurance coverages and limits set forth in this Section 6.C shall be deemed to be minimum coverages and limits, and shall not be construed in any way as a limitation on the Consultant's duty to carry adequate insurance or on the Consultant's liability for losses or damages under this Agreement.

D. No Personal Liability. No elected or appointed official or employee

of the Village shall be personally liable, in law or in contract, to the Consultant as the result of the execution of this Agreement.

SECTION 7. CONSULTANT AGREEMENT GENERAL PROVISIONS.

A. Relationship of the Parties. The Consultant shall act as an independent Consultant in providing and performing the Services. Nothing in, nor done pursuant to, this Agreement shall be construed: (1) to create the relationship of principal and agent, employer and employee, partners, or joint venturers between the Village and Consultant; or (2) to create any relationship between the Village and any subconsultant of the Consultant.

B. Conflict of Interest. The Consultant represents and certifies that, to the best of its knowledge: (1) no elected or appointed Village official, employee or agent has a personal financial interest in the business of the Consultant or in this Agreement, or has personally received payment or other consideration for this Agreement; (2) as of the date of this Agreement, neither Consultant nor any person employed or associated with Consultant has any interest that would conflict in any manner or degree with the performance of the obligations under this Agreement; and (3) neither Consultant nor any person employed by or associated with Consultant shall at any time during the term of this Agreement obtain or acquire any interest that would conflict in any manner or degree with the performance of the obligations under this Agreement.

C. No Collusion. The Consultant represents and certifies that the Consultant is not barred from contracting with a unit of state or local government as a result of: (1) a delinquency in the payment of any tax administered by the Illinois Department of Revenue, unless the Consultant is contesting, in accordance with the procedures established by the appropriate revenue act, its liability for the tax or the amount of the tax, as set forth in Section 11-42.1-1 *et seq.* of the Illinois Municipal Code, 65 ILCS 5/11-42.1-1 *et seq.*; or (2) a violation of either Section 33E-3 or Section 33E-4 of Article 33E of the Criminal Code of 1961, 720 ILCS 5/33E-1 *et seq.* The Consultant represents that the only persons, firms, or corporations interested in this Agreement as principals are those disclosed to the Village prior to the execution of this Agreement, and that this Agreement is made without collusion with any other person, firm, or corporation. If at any time it shall be found that the Consultant has, in procuring this Agreement, colluded with any other person, firm, or corporation, then the Consultant shall be liable to the Village for all loss or damage that the Village may suffer, and this Agreement shall, at the Village's option, be null and void.

D. Termination. Notwithstanding any other provision hereof, the Village may terminate this Agreement at any time upon 15 days written notice to the Consultant. In the event that this Agreement is so terminated, the Consultant shall be paid for Services actually performed and reimbursable expenses actually incurred, if any, prior to termination, not exceeding the value of the Services

completed, which shall be determined on the basis of the rates set forth in the Proposal.

E. Compliance With Laws and Grants.

1. Compliance with Laws. The Consultant shall give all notices, pay all fees, and take all other action that may be necessary to ensure that the Services are provided, performed, and completed in accordance with all required governmental permits, licenses, or other approvals and authorizations that may be required in connection with providing, performing, and completing the Services, and with all applicable statutes, ordinances, rules, and regulations, including, without limitation: any applicable prevailing wage laws; the Fair Labor Standards Act; any statutes regarding qualification to do business; any statutes requiring preference to laborers of specified classes; any statutes prohibiting discrimination because of, or requiring affirmative action based on, race, creed, color, national origin, age, sex, or other prohibited classification, including, without limitation, the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 *et seq.*, and the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.* The Consultant shall also comply with all conditions of any federal, state, or local grant received by the Village or the Consultant with respect to this Agreement or the Services. Further, the Consultant shall have a written sexual harassment policy in compliance with Section 2-105 of the Illinois Human Rights Act.

2. Liability for Noncompliance. The Consultant shall be solely liable for any fines or civil penalties that are imposed by any governmental or quasi-governmental agency or body that may arise, or be alleged to have arisen, out of or in connection with the Consultant's, or any of its subconsultants, performance of, or failure to perform, the Services or any part thereof.

3. Required Provisions. Every provision of law required by law to be inserted into this Agreement shall be deemed to be inserted herein.

F. Default. If it should appear at any time that the Consultant has failed or refused to prosecute, or has delayed in the prosecution of, the Services with diligence at a rate that assures completion of the Services in full compliance with the requirements of this Agreement, or has otherwise failed, refused, or delayed to perform or satisfy the Services or any other requirement of this Agreement ("**Event of Default**"), and fails to cure any such Event of Default within ten business days after the Consultant's receipt of written notice of such Event of Default from the Village, then the Village shall have the right, without prejudice to any other remedies provided by law or equity, to pursue any one or more of the following remedies:

1. Cure by Consultant. The Village may require the Consultant, within a reasonable time, to complete or correct all or any part of the Services that are the subject of the Event of Default; and to take any or all other action necessary to bring the Consultant and the Services into compliance with this Agreement.

2. Termination of Agreement by Village. The Village may terminate this Agreement without liability for further payment of amounts due or to become due under this Agreement after the effective date of termination.

3. Withholding of Payment by Village. The Village may withhold from any payment, whether or not previously approved, or may recover from the Consultant, any and all costs, including attorneys' fees and administrative expenses, incurred by the Village as the result of any Event of Default by the Consultant or as a result of actions taken by the Village in response to any Event of Default by the Consultant.

G. No Additional Obligation. The Parties acknowledge and agree that the Village is under no obligation under this Agreement or otherwise to negotiate or enter into any other or additional contracts or agreements with the Consultant or with any vendor solicited or recommended by the Consultant.

H. Village Council Authority. Notwithstanding any provision of this Agreement, any negotiations or agreements with, or representations by the Consultant to, vendors shall be subject to the approval of the Village Council. For purposes of this Section 7.H, "vendors" shall mean entities engaged in subcontracts for the provision of additional services directly to the Village. The Village shall not be liable to any vendor or third party for any agreements made by the Consultant without the knowledge and approval of the Village Council.

I. Mutual Cooperation. The Village agrees to cooperate with the Consultant in the performance of the Services, including meeting with the Consultant and providing the Consultant with such non-confidential information that the Village may have that may be relevant and helpful to the Consultant's performance of the Services. The Consultant agrees to cooperate with the Village in the performance and completion of the Services and with any other consultants engaged by the Village.

J. News Releases. The Consultant shall not issue any news releases, advertisements, or other public statements regarding the Services without the prior written consent of the Village Manager.

K. Ownership. Designs, drawings, plans, specifications, photos, reports, information, observations, calculations, notes, and any other documents, data, or information, in any form, prepared, collected, or received from the Village by the Consultant in connection with any or all of the Services to be performed under this Agreement ("**Documents**") shall be and remain the exclusive property of the Village. At the Village's request, or upon termination of this Agreement, the Consultant shall cause the Documents to be promptly delivered to the Village.

L. GIS Data. The Village has developed digital map information through Geographic Information Systems Technology ("**GIS Data**") concerning the real property located within the Village. If requested to do so by the Consultant,

the Village agrees to supply the Consultant with a digital copy of the GIS Data, subject to the following conditions:

1. Limited Access to GIS Data. The GIS Data provided by the Village shall be limited to the scope of the Services that the Consultant is to provide for the Village;

2. Purpose of GIS Data. The Consultant shall limit its use of the GIS Data to its intended purpose of furtherance of the Services; and

3. Agreement with Respect to GIS Data. The Consultant does hereby acknowledge and agree that:

a. Trade Secrets of the Village. The GIS Data constitutes proprietary materials and trade secrets of the Village, and shall remain the property of the Village;

b. Consent of Village Required. The Consultant will not provide or make available the GIS Data in any form to anyone without the prior written consent of the Village Manager;

c. Supply to Village. At the request of the Village, the Consultant shall supply the Village with any and all information that may have been developed by the Consultant based on the GIS Data;

d. No Guarantee of Accuracy. The Village makes no guarantee as to the accuracy, completeness, or suitability of the GIS Data in regard to the Consultant's intended use thereof; and

e. Discontinuation of Use. At such time as the Services have been completed to the satisfaction of the Village, the Consultant shall cease its use of the GIS Data for any purpose whatsoever, and remove the GIS Data from all of the Consultant's databases, files, and records; and, upon request, an authorized representative of the Village shall be afforded sufficient access to the Consultant's premises and data processing equipment to verify compliance by the Consultant with this Section 7.L.3.e.

SECTION 8. GENERAL PROVISIONS.

A. Amendment. No amendment or modification to this Agreement shall be effective until it is reduced to writing and approved and executed by the Village and the Consultant in accordance with all applicable statutory procedures.

B. Assignment. This Agreement may not be assigned by the Village or by the Consultant without the prior written consent of the other party.

C. Binding Effect. The terms of this Agreement shall bind and inure to the benefit of the Village, the Consultant, and their agents, successors, and assigns.

D. Notice. All notices required or permitted to be given under this Agreement shall be in writing and shall be delivered (1) personally, (2) by a reputable overnight courier, or by (3) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid. Unless otherwise expressly provided in this Agreement, notices shall be deemed received upon the earlier of: (a) actual receipt; (b) one business day after deposit with an overnight courier, as evidenced by a receipt of deposit; or (c) four business days following deposit in the U.S. mail, as evidenced by a return receipt. By notice complying with the requirements of this Section 8.D, each party shall have the right to change the address or the addressee, or both, for all future notices and communications to the other party, but no notice of a change of addressee or address shall be effective until actually received.

Notices and communications to the Village shall be addressed to, and delivered at, the following address:

Village of Winnetka
510 Green Bay Road
Winnetka, Illinois 60093
Attention: Village Manager

With a copy to:

Elrod Friedman, LLP
325 N. LaSalle Street, Suite 450
Chicago, Illinois 60654
Attention: Peter M. Friedman

Notices and communications to the Consultant shall be addressed to, and delivered at, the following address:

With a copy to:

E. Third Party Beneficiary. No claim as a third party beneficiary under this Agreement by any person, firm, or corporation shall be made or be valid against the Village.

F. Provisions Severable. If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

G. Time. Time is of the essence in the performance of all terms and provisions of this Agreement.

H. Calendar Days and Time. Unless otherwise provided in this Agreement, any reference in this Agreement to "day" or "days" shall mean calendar days and not business days. If the date for giving of any notice required to be given, or the performance of any obligation, under this Agreement falls on a Saturday, Sunday, or federal holiday, then the notice or obligation may be given or performed on the next business day after that Saturday, Sunday, or federal holiday.

I. Governing Laws. This Agreement shall be governed by, construed and enforced in accordance with the internal laws, but not the conflicts of laws rules, of the State of Illinois.

J. Authority to Execute.

1. **The Village.** The Village hereby warrants and represents to the Consultant that the persons executing this Agreement on its behalf have been properly authorized to do so by its corporate authorities.

2. **The Consultant.** The Consultant hereby warrants and represents to the Village that the persons executing this Agreement on its behalf have the full and complete right, power, and authority to enter into this Agreement and to agree to the terms, provisions, and conditions set forth in this Agreement and that all legal actions needed to authorize the execution, delivery, and performance of this Agreement have been taken.

K. Entire Agreement. This Agreement constitutes the entire agreement between the parties to this Agreement and supersedes all prior agreements and negotiations between the parties, whether written or oral, relating to the subject matter of this Agreement.

L. Waiver. Neither the Village nor the Consultant shall be under any obligation to exercise any of the rights granted to them in this Agreement except as it shall determine to be in its best interest from time to time. The failure of the Village or the Consultant to exercise at any time any such rights shall not be deemed or construed as a waiver of that right, nor shall the failure void or affect the Village's or the Consultant's right to enforce such rights or any other rights.

M. Consents. Unless otherwise provided in this Agreement, whenever the consent, permission, authorization, approval, acknowledgement, or similar indication of assent of any party to this Agreement, or of any duly authorized officer, employee, agent, or representative of any party to this Agreement, is required in this Agreement, the consent, permission, authorization, approval, acknowledgement, or similar indication of assent shall be in writing.

N. Grammatical Usage and Construction. In construing this Agreement, pronouns include all genders and the plural includes the singular and vice versa.

O. Interpretation. This Agreement shall be construed without regard to the identity of the party who drafted the various provisions of this Agreement. Moreover, each and every provision of this Agreement shall be construed as though all parties to this Agreement participated equally in the drafting of this Agreement. As a result of the foregoing, any rule or construction that a document is to be construed against the drafting party shall not be applicable to this Agreement.

P. Headings. The headings, titles, and captions in this Agreement have been inserted only for convenience and in no way define, limit, extend, or describe the scope or intent of this Agreement.

Q. Exhibits. Exhibits A through ____ attached to this Agreement are, by this reference, incorporated in and made a part of this Agreement. In the event of a conflict between an Exhibit and the text of this Agreement, the text of this Agreement shall control.

R. Rights Cumulative. Unless expressly provided to the contrary in this Agreement, each and every one of the rights, remedies, and benefits provided by this Agreement shall be cumulative and shall not be exclusive of any other rights, remedies, and benefits allowed by law.

S. Counterpart Execution. This Agreement may be executed in several counterparts, each of which, when executed, shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this Agreement this _____ day of _____, 20__.

ATTEST:

VILLAGE OF WINNETKA

By: _____
Village Clerk

By: _____
Village President

ATTEST:

CONSULTANT

By: _____

By: _____

Title: _____

Its: _____

EXHIBIT A
PROPOSAL

[TO BE PREPARED BY CONSULTANT AND ACCEPTABLE TO VILLAGE]
[SHALL INCLUDE SCHEDULE]



1485 Louis Bork Drive, Unit #113
Batavia, IL 60510
630-762-2400 Fax 630/578-1304
www.glurbanforestry.com

February 13, 2023

Village of Winnetka
1390 Willow Road
Winnetka, IL 60093
847-716-3289

alueck@winnetka.org

ATTN: Andrew Lueck, Village Forester

RE: Proposal for Forestry Consulting Services

Andrew:

The following is a proposal to provide Forestry Consulting services for the Village of Winnetka, IL for ten months, beginning on March 1, 2023 and ending on December 31, 2023.

Having provided these same services for many municipalities in Northeast Illinois and Northwest Indiana, Great Lakes Urban Forestry Management is very familiar with the urban forest in the area and recognizes Winnetka's commitment to maintain and improve that resource. We also realize that in some matters the Village and its residents require the opinion or evaluation of an independent urban forestry expert with no vested interest in the outcome of an accurate and honest tree valuation, calculated damages, tree protection plan, or risk assessment of trees on either Public or Private property.

Since maintaining the integrity of the Urban Forestry Program in Winnetka is a priority, we propose that the Village engage Great Lakes Urban Forestry Management to assist with these forestry consulting services. The following proposal outlines the details of this arrangement, as well as providing pricing for these services.

Sincerely,



Phil Graf
Consulting Municipal Arborist
Great Lakes Urban Forestry Management
ISA Certified Arborist/Municipal Specialist
Certification ID# IL-1553-AM

Overview

Great Lakes Urban Forestry Management has extensive expertise in the fields of Tree Inventory, GIS Technology and Geospatial Data Management, Plant Pathology and Plant Health Care, Municipal Urban Forestry, Arboricultural Consulting, Specification Development, and Public Outreach and Education. We are staffed with Certified Arborists, Board Certified Master Arborists, Municipal Specialists, and Tree Risk Assessment Qualified (TRAQ) employees and American Society of Consulting Arborists (ASCA) members. Our extensive staff qualifications and experience in all facets of Arboriculture set us apart from other consulting firms who do not specialize in all these areas. We maintain continuing education as a high priority and have pioneered techniques of using GIS for reforestation planning and incorporating TRAQ concepts into our tree evaluation methods.

The RFP put out by the Village is requesting that a single consultant (arborist) is assigned to the Village, and should remain the same throughout the duration of the contract. Due to the diverse nature of the expertise of our staff, we propose a team-based approach. We understand and agree that a single point of contact is necessary for communications and documentation, we would like to offer a slight variance to the requested approach. Our lead urban forestry consultant, Steve Lane, will be the staff member assigned to this project an anticipated 70%+ of the time, and will be the single point of contact. Steve grew up less than 5 miles north of Winnetka on Green bay road in the Ravinia neighborhood of Highland Park, where he graduated Highland Park High School in 1997. He has a wide range of skills as an Arborist, GIS Data Manager, Consultant, and Risk Manager, is well known in the Arboricultural community as Past President of the Illinois Arborist Association, and understands the culture and concerns of the North Shore and its residents and unique bluff ecosystems better than many Arborists who engage in this type of work.

There may however be reasons such as personal vacation time or occasional conflicting schedules he may not be available. In these cases, in order to perform the high-level consulting work such as Tree Risk Assessments and Appraisals, and interaction with the public, we also have 3 other Arborists who also perform this exact same kind of work as municipal consultants, and all with over 15 years of experience in the field, as noted in the personnel section below. Leslie Delles (currently serving as the forestry consultant in Lincolnwood and Chicago Heights), Jim Semelka (Currently serving as the forestry consultant in Oak Park, LaGrange, Alsip, and Beford Park), and Heather Stevenson (currently serving as the forestry consultant in Western Springs and Roselle) from our staff can easily fill in for a day when needed, and all have extensive municipal forestry experience in the communities listed and more. In addition, there may be some tasks for which we want to bring the most qualified staff in for. An example of such a case might be for Resistograph measurements on a tree, where Jon Carlson, our lead tree risk assessor, has extensive training on the use of that tool and its analysis, and can provide the highest level of service. Or if tree inventory updates are necessary, our lead tree inventory foreman Cherry Countryman might step in, or if a complex pest diagnosis is needed, our pathologist and Board Certified Master Arborist Zachary King could step in for that assignment.

We will honor the spirit of the arrangement and have a single point of contact and primary consultant, and Steve will be the staff member you will have access to for the vast majority of the contract. Even when he may need a surrogate for a day, the communication can still be through Steve. That said, we do just want to be transparent about the reality of these contracts, that sometimes it is necessary due to schedule, or even desirable due to the nature of the task at hand, to have a different staff member assisting you. We want to be abundantly clear on this point, and believe that this approach is actually a benefit to Winnetka's urban forestry program overall. We are certainly willing to discuss the finer points of such arrangement with your staff in order for you to feel comfortable with it if you have any concerns about this approach.

Steve's professional CV can be found at the end of this proposal document.

Staff Qualifications and Certifications

Below are the Qualifications and Certifications held by the Great Lakes Staff members that will be available to provide services for the Village of Winnetka.

STEVE LANE – Certified Arborist # IL-4565A (TRAQ) – 13 Years with GLUFM – INDUSTRY

EXPERIENCE: 19 Years Total

ROLE: Lead Consulting Arborist/GIS Coordinator/Management Planning Staff

BACKGROUND: Steve is the GIS Coordinator and Ecologist, and founder of our consulting division, and has been in the tree care and environmental industry for over 19 years. He has been an ISA Certified Arborist for 18 years and is a Qualified Tree Risk Assessor (TRAQ). He holds a Bachelor of Science from the University of Oregon, with a Major in Environmental Science, and a double-minor in Geography and Biology. He also holds a GIS Certificate through Elmhurst College and is also a member of the CRTI Urban Forest Composition workgroup. He is also the Past President of the Illinois Arborist Association, where he is the chairman of the Advanced Training Program and teaches Advanced Training classes and is a member of the American Society of Consulting Arborists (ASCA). Steve has worked performing tree surveys, consulting forestry, plant health care, traditional tree care, GIS mapping, wetland delineation, and ecological restoration in his career.

JIM SEMELKA – Certified Arborist #IL-0732AM (Municipal Specialist) – 6 Years with GLUFM –

INDUSTRY EXPERIENCE: 46 Years Total

ROLE: Municipal Consultant/Support Staff/Management Planning Staff

BACKGROUND: Jim is a full time staff member, and brings over 40 years of private sector and municipal urban forest management experience to GLUFM. He has a Bachelor's Degree in Forest Resource Management from Southern Illinois University, has been an ISA Certified Arborist for nearly 30 years, and an ISA Municipal Specialist. He served as the Village Forester for the Village of La Grange and as the Urban Forestry Superintendent with the Village of Oak Park before leaving municipal work for the private sector. Jim's municipal management experience includes establishing complete tree inventories, creating long term, contract-driven pruning cycles, forming municipal level pest management programs, municipal tree planting programs, and serving as Liaison to Forestry Commissions and Municipal Boards. He was President of the Suburban Tree Consortium and has been active in the Illinois Arborist Association for many years, serving as Municipal Chair, Program Chair, and is the Past President of the IAA.

STEVE LUDWIG – Board Certified Master Arborist #IL-0657BM (Municipal Specialist) – 1.5 Years with

GLUFM INDUSTRY EXPERIENCE: 32 Years Total

ROLE: Municipal Consultant/Support Staff

BACKGROUND: Steve is a part-time staff member who spent more than 30 years in the public works industry and has managed dynamic and effective public works teams for over 25 years. Steve was the Village Arborist for the Village of Algonquin for 26 years and is well-versed in all aspects of large-scale tree management. Steve navigated the Village through the Emerald Ash Borer crisis, Gypsy Moth infestations, and all other programmatic aspects of municipal forestry including, training, budgeting, capital improvements, specifications writing, and team leadership. Steve also has experience managing many other types of public work's processes and teams. Steve brings his wealth of practical knowledge and management experiences to his consulting efforts. Steve has historically held an EPA water operator's license, is currently a Board-Certified Master Arborist, a Municipal Specialist, and holds a Class A CDL. He is the past president of the Illinois Arborist Association (and has served that organization in many elected positions for the last 15 years), is a past member of Council of Representatives and the Certification Liaison Chair for the International Society of Arboriculture. He is also a regional winner of the American Public Works Association Donald C. Stone Award for Excellence in Education.

LESLIE DELLES – Certified Arborist #IL-9199AM (Municipal Specialist / TRAQ) – 9 Years with GLUFM –

INDUSTRY EXPERIENCE: 21 Years Total

ROLE: Supervisor/Project Manager/GIS Assistant/Management Planning Staff

BACKGROUND: Leslie is a full-time staff member, consulting arborist, GIS assistant, and project manager. She has been in the environmental and tree care industry for over 20 years, and is an ISA Certified Arborist and Municipal Specialist with a TRAQ Qualification. She holds a Bachelor's Degree in Earth Science from Northeastern Illinois

University, and was previously employed for over 12 years by the US Department of Agriculture's APHIS (Animal and Plant Health Inspection Service), where her extensive experience dates back to surveying Asian Longhorned Beetle. She has also worked on APHIS's monitoring and control of Gypsy Moth and Emerald Ash Borer, among other insect pests. She works as a contract city forester in several communities, and serves as our field team coordinator and project manager for inventory projects.

ZAC KING – Board Certified Master Arborist #IL-4615B (Board Certified Master Arborist) 9 Years with GLUFM – INDUSTRY EXPERIENCE: 19 Years Total

ROLE: PHC Coordinator/Plant Pathologist/Urban Forestry Inventory Technician

BACKGROUND: Zac is a full-time staff member, consulting arborist, tree inventory data collector, and also manages Graf Tree Care's Plant Health Care Division. He has been an ISA Board Certified Master Arborist (BCMA) for 6 years. He holds a Bachelor of Science in Integrated Biology from Northern Illinois University, has self-published tree identification guides and competed in the Illinois tree climbing competition. Zac has been performing tree surveys and has been a plant health care specialist in the private sector for over 19 years. His in-depth knowledge of pests and pathogens and general tree care provides a specialized knowledge base, and he can rapidly diagnose tree ailments as well as provide detailed remediation methods and techniques. As a pathologist with a solid background in traditional tree care and tree surveys, he brings a much-needed skill to the table when it comes to Urban Forestry.

JON CARLSON – Certified Arborist # IL-1135AM (Municipal Specialist/TRAQ) 4 Years with GLUFM – INDUSTRY EXPERIENCE: 43 Years Total

ROLE: Tree Risk Consultant/Urban Forestry Inventory Technician

BACKGROUND: Jon is a full-time staff member, and our Tree Risk Manager, with over 40 years of professional experience in arboriculture and open space management. He has been an ISA Certified Arborist for over 27 years and has the ISA TRAQ qualification and Municipal Specialist certification. Jon received his Bachelor of Science in Biological Aspects of Conservation from the University of Wisconsin-Madison. In his career he has been the Dutch Elm Disease Technician for the City of Monona, Wisconsin, the Supervisor of Arboriculture at Fox Valley Park District, the Superintendent of Parks and Planning for Bartlett Park District, and the Special District Administrator for the City of Colorado Springs, Colorado. Jon's extensive municipal and park experience provides in-depth tree risk management consultation to municipalities, park districts, school districts and private property owners; he conducts tree inventories, prepares inventory and risk management reports for clients, and teaches Certified Arborist training classes.

CHERRY COUNTRYMAN – Certified Arborist # IL-9789AM (Municipal Specialist/TRAQ) 4 Years with GLUFM – INDUSTRY EXPERIENCE: 10 Years Total

ROLE: Urban Forestry Inventory Technician

BACKGROUND: Cherry Countryman is a full-time staff member at GLUFM, municipal consultant, and tree inventory data collector. She holds a Bachelor of Science in Natural Resource Management from the College of Environmental Science and Forestry of Syracuse University, and has been active in the environmental community for the past 10 years. Cherry has previously been employed with the Research Foundation for the State University of New York collecting data for seedling regeneration studies in the Adirondack mountains. Cherry also collected data using variable point sampling for the Forest Operations department for a research facility in the Adirondacks. She has also taught field dendrology to summer students at the Ranger School in New York.

TODD WHITE – Certified Arborist # IL-1244A 4 Years with GLUFM – INDUSTRY EXPERIENCE: 24 Years Total

ROLE: PHC Technician/Plant Pathologist/Urban Forestry Inventory Technician

BACKGROUND: Todd is a full time staff member at Great Lakes Urban Forestry, and is also one of our Plant Pathologists. With over 20 years of experience in the field of Arboriculture, Todd has worked for a variety of organizations over the years as both a manager and a practitioner in all facets of Arboriculture. He has participated in many tree inventories since joining our team, and brings a seasoned veteran viewpoint to inventories, and is key in our identification of various pathogens and pests. Todd is also a member of our Restoration Ecology crew, where he participates in controlled burning in woodlands and prairies.

BRENT KNEPPER – Certified Arborist #IL-9873A – 2 Years with GLUFM – INDUSTRY EXPERIENCE: 8 Years Total

ROLE: Urban Forestry Inventory Technician

BACKGROUND: Brent is a full-time staff member and has been in the environmental sector for the past 8 years since graduating from Columbia College. His experience comes from a lot of program coordination and field work in sustainable agriculture, native landscaping, and permaculture installations, which brings the urban farming lens into our overall staff perspective when viewing trees as a component of the larger ecosystem. He has also worked for the Chicago Park District. Along with his Certified Arborist license, Brent also holds a red card for performing ecological prescribed burns and holds his Master Naturalist Certification through the University of Chicago. He continues to be a volunteer in his spare time with the Cook County Forest Preserve District, Openlands, and Chicago Wilderness, among others.

HEATHER STEVENSON – Certified Arborist #IL4613A - 1 Year with GLUFM – INDUSTRY EXPERIENCE: 23 Years Total

ROLE: Consulting Municipal Arborist/Urban Forestry Inventory Technician

BACKGROUND: Heather is a full-time staff member, Consulting Municipal Forester, and tree inventory technician for Great Lakes Urban Forestry. She has been in the field of Arboriculture for 23+ years with experience in both the public and private sectors. Heather began her career in arboriculture as a plant health care specialist/foreman, bringing experience and knowledge in diagnosing tree pathogens and insects. Most recently, as past Village Forester for the Village of Oak Lawn, Heather has extensive experience and knowledge with municipal tree needs and requirements. Heather's municipal management experience includes establishing planting cycles/programs, creating/maintaining long and short term contracts for trees and landscaping, coordinating grant applications and work, coordinating special events (i.e. Arbor Day events), creating tree pruning cycles for maintenance and reducing storm responses, diagnosing and treating trees, community education/publications, liaison for Green Team (community advocate group). Her years of vast experience and knowledge provide a well-rounded and expert approach to urban forestry.

PHIL GRAF – Certified Arborist #IL 1553-AM (Municipal Specialist/ TRAQ) – 24 Years with Graf Tree Care/GLUFM - INDUSTRY EXPERIENCE: 30 Years Total

ROLE: Company Founder/President

BACKGROUND: Phil is the founder and owner of Graf Tree Care/GLUFM and has been in the tree care industry for over 30 years. He is an ISA Certified Arborist, Tree Risk Assessment Qualified, and also an ISA Certified Municipal Specialist. He has worked for the City of Wheaton in the Forestry Division, where he gained valuable experience working in a municipal setting. He founded Graf Tree Care in 1999, specializing in tree trimming, removal, Urban Forestry consulting, tree inventory, plant health care, and planning. He has been instrumental in Emerald Ash Borer management, having worked with countless municipalities, park districts, businesses, and homeowners to survey their tree populations and provide custom tailored strategies to manage the Emerald Ash Borer. Phil's unique perspective as an arborist, municipal specialist, and business owner who has worked in both the public and private sectors in all facets of arboriculture make him an expert in the field.

Scope of Services

Outlined below is a list of Primary Services that Great Lakes agrees to provide for the Village of Winnetka.

Tree Preservation

- Review permit plans for potential impacts to private and public trees through construction-related activities and provide comments, methods of mitigation and/or recommendations to preserve trees in accordance with Village regulations and best management practices
- Visit construction sites to verify tree protection measures are in place prior to construction
- Conduct inspection of active construction sites to assess adherence to Village tree preservation standards
- Work with Village staff to implement best management practices and streamline the tree removal/protection processes for development review

Parkway Tree Inventory

- Update the inventory of Village-owned trees, including, but not limited to tree location, species, size, management recommendations and maintenance activity log
- Utilize existing Village tree inventory in ArcGIS Online

Consultant Oversight

- Assist Village Forester with oversight of Forestry contractors, including those related to tree planting, pruning, removal and insect/disease treatment to assure compliance with ANSI standards and contract specifications
- Assist in preparation of work lists (tree removals, pruning, insect/disease management) for services to be completed by Forestry contractors

Community Outreach

- Accurately represent the Village and answer questions, review plans and assist citizens in person at the public counter, on the phone or by email
- Provide excellent customer service, remain flexible with job duties, be proactive and take initiative with assigned projects
- Assist with development of community engagement and educational materials

Parkway Tree Inspection and Risk Assessment

- Provide inspections and risk assessments of Village-owned trees, including recommendations for removal or maintenance
- Inspect trees for disease and insect issues and recommend treatments
- Report on tree conditions, both orally and in written form

Permitting and Code Enforcement

- Inspect private trees for compliance with Village code regarding nuisance trees and work with property owners where non-compliance is observed to obtain compliance
- Process tree removal permit applications for private trees

We will keep daily records of the Services completed on forms furnished by the Village or on forms acceptable by the Village and all other reports the Village deems necessary. Our records will be turned into the Village Forester following the completion of each work week.

We shall perform the Services during normal business hours of 7:00 a.m. to 3:30 p.m., Monday through Friday, except holidays, unless otherwise authorized by the Village. Specific work days and hours shall be coordinated between the Consultant and Village Forester.

Services Not Included

Any participation in the physical removal, replacement, or maintenance of trees not directly related to training activities are not included in this proposal. Large scale tree Inventory projects, inventory updates, or data conversions will be quoted on a “per tree” basis.

References for Similar Forestry Consulting Arrangements

CLEINT	CONTACT PERSON	E-MAIL ADDRESS	PHONE #	HOURLY RATE
Village of LaGrange	Richard Colby, Director of Public Works	rcolby@lagrangeil.gov	708-579-2300	\$95
Village of Western Springs	Chris Breaky, Superintendent of Public Works	cbreakypw@wsprings.com	708-246-1800 Ext. 207	\$95
Village of Roselle	Karen Young, Director of Pubic Works	kayoung@roselle.il.us	630-671-2365	\$95
City of Chicago Heights	Karen Zerate, Chief of Staff	kzerante@chicagoheights.net	708-756-5315	\$95
Village of Alsip	Mike Fraider, Superintendent of Streets	mfraider@villageofalsip.org	708-385-6902 ext. 364	\$95
Village of Lincolnwood	Nadim Badran, Director of Public Works	nbadran@lwd.org	847-745-4859	\$95
City of LaPorte, IN	Nick Minich, City Engineer	nminich@cityoflaportein.gov	219-362-2327	\$95
Village of South Barrington	Robert Palmer, Village Adminsitrator	rpalmer@southbarrington.org	847-381-7510	\$95
Village of Orland Park	Mike Mazza, Operations Manager	mmazza@orlandpark.org	708-403-6108	\$95

Fee Schedule

The hourly rate proposed for the above services is **\$95/hr.**

GRAF TREE CARE, INC. (DBA GREAT LAKES URBAN FORESTRY MANAGEMENT) will consider your signing and returning one (1) original of this Agreement as our authorization to proceed. This offer to provide services will remain valid for a period of 30 days from the date as indicated below, after which time if it has not been accepted it will be subject to change. Thank you again for the opportunity to submit our proposal.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year below written.

CLIENT

CONSULTANT:

VILLAGE OF WINNETKA

GRAF TREE CARE, INC.

BY: _____

BY: 

TITLE: _____

TITLE: Presdent/Owner

DATE: _____

DATE: 2/13/23

Stephen D. Lane

341 N River Glen Road
Elmhurst, IL
(224) 433-1124
steve@graftreecare.com

EDUCATION

Bachelor of Science – 2004, University of Oregon. Eugene, Oregon. Double-Major: Environmental Science / Geography, Minor: Biology

WORK HISTORY

Graf Tree Care / Great Lakes Urban Forestry – Batavia, IL
Principal / Urban Forestry Consultant – April 2010 to Present

Cowhey Gudmundson Leder Ltd – Itasca, IL
Staff Forester / Environmental Scientist - April 2008 - April 2010

ArborGreen Ltd – Glenview, IL
Natural Resources Department Foreman – November 2004 – April 2008

PROFESSIONAL ORGANIZATIONS

Illinois Arborist Association (IAA) – CoR Representative (2023), Co-Chair: Advanced Training Committee (2016-Present), Past President (2019), Commercial Chair (2016), Advanced Training Chair (2016-2020)

American Society of Consulting Arborists (ASCA) – Member (since 2020), Editorial Board (2022-23)

International Society of Arboriculture (ISA) – Member (since 2005), CoR Representative (2023)

Indiana Arborist Association (INAA) – Member (since 2017)

ISA Michigan – Member (since 2017)

Illinois GIS Association – Member (Since 2012), Education Committee (2023-24)

REPRESENTATIVE PROFESSIONAL SPEAKING/EDUCATION SEMINARS TAUGHT

<u>Year</u>	<u>Organization</u>	<u>Location</u>	<u>Topic</u>
2016-2023	IAA	Various	Certified Arborist preparation courses taught at chapter level, I teach Biology, Soils, Urban Forestry, and Risk Management
2023	Illinois Green Industry Association	Schaumburg, IL	Beyond the Shade: The Science and Business of Arboriculture
2022	IL Public Works Mutual Aid Network (IPWMAN)	Bloomington, IL	Introduction to Tree Risk Assessment
2022	ISA Midwest	Omaha, NE	Urban Forestry Management Planning
2020	IAA	Chicago, IL	Tree Risk Assessment in the Urban Environment
2020	IL GIS Assn	Champaign, IL	Use of GIS in Urban Forestry
2019	ISA	Knoxville, TN	Public Relations in Arboriculture
2019	IAA	Chicago, IL	Summer Tree Identification
2018	IAA	Chicago, IL	Tree Inventory Strategies: IAA Advanced Training
2018	ISA Michigan	Lansing, MI	Reforestation Planning and Geographic Information Systems

2017	Minnesota Society of Arboriculture	Minneapolis, MN	Vegetation History and Ecosystem Dynamics
2017	IAA	Chicago, IL	Urban Forestry Management Planning
2016	ISA	Ft. Worth, TX	Reforestation Planning and GIS
2016	IAA	Chicago, IL	3D Tree Canopy Analysis
2015	IAA	Chicago, IL	Tree Planting Methods and Selection: IAA Advanced Training
2014	IAA	Chicago, IL	Species Requirements: IAA Advanced Training
2013	ESRI	San Diego, CA	Use of GIS in Urban Forestry Planning

Additional teaching and public speaking references available upon request

PUBLICATIONS

Lane, Stephen. 2022. *Location, Location, Location – Decoding GPS language for Consultants*. The Consultant, Volume 55, Issue 3. Forest Hill, MD: American Society of Consulting Arborists

Lane, Stephen. 2020. *Evaluating Species Requirements*. Illinois Arborist Association Advanced Training Articles. Antioch, IL: Illinois Arborist Association.

Lane, Stephen. 2017. *Advanced Training Opportunities for Arborists in Illinois*. Illinois Arborist Association Newsletter. Antioch, IL: Illinois Arborist Association

Lane, Stephen. 2017. *Deployment of the Urban Forest Strike Team in Ottawa, IL*. Illinois Arborist Association Newsletter. Antioch, IL: Illinois Arborist Association.

RELEVANT SKILLS

- Tree risk assessments
- Tree appraisal for loss
- Plant pathology
- Tree surveys on public and private lands
- Urban forestry management planning
- Forestry stewardship planning
- Hard science and research background
- Familiar with etiquette in depositions and trials
- Worked relatively evenly for both plaintiffs and defendants
- Ability to maintain impartiality under pressure
- GIS Mapping Software expertise for creation of detailed map exhibits and diagrams
- ISA Certified Arborist with over 15 years of experience
- IAA Board Member and Past President
- Excellent written and verbal communication skills
- 10 years of experience public speaking in sometimes difficult environments

CERTIFICATIONS / QUALIFICATIONS

ISA Certified Arborist – 2005-Present

ISA Tree Risk Assessment Qualification – 2015-Present

GIS Certificate – Elmhurst College – 2012



Agenda Item Executive Summary

TITLE: Resolution No. R-37-2023: Awarding a Contract to Advanced Tree Care, Inc. for Tree Watering Services (Adoption)

PRESENTER: Andrew Lueck

AGENDA DATE: March 21, 2023

CONSENT: Yes

ITEM TYPE: Consent Agenda

ITEM HISTORY:

The FY 2023 Village budget contains \$33,000 for the Parkway Tree Watering Program in account 100.35.26-545.

EXECUTIVE SUMMARY:

On February 17, 2023, the Village held a bid opening for the 2023 Parkway Tree Watering Program. This is a one year contract with the possibility of an extension through 2024 and 2025 if both the Village and contractor are agreeable. The program includes the watering of approximately 200 Village-owned parkway trees in order to help ensure the survival and success of newly-planted trees. 100 of the trees were planted in the fall of 2022, with another 100 to be planted in the spring of 2023. The trees will be visited weekly during the growing season, for a total of approximately 5,200 watering stops to be made in 2023. Five firms responded to the request, and their bids are summarized as follows:

- Advanced Tree Care - \$5.00 per stop. \$26,000.00 total cost.
- Alvarez, Inc. - \$9.28 per stop. \$48,256.00 total cost.
- Robert Kinnucan Tree Experts and Landscaping Company, Inc. - \$10.90 per stop. \$56,680.00 total cost.
- Pedro Henriquez - \$21.50 per stop. \$111,800.00 total cost.
- Langton Group - \$25.15 per stop. \$130,780.00 total cost.

Advanced Tree Care was the lowest bidder on a per stop and total cost basis. The Village of Winnetka has been under contract since 2018 with Advanced Tree Care on the Parkway Tree Pruning Contract as well as the Parkway Tree Removal and Restoration contract. Work under both of these contracts has thus far been completed in a satisfactory manner.

Based on the above information, Village staff recommends awarding the 2023 Parkway Tree Watering Program contract to Advanced Tree Care. Resolution No. R-37-2023 awards a contract to Advanced Tree Care for the Parkway Watering Program for an amount not to exceed \$26,000 in 2023.

RECOMMENDATION:

Consider adopting Resolution No. R-37-2023, awarding a contract to Advanced Tree Care for an amount not to exceed \$26,000 in 2023, with the option to extend the contract into 2024 and 2025.

ATTACHMENTS:

1. Resolution No. Resolution R-37-2023: Awarding a Contract to Advanced Tree Care, Inc. for Tree Watering Services
2. 2023 Parkway Tree Watering Program Bid Tab

**A RESOLUTION AWARDING A CONTRACT TO
ADVANCED TREE CARE, INC. FOR TREE WATERING SERVICES**

WHEREAS, Article VII, Section 10 of the 1970 Illinois Constitution authorizes the Village of Winnetka ("***Village***") to contract with individuals, associations, and corporations in any manner not prohibited by law or ordinance; and

WHEREAS, the Village has appropriated funds for the watering of Village-owned parkway trees in 2023 ("***Work***"); and

WHEREAS, the Village requested bids for the performance of the Work; and

WHEREAS, the Village received bids for the Work from five bidders; and

WHEREAS, pursuant to Chapter 4.12 of the Village Code and the Village's purchasing manual, the Village Council has determined that Advanced Tree Care, Inc. ("***Contractor***") is the lowest responsible bidder for the Work; and

WHEREAS, the Village Council desires to enter into a contract with Contractor for Contractor to perform the Work in an amount not to exceed \$26,000.00 ("***Contract***"); and

WHEREAS, the Village Council has determined that it is in the best interests of the Village and its residents to award the Contract to Contractor;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Village of Winnetka, Cook County, Illinois, as follows:

SECTION 1: RECITALS. The Village Council adopts the foregoing recitals as its findings, as if fully set forth herein.

SECTION 2: APPROVAL OF CONTRACT. The Village Council hereby approves the Contract in substantially the form attached as **Exhibit A**, and in a final form approved by the Village Attorney.

SECTION 3: AUTHORIZATION TO EXECUTE CONTRACT. The Village Council hereby authorizes and directs the Village President and the Village Clerk to execute and attest, respectively, on behalf of the Village, the final Contract.

SECTION 4: AUTHORIZATION TO EXERCISE OPTION TO EXTEND CONTRACT. The Village Council hereby authorizes the Village Manager to exercise, on behalf of the Village, the renewal options of the Contract ("***Extensions***") for 2024 and 2025 if: (a) the Village Manager determines, in their discretion, that the Extensions are favorable to the Village; and (b) the Extensions are substantially similar to the extensions set forth in the Contract. This Resolution is not to be deemed or interpreted as obligating the Village Manager to execute the Extension.

SECTION 5: EFFECTIVE DATE. This Resolution shall be in full force and effect from and after its passage and approval according to law.

ADOPTED this 21st day of March 2023, pursuant to the following roll call vote:

AYES: _____
NAYS: _____
ABSENT: _____
ABSTAIN: _____

Signed

Village President

Countersigned:

Village Clerk

EXHIBIT A
CONTRACT

**VILLAGE OF WINNETKA
CONTRACT FOR 2023 PARKWAY TREE WATERING PROGRAM**

BID PACKAGE

BIDDER'S SWORN WORK HISTORY STATEMENT

Advanced Tree Care ("Deponent"), being first duly sworn on oath, deposes and states that all statements made in this Sworn Work History Statement are made on behalf of the undersigned Bidder in support of its Bidder's Proposal for the above Contract and that Deponent is authorized to make them.

Deponent also deposes and states that Bidder has carefully prepared, reviewed and checked this Sworn Work History Statement and that the statements contained in this Sworn Work History Statement are true and correct.

IF NECESSARY FOR FULL DISCLOSURE, ADD SEPARATE SHEETS

**JOINT VENTURES MUST SUBMIT SEPARATE
SWORN WORK HISTORY STATEMENTS FOR THE JOINT VENTURE
AND FOR EACH SIGNATORY TO THE JOINT VENTURE AGREEMENT**

1. Nature of Business

State the nature of Bidder's business: Tree care

2. Composition of Work

During the past three years, Bidder's work has consisted of:

____ % Federal	<u>100</u> % As Contractor	____ % Bidder's Forces
<u>30</u> % Other Public	____ % As Subcontractor	____ % Subcontractors
<u>70</u> % Private		____ % Materials

3. Years in Business

State the number of years that Bidder, under its current name and organization, has been continuously engaged in the aforesaid business: 17 years

4. Predecessor Organizations

If Bidder has been in business under its current name and organization for less than five years, list any predecessor organizations:

<u>NAME</u>	<u>ADDRESS</u>	<u>YEARS</u>
_____	_____	_____
_____	_____	_____

5. Business Licenses

List all business licenses currently held by Bidder:

<u>ISSUING AGENCY</u>	<u>TYPE</u>	<u>NUMBER</u>	<u>EXPIRATION</u>
_____	_____	_____	_____
_____	_____	_____	_____

6. Related Experience

List three projects most comparable to the Work completed by Bidder, or its predecessors, in the past five years:

	<u>PROJECT ONE</u>	<u>PROJECT TWO</u>	<u>PROJECT THREE</u>
Owner Name	<u>VILLAGE of</u> <u>SCHAUMBURG</u>	<u>NORTHBROOK</u> <u>PUBLIC WORKS</u>	<u>VILLAGE of</u> <u>WHEELING</u>
Owner Address	<u>101 Schaumburg Rd</u> <u>Schaumburg IL 60193</u>	<u>655 HUEL Rd</u> <u>Northbrook, IL</u>	<u>77 W. Hintz Rd</u> <u>WHEELING, IL 60090</u>
Reference	<u>JUSTIN BRISKI</u>	<u>TERRY CICHOCKI</u>	<u>VINCE HOFFMAN</u>
Telephone Number	<u>847-274-7950</u>	<u>847-272-4711</u>	<u>847-279-6900</u>
Type of Work	<u>WATERING</u> <u>TREE TRIMMING</u> <u>TREE TRIMMING</u> <u>& REMOVALS</u>	<u>TREE TRIMMING</u> <u>TREE REMOVALS</u>	<u>TREE TRIMMING</u> <u>TREE REMOVALS</u>

	<u>PROJECT ONE</u>	<u>PROJECT TWO</u>	<u>PROJECT THREE</u>
Contractor	_____	_____	_____
(If Bidder was)	_____	_____	_____
(Subcontractor)	_____	_____	_____
Amount of Contract	_____	_____	_____
Date Completed	_____	_____	_____

DATED: 2-13, 2023.

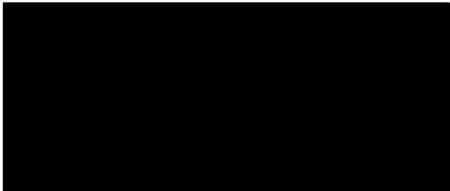
Bidder _____
 By: _____
 Title: PRESIDENT

Attest
 By: _____
 Title: _____

Subscribed and Sworn to before me on 2-13, 2023.

Notary Public

My commission expires: Mar 10, 2024



ACCEPTANCE

The Contract attached hereto and by this reference incorporated herein and made a part hereof is hereby accepted by the order of the Village of Winnetka ("Owner") as of _____, 20__.

This Acceptance, together with the Contract attached hereto, constitutes the entire and only agreement between the parties relating to the accomplishment of the Work and the compensation therefor and supersedes and merges any other prior or contemporaneous discussions, agreements, or understandings, whether written or oral, and shall prevail over any contradictory or inconsistent terms or conditions contained in any purchase order, acceptance, acknowledgement, invoice, or other standard form used by the parties in the performance of the Contract. Any such contradictory or inconsistent terms or conditions shall be deemed objected to by Owner without further notice of objection and shall be of no effect nor in any circumstances binding upon Owner unless accepted by Owner in a written document plainly labeled "Amendment to Contract." Acceptance or rejection by Owner of any such contradictory or inconsistent terms or conditions shall not constitute acceptance of any other contradictory or inconsistent terms or conditions.

VILLAGE OF WINNETKA

Signature: _____

Printed name: _____

Title:

Bidder	Price per Stop	2023 Total Cost
Pedro Henriquez	\$21.50	\$111,800.00
Advanced Tree Care	\$5.00	\$26,000.00
Langton Group	\$25.15	\$130,780.00
Alvarez, Inc.	\$9.28	\$48,256.00
Robert Kinnucan Tree Experts and Landscaping Company, Inc.	\$10.90	\$56,680.00



Agenda Item Executive Summary

TITLE: Resolution No. R-38-2023: Approving an Extension Agreement for Professional Services with Strand Associates for the Engineering and Other Related Work Related to the Hibbard Preserve Stormwater Project (Adoption)

PRESENTER: James Bernahl

AGENDA DATE: March 21, 2023

CONSENT: Yes

ITEM TYPE: Ordinances and Resolutions

ITEM HISTORY:

1. On October 18, 2022, the Village Council approved adoption of Resolution No. R-106-2022, authorizing an Intergovernmental Agreement between the Village of Winnetka and the Forest Preserve District of Cook County (FPDCC), which was subsequently approved by the Forest Preserve District on November 18, 2022. This agreement provided the Village authorization to begin related stormwater improvements on the Hibbard Road Preserve site owned by Cook County.

2. On December 6, 2022, the Village Council approved the adoption of Resolution No. R-128-2022, approving a contract with Homer Tree Services, Inc. for the installation of tree protection fencing and tree removal services, with work being completed by December 31st, 2022. In addition, the Village Council approved the adoption of Resolution No. R-129-2022 approving a change order with DiMeo Brother's, Inc., for the installation of construction perimeter fencing and construction access to the FPDCC for the tree removal contract.

3. On February 7, 2023, the Village Council approved of Resolution No. R-21-2023 approving a contract with Berger Excavating Contractors to complete the Hibbard Preserve Wetland Improvement Project for a lump sum fee not to exceed \$6,923,469.

EXECUTIVE SUMMARY:

Due to the scope, size, and complexity of the proposed stormwater project the Village will require the support of professional resident engineering services to assist with the review and approval of technical shop drawings, construction project observation and supervision, assistance with work inspections, project documentation, review of potential change orders, field adjustments, and make recommendations for pay order requests. In addition, the Resident Engineer will assist the Village with public communications and outreach efforts.

The Village has worked closely with the engineering design team of Strand Associates to advance various phases of the western Winnetka stormwater project, including all aspects of the Hibbard Preserve project. Given Strand's familiarity with the design and permitting process, their understanding of the coordination with the North of Willow Storage Project, and their overall understanding of the requirements of the intergovernmental agreement and commitments to the Cook

County Forest Preserve, the Village sought a proposal from Strand Associates to assist with the duties and responsibilities of Resident Engineering for the project. Strand has also assisted the Village with evaluation of contractor bid submittals and contract award recommendations.

As stated previously, the proposed Resident Engineering construction service contract with Strand will provide for assistance with the review and approval of technical shop drawings, construction project observation and supervision, assistance with work inspections, project documentation, review of potential change orders, field adjustments, and make recommendations for pay order requests. In addition, the Resident Engineer will assist the Village with public communications and outreach efforts and assist in the development of as-built drawings.

Strand Associates is currently performing similar construction engineering services for the North of Willow Road project, and to date their performance has met the Village's expectations. Due to the necessary coordination of the two projects (North & South of Willow), and the management of excavated soils to be placed on the former landfill at the Public Works Yard, the Village was able to sequence some of the observation activities utilizing the same staff and reducing the need to pay for duplicate services.

Based on the anticipated resident engineering services required for the Hibbard Preserve project, Strand Associates is proposing a fee of \$444,000 for these services, as outlined in their proposal shown in the attached extension to the Master Service Agreement. The cost for these services were anticipated in the overall Stormwater Program and shown in the Stormwater Project Tracking Sheet under the Soft Costs Table, "Construction Management - Storage". Attached is a copy of the updated Stormwater Project Tracking Sheet showing the proposed costs and is within the anticipated budget.

Strand Associates will perform much of the day-to-day on-site inspections, observation, development of the required documentation and photos, offer recommendations for any required field changes, and assist with public communications and outreach programs. The Village Engineering Department staff is expected to supplement the services offered by Strand Associates for field inspections, project management and approval, and public relations.

RECOMMENDATION:

Consider approving Resolution No. R-38-2023, authorizing an Extension of Professional Services pursuant to the Master Professional Services Agreement between the Village and Strand Associates dated February 28, 2017. The extension provides for construction observation services for the Hibbard Preserve project, for a lump sum fee not to exceed \$444,000.

ATTACHMENTS:

1. Resolution No. R-38-2023: Approving an Extension Agreement for Professional Services with Strand Associates - Hibbard Preserve Stormwater Project
2. Village of Winnetka - Stormwater Project Tracking Sheet

RESOLUTION NO. R-38-2023

**A RESOLUTION APPROVING AN EXTENSION AGREEMENT FOR
PROFESSIONAL SERVICES WITH STRAND ASSOCIATES FOR THE
ENGINEERING AND OTHER RELATED WORK RELATED TO THE HIBBARD
PRESERVE STORMWATER PROJECT**

WHEREAS, Article VII, Section 10 of the 1970 Illinois Constitution authorizes the Village of Winnetka ("***Village***") to contract with individuals, associations, and corporations in any manner not prohibited by law or ordinance; and

WHEREAS, after several large-scale, 100-year flooding events occurred in a period of only a few years, leading to significant overland and basement flooding in the Village, the Village engaged in various studies and planning for major infrastructure and other improvements for managing stormwater to reduce flooding in the Village ("***Stormwater Master Plan***"); and

WHEREAS, in 2015, the Village hired Strand Associates, Inc. ("***Consultant***") to prepare a stormwater management study and to develop and evaluate alternatives for managing stormwater within western portions of the Village; and

WHEREAS, as a result of its extensive study, the Consultant recommended the construction of certain stormwater improvements on a 49-acre parcel located at the northwest corner of Hibbard Road and Winnetka Avenue in unincorporated Cook County, Illinois ("***Property***"), which Property is owned by the Forest Preserve District of Cook County ("***District***"); and

WHEREAS, on August 2, 2017, the District and the Village entered into a "Memorandum of Mutual Understanding Related to Use of Forest Preserve of Cook County Lands for Construction and Continuous Term Usage or Stormwater Management Wetlands Project" ("***MOU***"), which MOU provided for the negotiation of an intergovernmental agreement ("***IGA***") to allow the Village to construct and install approximately 74 acre-feet of stormwater infrastructure improvements on the Property ("***Project***"); and

WHEREAS, on November 18, 2022, the Village entered into the IGA with the District for the Project; and

WHEREAS, as part of the Project the Village desires to retain a consultant to assist with the review and approval of technical shop drawings, site inspections, project documentation, review of proposed change orders, review of pay requests, and public communications and outreach programs related to the Project (collectively, "***Services***"); and

WHEREAS, as the Consultant has a Master Services Agreement with the Village to provide engineering and consulting services for the Project, and has agreed to complete the Services for a fee not to exceed \$444,000.00 pursuant to an extension agreement to the Master Services Agreement ("***Extension Agreement***"); and

WHEREAS, the Village Council has determined that it is in the best interests of the Village and its residents to enter into the Extension Agreement with Consultant; and

March 21, 2023

R-38-2023

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Village of Winnetka, Cook County, Illinois, as follows:

SECTION 1. RECITALS. The Village Council adopts the foregoing recitals as its findings, as if fully set forth herein.

SECTION 2: APPROVAL OF EXTENSION AGREEMENT. The Village Council hereby approves the Extension Agreement in substantially the form attached to this Resolution as **Exhibit A** and in a final form approved by the Village Manager.

SECTION 3: AUTHORIZATION TO EXECUTE EXTENSION AGREEMENT. The Village Council hereby authorizes and directs the Village President and the Village Clerk to execute and attest, respectively, on behalf of the Village, the Extension Agreement, after receipt by the Village Manager of two executed copies of the final Extension Agreement from Consultant; provided, however, that if the Village Manager does not receive two executed copies of the final Extension Agreement from Consultant within 60 days after the date of adoption of this Resolution, then this authority to execute and seal the final Extension Agreement will, at the option of the Village Council, be null and void.

SECTION 4: EFFECTIVE DATE. This Resolution shall be in full force and effect from and after its passage and approval according to law.

ADOPTED this 21st day of March, 2023, pursuant to the following roll call vote:

AYES:	_____
NAYS:	_____
ABSENT:	_____
ABSTAIN:	_____

Signed

Village President

Countersigned:

Village Clerk

EXHIBIT A
EXTENSION AGREEMENT

**VILLAGE OF WINNETKA
EXTENSION OF PROFESSIONAL SERVICES AGREEMENT**

This **EXTENSION OF PROFESSIONAL SERVICES AGREEMENT** ("*Extension Agreement*") is dated as of the 21 day of March, 2023, and is by and between the **VILLAGE OF WINNETKA**, an Illinois home rule municipal corporation ("*Village*"), and **STRAND ASSOCIATES, INC.** ("*Consultant*") and incorporates by this reference, and is governed by, all the terms and conditions, rights and responsibilities of that certain Master Professional Services Agreement dated February 28, 2017, by and between the Village and the Consultant ("*Master Agreement*").

IN CONSIDERATION OF the recitals and the mutual covenants and agreements set forth in this Extension Agreement and the Master Agreement, and pursuant to the Village's statutory and home rule powers, the parties agree as follows:

SECTION 1. Project Description.

Construction-related services for Hibbard Preserve Tree Removal and Stormwater Management Wetland Projects, as more fully described in the proposal attached to this Extension Agreement as Exhibit A ("*Services*").

SECTION 2. SCOPE OF SERVICES.

A. Services. The Consultant shall provide the consulting services as set forth more fully on the Proposal attached as Exhibit A ("*Services*") and Exhibit B "*Special Provisions*," pursuant to the terms and conditions of this Extension Agreement and the Master Agreement.

B. Commencement; Term. The Consultant shall commence the Services immediately upon receipt of written notice from the Village that this Extension Agreement has been fully executed by the Parties ("*Project Commencement Date*"). The Consultant shall diligently and continuously prosecute the Services until the completion of the Services or upon termination of this Extension Agreement or the Master Agreement by the Village, but in no event shall the Services be completed later than September 2, 2024 ("*Time of Performance*").

SECTION 3. COMPENSATION

For providing, performing and completing all services, Consultant shall be paid at the rates set forth in *Exhibit C*, but not to exceed, in totality, by the end of this Extension Agreement, the amount of \$444,000.

SECTION 4. KEY PROJECT PERSONNEL

The following are deemed "Key Project Personnel" pursuant to Section 4.A of the Master Agreement for the Services to be provided pursuant to this Extension Agreement: Michael Waldron, Dan Crowley, Matt Cipra, Andrew Walker, Jimmy Canning, Miranda Gollwitzer, and Mark Shubak.

SECTION 5. GENERAL TERMS

A. Conflict of Interest. The Consultant represents and certifies that, to the best of its knowledge: (1) no elected or appointed Village official, employee or agent has a personal financial interest in the business of the Consultant or in this Extension Agreement, or has personally received payment or other consideration for this Extension Agreement; (2) as of the date of this Extension Agreement, neither Consultant nor any person employed or associated with Consultant has any interest that would conflict in any manner or degree with the performance of the obligations under this Extension Agreement; and (3) neither Consultant nor any person employed by or associated with Consultant shall at any time during the term of this Extension Agreement obtain or acquire any interest that would conflict in any manner or degree with the performance of the obligations under this Extension Agreement.

B. No Collusion. The Consultant represents and certifies that the Consultant is not barred from contracting with a unit of state or local government as a result of: (1) a delinquency in the payment of any tax administered by the Illinois Department of Revenue, unless the Consultant is contesting, in accordance with the procedures established by the appropriate revenue act, its liability for the tax or the amount of the tax, as set forth in Section 11-42.1-1 *et seq.* of the Illinois Municipal Code, 65 ILCS 5/11-42.1-1 *et seq.*; or (2) a violation of either Section 33E-3 or Section 33E-4 of Article 33E of the Criminal Code of 1961, 720 ILCS 5/33E-1 *et seq.* The Consultant represents that the only persons, firms, or corporations interested in this Extension Agreement as principals are those disclosed to the Village prior to the execution of this Extension Agreement, and that this Extension Agreement is made without collusion with any other person, firm, or corporation. If at any time it shall be found that the Consultant has, in procuring this Extension Agreement, colluded with any other person, firm, or corporation, then the Consultant shall be liable to the Village for all loss or damage that the Village may suffer, and this Extension Agreement shall, at the Village's option, be null and void.

C. Authority to Execute.

1. **The Village.** The Village hereby warrants and represents to the Consultant that the persons executing this Extension Agreement on its behalf have been properly authorized to do so by its corporate authorities.

2. **The Consultant.** The Consultant hereby warrants and represents to the Village that the persons executing this Extension Agreement on its behalf have the full and complete right, power, and authority to enter into this Extension Agreement and to agree to the terms, provisions, and conditions set forth in this Extension Agreement and the Master Agreement and that all legal actions needed to authorize the execution, delivery, and performance of this Extension Agreement have been taken.

EXHIBIT A
PROPOSAL

Project Information

Services Name: Construction-Related Services for Hibbard Preserve Tree Removal and Stormwater Management Wetland Projects

Services Description: Provide construction contract administration assistance and construction observation services for the Hibbard Preserve Tree Removal and Hibbard Preserve Stormwater Management Wetland Projects (Project) previously designed by Consultant.

Scope of Services

Consultant will perform the following services:

Construction Contract Administration Assistance

1. Prepare four sets of Construction Contract Documents, including incorporation of addenda into drawings and specifications as well as final pay item tabulation, as awarded. Provide to the Village for execution by Village and contractor.
2. Prepare for and attend up to two preconstruction meetings with the Village. Prepare and distribute meeting minutes.
3. Review the contractor's construction schedule and track construction progress.
4. Provide Project status and construction progress information to the Village on a weekly basis by e-mail and assist the Village in weekly updates to its website.
5. Review shop drawings for compliance with the Contract Documents and maintain a shop drawing log.
6. Respond to contractor requests for information (RFI) and maintain an RFI log. Up to ten RFIs are anticipated.
7. Review work change directives and provide draft change orders to the Village for review and approval. Up to eight work change directives and four change orders, including a final balancing change order, are anticipated. Maintain a pending and final change order log.
8. Review draft progress payments with the contractor, process pay requests, and provide pay applications to the Village for review and approval. Maintain a pay application log. Consultant's review of payment requests from contractors will not impose responsibility to determine that title to any of the work has passed to the Village free and clear of any liens, claims, or other encumbrances.
9. Gather record drawings, warranties, and operation and maintenance manuals from the contractor at completion of the Project and provide to the Village.

10. Provide record drawings in electronic format from information compiled from contractor's records. Consultant is providing drafting services only for record drawings based on the records presented to Consultant by contractor. Consultant will not be liable for the accuracy of the record drawing information provided by the contractor and the Village.

Construction Observation Services

1. Provide part-time construction observation by a resident project representative (RPR).
 - a. From March 2023 through August 2023, part-time construction observation is defined as an average of two days a week, up to 72 hours a month.
 - b. From September 2023 through October 2023, part-time construction observation is defined as an average of three days a week, up to 110 hours a month.
 - c. From November 2023 through March 2024, part-time construction observation is defined as an average of four days a week, up to 140 hours a month.
 - d. From April 2024 through June 2024, part-time construction observation is defined as an average of two days a week, up to 72 hours a month.
 - e. From July 2024 through August 2024, during final restoration, part-time construction observation is defined as up to 36 hours a month.
 - f. In furnishing observation services, Consultant's efforts shall be directed toward determining for the Village that the completed Project will, in general, conform to the Contract Documents; but Consultant shall not supervise, direct, or have control over the methods, techniques, sequences, procedures, or health and safety precautions or programs, or for the contractor's failure to perform the construction work in accordance with the Contract Documents.
2. Provide geotechnical and materials testing through a Project soils engineer subconsultant at the locations and frequencies described in the Contract Documents.
3. Attend monthly construction progress meetings with the contractor on site. Prepare and distribute meeting minutes.
4. Perform one substantial completion site visit with the Village upon written notice from the contractor to the Village that substantial completion has been reached. Compile a list of items to be completed and corrected and provide to the Village and contractor.
5. Perform one site visit with the Village to review completion of the project prior to commencement of contractor's warranty period.

Maintenance and Management-Related Services

Services during the construction contractor's two-year maintenance and management period shall be provided under a separate agreement.

The Village's Responsibilities

1. Assist Consultant by placing at Consultant's disposal all available information pertinent to this Project including previous reports, previous drawings and specifications, and any other data relative to the scope of this Project.

2. Provide access to the Project corridors as required for Consultant to perform Services under this Agreement.
3. Guarantee access to and make all provisions for Consultant to enter upon public and private lands as required for Consultant to perform Services under this Agreement.
4. Provide all legal services as may be required for the development of this Project.

Schedule

Services will begin upon execution of this Extension Agreement, which is anticipated the week of March 20, 2023. Services are scheduled for completion by September 2, 2024

EXHIBIT B

SPECIAL PROVISIONS

None

EXHIBIT C
COMPENSATION

Compensation

The Village shall compensate the Consultant for Construction-Related Services for Hibbard Preserve Tree Removal and Stormwater Management Wetland Projects under this Extension Agreement on an hourly rate basis plus expenses a total not-to-exceed fee of \$444,000.

Client: Village of Winnetka Project: Hibbard Preserve Construction-Related Services February 2023 thru August 2024 / 19-Month Construction Period Job No.: TBD Date: 2-Feb-2023									BUDGET TOTALS			
Task		PRINCIPAL	PROJ. MANAGER	LEAD ENGINEER	LEAD RPR	ASST. RPR	OFFICE TECH	SECRETARY	Hours	Expense Cost	Labor Cost	Line Cost
Construction Services - Hibbard Tree Removal Project												
	Project Startup and Preparation	2.00	8.00	8.00				2.00	20.00	\$477.40	\$3,958.08	\$4,435.48
	Project Management (November '22 thru February '23, 4 mos.)4		8.00						8.00	\$125.40	\$2,152.32	\$2,277.72
	Conform documents and distribute (3 sets)		1.00	4.00				4.00	9.00	\$360.80	\$1,229.68	\$1,590.48
	Preconstruction Meeting and Minutes		1.00	8.00				2.00	11.00	\$158.40	\$1,515.44	\$1,673.84
	Change orders1		1.00	4.00				1.00	6.00	\$97.90	\$892.24	\$990.14
	Pay requests2		1.00	6.00				0.50	7.50	\$115.50	\$1,091.36	\$1,206.86
	Project closeout		2.00	8.00				1.00	11.00	\$360.80	\$1,672.00	\$2,032.80
	Construction Observation											
	Startup and site preparations			16.00					16.00	\$176.00	\$2,042.88	\$2,218.88
	Tree Removal Operations		8.00	120.00					128.00	\$1,056.00	\$17,473.92	\$18,529.92
	Project Closeout and Items to be Completed			8.00					8.00	\$176.00	\$1,021.44	\$1,197.44
Construction Services - Hibbard Tree Removal Project		2.00	30.00	182.00	0.00	0.00	0.00	10.50	224.50	\$3,104.20	\$33,049.36	\$36,153.56
Construction Contract Administration												
	Project Startup and Preparation	4.00	16.00	16.00	8.00	8.00		8.00	60.00	\$814.00	\$10,627.84	\$11,441.84
	Project Management (Feb. 2023 thru Aug. 2024, 19 mos.)19	10.00	38.00	38.00				19.00	105.00	\$1,328.80	\$20,009.28	\$21,338.08
	Conform documents and distribute (4 sets)		2.00	8.00				8.00	18.00	\$4,228.40	\$2,459.36	\$6,687.76
	Preconstruction Meeting and Minutes		6.00	8.00	4.00	8.00		2.00	28.00	\$273.90	\$4,477.92	\$4,751.82
	Construction tracking and weekly project updates (83 weeks)83		40.00	166.00					206.00	\$3,383.60	\$31,956.48	\$35,340.08
	Shop drawing reviews (40 submittals)		10.00	60.00				8.00	78.00	\$1,249.60	\$11,251.04	\$12,500.64
	Requests for information (RFI)10		4.00	20.00				2.50	26.50	\$462.00	\$3,910.96	\$4,372.96
	Work change directives8		4.00	24.00				2.00	30.00	\$532.40	\$4,365.44	\$4,897.84
	Change orders4		4.00	12.00				1.00	17.00	\$321.20	\$2,720.80	\$3,042.00
	Pay requests16		8.00	32.00				4.00	44.00	\$673.20	\$6,688.00	\$7,361.20
	Project completion documents and closeout		8.00	16.00		8.00		8.00	40.00	\$673.20	\$6,067.84	\$6,741.04
	Record drawings			8.00	8.00		32.00		48.00	\$869.00	\$5,617.92	\$6,486.92
Construction Contract Administration		14.00	140.00	408.00	20.00	24.00	32.00	62.50	700.50	\$14,809.30	\$110,152.88	\$124,962.18
Construction Observation												
	<u>weeks</u>											
	Observation (February Thru August 2023)28.0				0.00	504.00			504.00	\$4,928.00	\$61,286.40	\$66,214.40
	Observation (September and October 2023)9.0				0.00	243.00			243.00	\$3,564.00	\$29,548.80	\$33,112.80
	Off-site Observation (November 2023 Thru March 2024)21.0				0.00	756.00			756.00	\$11,088.00	\$91,929.60	\$103,017.60
	Observation (April 2024 Thru June 2024)13.0				0.00	234.00			234.00	\$3,432.00	\$28,454.40	\$31,886.40
	Restoration (July 2024 through August 2024)9					81.00			81.00	\$1,584.00	\$9,849.60	\$11,433.60
Construction Observation		0.00	0.00	0.00	0.00	1818.00	0.00	0.00	1818.00	\$24,596.00	\$221,068.80	\$245,664.80

Project Soils Engineering													
	Construction Materials Testing Schedule:												
	Level control PS subgrade testing (1 site visit)	1											
	Box storm sewer subgrade testing (10 site visits)	10											
	Trench backfill compaction testing (3 site visits)	3											
	Conc. C&G Sunset and Willow (2 site visits)	2											
	Concrete sidewalk testing Sunset and Willow (2 site visits)	2											
	Ashpalt patch paving compaction Willow (2 site visits)	2											
	Ashpalt patch paving compaction Sunset (1 site visits)	1											
	New pond clay lining inspection (4 site visits)	4											
	Total Site Visits	25								\$34,500.00		\$34,500.00	
	Test reporting									\$2,645.00		\$2,645.00	
Project Soils Engineering			0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	\$37,145.00	\$0.00	\$37,145.00
Total Hours			16.00	170.00	590.00	20.00	1842.00	32.00	73.00	2743.00	\$79,654.50	\$364,271.04	\$443,925.54
% of Total Hours			0.6%	6.2%	21.5%	0.7%	67.2%	1.2%	2.7%				
Billing Rate			\$279.68	\$269.04	\$127.68	\$161.12	\$121.60	\$103.36	\$112.48				
Cost			\$4,474.88	\$45,736.80	\$75,331.20	\$3,222.40	\$223,987.20	\$3,307.52	\$8,211.04				
Total Labor Cost \$364,271.04													
Total Expense Cost \$79,654.50													
Total \$443,925.54													
Construction Services - Hibbard Tree Removal Project \$36,200.00													
Construction Contract Administration \$125,000.00													
Construction Observation \$245,700.00													
Project Soils Engineering \$37,100.00													
Contract Budget \$444,000													

Project	Council Approved Budget 11/2020	Budget Escalation As of 12/31/2021 (CPI - 7%) - Note 1	Project Budget As of December 31, 2022	Budget Escalation 12/31/2022 (CPI - 6.5%) - Note 4	Project Budget As of March 1, 2022
Storage Projects					
CCFP Stormwater Wetland	\$ 2,408,478	\$ 2,577,071	\$ 2,179,631	\$ 2,321,307	\$ -
Tree Removal (Homer)	\$ -	\$ -	\$ 232,440	\$ 232,440	\$ 232,440
Tree Removal (DiMeo)	\$ -	\$ -	\$ 165,000	\$ 165,000	\$ 165,000
CCFP SWM Contract	\$ -	\$ -	\$ -	\$ -	\$ 3,281,288
Landfill Reconfiguration	\$ 1,719,378	\$ 1,839,734	\$ 987,838	\$ 1,052,047	\$ 252,391
DiMeo Contract	\$ -	\$ -	\$ 851,896	\$ 851,896	\$ 851,896
CCFP SWM Contract					\$ 799,656
Crow Island Storage	\$ 3,994,524	\$ 4,274,141	\$ 4,274,141	\$ 4,551,960	\$ 4,551,960
Duke Childs & Park District Storage	\$ 6,907,777	\$ 7,391,321	\$ -	\$ -	\$ -
StormTrap	\$ -	\$ -	\$ 4,239,210	\$ 4,239,210	\$ 4,239,210
DiMeo Contract	\$ -	\$ -	\$ 4,421,821	\$ 4,421,821	\$ 4,421,821
Par 3 Golf Course Storage	\$ 1,456,319	\$ 1,558,261	\$ -	\$ -	\$ -
DiMeo Contract			\$ 2,424,009	\$ 2,424,009	\$ 2,424,009
18-Hole Golf Course Storage	\$ 3,460,107	\$ 3,702,314	\$ -	\$ -	\$ -
Village electrical costs	\$ -	\$ -	\$ 238,220	\$ 238,220	\$ 238,220
DiMeo Contract	\$ -	\$ -	\$ 5,541,734	\$ 5,541,734	\$ 5,541,734
Subtotal Storage Projects	\$ 19,946,583	\$ 21,342,843	\$ 25,555,940	\$ 26,039,644	\$ 26,999,625
Conveyance Projects					
Hibbard Road	\$ 3,400,150	\$ 3,638,161	\$ 1,913,341	\$ 2,037,708	\$ 1,134,462
DiMeo Contract (47% of project)	\$ -	\$ -	\$ 1,575,274	\$ 1,575,274	\$ 1,575,274
CCFP SWM contract (25%)	\$ -	\$ -	\$ -	\$ -	\$ 903,246
Spruce Street	\$ 175,901	\$ 188,214	\$ 188,214	\$ 200,448	\$ 200,448
Oak Street West	\$ 998,631	\$ 1,068,535	\$ 935,292	\$ 996,086	\$ 996,086
DiMeo Contract (12% of project)	\$ -	\$ -	\$ 122,749	\$ 122,749	\$ 122,749
Oak Street East	\$ 2,266,544	\$ 2,425,202	\$ 2,425,202	\$ 2,582,840	\$ 2,582,840
Ash Street	\$ 3,514,116	\$ 3,760,104	\$ 3,348,227	\$ 3,565,862	\$ 3,565,862
DiMeo Contract (11% of project)	\$ -	\$ -	\$ 347,788	\$ 347,788	\$ 347,788
Willow Road East	\$ 3,636,327	\$ 3,890,870	\$ 3,890,870	\$ 4,143,776	\$ 3,315,021
CCFP SWM contract (20%)	\$ -	\$ -	\$ -	\$ -	\$ 828,755
Crow Island Outlet	\$ 1,754,866	\$ 1,877,707	\$ 1,877,707	\$ 1,999,758	\$ 1,999,758
Mount Pleasant Street	\$ 1,789,171	\$ 1,914,413	\$ 1,914,413	\$ 2,038,850	\$ 2,038,850
Sunset Road West	\$ 1,935,429	\$ 2,070,909	\$ 2,070,909	\$ 2,205,518	\$ 1,433,587
CCFP SWM contract (35%)	\$ -	\$ -	\$ -	\$ -	\$ 771,931
Sunset Road East	\$ 4,464,674	\$ 4,777,201	\$ 4,777,201	\$ 5,087,719	\$ 5,087,719
Provident Neighborhood	\$ 2,016,432	\$ 2,157,582	\$ 2,157,582	\$ 2,297,825	\$ 2,297,825
Locust Street	\$ 1,490,910	\$ 1,595,274	\$ 1,595,274	\$ 1,698,966	\$ 1,698,966
Hill Road	\$ 270,802	\$ 289,758	\$ 289,758	\$ 308,592	\$ 308,592
Skokie Ditch	\$ 2,707,333	\$ 2,896,846	\$ 2,896,846	\$ 3,085,141	\$ 3,085,141
North of Pine Street	\$ 1,656,855	\$ 1,772,835	\$ 1,772,835	\$ 1,888,069	\$ 1,888,069
Flood Prone Property - CIW	\$ -	\$ -	\$ 395,000	\$ 395,000	\$ 395,000
Subtotal Conveyance Projects	\$ 32,078,141	\$ 34,323,611	\$ 34,494,482	\$ 36,577,969	\$ 36,577,969
Soft Costs (Engineering, Fees, Contingency etc.) - not escalated					
FPDCC Fees	\$ 3,113,000	\$ 3,113,000	\$ 3,173,082	\$ 3,173,082	\$ 3,173,082
Mitigation Fees - USACE	\$ 2,220,000	\$ 2,220,000	\$ 2,200,000	\$ 2,200,000	\$ 2,200,000
Engineering	\$ 4,761,178	\$ 4,761,178	\$ -	\$ -	\$ -
Strand Contract R-78-2022	\$ -	\$ -	\$ 2,920,440	\$ 2,920,440	\$ 2,920,440
Strand Contract R-104-2022	\$ -	\$ -	\$ 65,000	\$ 65,000	\$ 65,000
Committed Engineering Costs			\$ 1,848,660	\$ 1,848,660	\$ 1,848,660
Construction Management - Storage	\$ 715,500	\$ 715,500	\$ -	\$ -	\$ -
Jacobson Contract R-108-2022	\$ -	\$ -	\$ 45,000	\$ 45,000	\$ 45,000
Strand Contract R-75-2022	\$ -	\$ -	\$ 665,800	\$ 665,800	\$ 665,800
Construction Mgmt. - Hibbard / Crow	\$ 2,141,207	\$ 2,141,207	\$ 1,000,000	\$ 1,000,000	\$ 556,000
Strand Contract R-38-2023	\$ -	\$ -			\$ 444,000
Partner Payments (NTHs, WPD, D36)	\$ 669,600	\$ 669,600	\$ 669,600	\$ 669,600	\$ 669,600
Contingency	\$ 10,075,791	\$ 10,075,791	\$ 6,724,726	\$ 6,724,726	\$ 5,764,745
Subtotal Soft Costs	\$ 23,696,276	\$ 23,696,276	\$ 19,312,308	\$ 19,312,308	\$ 18,352,327
Project Total	\$ 75,721,000	\$ 79,362,730	\$ 79,362,730	\$ 81,929,921	\$ 81,929,921

Allocated Contingency at 3/1/2023 (Note 2): \$ 4,311,046

Previously Committed Costs at 2/1/2023 (Note 3): \$ 38,727,599

Strand Construction Management Contract (Note 5): \$ 444,000

Project Summary

Total Costs Committed to Date:	\$ 39,171,599
Balance to Complete:	\$ 36,993,577
Contingency:	\$ 5,764,745
Project Total:	\$ 81,929,921

Notes:

- Note 1) The original Council approved plan from November of 2020 was escalated through 12/31/2021 utilizing the U.S. Bureau of Labor Statistics December 31, 2021 Consumer Price Index report.
https://www.bls.gov/news.release/archives/cpi_01122022.htm
- Note 2) The cell highlighted in blue is the total amount of project contingency utilized as of March 1, 2023. This amount reflects contingency drawdowns of:
- North of Willow Project (DiMeo) - \$3,048,061
 - Design Engineering Hbbard / Conveyance (Strand) - \$72,922
 - Property Acquisition - \$145,000
 - CCFPD Fees - \$60,082
 - Construction Management - (Jacobssen) - \$45,000
 - Hibbard Preserve Storage (Berger) - \$959,981
 - Mitigation Fees - Totaled less than anticipated, difference added back to contingency +\$20,000
- Note 3) Cells highlighted in green reflect committed costs as of January 1, 2023. A "committed cost" is an amount that has already been expended or is contractually obligated to be paid in the future. The following is a summary of some of the substantial committed costs to date:
- R-51-2020 (8/4/2020): Strand - \$650,100, CCFP and Landfill Design Engineering.
 - R-25-2021 (2/19/2021): Strand - \$939,670, N. of Willow Design Engineering.
 - R-98-2021 (12/7/2022): Storm Trap Purchase - \$4,239,210
 - R-74-2022 (6/21/2022): DiMeo - \$15,285,271 (\$426,673 reimbursable)
^ above does not include \$1,229,286 WPD alternatives costs.
 - R-75-2022 (6/21/2022): Strand - \$665,800, N. of Willow Construction Engineering.
 - R-78-2022 (6/21/2022): Strand - \$2,920,440, Conveyance Engineering.
 - R-88-2022 (8/16/2022): USACE Mitigation Fees - \$2,200,000.
 - R-58-2019 and R-27-2020: 9/6/22 payments made to New Trier High School (\$279,600) and Winnetka Park District (\$390,000)
 - \$395,000 in flood prone property acquisition costs. In total the property acquisition cost is \$1,295,000 offset by \$900,000 grant from MWRD for a net cost of \$395,000.
 - R-104-2022 - Hibbard Road stormwater design services - \$65,000.
 - R-106-2022 - CCFPD IGA Fees - \$3,173,082
 - R-108-2022 - Golf course construction management costs - \$45,000 (Jacobsen Construction).
 - R-128-2022 - Tree Removal Contract with Homer Tree Removal - \$232,440
 - R-129-2022 - Tree Removal Contract with DiMeo Construction - \$165,000
 - R-21-2023 - Berger Contract - \$6,584,876
- Note 4) As was done on January 1, 2022, the Council approved plan is being escalated utilizing the U.S. Bureau of Labor Statistics December 31, 2022 Consumer Price Index report. The escalation captures the annual CPI for 2022: 6.5%. The escalation factor is only applied to portions of the project that have not been committed and does not apply to soft costs such as construction management or contingency.
https://www.bls.gov/news.release/archives/cpi_01122023.htm
- Note 5) Cells highlighted in pink reflect stormwater fund project costs associated with the Strand construction services contract proposal for the Hibbard Preserve project which will be considered at the March 21st Council meeting via resolution R-38-2023.



Agenda Item Executive Summary

TITLE: Resolution No. R-39-2023: Approving and Establishing Changes in the Compensation of the Village Manager (Adoption)

PRESENTER: Tim Sloth

AGENDA DATE: March 21, 2023

CONSENT: Yes

ITEM TYPE: Consent Agenda

ITEM HISTORY:

None.

EXECUTIVE SUMMARY:

As required by Village Code, Resolution No. R-39-2023 approves and establishes the Village Manager's salary, while Resolution No. R-40-2023 establishes salaries for the Department Heads.

The resolutions provide that the salary changes are effective January 1, 2023. This is consistent with other employee pay adjustments.

RECOMMENDATION:

1. Consider adoption of Resolution No. R-39-2023, titled "A Resolution Approving and Establishing Changes in the Compensation of the Village Manager."
2. Consider adoption of Resolution No. R-40-2023 titled "A Resolution Approving and Establishing the Compensation of Department Heads Effective January 1, 2023."

ATTACHMENTS:

1. Resolution No. R-39-2023: Approving and Establishing Changes in the Compensation of the Village Manager

RESOLUTION NO. R-39-2023

**A RESOLUTION
APPROVING AND ESTABLISHING
CHANGES IN THE COMPENSATION OF THE VILLAGE MANAGER**

WHEREAS, the Village of Winnetka ("***Village***") is a home rule municipality in accordance with Article VII, Section 6 of the Constitution of the State of Illinois of 1970; and

WHEREAS, pursuant to Section 2.12.040 of the Winnetka Village Code ("***Village Code***"), the compensation of the Village Manager shall be determined by the Council of the Village of Winnetka ("***Village Council***"); and

WHEREAS, the Village entered into a September 29, 2010 Employment Agreement with the Village Manager ("***Employment Agreement***"), pursuant to which the Village Council agreed to periodically review the Village Manager's compensation; and

WHEREAS, pursuant to its home rule authority, the Village Council has determined that it is the best interests of the Village to set the compensation for the Village Manager as set forth in this Resolution;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Village of Winnetka, Cook County, Illinois, as follows

SECTION 1: RECITALS. The Village Council hereby adopts the foregoing recitals as its findings, as if fully set forth herein.

SECTION 2: APPROVAL OF BASE SALARY. In accordance with Section 2.12.040 of the Village Code and Section 5 of the Employment Agreement, the Village Council hereby approves and establishes the monthly base salary of the Village Manager as follows:

	Monthly Salary Effective January 1, 2023
Robert M. Bahan	\$ 21,333.33

SECTION 3: APPROVAL OF ADDITIONAL COMPENSATION. In addition to the base salary established in Section 1 of this Resolution, the benefits and payments established in the Employment Agreement, and all other benefits available generally to Village employees, Village Manager Robert M. Bahan shall be paid a one-time bonus of \$35,000.00.

SECTION 4: EFFECT OF RESOLUTION. Except for the salary and payment adjustments made pursuant to this Resolution, all provisions of the Employment Agreement remain in full force and effect, without change.

SECTION 5: REPEALER. Resolution R-28-2022 is hereby repealed in its entirety.

SECTION 5: EFFECTIVE DATE. This Resolution shall be in full force and effect from and after its passage and approval according to law.

ADOPTED this 21st day of March 2023, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

Signed

Village President

Countersigned:

Village Clerk

**A RESOLUTION
APPROVING AND ESTABLISHING
THE COMPENSATION OF DEPARTMENT HEADS
EFFECTIVE JANUARY 1, 2023**

WHEREAS, the Village of Winnetka ("***Village***") is a home rule municipality in accordance with Article VII, Section 6 of the Constitution of the State of Illinois of 1970; and

WHEREAS, pursuant to the Winnetka Village Code ("***Village Code***"), the compensation for the Village's department heads shall be fixed by the Village Manager with the approval of the Council of the Village of Winnetka ("***Village Council***"); and

WHEREAS, the Village Manager has fixed the compensation for the departments heads for 2023 as set forth in this Resolution, which compensation reflects a 3.5% cost of living adjustment and merit increases; and

WHEREAS, pursuant to its home rule authority, the Village Council has determined that it is the best interests of the Village to approve the compensation for the Village's department heads for 2023 as set forth in this Resolution;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Village of Winnetka, Cook County, Illinois, as follows

SECTION 1: RECITALS. The Village Council hereby adopts the foregoing recitals as its findings, as if fully set forth herein.

SECTION 2: APPROVAL OF BASE SALARIES. In accordance with the sections of the Winnetka Village Code referenced in the table below, the Village Council hereby approves and establishes the following monthly base salaries for the department heads:

Name and Title	Monthly Salary Effective January 1, 2023
Kristin Kazenas (Assistant Village Manager)	\$ 15,087.50
David Schoon (Community Development Director)	\$ 15,016.67
Brian L. Keys (Water & Electric Director)	\$ 17,094.18
Timothy J. Sloth (Finance Director)	\$ 15,975.00
Jim Bernahl	\$ 15,056.67

(Engineering Director)	
Giovanni McLean (Public Works Director)	\$ 14,626.00
John Ripka (Fire Chief)	\$ 15,412.77

SECTION 3: APPROVAL OF ADDITIONAL COMPENSATION. In addition to the base salaries established in Section 1 of this Resolution and all other benefits available generally to Village employees, the department heads listed in Section 1 of this Resolution (***“Department Heads”***) shall also receive the following additional compensation for 2023: (a) each of the Department Heads, after one year of successful employment, shall be entitled to an annual, lump sum payment of \$3,500.00, which the Village Treasurer shall deposit, on behalf of each Department Head, into a qualified Internal Revenue Code Section 457 deferred compensation plan; (b) Director of Water and Electric Brian L. Keys shall be paid a one-time bonus of \$10,000.00; (c) Community Development Director David Schoon shall be paid a one-time bonus of \$7,500.00; (d) Assistant Village Manager Kristin Kazenas shall be paid a one-time bonus of \$12,500.00; (e) Fire Chief John Ripka shall be paid a one-time bonus of \$2,500.00; (f) Finance Director Timothy J. Sloth shall be paid a one-time bonus of \$5,000.00, (g) Engineering Director Jim Bernahl shall be paid a one-time bonus of \$5,000.00.

SECTION 4: REPEALER. Resolution R-29-2022 is hereby repealed in its entirety.

SECTION 5: EFFECTIVE DATE. This Resolution shall be in full force and effect from and after its passage and approval according to law.

[SIGNATURE PAGE FOLLOWS]

ADOPTED this 21st day of March 2023, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

Signed

Village President

Countersigned:

Village Clerk



Agenda Item Executive Summary

TITLE: Ordinance No. MC-04-2023: Amending the Winnetka Village Code Regarding the Class X Special Use Liquor Permit Classification (Introduction/Adoption)

PRESENTER: Brian O'Connell

AGENDA DATE: March 21, 2023

CONSENT: No

ITEM TYPE: Ordinances and Resolutions

ITEM HISTORY:

None

EXECUTIVE SUMMARY:

The Winnetka-Northfield-Glencoe Chamber of Commerce hosts a Farmers' Market event within the Village every Saturday for twenty-two weeks from June through October. The Chamber has inquired about licensing for vendors who wish to sell or serve alcohol during the market events. The current Village Code requires vendors to apply for a new Class X Special Event Liquor Permit every week at a cost of \$25 per week. The number of licenses is limited to a maximum of fifteen days per location in any twelve month period. Due to the restrictions outlined in the code, vendors who wish to sell and serve alcohol at the Farmers' Market for the duration of the season are prohibited from participating longer than fifteen weeks. Additionally, it is cost prohibitive to apply for a new license for each week of the event. In regards to hours of service, the special event liquor license allows for sales, service and consumption at outdoor events beginning at 11:00 a.m. and may continue until 10:00 p.m. Farmers' Market vendors arrive at the market to begin selling at 7:30 a.m. when the market opens. Vendors who sell packaged liquor are currently unable to do so until 11:00 a.m.

The Village attorney prepared a draft proposed amendment that would update the Class X liquor license to allow the vendors of the Farmers' Market to obtain a single license that would cover the duration of the market season and not require the vendors to obtain a separate Class X license for each day of the market. The fee of \$25 per day, with a maximum of \$75 per event for the Class X license will not change. A Farmers' Market vendor who applies for a license for the duration of the season will pay \$75 for the Class X license. Additionally, proposed changes to the hours of service would allow vendors to sell packaged liquor beginning at 7:00 a.m. ending at 2:00 p.m. Service and tastings would continue to be permitted between the hours of 11:00 a.m. and 2:00 p.m.

RECOMMENDATION:

Consider introduction and adoption of Ordinance No. MC-04-2023, Amending the Winnetka Village Code regarding the Class X Special Use Liquor Permit Classification.

ATTACHMENTS:

1. Ordinance No. MC-04-2023: Amending the Winnetka Village Code Regarding the Class X Special Use Liquor Permit Classification

**AN ORDINANCE AMENDING THE WINNETKA VILLAGE CODE
REGARDING THE CLASS X SPECIAL USE LIQUOR PERMIT CLASSIFICATION**

WHEREAS, the Village of Winnetka is a home rule municipality in accordance with Article VII, Section 6 of the Constitution of the State of Illinois of 1970 and has the authority to exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, Section 11-42-10.1 of the Illinois Municipal Code, 65 ILCS 5/11-42-10.1, and Section 4-1 of the Illinois Liquor Control Act, 235 ILCS 5/4-1, provide the Village the authority to determine the number, kind, and classification of licenses for retail sales of alcoholic liquor; and

WHEREAS, Chapter 5.09 of the Winnetka Village Code ("***Village Code***") regulates the sale of alcoholic beverages within the Village ("***Liquor Control Regulations***"); and

WHEREAS, the Liquor Control Regulations require, among other things, any establishment that desires to sell alcoholic beverages within the Village to first obtain a license from the Village; and

WHEREAS, Section 5.09.100 of the Liquor Regulations establishes various liquor license classifications that authorize the sale of alcoholic beverages by certain types of establishments, subject to conditions; and

WHEREAS, Section 5.09.100.S of the Liquor Regulations establishes the Class X special use liquor license classification ("***Class X License***"), which authorizes Illinois licensed liquor retailers to sell or serve alcoholic beverages at picnics, outings, festivals, theater nights, or other such similar special occasions for consumption on the premises or within the area specifically designated for such license; and

WHEREAS, the Village Council desires to amend: (i) Section 5.09.100.S of the Liquor Regulations to make the administration of the Class X License more efficient for the Village and to allow licensees who desire to sell liquor at the Farmers' Market to obtain one Class X License instead of multiple Class X Licenses; and (ii) set hours for the sale of liquor at the Farmers' Market ("***Proposed Amendment***"); and

WHEREAS, the Village Council has determined that adoption of the Proposed Amendment as set forth in this Ordinance is in the best interest of the Village and its residents;

NOW, THEREFORE, the Council of the Village of Winnetka do ordain as follows:

SECTION 1: RECITALS. The foregoing recitals are hereby incorporated into this Section as the findings of the Village Council, as if fully set forth herein.

Additions are bold and double-underlined; deletions are struck through.

SECTION 2: CLASSIFICATION OF LICENSES. Section 5.09.100, titled “Classification of Licenses,” of Chapter 5.09, titled “Liquor Control Regulations,” of Title 5, titled “Business Licenses and Regulations,” of the Village Code is hereby amended to read as follows:

“Section 5.09.100 Classification of Licenses.

* * *

- S. Class X Special Use Permit License. Class X licenses authorize an Illinois licensed liquor retailer to transfer a portion of its alcoholic liquor inventory from its retail licensed premises to the premises specifically designated for such license to sell or serve alcoholic beverages, but not for resale in any form, at picnics, outings, festivals, theater nights, or other such similar special occasions for consumption on the premises or within the area specifically designated for such license. A Class X special use permit license may be granted for a maximum of 15 days per location in any 12 month period.
1. An applicant for a Class X special use permit license must also obtain a State of Illinois special use permit license, in accordance with Section 5-1(q) of the Liquor Control Act of 1934.
 2. The sale and service of alcoholic beverages under a Class X special use permit license may also include sidewalk service of alcoholic beverages for consumption in an outdoor seating area, subject to the conditions set forth in section 5.09.105 of this chapter, provided that the area and terms of such service shall be defined in the license.
 3. The hours of service shall be as provided in section 5.09.250 of this chapter and shall be specified in the license, along with the date(s) of the authorized sale of alcoholic liquors under this section.
 4. **Notwithstanding any limitations set forth in this subsection, any Class X special use license issued to an authorized vendor for the Winnetka’s Farmers’ Market shall authorize the vendor to sell or serve alcoholic liquor at the Winnetka Farmers’ Market when the Market is operational for the entire season, and the vendor shall not be required to obtain a separate Class X license for each day of the Market.**

* * *

SECTION 3: HOURS OF SERVICE. Section 5.09.250, titled “Hours of Service,” of Chapter 5.09, titled “Liquor Control Regulations,” of Title 5, titled “Business Licenses and Regulations,” of the Village Code is hereby amended to read as follows:

“Section 5.09.250 Hours of service.

Additions are bold and double-underlined; deletions are struck through.

* * *

C. Special events.

1. The sale and service of alcoholic beverages by a civic, fraternal, service or charitable not-for-pecuniary-profit organization under a Class C license or by licensees under a Class X license, and the consumption of alcoholic beverages under such licenses, shall be permitted only on the dates and during the hours specified in the license. The sale, service and consumption of liquor may begin on or after the hour of 11:00 a.m. of one day and may continue until 2:00 a.m. of the following day, subject to the following limitations:

 - ~~1a.~~ Between the hours of 11:00 a.m. of one day and 2:00 a.m. of the following day, for any or all of the days specified in the license if the alcoholic beverages are sold and consumed indoors in a fixed, permanent structure.
 - 2b. Between the hours of 11:00 a.m. of one day and 2:00 a.m. of the following day, for any or all of the days specified in the license, if the alcoholic beverages are sold in a tent or comparable temporary or movable structure, for consumption at tables and chairs located within such tent or structure, provided the sale or consumption of alcoholic beverages is incidental and complementary to the sale and consumption of other foods.
 - ~~3c.~~ Between the hours of 11:00 a.m. and 10:00 p.m. of each day or days specified in the license if the alcoholic beverages are sold or consumed outdoors, or in a tent, booth, concession stand, or other such temporary or movable structure, provided the sale, service or consumption of alcoholic beverages is incidental and complementary to the sale and consumption of other foods.
 - 4d. The sale, service and consumption of alcoholic beverages shall be prohibited between the hours of 2:00 a.m. and 11:00 a.m. of any day.
2. **Notwithstanding anything to the contrary in subsection 5.09.250.C.1, the sale and service of alcoholic liquor by a Class X special use license holder issued to an authorized vendor for the Winnetka's Farmers' Market may be made only on the dates set forth in the license and during the following hours:**

Additions are bold and double-underlined; deletions are struck through.

- a. For alcoholic liquor sold in its original package for consumption off the premises, only between the hours of 7:00 a.m. and 2:00 p.m.;
- b. For alcoholic liquor sold for consumption on the premises, including providing tastings, only between the hours of 11:00 a.m. and 2:00 p.m.

* * *”

SECTION 4: SEVERABILITY. If any provision of this Ordinance or part thereof is held invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance shall remain in full force and effect, and shall be interpreted, applied, and enforced so as to achieve, as near as may be, the purpose and intent of this Ordinance to the greatest extent permitted by applicable law.

SECTION 5: EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

PASSED this 21 day of March, 2023, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED this ____ day of _____, 2023.

Signed:

Village President

Countersigned:

Village Clerk

Published by authority of the President and Board of Trustees of the Village of Winnetka, Illinois, this ____ day of _____, 2023.

Introduced: March 21, 2023

Passed and Approved: _____, 2023

Additions are bold and double-underlined; deletions are struck through.

March 21, 2023

MC-04-2023



Agenda Item Executive Summary

TITLE: Ordinance No. MC-05-2023: Village Code Update - Lakefront Regulations (Adoption)

PRESENTER: Peter Friedman

AGENDA DATE: March 21, 2023

CONSENT: No

ITEM TYPE: Ordinances and Resolutions

ITEM HISTORY:

At its January 10 and 31, 2023 Study Sessions, the Village Council directed the Village Attorney and staff to prepare an ordinance amending certain provisions of the Village Code related to lakefront regulations. In providing this direction, the Council recognized that it was important to prepare amendments now to establish more clearly the nature and extent of the Village's permit requirements for construction of structures in and adjacent to Lake Michigan. At the same time, it was recognized that this first set of amendments was intended to be narrow and in place for a relatively short period of time while the Village undertakes a more comprehensive study and analysis of possible additional lakefront and steep slope regulations that the Village may want to adopt.

At its March 7, 2023 regular meeting, the Council introduced Ordinance No. MC-05-2023, with direction to incorporate certain changes in the ordinance for consideration by the Council at its March 21, 2023 meeting, for adoption.

EXECUTIVE SUMMARY:

The Ordinance includes the following specific changes from the version of the Ordinance introduced by the Council:

- (1) Changed "accelerate" to "impact" in the Purpose Section (15.78.010).
- (2) Added "or otherwise adversely impact the health, safety, and welfare of the Village or its residents" to the Purpose Section (15.78.010)
- (3) Increased the notice requirement for appeals from 500 feet to 1000 feet from the subject property (Section 15.78.070)
- (4) Revised Subsections B, D, and G of Section 15.78.080 to include in the permit criteria that the applicable construction projects will be measured against what is minimally necessary for a proper purpose and to be consistent with the purposes of the lakefront regulations set forth in Section 15.78.010.
- (5) Corrected the site v. sight typos.

RECOMMENDATION:

Consider adopting Ordinance No. MC-05-2023, Amending Various Sections of the Winnetka Village Code Relating to Lakefront Construction

ATTACHMENTS:

1. Ordinance No. MC-05-2023: Amending Village Code - Lakefront Regulations

**AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE WINNETKA
VILLAGE CODE RELATING TO LAKEFRONT CONSTRUCTION**

WHEREAS, the Village of Winnetka is a home rule municipality in accordance with Article VII, Section 6 of the Constitution of the State of Illinois of 1970 and has the authority to exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the Winnetka Village Code, as amended ("***Village Code***"), contains regulations which, among other things, broadly protect public health, safety and welfare, including specific regulations relating to impermeable surfaces, fences, plants and structures on private or public property or impacting public places ("***Existing Regulations***"); and

WHEREAS, the Village desires to amend and supplement the Existing Regulations to more specifically address structures in and along Lake Michigan and the permit requirements for those structures; and

WHEREAS, the limited amendments to the Existing Regulations enacted by this Ordinance are intended to be in place while the Village undertakes a more thorough study, review, and consideration of more comprehensive lakefront and steep slope regulations; and

WHEREAS, the Village Council has determined that amending and supplementing the Existing Regulations as set forth in this Ordinance is in the best interests of the Village;

NOW, THEREFORE, the Council of the Village of Winnetka does ordain as follows:

SECTION 1: RECITALS. The recitals above are incorporated into this Section as the findings of the Village Council, as if fully set forth in this Section.

SECTION 2: AMENDMENT TO SECTION 1.04.020 OF THE VILLAGE CODE.
Section 1.04.020, titled "Corporate limits--Jurisdiction," of Chapter 1.04, titled "General Provisions," of Title 1, titled "General Provisions," of the Village Code shall be amended to read as follows:

"Section 1.04.020 Corporate limits--Jurisdiction.

The corporate limits of the Village ~~are shall be as provided~~ **illustrated** on the Official Village of Winnetka Zoning Map, which is appended to Title 17 of this Code **and, as provided in the Village Charter, includes the bed and water of Lake Michigan to the width of one-half mile adjoining and contiguous to the Village.** Unless otherwise specifically provided in this Code, the provisions of this Code apply to persons and property located within the Village's corporate limits and to acts performed within those corporate limits."

Additions are bold and double-underlined; deletions are struck through

SECTION 3: NEW CHAPTER 15.78 OF THE VILLAGE CODE. Title 15, titled “Buildings and Construction,” of the Village Code shall be amended to add a new Chapter 15.78, titled “Lakefront Construction,” to read as follows:

“Chapter 15.78
LAKEFRONT CONSTRUCTION

Sections:

- 15.78.010 Purpose.**
- 15.78.020 Application of Provisions.**
- 15.78.030 Permit Requirement.**
- 15.78.040 Application Requirements.**
- 15.78.050 Permit Issuance.**
- 15.78.060 Decision of Village Engineer.**
- 15.78.070 Appeal to Village Council.**
- 15.78.080 Criteria for Permit Approval.**
- 15.78.090 Inspection.**

Section 15.78.010 Purpose.

The purpose of this Chapter is to create permitting requirements for construction along, adjacent to and within Lake Michigan. Lake Michigan, its coastline and beaches provide a unique natural resource to the Village and to its residents that must be preserved and protected. Some development and construction activity in and around Lake Michigan may be hazardous to people and property and may ~~accelerate~~ impact the erosion process and alter natural drainage patterns. This Chapter is intended to attempt to preserve those portions of Lake Michigan, its coastline and vegetation within the Village’s boundaries, while protecting the value of properties along the Lake through the establishment of narrow, reasonable permitting regulations. The regulations in this Chapter are further intended to provide that construction in and adjacent to Lake Michigan and its shoreline will not cause environmental or ecological damage to the Lake or surrounding areas of the Village or otherwise adversely impact the health, safety, and welfare of the Village or its residents.

Section 15.78.020 Application of Provisions.

A. This Chapter provides regulations and requirements for construction of structures in and adjacent to Lake Michigan and its shoreline. Specifically, this Chapter applies to (i) that portion of Lake Michigan that lies within the Village’s corporate limits as set forth in Section 1.04.020 of this Code, as well as that portion of Lake Michigan three miles beyond the Village

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corporate limits (“Lake Michigan”), and (ii) public and private property adjacent to Lake Michigan (collectively, “Lake Michigan regulated areas”).

B. This Chapter applies cumulatively with the other provisions of this Title and the Village Subdivision regulations and Building Codes. No approvals or permits issued pursuant to those other regulations or Codes authorize any activity that does not also comply with the applicable provisions of this Chapter. If a provision of this Chapter and a provision in this Title or in the Village Subdivision regulations or Building Codes are inconsistent, the provision resulting in the maximum protection and preservation of the Lake Michigan regulated areas shall govern.

C. The Village Engineer, or the Village Engineer’s designee (“Village Engineer”), is the Village official principally responsible for the administration of the requirements of this Chapter. The Village Engineer may utilize other Village officials and third-party consultants such as a coastal engineer to assist in, among other things, the review and analysis of permit applications and inspections required under this Chapter.

Section 15.78.030 Permit Requirement.

- A. A permit pursuant to this Chapter (“Required Permit”) is required for any construction activity within the Lake Michigan regulated areas that requires a permit from any of the following government agencies (“Permitting Agencies”): the United States Army Corps of Engineers, the Illinois Department of Natural Resources, the Metropolitan Water Reclamation District of Greater Chicago, or the Illinois Environmental Protection Agency (collectively, “Covered Construction”). No person shall undertake any Covered Construction without a Required Permit issued by the Village pursuant to this Chapter.
- B. Any person who engages in any Covered Construction without the Required Permit will be subject to additional fees and penalties as may be set from time to time by resolution of the Village Council or as otherwise provided in this Code.

Section 15.78.040 Application Requirements.

The submittal requirement for an application for a Required Permit will be to submit all documents and application materials required by or submitted to the Permitting Agencies for the Covered Construction. An application must be supplemented to include any updates to the corresponding applications to the Permitting Agencies. The applicant with apprise and consult with the Village on the progress of the review of the Covered Construction by the Permitting Agencies so the Village can (i) fully understand exactly what type of

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construction or activity is being proposed by the application, (ii) provide comments and feedback on the application and project throughout the federal and state review process, and (iii) make a decision on the Required Permit within the time period provided under Section 15.78.50 of this Chapter. Applicants must meet with the Village Engineer in advance of filing an application with any of the Permitting Agencies for Covered Construction to allow the Village an opportunity to identify any issues or concerns related to the Covered Construction, including any aspects of the Covered Construction that may not comply with the permit requirements of this Chapter.

Section 15.78.050 Permit Issuance.

The applicant must provide to the Village Engineer a copy of all permits for the Covered Construction received from the Permitting Agencies. The Village Engineer will make its final permit decision within 14 days after all of the permits from the Permitting Agencies for the Covered Construction have been provided to the Village, unless the applicant and the Village agree to additional time. The applicant will notify the Village Engineer within 48 hours if any of the Permitting Agencies deny a permit for the Covered Construction.

Section 15.78.060 Decision of Village Engineer.

The Village Engineer will take one of the following actions on each permit application within the 14-day period provided in Section 15.78.050 of this Chapter. The Village Engineer may (i) grant the permit, (ii) grant the permit with conditions, or (i) deny the permit. The issuance of any Required Permit will be conditioned on the applicant reimbursing the Village for any cost incurred by the Village in utilizing a coastal engineer or other third-party consultant to review the proposed Covered Construction and to participate in any subsequent inspections as provided in Section 15.78.090 of this Chapter. The applicant may appeal a decision of the Village Engineer directly to the Village Council by filing a written appeal with the Village Clerk within 14 days after receipt of the Village Engineer's decision on the Required Permit.

Section 15.78.070 Appeal to Village Council.

The Village Council will hear and decide an appeal within 60 days after receipt of the appeal, unless the applicant and the Village agree to additional time. The Village will provide notice of the date on which the Village Council will first consider an appeal by (i) notice on the Village website, (ii) posting notice on the Covered Construction property, and (iii) mailing notice to properties within ~~500~~1000 feet from the Covered Construction property. The Village will provide an opportunity for the applicant and other interested parties to be heard on the appeal at a public meeting. The decision of the Village Council will be a final decision by resolution duly adopted.

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Section 15.78.080 Criteria for Permit Approval.

The Village Engineer (and, if applicable on appeal, the Village Council) will issue a permit (with or without conditions) only if the following requirements are satisfied:

- A. **Permitting Agency Permits.** **The applicant has received and provided to the Village all required permits for the Covered Construction from the Permitting Agencies.**
- B. **Height.** **The height of the Covered Construction and any related structures will be no greater than what is minimally necessary to achieve the intended and proper purpose of the project and to be consistent with the purposes set forth in Section 15.78.010 of this Chapter.**
- C. **Conformity with Code.** **The Covered Construction and any related structures comply with all other applicable provisions of the Village Code, including, without limitation, the construction permitting requirements of Chapter 15.32 of this Title.**
- D. **Project Scope.** **The Covered Construction and any related structures include only what is minimally necessary to achieve the intended and proper purpose of the project and to be consistent with the purposes set forth in Section 15.78.010 of this Chapter.**
- E. **No Public Safety Hazard.** **The Covered Construction and any related structures will not create any public safety hazards, including, without limitation, by unreasonably obstructing or otherwise interfering with ingress or egress to adjacent public beaches or private property.**
- F. **Interference with Public Safety Operations.** **The Covered Construction and any related structures will not block or otherwise unreasonably interfere with the ability of public safety personnel to conduct search and rescue or other public safety operations.**
- G. **Existing SiteSight Lines:** **The Covered Construction and any related structures will alter existing sitesight lines along the Lake Michigan shoreline no more than is minimally necessary to achieve the intended and proper purpose of the project and to be consistent with the purposes set forth in Section 15.78.010 of this Chapter.**

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Section 15.78.090 Inspection.

- A. **Construction Inspections. All Covered Construction will be subject to inspection by the Village Engineer periodically during the course of the work. The purpose of these inspections will be to confirm that the Covered Construction complies with the Required Permit and this Code. The Village Engineer may require that the Covered Construction, or any part of the Construction, be inspected at one or more specific points during the project before further work can proceed.**
- B. **Final Inspection. Upon completion of the Covered Construction, the Village Engineer will make a final inspection to confirm that the Covered Construction complies with the Required Permit and this Code. The applicant must submit as-built plans for the project to the Village Engineer prior to the final inspection.**

SECTION 4: AMENDMENT TO SECTION 15.32.050 OF THE VILLAGE CODE.

Section 15.32.050, titled “Applications for Permit,” of Chapter 15.32, titled “Construction Permits,” of Title 15, titled “Buildings and Construction,” of the Village Code shall be amended to read as follows:

“Section 15.32.050 Applications for permit

* * *

M. Permits for Lakefront Construction. All applications for a permit for construction activities within Lake Michigan regulated areas, as defined in Section 15.78.020 of this Code, must also satisfy the requirements of Chapter 15.78 of this Title.

SECTION 5: AMENDMENT TO SECTION 9.16.020 OF THE VILLAGE CODE.

Section 9.16.020, titled “Public Nuisances Defined,” of Chapter 9.16, titled “Nuisances,” of Title 9, titled “Public Peace, Morals and Welfare,” of the Village Code shall be amended to read as follows:

“Section 9.16.020 Public nuisances defined.

* * *

- D. Public Nuisances Affecting Peace and Safety. The following acts, omissions, places, conditions and things are declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of subsection A of this section:

Additions are bold and double-underlined; deletions are struck through

* * *

22. Any construction activity and related structures that do not comply with the provisions of Chapter 15.78 of this Code.

* * *

SECTION 6: AMENDMENT TO SECTION 12.04.100 OF THE VILLAGE CODE.

Section 12.04.100, titled “Improvements--Permit,” of Chapter 12.04, titled “Streets and Sidewalks Generally,” of Title 12, titled “Streets, Sidewalks and Public Places,” of the Village Code shall be amended to read as follows:

“Section 12.04.100 Improvements--Permit.

No sewer, water pipe, oil pipe, conduit pipe, gas pipe, wire or cable for conveying electric current, nor any street or alley, pavement, sidewalk or other like improvement shall be placed, laid or maintained in, under or upon any proposed or existing public street, alley or other public place in the Village or in any proposed addition, subdivision or dedication of any lands within the boundaries of the Village, **including the portion of Lake Michigan within the boundaries of the Village,** except improvements constructed under special assessment proceedings, unless a permit authorizing the same shall have been duly issued by the Director of Engineering.”

SECTION 7: AMENDMENT TO SECTION 12.04.140 OF THE VILLAGE CODE.

Section 12.04.140, titled “Rules and Regulations,” of Chapter 12.04, titled “Streets and Sidewalks Generally,” of Title 12, titled “Streets, Sidewalks and Public Places,” of the Village Code shall be amended to read as follows:

“Section 12.04.140 Rules and regulations.

The Director of Public Works shall be authorized to promulgate such standards, rules and regulations for any work in, on or above any public street, sidewalk or dedicated right-of-way, **or in or adjacent to Lake Michigan,** as he or she may determine to be necessary and appropriate to implement the provisions of this Code and to provide for the public safety. Any person doing any work in, on or above any public street, sidewalk or dedicated right-of-way, **or in or adjacent to Lake Michigan,** shall be responsible for bearing all costs of complying with the provisions of any standards, rules or regulations promulgated pursuant to this section.”

SECTION 8: SEVERABILITY. If any provision of this Ordinance or part of this Ordinance is held invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance shall remain in full force and effect, and shall be interpreted, applied, and enforced so as to achieve, as near as may be, the purpose and intent of this Ordinance to the greatest extent permitted by applicable law.

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SECTION 9: EFFECTIVE DATE. This Ordinance will be in full force and effect upon its passage and approval in the manner provided by law.

PASSED this 21 of March, 2023, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED this ____ day of _____, 2023.

Signed:

Village President

Countersigned:

Village Clerk

Published by authority of the
President and Board of Trustees of
the Village of Winnetka, Illinois,
this ____ day of _____,
2023.

Introduced: March 7, 2023

Passed and Approved: _____, 2023

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March 21, 2023

MC-05-2023

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