

Winnetka Village Council
REGULAR MEETING
Village Hall
510 Green Bay Road
Tuesday, September 17, 2013
7:00 p.m.

Emails regarding any agenda item are welcomed. Please email contactcouncil@winnetka.org, and your email will be relayed to the Council members. Emails for the Tuesday Council meeting must be received by Monday at 4 p.m. Any email may be subject to disclosure under the Freedom of Information Act.

AGENDA

- 1) Call to Order
- 2) Pledge of Allegiance
- 3) Quorum
 - a) October 1, 2013 Regular Meeting
 - b) October 8, 2013 Study Session
 - c) October 15, 2013 Regular Meeting
 - d) Tentative Budget Dates (Budget Hearing anticipated November 5)
 - (i) Need 3 dates, plus alternate: October 10, October 14, October 17, October 24, October 30
- 4) Approval of Agenda
- 5) Consent Agenda
 - a) Approval of Village Council Minutes
 - i) September 3, 2013 Regular Meeting3
 - b) Approval of Warrant Lists 1813 and 18146
 - c) Ordinance M-14-2013: Disposition of Surplus Vehicles & Equipment – Adoption.....7
 - d) 2013 Bond Issuance – Engagement of Bond Counsel12
 - e) Change Order for Primary Cable, the Okonite Company.....22
 - f) Purchase of Police Patrol Vehicle.....25
- 6) Stormwater
 - a) Willow Road Tunnel – Engineering RFQ Responses.....28
 - b) Winnetka Avenue Pump Station Improvements: Bid Award48

- 7) Ordinances and Resolutions
 - a) Ordinance M-13-2013: 672 Maple Street, Zoning Variation – Introduction.....52
 - b) Ordinance MC-5-2013: Establishing an Administrative Hearing Process – Introduction.....93
- 8) Public Comment
- 9) Old Business: None.
- 10) New Business
- 11) Appointments
- 12) Reports
- 13) Executive Session
- 14) Adjournment

NOTICE

All agenda materials are available at villageofwinnetka.org (*Council > Current Agenda*); the Reference Desk at the Winnetka Library; or in the Manager’s Office at Village Hall (2nd floor).

Broadcasts of the Village Council meetings are televised on Channel 10 and AT&T Uverse Channel 99 every night at 7 PM. Webcasts of the meeting may also be viewed on the Internet via a link on the Village’s web site: villageofwinnetka.org

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 – Megan Pierce, at 510 Green Bay Road, Winnetka, Illinois 60093, 847.716.3543; T.D.D. 847.501.6041.

**MINUTES
WINNETKA VILLAGE COUNCIL
REGULAR MEETING
September 3, 2013**

(Approved: xx)

A record of a legally convened meeting of the Council of the Village of Winnetka, which was held in the Council Chambers on Tuesday, September 3, 2013, at 7:00 p.m.

- 1) Call to Order. President Greable called the meeting to order at 7:00 p.m. Present: Trustees Joe Adams, Arthur Braun, Patrick Corrigan, Richard Kates, and Stuart McCrary. Absent: Trustee Jack Buck and Village Manager Rob Bahan. Also present: Village Attorney Katherine Janega, Director of Public Works Steven Saunders, Water & Electric Director Brian Keys and 2 persons in the audience.
- 2) Pledge of Allegiance. President Greable led the group in the Pledge of Allegiance.
- 3) Quorum.
 - a) September 10, 2013 Study Session. All of the Council members present indicated that they expected to attend.
 - b) September 17, 2013 Regular Meeting. All of the Council members present indicated that they expected to attend.
 - c) October 1, 2013 Regular Meeting. All of the Council members present indicated that they expected to attend.
- 4) Approval of the Agenda. Trustee Braun, seconded by Trustee Corrigan, moved to approve the Agenda. By roll call vote the motion carried. Ayes: Trustees Adams, Braun, Corrigan, Kates and McCrary. Nays: None. Absent: Trustee Buck.
- 5) Consent Agenda
 - a) Village Council Minutes.
 - i) August 20, 2013 Regular Meeting.
 - b) Warrant Lists Nos. 1811 and 1812. Approving Warrant List No. 1811 in the amount of \$1,351,477.62, and Warrant List No. 1812 in the amount of \$735,130.30.
 - c) Birch Street Water Main: Bid #013-024. Awards Bid #013-024 for the installation of the Birch Street water main to Lenny Hoffman Excavating, Inc., in the amount of \$184,777.
 - d) Bid #013-027: 2013 Holiday Lighting. Awards Bid #013-027 to Landscape Concepts Management in the amount of \$47,400, for the 2013 holiday lighting.

Trustee Braun, seconded by Trustee McCrary, moved to approve the foregoing items on the Consent Agenda by omnibus vote. By roll call vote, the motion carried. Ayes: Trustees Adams, Braun, Corrigan, Kates and McCrary. Nays: None. Absent: Trustee Buck.
- 6) Stormwater. No report.

7) Ordinances and Resolutions.

- a) Ordinance M-14-2013: Disposition of Surplus Vehicles and Equipment – Introduction. Attorney Janega reviewed the ordinance dealing with the disposal of vehicles and equipment that are no longer used or useful for the Village. The Village’s established practice is to dispose of vehicles and large equipment by participating in auctions sponsored by the Northwest Municipal Conference (NWMC). The next live auction is scheduled for October 15, 2013, and will be conducted pursuant to NWMC’s agreement with Manheim Remarketing, which also does online sales.

There being no questions or comments, Trustee Kates, seconded by Trustee Braun, moved to introduce Ordinance M-14-2013. By voice vote, the motion carried.

- 8) Public Comment and Questions. Bernard Hammer, 1455 Tower Road: Mr. Hammer distributed his memo about stormwater funding to the Council members.

- 9) Old Business. None.

10) New Business.

- a) Water Plant Intake, Maintenance Work. Water & Electric Director Keys explained that the Water Plant intake pipe is covered in sand and stone to protect it and keep it in place. A section of pipe is currently exposed, necessitating placement of additional stone to protect the pipe. A bid was issued for the repair work, and only one response was received, in the amount of \$131,500. Staff recommends rejecting that bid, as the price is 87.9% above the budgeted amount of \$70,000. Mr. Keys said alternately, Staff has negotiated a contract for the maintenance work with a reliable firm that has done the work in the past but could not at this time post a performance bond. He recommended that the Council accept the negotiated proposal, as the work needs to be completed before winter.

After Mr. Keys answered a few brief questions from the Council, Trustee Kates, seconded by Trustee McCrary, moved to formally reject the bid received by Kokosing Construction Company, due to the high price bid. By roll call vote, the motion carried. Ayes: Trustees Adams, Braun, Corrigan, Kates and McCrary. Nays: None. Absent: Trustee Buck.

Trustee Braun, seconded by Trustee McCrary, moved to authorize the Village Manager to enter into a negotiated agreement with the Edward E. Gillen Company in an amount not to exceed \$84,000, for the replacement of sand and stone material along the Village’s water intake pipe, pursuant to Gillen’s written proposal and subject to the company meeting the Village’s insurance and indemnification requirements. By roll call vote, the motion carried. Ayes: Trustees Adams, Braun, Corrigan, Kates and McCrary. Nays: None. Absent: Trustee Buck.

- b) Bid #013-026: Paver Crosswalk Replacement. Public Works Director Saunders reported that there are ten paver crosswalks in the Elm Street Business District which are deteriorated and in need of complete replacement. After reviewing details for a new installation of pavers, he requested the Council’s approval to award a bid for installation of clay pavers which are the same in appearance as the pavers installed on Moffat Mall and the streetscape demonstration project at Tower and Green Bay Roads.

The Council asked a few questions, after which Trustee Braun, seconded by Trustee Kates, moved to award Bid #013-026 for paver crosswalk replacement to Schroeder & Schroeder Concrete Contractors for \$179,730. By roll call vote, the motion carried. Ayes: Trustees Adams, Braun, Corrigan, Kates and McCrary. Nays: None. Absent: Trustee Buck.

11) Appointments. None.

12) Reports.

- a) Village President. President Greable urged residents to read the *Stormwater Management Special Report* that had been mailed over the weekend, and he also encouraged the community to attend one of two Town Hall meetings that will be held on September 19 and 25.
- b) Trustees.
 - i) Trustee Kates reported on the latest activities of the Plan Commission, and he also urged residents to file their property tax appeals with the Cook County Assessor.
 - ii) Trustee McCrary encouraged residents to fill out their Caucus Survey, and he announced that the Fire Pension Board had rescheduled its regular meeting to September 24.
- c) Attorney. No report.
- d) Manager. No Report.

13) Executive Session. Trustee Braun moved to adjourn into Executive Session to discuss Pending and Probable Litigation, pursuant to Section 2(c)(11) of the Illinois Open Meetings Act. Trustee Kates seconded the motion. By roll call vote, the motion carried. Ayes: Trustees Adams, Braun, Corrigan, Kates and McCrary. Nays: None. Absent: Trustee Buck. The Council adjourned into Executive Session at 7:35 p.m.

The Council reconvened into Regular Session at 8:57 p.m. Present: President Greable, Trustees Adams, Braun, Corrigan, Kates and McCrary. Absent: Trustee Jack Buck and Village Manager Rob Bahan. Also present: Village Attorney Katherine Janega.

14) Adjournment. Trustee Kates, seconded by Trustee Braun, moved to adjourn the meeting. By voice vote, the motion carried. The meeting adjourned at 8:58 p.m.

Recording Secretary



Agenda Item Executive Summary

Title: Warrant Lists Nos. 1813 and 1814

Presenter: Robert M. Bahan, Village Manager

Agenda Date: 09/17/2013

Consent: YES NO

<input type="checkbox"/>	Ordinance
<input type="checkbox"/>	Resolution
<input type="checkbox"/>	Bid Authorization/Award
<input type="checkbox"/>	Policy Direction
<input checked="" type="checkbox"/>	Informational Only

Item History:

None.

Executive Summary:

Warrant Lists Nos. 1813 and 1814 were emailed to each Village Council member.

Recommendation / Suggested Action:

Consider approving Warrant Lists Nos. 1813 and 1814

Attachments:

None.



Agenda Item Executive Summary

Title: M-14-2013 - Disposition of Surplus Vehicles and Equipment (Adoption)

Presenter: Katherine S. Janega, Village Attorney

Agenda Date: 09/17/2013

Consent: YES NO

- | | |
|-------------------------------------|-------------------------|
| <input checked="" type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | Resolution |
| <input type="checkbox"/> | Bid Authorization/Award |
| <input type="checkbox"/> | Policy Direction |
| <input type="checkbox"/> | Informational Only |

Item History:

None.

Executive Summary:

From time to time, it is necessary to dispose of vehicles and equipment that are no longer used and useful for the Village. The Village's established practice is to dispose of vehicles and large equipment by participating in auctions sponsored by the Northwest Municipal Conference (NWMC). Those auctions are now conducted by Manheim Remark, pursuant to a contract with the NWMC that also sets terms whereby Manheim also does on-line sales.

Ordinance M-14-2013 authorizes the Village's participation in the next scheduled NWMC live auction, which is set for October 15, 2013. The Ordinance provides for the disposition of two Police Department vehicles and four vehicles from the Public Works Department, establishes the details for the auction, and authorizes any vehicles or equipment that could not be sold at the auction to be disposed of by other methods, such as on-line sales, conveyance to other municipalities, or sale as scrap.

Recommendation / Suggested Action:

- 1) Consider a motion to adopt Ordinance M-14-2013, titled "An Ordinance Authorizing the Disposition of Certain Surplus Vehicles and Equipment Owned by the Village of Winnetka."

Attachments:

Ordinance M-14-2013

ORDINANCE NO. M-14-2013

**AN ORDINANCE
AUTHORIZING THE DISPOSITION OF
CERTAIN SURPLUS VEHICLES AND EQUIPMENT
OWNED BY THE VILLAGE OF WINNETKA**

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, except as limited by said Section 6 of Article VII, to exercise any power and perform any function pertaining to the Village’s government and affairs and to the public health, safety and welfare; and

WHEREAS, the Village Council finds that the disposal of surplus property owned by the Village, such as the Surplus Property described in this Ordinance, is a matter pertaining to the affairs of the Village and to the public health, safety and general welfare; and

WHEREAS, the Village of Winnetka owns certain vehicles and equipment that have been retired from service due to their scheduled replacement, obsolescence or damage (the “Surplus Property”), which Surplus Property is described, and its sale value estimated, in the following table:

VIN / Serial Number	Dept.	Year	Make &Model	Comments	Estimated Value
1HFTE260264502369	PD	2006	Honda TRX500FA	ATV with Honda 500 engine; Good condition; lacks safety features and is being replaced by 4-wheel-drive vehicle with roll bar and seat belts	\$2,500.00
2B3KA43G26H504187	PD	2006	Dodge Charger	4-door sedan, with 3.5L Dodge engine; Scheduled replacement; Good condition	\$4,500.00
1FTWX30P76EA41418	PW	2006	Ford F350	2-door Pick-up; Out of service, replacement on order; Poor condition;	\$1,500.00
1200	PW	1989	Leboy Paver	Beyond useful life; Fair condition	\$2,000.00
98320	PW	1989	Sweepster HFA	60” PTO driven broom; Beyond useful life	\$500.00
98319	PW	1989	Sweepster HFA	60” PTO driven broom; Beyond useful life	\$500.00

WHEREAS, the Council of the Village of Winnetka (“Village Council”) have determined that it is no longer useful to, or in the best interests of, the Village of Winnetka to retain the above-described Surplus Property and that it should be disposed of as provided in this Ordinance; and

WHEREAS, the Village of Winnetka is a member of the Northwest Municipal Conference (“the NWMC”), a regional council of government that represents Illinois municipalities and townships located in Cook, DuPage, Kane, Lake and McHenry Counties; and

WHEREAS, the NWMC periodically organizes and conducts joint municipal auctions for the sale of surplus vehicles and equipment; and

WHEREAS, the NWMC has entered into an agreement with Manheim Remarketing (“Manheim”) whereby Manheim will conduct live and Internet auctions of local government surplus vehicles and equipment; and

WHEREAS, the NWMC and Manheim have scheduled the first live auction of surplus vehicles and equipment to be conducted by Manheim Remarketing on behalf of the Northwest Municipal Conference at 2:00 p.m., Tuesday, October 15, 2013, at the Manheim Arena, 550 S. Bolingbrook Drive, Bolingbrook, Illinois (“Live Auction”); and

WHEREAS, from time to time the Village Manager requests the authorization to dispose of surplus vehicles and other equipment that are no longer used and useful to the Village, by selling them through auctions and other sales conducted by the NWMC, or by other means where such auction or public sale has been unsuccessful, or where the Village Manager has determined that the cost of advertising and publishing the notice of property for sale, as well as personnel costs for maintaining security and conducting such public sale, exceed the value of such items; and

WHEREAS, the Village Manager has authorized the NWMC to advertise and obtain bids for the sale of the items of Surplus Property described in this Ordinance at the above-described Live Auction, with the acceptance of any bids being subject to the approval of the corporate authorities of the Village of Winnetka (“Village Council”) pursuant to a duly enacted ordinance; and

WHEREAS, the Village Council has determined that disposal of the Surplus Property as provided in this Ordinance is necessary and proper so as to avoid incurring unnecessary additional costs and unnecessary exposure to liability related to storing or disposing of the Surplus Property; and

WHEREAS, the Council of the Village of Winnetka, in the exercise of its home rule powers pursuant to Section 6 of Article VII of the Illinois Constitution of 1970, has determined that it is in the best interests of the Village and its citizens to dispose of the Surplus Property in a manner consistent with the provisions of Section 11-76-4 of the Illinois Municipal Code (65 ILCS 5/11-76-4), as more fully set forth in this Ordinance; and

WHEREAS, this Ordinance has been placed on the Village Council’s agenda and made available for public inspection at Village Hall and on the Village’s web site, in accordance with Sections 2.04.040 and 2.16.040 of the Winnetka Village Code and applicable law.

NOW, THEREFORE, be it ordained by the Council of the Village of Winnetka as follows:

SECTION 1: Pursuant to the Village's home rule authority, and consistent with Section 11-76-4 of the Illinois Municipal Code 65 (ILCS 5/11-76-4), the Council of the Village of Winnetka find that the above-described Surplus Property is no longer necessary or useful to the Village of Winnetka and that the best interests of the Village of Winnetka will be served by the sale of said Personal Property as provided in this Ordinance.

SECTION 2: Pursuant to the Village's home rule authority and consistent with said Section 11-76-4, the Village Manager is hereby authorized to direct the sale of the Surplus Property at an auction to be conducted by Manheim Remarketing ("Manheim") on behalf of the Northwest Municipal Conference ("NWMC") at 2:00 p.m., Tuesday, October 15, 2013, at the Manheim Arena, 550 S. Bolingbrook Drive, Bolingbrook, Illinois ("Live Auction").

SECTION 3: The Village Manager is further authorized to direct the NWMC to advertise the sale of the Personal Property through area newspapers, direct mailings, and such other channels as the NWMC deems appropriate prior to the date of said Live Auction.

SECTION 4: The Village Manager is further authorized to enter into an agreement with the NWMC, or with Manheim acting on behalf of the NWMC and the Village of Winnetka, for the sale of the Surplus Property, whereby the Surplus Property shall be sold at said Live Auction to the highest bidder or bidders, according to the terms set forth in the NWMC's specifications for the sale of vehicles and equipment at NWMC auctions.

SECTION 5: The Village Manager is further authorized to enter into an agreement with the NWMC, or with Manheim acting on behalf of the NWMC and the Village of Winnetka, for any of the above-described Surplus Property that has not been sold at the Live Auction, to be sold through Manheim's On-Line Vehicle Exchange Service, or through any other method authorized in the agreement between the NWMC and Manheim.

SECTION 6: No bid shall be accepted for the sale of any item of the Surplus Property which is less than the minimum value of said item of personal property as set forth in the table in the preamble to this ordinance, with the Kelly Blue Book value being used for any vehicle for which the estimated value is listed as "TBD," unless the Village Manager, or his designee, so authorizes at the time of the auction, and unless the highest bid received for such item is less than the minimum value set forth in this Ordinance.

SECTION 7: Upon payment in full of the auctioned price by the highest bidder or bidders for any item of the Personal Property, the Village Manager is authorized to direct the NWMC to convey and transfer the title and ownership of said item of Personal Property to the highest bidder or bidders.

SECTION 8: In the event that any of the Surplus Property has not been, or cannot be sold in the manner provided in Sections 4 through 7 of this Ordinance, the Village Manager is authorized to dispose of such Surplus Property in any of the following ways: (a) selling the Surplus Property to the highest bidder, with or without advertising, in a live or on-line sale; (b) selling the Surplus Property for scrap; and (c) transferring title to any Illinois municipality, with or without advertising and/or competitive bidding. The method, terms and conditions of any disposition of Surplus Property pursuant to this Section 8 shall be established by the Village Manager on a case by case basis, after considering such factors as the estimated value of the Surplus Property, the cost of advertising, the cost of continued storage for possible future sale, and, in the case of transfer to another unit of government, the needs and financial capabilities of such transferee.

SECTION 9: This Ordinance is passed by the Council of the Village Winnetka in furtherance of Article VII, Section 10 of the Constitution of the State of Illinois, and the Intergovernmental Cooperation Act, 220 ILCS 220/1, *et seq.*, which authorizes and encourages intergovernmental cooperation.

SECTION 10: This Ordinance is passed by the Council of the Village of Winnetka in the exercise of its home rule powers pursuant to Section 6 of Article VII of the Illinois Constitution of 1970.

SECTION 11 This Ordinance shall take effect immediately upon its passage, approval and posting as provided by law.

PASSED this ___ day of _____, 2013, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED this ___ day of _____, 2013.

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 _____, 2013.

Introduced: September 3, 2013

Passed and Approved:



Agenda Item Executive Summary

Title: 2013 Bond Issuance - Engagement of Bond Counsel

Presenter: Edward McKee, Finance Director

Agenda Date: 09/17/2013

Consent: YES NO

<input type="checkbox"/>	Ordinance
<input type="checkbox"/>	Resolution
<input checked="" type="checkbox"/>	Bid Authorization/Award
<input type="checkbox"/>	Policy Direction
<input type="checkbox"/>	Informational Only

Item History:

July 9, 2013	Council Meeting	Agenda pp. 2 - 46	Draft Stormwater Master Plan
July 11, 2013	Council Study Session	Agenda pp. 1 - 46	Stormwater Bond Financing

Executive Summary:

Since June 2012, the Village Council has been working with various consultants to develop a Stormwater Master Plan, which includes defining projects, financing improvements over the long-term through the issuance of bonds, and establishing a stormwater utility to provide for a revenue stream to retire the bonds over time.

At a special Study Session on July 11, 2013, following a presentation by and lengthy discussion with the Village's financial consultant, Kevin McCanna of Speer Financial, Inc., the Council determined that it should proceed with issuing \$18,500,000 in bonds to take advantage of the favorable bond market, as several projects would be ready to proceed within the time required. After confirming the Council's direction to prepare for the issuance and sale of the bonds in October, the Village Attorney advised the Council that she would contact Chapman and Cutler LLP, the Village's long-time bond counsel, to begin preparation of the bond ordinance and a reimbursement resolution.

Chapman and Cutler LLP has sent the Village the attached engagement letter, which defines the scope of services and, as is customary for bond issues, sets the fee on a transactional basis. The estimated fee of \$38,500 (about 0.2% of the amount of this bond issuance) requires Council approval.

Recommendation / Suggested Action:

Authorize the Village Manager to sign the attached engagement letter from Chapman and Cutler LLP, dated September 11, 2013.

Attachments:

1) Chapman and Cutler LLP engagement letter dated September 11, 2013.

September 11, 2013

VIA ELECTRONIC MAIL

Mr. Edward F. McKee
Treasurer/Director of Finance
Village of Winnetka
510 Green Bay Road
Winnetka, Illinois 60093

Re: Village of Winnetka, Cook County, Illinois
General Obligation Bonds, Series 2013

Dear Mr. McKee:

We are pleased to provide an engagement letter for our services as bond counsel for the bonds in reference (the “*Bonds*”). For convenience and clarity, we may refer to the Village of Winnetka, Cook County, Illinois (the “*Village*”) in its corporate capacity and to you, the Village officers (including the President and Board of Trustees of the Village), employees, and general and special counsel to the Village, collectively as “*you*” (or the possessive “*your*”). You have advised us that the purpose of the issuance of the Bonds, briefly stated, is to finance certain improvements relating to the Village’s stormwater system. You are retaining us for the limited purpose of rendering our customary approving legal opinion as described in detail below.

A. DESCRIPTION OF SERVICES

As Bond Counsel, we will work with you and the following persons and firms: the underwriters or other bond purchasers who purchase the Bonds from the Village (all of whom are referred to as the “*Bond Purchasers*”) and counsel for the Bond Purchasers, financial advisors, trustee, paying agent and bond registrar and their designated counsel (you and all of the foregoing persons or firms, collectively, the “*Participants*”). We intend to undertake each of the following as necessary:

1. Review relevant Illinois law, including pending legislation and other recent developments, relating to the legal status and powers of the Village or otherwise relating to the issuance of the Bonds.

2. Obtain information about the Bond transaction and the nature and use of the facilities or purposes to be financed (the “*Project*”).

Chapman and Cutler LLP

Mr. Edward F. McKee

September 11, 2013

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3. Review the proposed timetable and consult with the Participants as to issuance of the Bonds in accordance with the timetable.

4. Consider the issues arising under the Internal Revenue Code of 1986, as amended, and applicable tax regulations and other sources of law, relating to the issuance of the Bonds on a tax-exempt basis; these issues include, without limitation, ownership and use of the Project, use and investment of Bond proceeds prior to expenditure, and security provisions or credit enhancement relating to the Bonds.

5. Prepare or review major Bond documents, including tax compliance certificates, review the bond purchase agreement, if applicable, and, at your request, draft descriptions of the documents which we have drafted. We understand that the Bonds will be sold at competitive sale and that the Village will be assisted in the preparation of sale documents and in the process of the sale itself by its financial advisor. As Bond Counsel, we assist you in reviewing only those sections of the official statement or any other disclosure document to be disseminated in connection with the sale of the Bonds involving the description of the Bonds, the security for the Bonds, and the description of the federal tax exemption of interest on the Bonds and, if applicable, the "bank-qualified" status of the Bonds.

6. Prepare or review all pertinent proceedings to be considered by the President and Board of Trustees of the Village; confirm that the necessary quorum, meeting and notice requirements are contained in the proceedings, and draft pertinent excerpts of minutes of the meetings relating to the financing.

7. Attend or host such drafting sessions and other conferences as may be necessary, including a preclosing, if needed, and closing; and prepare and coordinate the distribution and execution of closing documents and certificates, opinions and document transcripts.

8. Render our legal opinion regarding the validity of the Bonds, the source of payment for the Bonds, and the federal income tax treatment of interest on the Bonds, which opinion (the "*Bond Opinion*") will be delivered in written form on the date the Bonds are exchanged for their purchase price (the "*Closing*"). The Bond Opinion will be based on facts and law existing as of its date. Please see the discussion below at part D. Please note that our opinion represents our legal judgment based upon our review of the law and the facts so supplied to us that we deem relevant and is not a guarantee of a result.

B. LIMITATIONS; SERVICES WE DO NOT PROVIDE

Our duties as Bond Counsel are limited as stated above. Consequently, unless otherwise agreed pursuant to a separate engagement letter, our duties *do not* include:

Chapman and Cutler LLP

Mr. Edward F. McKee

September 11, 2013

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1. Giving any advice, opinion or representation as to the financial feasibility or the fiscal prudence of issuing the Bonds, advice estimating or comparing the relative cost to maturity of the Bonds depending on various interest rate assumptions, or advice recommending a particular structure as being financially advantageous under prevailing market conditions, or financial advice as to any other aspect of the Bond transaction, including, without limitation, the undertaking of the Project, the investment of Bond proceeds, the making of any investigation of or the expression of any view as to the creditworthiness of the Village, of the Project or of the Bonds or the form, content, adequacy or correctness of the financial statements of the Village. We will not offer you financial advice in any capacity beyond that constituting services of a traditionally legal nature.

2. Except as described in Paragraph (A)(5) above, assisting in the preparation or review of an official statement or any other disclosure document with respect to the Bonds or performing an independent investigation to determine the accuracy, completeness or sufficiency of any such document or rendering any advice, view or comfort that the official statement or other disclosure document (which may be referred to as the “*Official Statement*”) does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading. Please see our comments below at paragraphs (D)(5) and (D)(6).

3. Independently establishing the veracity of certifications and representations of you or the other Participants. For example, we will not review the data available on the Electronic Municipal Market Access system website created by the Municipal Securities Rulemaking Board (and commonly known as “EMMA”) to verify the information relating to the Bonds to be provided by the Bond Purchasers, and we will not undertake a review of your website to establish that information contained corresponds to that you provide independently in your certificates or other transaction documents.

4. Supervising any state, county or local filing of any proceedings held by the President and Board of Trustees of the Village incidental to the Bonds.

5. Preparing any of the following — requests for tax rulings from the Internal Revenue Service, blue sky or investment surveys with respect to the Bonds, state legislative amendments, or pursuing test cases or other litigation.

6. Opining on securities laws compliance or as to the continuing disclosure undertaking pertaining to the Bonds; and, after the execution and delivery of the Bonds, providing advice as to any Securities and Exchange Commission investigations or concerning any actions necessary to assure compliance with any continuing disclosure undertaking.

7. After Closing, providing continuing advice to the Village or any other party concerning any actions necessary to assure that interest paid on the Bonds will continue to be

Chapman and Cutler LLP

Mr. Edward F. McKee

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tax-exempt; *e.g.*, we will not undertake rebate calculations for the Bonds without a separate engagement for that purpose, we will not monitor the investment, use or expenditure of Bond proceeds or the use of the Project, and we are not retained to respond to Internal Revenue Service audits.

8. Any other matter not specifically set forth above in Part A.

C. ATTORNEY-CLIENT RELATIONSHIP; REPRESENTATION OF OTHERS

Upon execution of this engagement letter, the Village will be our client, and an attorney-client relationship will exist between us. However, our services as Bond Counsel are limited as set forth in this engagement letter, and your execution of this engagement letter will constitute an acknowledgment of those limitations. Also please note that the attorney-client privilege, normally applicable under State law, may be diminished or non-existent for written advice delivered with respect to Federal tax law matters.

From time to time we represent in a variety of capacities and consult with most underwriters, investment bankers, credit enhancers such as bond insurers or issuers of letters of credit, ratings agencies, investment providers, brokers of financial products, financial advisors, banks and other financial institutions, and other persons who participate in the public finance market on a wide range of issues. One of such firms may be the winning bidder (*i.e.*, become the Bond Purchasers) at the public sale of the Bonds. Prior to execution of this engagement letter, we may have consulted with one or more of such firms regarding the Bonds including, specifically, the Bond Purchasers. We are advising you, and you understand that the Village consents to our representation of it in this matter, notwithstanding such consultations, and even though parties whose interests are or may be adverse to the Village in this transaction are clients in other unrelated matters. Neither our representation of the Village nor such additional relationships or prior consultations will affect, however, our responsibility to render an objective Bond Opinion.

Your consent does not extend to any conflict that is not subject to waiver under applicable Rules of Professional Conduct (including Circular 230 discussed below), or to any matter that involves the assertion of a claim against the Village or the defense of a claim asserted by the Village. In addition, we agree that we will not use any confidential non-public information received from you in connection with this engagement to your material disadvantage in any matter in which we would be adverse to you.

Circular 230 as promulgated by the U.S. Department of Treasury ("*Circular 230*") provides rules of professional conduct governing tax practitioners. Circular 230 includes provisions regarding conflicts of interest and related consents that in some respects are stricter than applicable state rules of professional conduct which otherwise apply. In particular, Circular 230 requires your consent to conflicts of interest be given in writing within 30 days of

Chapman and Cutler LLP

Mr. Edward F. McKee

September 11, 2013

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the date of this letter. If we have not received all of the required written consents by this date, we may be required under Circular 230 to “promptly withdraw from representation” of the Village in this matter.

Further, this engagement letter will also serve to give you express notice that we represent many other municipalities, school districts, park districts, counties, townships, special districts and units of local government both within and outside of the State of Illinois and also the State itself and various of its agencies and authorities (collectively, the “*governmental units*”). Most but not all of these representations involve bond or other borrowing transactions. We have assumed that there are no controversies pending to which the Village is a party and is taking any position which is adverse to any other governmental unit, and you agree to advise us promptly if this assumption is incorrect. In such event, we will advise you if the other governmental unit is our client and, if so, determine what actions are appropriate. Such actions could include seeking waivers from both the Village and such other governmental unit or withdrawal from representation.

The Village will have its general or special counsel available as needed to provide advocacy in the Bond transaction and has had the opportunity to consult with such counsel concerning the conflict consents and other provisions of this letter; and that other Participants will retain such counsel as they deem necessary and appropriate to represent their interests.

D. OTHER TERMS OF THE ENGAGEMENT; CERTAIN OF YOUR UNDERTAKINGS

Please note our understanding with respect to this engagement and your role in connection with the issuance of the Bonds.

1. In rendering the Bond Opinion and in performing any other services hereunder, we will rely upon the certified proceedings and other certifications you and other persons furnish to us. Other than as we may determine as appropriate to rendering the Bond Opinion, we are not engaged and will not provide services intended to verify the truth or accuracy of these proceedings or certifications. We do not ordinarily attend meetings of the President and Board of Trustees at which proceedings related to the Bonds are discussed or passed unless special circumstances require our attendance.

2. The factual representations contained in those documents which are prepared by us, and the factual representations which may also be contained in any other documents that are furnished to us by you are essential for and provide the basis for our conclusions that there is compliance with State law requirements for the issue and sale of valid Bonds and with the Federal tax law for the tax exemption of interest paid on the Bonds. Accordingly, it is important for you to read and understand the documents we provide to you because you will be confirming the truth, accuracy and completeness of matters contained in those documents at the issuance of the Bonds.

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Mr. Edward F. McKee

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3. If the documents contain incorrect or incomplete factual statements, you must call those to our attention. We are always happy to discuss the content or meaning of the transaction documents with you. Any untruth, inaccuracy or incompleteness may have adverse consequences affecting either the tax exemption of interest paid on the Bonds or the adequacy of disclosures made in the Official Statement under the State and Federal securities laws, with resulting potential liability for you. During the course of this engagement, we will further assume and rely on you to provide us with complete and timely information on all developments pertaining to any aspect of the Bonds and their security. We understand that you will cooperate with us in this regard.

4. You should carefully review all of the representations you are making in the transaction documents. We are available and encourage you to consult with us for explanations as to what is intended in these documents. To the extent that the facts and representations stated in the documents we provide to you appear reasonable to us, and are not corrected by you, we are then relying upon your signed certifications for their truth, accuracy and completeness.

5. Issuing the Bonds as “securities” under State and Federal securities laws and on a tax-exempt basis is a serious undertaking. As the issuer of the Bonds, the Village is obligated under the State and Federal securities laws and the Federal tax laws to disclose all material facts. The Village’s lawyers, financial advisors and bankers can assist the Village in fulfilling these duties, but the Village in its corporate capacity, including your knowledge, has the collective knowledge of the facts pertinent to the transaction and the ultimate responsibility for the presentation and disclosure of the relevant information. Further, there are complicated Federal tax rules applicable to tax-exempt bonds. The Internal Revenue Service has an active program to audit such transactions. The documents we prepare are designed so that the Bonds will comply with the applicable rules, but this means you must fully understand the documents, including the representations and the covenants relating to continuing compliance with the federal tax requirements. Accordingly, we want you to ask questions about anything in the documents that is unclear.

6. As noted, the members of the President and Board of Trustees also have duties under the State and Federal securities and tax laws with respect to these matters and should be knowledgeable as to the underlying factual basis for the bond issue size, use of proceeds and related matters.

7. We are also concerned about the adoption by the Village of the gift ban provisions of the State Officials and Employees Ethics Act, any special ethics or gift ban ordinance, resolution, bylaw or code provision, any lobbyist registration ordinance, resolution, bylaw or code provision, or any special provision of law or ordinance, resolution, bylaw or code provision relating to disqualification of counsel for any reason. We are aware of the provisions of the State Officials and Employees Ethics Act and will assume that you are aware of these provisions as well and that the Village has adopted proceedings that are only as restrictive as such Act.

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However, if the Village has stricter provisions than appear in such Act or is subject to or has adopted such other special ethics, lobbyist or disqualification provisions, we assume and are relying upon you to advise of same.

E. FEES

As is customary, we will bill our fees as Bond Counsel on a transactional basis instead of hourly. Disbursements and other non-fee charges are included in our fees for professional services. Factors which affect our billing include: (a) the amount of the Bonds; (b) an estimate of the time necessary to do the work; (c) the complexity of the issue (number of parties, timetable, type of financing, legal issues and so forth); (d) recognition of the partially contingent nature of our fee, since it is customary that in the case no financing is ever completed, we render a greatly reduced statement of charges; and (e) a recognition that we carry the time for services rendered on our books until a financing is completed, rather than billing monthly or quarterly.

Based upon our current understanding of the terms, structure, size and schedule of the proposed financing, the duties we will undertake pursuant to this engagement letter, the time we estimate will be necessary to effectuate the transaction and the responsibilities we will assume, we expect that our fee will be \$38,500.

If, at any time, we believe that circumstances require an adjustment of our original fee estimate, we will consult with you and prepare an amendment to this engagement letter. Our statement of charges is customarily rendered and paid at Closing, or in some instances upon or shortly after delivery of the bond transcripts; we generally do not submit any statement for fees prior to the Closing, except in instances where there is a substantial delay from the expected timetable. In such instances, we reserve the right to present an interim statement of charges. If, for any reason, the Bonds are not issued or are issued without the rendition of our Bond Opinion as bond counsel, or our services are otherwise terminated, we expect to negotiate with you a mutually agreeable compensation.

The undersigned will be the attorney primarily responsible for the firm's services on this Bond issue, with assistance as needed from other members of our bond, securities and tax departments.

F. RISK OF AUDIT BY INTERNAL REVENUE SERVICE

The Internal Revenue Service (the "*Service*") has an ongoing program of auditing tax-exempt obligations to determine whether, in the view of the Service, interest on such tax-exempt obligations is excludable from gross income of the owners for federal income tax purposes. We can give no assurances as to whether the Service might commence an audit of the Bonds or whether, in the event of an audit, the Service would agree with our opinions. If an audit were to be commenced, the Service may treat the Village as the taxpayer of purposes of the examination.

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Mr. Edward F. McKee

September 11, 2013

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As noted in paragraph 6 of Part B above, the scope of our representation does not include responding to such an audit. However, if we were separately engaged at the time, and subject to the applicable rules of professional conduct, we may be able to represent the Village in the matter.

G. END OF ENGAGEMENT AND POST ENGAGEMENT; RECORDS

Our representation of the Village and the attorney-client relationship created by this engagement letter will be concluded upon the issuance of the Bonds. Nevertheless, subsequent to the Closing, we will prepare and provide a bond transcript in a CD-ROM format pertaining to the Bonds and make certain that a Federal Information Reporting Form 8038-G is filed.

Please note that you are engaging us as special counsel to provide legal services in connection with a specific matter. After the engagement, changes may occur in the applicable laws or regulations, or interpretations of those laws or regulations by the courts or governmental agencies, that could have an impact on your future rights and liabilities. Unless you engage us specifically to provide additional services or advice on issues arising from this matter, we have no continuing obligation to advise you with respect to future legal developments.

This will be true even though as a matter of courtesy we may from time to time provide you with information or newsletters about current developments that we think may be of interest to you. While we would be pleased to represent you in the future pursuant to a new engagement agreement, courtesy communications about developments in the law and other matters of mutual interest are not indications that we have considered the individual circumstances that may affect your rights or have undertaken to represent you or provide legal services.

At your request, to be made at or prior to Closing, any other papers and property provided by the Village will be promptly returned to you upon receipt of payment for our outstanding fees and client disbursements. All other materials shall thereupon constitute our own files and property, and these materials, including lawyer work product pertaining to the transaction, will be retained or discarded by us at our sole discretion. You also agree with respect to any documents or information relating to our representation of you in any matter which have been lawfully disclosed to the public in any manner, such as by posting on EMMA, your website, newspaper publications, filings with a County Clerk or Recorder or with the Secretary of State, or otherwise, that we are permitted to make such documents or information available to other persons in our reasonable discretion. Such documents might include (without limitation) legal opinions, official statements, bond resolutions or ordinances, or like documents as assembled and made public in a governmental securities offering.

We call your attention to the Village's own record keeping requirements as required by the Internal Revenue Service. Answers to frequently asked questions pertaining to those requirements can be found on the IRS website under frequently asked questions related to

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Mr. Edward F. McKee

September 11, 2013

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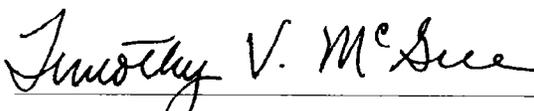
tax-exempt bonds at www.irs.gov (click on "Tax Exempt Bond Community", then "Frequently Asked Questions"), and it will be your obligation to comply for at least as long as any of the Bonds (or any future bonds issued to refund the Bonds) are outstanding, plus three years.

H. YOUR SIGNATURE REQUIRED

If the foregoing terms are acceptable to you, please so indicate by returning the enclosed copy of this engagement letter dated and signed by an authorized officer not later than the date which is 30 days after the date of this letter, retaining the original for your files. We will provide copies of this letter to certain of the Participants to provide them with an understanding of our role. We look forward to working with you.

Very truly yours,

CHAPMAN AND CUTLER LLP

By 
Timothy V. McGree

Accepted and Approved:
VILLAGE OF WINNETKA
COOK COUNTY, ILLINOIS

By: _____

Title: _____

Date: _____, 2013.

cc: Robert Bahan
Kathy Janega
Mark Jeretina
Kevin McCanna
Steve Saunders

Special Note: This letter must be signed and returned within 30 days of the date of this letter.



Agenda Item Executive Summary

Title: Change Order for Primary Cable, The Okonite Company

Presenter: Brian Keys, Director of Water & Electric

Agenda Date: 09/17/2013

Consent: YES NO

- | | |
|-------------------------------------|-------------------------|
| <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | Resolution |
| <input checked="" type="checkbox"/> | Bid Authorization/Award |
| <input type="checkbox"/> | Policy Direction |
| <input type="checkbox"/> | Informational Only |

Item History:

The Water & Electric Department issued Bid Number #13-008 for the purchase of cable during the timeframe of April 1, 2013 through March 31, 2014. The bid covered both secondary cable (600V) and medium voltage (15kV) power cable. Bid prices are indexed to the cost of metals.

At the April 4, 2013 Council Meeting, the Village Manager was authorized to award two purchase orders for the procurement of medium voltage (15kV) power cable and secondary (600V) cable. Based on the bid evaluation, the primary cable was awarded to the Okonite Company and the secondary cable was awarded to Wesco.

Executive Summary:

Staff requested authorization to purchase additional cable at the August 20, 2013 Village Council meeting to insure that an adequate supply of underground medium voltage power cable is available for service connections. The requested change order amount of \$38,663 was approved.

While processing the order, it was noted that the requested cable footage did not meet the minimum amount required for a manufacturing run. This was an oversight on staff's part during the preparation of the change order request.

Staff is requesting authorization to purchase an additional 1,000 feet of 15kV 3-1/c 1/0 copper cable to meet the minimum circuit feet required for manufacturing. The total revised change order amount is \$54,171, including the prior Village Council approval of \$38,663. Therefore, authorization for the additional footage of cable in the amount of \$15,508 is required.

Recommendation / Suggested Action:

Consider authorizing the Village Manager to award a change order to the Okonite Company in the amount of \$15,508 for the purchase of 15kV 1/0 copper cable at the unit prices bid, subject to the contract conditions.

Attachments:

Agenda Report dated September 11, 2013

AGENDA REPORT

SUBJECT: Change Order for Primary Cable, The Okonite Company

PREPARED BY: Brian Keys, Director Water & Electric

REF: March 19, 2013 Village Council Meeting, pp. 39-45
 April 4, 2013 Village Council Meeting, pp. 15-24
 August 20, 2013 Village Council Meeting, pp. 31-32

DATE: September 11, 2013

The Water & Electric Department issued Bid Number #13-008 for the purchase of cable during the timeframe of April 1, 2013 through March 31, 2014. The bid covered both secondary cable (600V) and medium voltage (15kV) power cable. Bid prices are indexed to the cost of metals.

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While processing the order, it was noted that the requested cable footage did not meet the minimum amount required for a manufacturing run. This was an oversight on staff's part during the preparation of the change order request.

Staff is requesting authorization to purchase an additional 1,000 feet of 15kV 3-1/c 1/0 copper cable to meet the minimum circuit feet required for manufacturing. This cable is a frequently used cable for connections to serve pad mount transformers from switchgear or the overhead system and/or connections between pad mount transformers. As such, there are no concerns about stranded inventory.

The total revised change order amount is \$54,171, including the prior Village Council approval of \$38,663. Therefore, authorization for the additional footage of cable in the amount of \$15,508 is required.

15kV Cable

Quantity 3-1/c 1/0: 3,000 ft. (Revised) 1/c 1/0: 1,500 ft.	Metals Escalation	Shipping Length Tolerance (5%) & Packaging	Requested Amount
\$51,591.00	\$0	\$2,579.55	\$54,170.55

↓
 \$54,171
 Less previous authorized amount: -\$38,663
 Approval required for balance: \$15,508

The Electric Fund FY2013-14 Budget contains \$604,000 (account #50-47-640-209) for the purchase and installation of cable. The Village Council has previously approved \$50,000 of wire pulling services and \$330,767 of cable purchases.

Recommendation:

Consider authorizing the Village Manager to award a change order to the Okonite Company in the amount of \$15,508 for the purchase of 15kV 1/0 copper cable at the unit prices bid, subject to the contract conditions.



Agenda Item Executive Summary

Title: Purchase of Police Patrol Vehicle

Presenter: Patrick Kreis, Chief of Police

Agenda Date: 09/17/2013

Consent: YES NO

<input type="checkbox"/>	Ordinance
<input type="checkbox"/>	Resolution
<input checked="" type="checkbox"/>	Bid Authorization/Award
<input type="checkbox"/>	Policy Direction
<input type="checkbox"/>	Informational Only

Item History:

The Police Department is equipped with a fleet of vehicles manufactured by both Chrysler / Dodge and Ford Motor Companies. The vehicles purchased for patrol use are typically designed with special police package options to increase their suitability and reliability. The typical lifespan of these vehicles is 85,000 police duty miles.

Executive Summary:

The department maintains a mixed-fleet of marked patrol vehicles rather than all of one type of vehicle. A mixed-fleet enables more flexibility and safeguards against manufacturing disruptions and recalls. The Dodge Charger continues to provide good service and was the latest vehicle added to the fleet.

For this replacement, the department is seeking to purchase a 2014 Ford Utility Police Interceptor. The new vehicle is a specially designed and built version of the Ford Explorer. The vehicle's all wheel drive capability and other features make it particularly well suited as a police patrol vehicle.

The new vehicle will replace Police Squad #443, a 2008 Dodge Charger with 90,000 miles. It is scheduled for regular replacement in 2013.

The Ford Utility Police Interceptor is available through the Suburban Purchasing Cooperative specified to the needs of the department for \$26,934.00. This amount is within the current year's budget.

Recommendation / Suggested Action:

Consider approving purchase of a 2014 Ford Utility Police Interceptor for \$26,934

Attachments:

1) 2014 Ford Utility Police Interceptor Detail

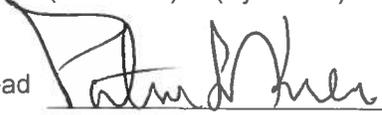
Village of Winnetka, Illinois

Supplier: Currie Motors
9423 W. Lincoln Hwy
Frankfort, IL 60423
ATTN: Tom Sullivan 815-464-9200 FAX464-7500

Purchase Order # _____
 Date Ordered _____
 Delivery Promised 8-10 Weeks
 F.O.B. Delivery

Item No.	Quantity	Itemize material/service required. Include catalog and/or part no's	Account Number	Unit Price	Extended Price
1	1	2014 Ford Utility Police Interceptor AWD (Black)	<u>10-26-550-127</u>		24,558.00
2	1	Spot Light Driver's Side Incandescent			215.00
3	1	Pre0Wiring grill lamp, siren, speaker			50.00
4	1	Keyed Alike Code 1435X			44.00
5	1	Sync & Reverse Sensing			529.00
6	1	Remappable (4) switches			155.00
7	1	Over-Ride Switch			285.00
8	1	Dome Lamp Red/Wite Cargo Area			43.00
9	1	Side Mirror Defrost			53.00
10	1	Front Headlamp Lighting Solution 66A			877.00
11	1	Carcoal Black w/vinyl Rear Interior			n/c
12	1	Delivery Charge			125.00
		Total			26,934.00
		Suburban Purchasing Cooperative Contract #122			

Deliver To: Winnetka Public Works
1390 Willow Rd., Winnetka, IL 60093
 Attention: Phil Soldano
Police Department
 For Police Fleet Use
 1. _____
 2. _____
 3. _____

Requisition # _____ Date Sept. 2013
 Requisitioned By Sgt. Karl Larson
 Quoted By _____ XX
 (In Person) (By Phone) (Letter)
 Authorized By 
 Department Head
 Purchase Approved _____
 By Finance Director

PLAN AHEAD! Allow SUFFICIENT TIME for "Purchasing" to obtain comparative prices

REQUISITION for MATERIAL and/or SERVICE



2014 Ford Utility Police Interceptor AWD Contract # 122



Currie Motors Fleet

"Nice People To Do Business With"

Your Full-Line Municipal Dealer

Through November 8, 2013

Currie Motors Fleet
Ph: 815-4649200

www.curriefleet.com

Tom Sullivan
Fx: 815-464-7500



Agenda Item Executive Summary

Title: Willow Road Stormwater Tunnel – Engineering RFQ Responses

Presenter: Steven M. Saunders, Director of Public Works/Village Engineer

Agenda Date: 09/17/2013

Consent: YES NO

- | | |
|-------------------------------------|-------------------------|
| <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | Resolution |
| <input type="checkbox"/> | Bid Authorization/Award |
| <input checked="" type="checkbox"/> | Policy Direction |
| <input type="checkbox"/> | Informational Only |

Item History:

July 9, 2013 Study Session

Executive Summary:

The Village has identified a major stormwater improvement project, consisting of a new storm sewer beneath Willow Road that would convey water from a roughly 900-acre drainage area on the west side of the Village eastward towards Lake Michigan. This project, known as the Willow Road Tunnel project, would combine improvements for 5 areas into a single project with a cost estimate of \$34.5 million. Preliminary engineering and a detailed feasibility study have been completed for this project, and the next step is to contract with an engineering firm to develop the preliminary engineering into detailed engineering plans, permit applications, and construction bidding documents. The engineering firm will be selected using a two-step, qualification-based process.

On July 31, 2013, the Village published a Request for Qualifications (RFQ) for Engineering Services. Specifically, the Village asked for qualifications for detailed design and permitting for the Willow Road Stormwater Tunnel and Area Drainage Improvements. The RFQ was published in the Pioneer Press, and the Village sent electronic copies to nineteen (19) firms. A non-mandatory pre-submittal meeting was held on August 14, eight (8) firms attended. On Thursday, August 29, the Village received two submittals:

1. MWH Global;
2. A team led by Christopher B. Burke Engineering, Ltd, and including Hatch Mott McDonald, W.F. Baird & Associates, Metropolitan Planning Council, and Material Service Testing;

The Project Team reviewed both submittals and found the firms to be highly qualified. Based on the responses, the Project Team recommends that each of the two submitting firms be provided a full Request for Proposal, including a detailed scope of services, to enable the firms to submit proposals. The Project Team proposes to interview each submitting firm, review their respective proposals, and prepare a recommendation for the Council's approval. The selection process will conform to the original schedule, with a recommendation to the Council in December 2013.

Recommendation / Suggested Action:

Provide policy direction:

1. Review attached Request For Qualifications document for Engineering Services - Detailed Design and Permitting for Willow Road Stormwater Tunnel and Area Drainage Improvements;
2. Review the attached submittals from the two teams;
3. Provide comments on proposed final selection process;
4. Consider authorizing staff to proceed accordingly

Attachments:

1. Agenda Report
2. Request for Qualifications for Engineering Services - Detailed Design and Permitting for Willow Road Stormwater Tunnel and Area Drainage Improvements
3. MWH Global submittal
4. Christopher B. Burke Engineering, Ltd (Hatch Mott McDonald, W.F. Baird & Associates, Metropolitan Planning Council, and Material Service Testing) submittal

*Due to document size, copies of Attachments 3 & 4 are available at Winnetka Village Hall and Winnetka Library.

ATTACHMENT #1

Agenda Report

Agenda Report

Subject: Willow Road Stormwater Tunnel – Engineering RFQ Responses

Prepared By: Steven M. Saunders, Director of Public Works/Village Engineer

Date: September 12, 2013

Engineering Procurement.

The Village has identified a major stormwater improvement project, consisting of a new storm sewer beneath Willow Road that would convey water from a roughly 900-acre drainage area on the west side of the Village eastward towards Lake Michigan. This project, known as the Willow Road Tunnel project, would combine improvements for 5 areas into a single project with a cost estimate of \$34.5 million. This project would provide benefits to the North Willow Road, South Willow Road, Provident Avenue, Cherry Street Outlet and the Winnetka Avenue Underpass Study areas for the 100-year design storm event. This proposed improvement consists of an 8-foot diameter storm sewer underneath Willow Road running from approximately Glendale Avenue to Lake Michigan, a distance of 7,900 feet. Approximately 3,800 feet would be constructed by tunneling, the remainder by open cut methods. The project includes construction of additional storm sewer connected to the tunnel to provide relief to 5 drainage basins affected by frequent and/or severe stormwater flooding, construction of a structure to address water quality, and construction of an outlet structure to control water velocity and prevent erosion.

Preliminary engineering and a detailed feasibility study have been completed for this project, and the next step is to contract with an engineering firm to develop the preliminary engineering into detailed engineering plans, permit applications, and construction bidding documents. The engineering firm will be selected using a two-step, qualification-based process.

On July 31, 2013, the Village published a Request for Qualifications (RFQ) for Engineering Services. Specifically, the Village asked for qualifications for detailed design and permitting for the Willow Road Stormwater Tunnel and Area Drainage Improvements. The RFQ was published in the Pioneer Press, and the Village sent electronic copies to nineteen (19) firms. A non-mandatory pre-submittal meeting was held on August 14, eight (8) firms attended.

On Thursday, August 29, the Village received two submittals:

1. MWH Global;
2. A team led by Christopher B. Burke Engineering, Ltd, and including Hatch Mott McDonald, W.F. Baird & Associates, Metropolitan Planning Council, and Material Service Testing;

The Project Team reviewed both submittals and found the firms to be highly qualified. In addition, the Project Team reached out to the firms that did not submit qualifications. Of the nineteen firms that received RFQs,

- Four submitted (one as an individual firm, three as part of a team);
- Two indicated their preference to pursue the Construction Manager (CM) role rather than the engineering role;
- Two indicated having no previous experience in the CM-At Risk delivery method;
- One indicated having no previous tunnel experience;
- Two indicated having no previous experience or relationship with the Village;
- Eight did not respond to the Village's request for additional information.

Based on the responses, the Project Team recommends that each of the two submitting firms be provided a full Request for Proposal, including a detailed scope of services, to enable the firms to submit proposals. The Project Team proposes to interview each submitting firm, review their respective proposals, and prepare a recommendation for the Council's approval.

The selection process will conform to the original schedule, with a recommendation to the Council in December 2013.

Recommendation:

Provide policy direction:

1. Review attached Request For Qualifications document for Engineering Services - Detailed Design and Permitting for Willow Road Stormwater Tunnel and Area Drainage Improvements;
2. Review the attached submittals from the two teams;
3. Provide comments on proposed final selection process;
4. Consider authorizing staff to proceed accordingly

Attachments:

1. Request for Qualifications for Engineering Services - Detailed Design and Permitting for Willow Road Stormwater Tunnel and Area Drainage Improvements
2. MWH Global submittal (contained in separate binder)
3. Christopher B. Burke Engineering, Ltd (Hatch Mott McDonald, W.F. Baird & Associates, Metropolitan Planning Council, and Material Service Testing) submittal (contained in separate binder)

ATTACHMENT #2

Request for Qualifications for Engineering Services – Detailed Design and Permitting for Willow Road Stormwater Tunnel and Area Drainage Improvements

REQUEST FOR QUALIFICATIONS

VILLAGE OF WINNETKA



ENGINEERING SERVICES DETAILED DESIGN AND PERMITTING WILLOW ROAD STORMWATER TUNNEL AND AREA DRAINAGE IMPROVEMENTS

ISSUED: July 31, 2013

RESPONSES DUE: August 28, 2013

PREPARED BY:
Steven M. Saunders, Director of Public Works
Village of Winnetka
1390 Willow Road
Winnetka, IL 60093
Telephone: 847-716-3534
Fax: 847-716-3599
ssaunders@winnetka.org

I. INTRODUCTION

The Village of Winnetka is requesting detailed qualifications from engineering firms to provide professional services for preliminary engineering, permitting, final engineering and construction oversight for the proposed Willow Road Stormwater Tunnel and for storm sewer improvements in the 5 associated drainage areas proposed to be connected to the tunnel. It is the Village's intention to proceed with consultant selection in two steps. The first is the Request for Qualifications (RFQ) as presented in this document. After review of the RFQ responses, the Village will issue a Request for Proposals (RFP) to select consultants.

II. PROJECT DESCRIPTION

The Village has identified a major stormwater improvement project, consisting of a new storm sewer beneath Willow Road that would convey water from a roughly 900-acre drainage area on the west side of the Village eastward towards Lake Michigan. This project, known as the Willow Road Tunnel project, would combine improvements for 5 areas into a single project with a cost estimate of \$34.5 million. This project would provide benefits to the North Willow Road, South Willow Road, Provident Avenue, Cherry Street Outlet and the Winnetka Avenue Underpass Study areas for the 100-year design storm event. This proposed improvement consists of an 8-foot diameter storm sewer underneath Willow Road running from approximately Glendale Avenue to Lake Michigan, a distance of some 7,900 feet. Approximately 3,800 feet would be constructed by tunneling, the remainder by open cut methods. The project includes construction of additional storm sewer connected to the tunnel to provide relief to 5 drainage basins affected by frequent and/or severe stormwater flooding, construction of a structure to address water quality, and construction of an outlet structure to control water velocity and prevent erosion.

The Village has completed a detailed feasibility analysis of the proposed project, consisting of the review of the following factors:

- Soil Borings
- Railroad Coordination
- Outfall Conditions
- Regulatory & Permitting Considerations
- Construction Costs and Methods
- Utility Conflicts

The Village has also evaluated an alternate route consisting of using Ash Street rather than Willow Road for the main run of storm sewer, and has concluded that Willow Road is the preferred route.

For project construction, the Village envisions seven phases. Phase 1 must be completed first. However after completion of Phase 1, several of the remaining phases could be constructed concurrently.

1. Outfall, Energy Dissipater, Water Quality Structure and 96-inch RCP storm sewer along Willow Road from Lake Michigan to Provident Avenue. The tunnel component is from Poplar Street to Birch Street, and is part of this first phase. It is anticipated that this phase may be contracted by the “Construction Manager At-Risk” contract delivery method.
2. 96-inch RCP on Willow Road from Provident Road to Glendale Avenue. This project will be constructed as part of a Jurisdictional Transfer from IDOT to the Village. The road plans have been prepared by others.
3. 48, 54 and 72-inch RCP storm sewer on Poplar Street, Cherry Street and Sheridan Road.
4. 84-inch RCP storm sewer on Winnetka Road, Essex Road and Sheridan Road.
5. 66-inch RCP on Birch Street.
6. 60-inch RCP on Provident Avenue and Blackthorn Road.
7. 96-inch RCP on Glendale Avenue, 60-inch RCP on Cherry and Ash Streets, 5’ x 8’ RCBC on Oak Street, and a 84-inch RCP on Hibbard Road. This phase cannot be constructed until phase 2 is complete.

III. SCOPE OF WORK

A general scope of work is outlined in the following paragraphs. It is the Village’s intention to proceed as follows:

- A. Project Management - Overall management of the work including planning, meeting, coordinating, scheduling, quality control, reporting and invoicing. The Consultant will be required to communicate with fully private entities such as Union Pacific Railroad (UPRR), public and private utilities such as North Shore Gas Company, AT&T, Comcast, and others, as well as with other federal and state governmental entities identified in the Permitting section, local entities including Winnetka Park District, Winnetka School District 36, and New Trier High School District, and the Public as needed concerning project functions, design, schedules, and other requirements. The Consultant shall provide services to document all phases of design and construction of the project.

The Village and Consultant Project Managers will meet periodically as required (typically at two-week intervals during the planning and design phase of the project). These Progress Meetings will be used to coordinate the work effort and resolve problems, and the meetings will be required throughout the duration of the design of the project.

It is the Village’s intent to you the “Construction Manager-At Risk” form of agreement for the first phase of the project (i.e., the Willow Road Tunnel). For the remaining phases, the Village plans to use the General Contractor form of agreement. To that end, the design professional shall:

1. Participate as a member of the Village's CM at Risk Prequalification Committee and CM at Risk Selection Committee.
2. When authorized by the Village, prepare for reproduction and distribution all project design documents, that are required for the solicitation and receipt of qualifications and proposals from CM at Risk firms. The Designer shall prepare all addenda (to include questions from CM at Risk firms and Designer responses), subject to the approval of the Village. The Designer shall attend a pre-proposal conference, and existing site and building tour if either or both are to be scheduled, taking note of all questions asked. Relevant questions submitted in writing shall be answered by the Designer by means of written addenda to the RFQ or RFP described below, as required.
3. As a member of the Village's CM at Risk prequalification committee, shall review and evaluate in conjunction with the Prequalification Committee, the Statements of Qualifications received from CM at Risk firms on the basis of the evaluation criteria established in the RFQ and shall make appropriate recommendations regarding the selection of qualified CM at Risk firms to receive a request for proposals from the Village.
4. As a member of the Village's CM at Risk selection committee, review and evaluate the RFP's received from prequalified CM at Risk firms on the basis of the evaluation criteria included in the RFP. The Designer shall make appropriate recommendations regarding the evaluation and ranking of RFP's and the conducting of interviews, if any. If the Selection Committee elects to conduct interviews of the CM at Risk firms, the Designer shall participate in conducting interviews.

B. Preliminary Engineering - The Consultant will review the initial concept, all technical issues, and all project requirements with the Village. Following is a listing of proposed activities:

1. Review the previous drainage investigations.
2. Identify required permits, license agreements, and easements.
3. Verify the existing master plan hydrologic and hydraulic models for the basins in this project and modify as necessary for their purposes.
4. Conduct a field survey as necessary and establish control for the project.
5. Review the existing soils and pavement reports and supplement as necessary.
6. Identify and locate utilities along the proposed alignments and locate potential conflicts.
7. Produce a report detailing the results of their studies.
8. Perform the preliminary design of the storm sewer system(s).
9. Develop a preliminary construction-phasing plan which integrates the construction of all the project work elements into a practical and feasible sequence. This includes a report on construction methods and contracting alternatives.

10. Develop a traffic control plan that is compatible with the phasing plan.
 11. Develop a mitigation plan to address potential geotechnical and environmental conflicts.
 12. Provide Design Services in a manner consistent with the CM at Risk Delivery Method for all phases of design. For the construction projects, the Village envisions using the CM at Risk for Phase 1 (i.e., the Willow Road Tunnel as described in Section II.1 above). For the remaining phases, the Village envisions using the traditional General Contractor format.
 13. Prepare plans and specifications for discrete portions of the program that can be incorporated into separate bid packages as enumerated in Section II, and identify and describe any multiple bid packages or fast-tracked construction that may be used and any separate bid packages that may be required.
- C. Permitting - The proposed project will require permits from various regulatory agencies and units of government. The Village's preliminary evaluation indicates that permits will be required from the following agencies:
1. US Army Corps of Engineers
 2. Illinois Environmental Protection Agency
 3. Illinois Department of Natural Resources
 4. Metropolitan Water Reclamation District of Greater Chicago
 5. North Cook County Soil & Water Conservation District
 6. Illinois Department of Transportation
 7. Union Pacific Railroad
- D. Final Engineering – Based on comments from the Preliminary Engineering and Permitting phases, the Consultant will prepare final construction documents suitable for bidding to include plans, specifications, cost estimates, surveys, and geotechnical investigations.
- E. Construction Oversight – Following are services required of the consultant during the construction phase of the projects:
1. Provide construction observation
 2. Respond to and track Requests for Information
 3. Review and approve shop drawings
 4. Review and recommend changes
 5. Review and approve payment applications
 6. Conduct punchlist inspections
 7. Assist in project closeout
- F. Outreach – Public outreach is required throughout the course of the project. Potential meetings include:

1. Village Council briefings
2. Public information meetings at the 65% design stage for each phase of the project
3. Public information meetings required for permits
4. Pre-construction public information meetings?

IV. SUBMITTAL REQUIREMENTS

The deadline for submittals is **4:00 p.m. on August 29, 2013**. Five (5) paper copies and one (1) electronic copy of the submittal should be delivered to:

Raymond D. Restarski, Purchasing Agent
Village of Winnetka
510 Green Bay Road
Winnetka, IL 60093
(847) 716-3504
(847) 446-1139 (fax)
rrestarski@winnetka.org

A non-mandatory, Pre-Submittal Meeting will be held at 1:00 pm. local time on August 14, 2013, in the Council Chamber, Village Hall, 510 Green Bay Road, Winnetka, IL 60093. All firms interested in responding to the RFQ are encouraged to attend. All submitters will be held responsible for any information conveyed at the meeting. Further information about the meeting is contained in the RFQ.

To be considered for this project, the Consultant must submit an informative statement of interest to the Village, which also includes the following information, organized in the following manner to facilitate review:

A. Consultant Information

1. Company offices from which the project will be staffed.
2. Identify the staff members who will be assigned to this project and the qualifications of each individual, including resumes.
3. Related experience of project personnel.
4. List similar projects completed within the last five years, by the staff members that will be assigned to this project. Include a project description, date of project completion, and the name and telephone number of a representative of the contracting jurisdiction.
5. A list of contracts completed using the CM At-Risk contracting method.
6. A completed compliance affidavit (Attachment 1)

B. Approach to Project

The Consultant will propose a scope of work based upon the preliminary scope contained herein, and describe its approach in performing the proposed scope. For the proposed scope of work, the Consultant must specifically address the Village's use of the CM at Risk delivery method. Schedule

C. Schedule

A preliminary schedule for completing the project is required. This schedule should address all work and meetings recommended by the Consultant and which clearly corresponds to the Consultant's approach to the project.

V. QUALIFICATION EVALUATION

Statements of qualifications will be evaluated by the Village according to the following criteria:

- Responsiveness to the RFQ
- Qualifications of the Project Team
- Qualifications of the Firm
- Work Plan and Project Approach using the Contracting Delivery Methods noted

The Village is placing significant importance on the consultant's qualifications and work plan as they pertain to the complexity of the project which includes:

- Multiple projects and phases
- Potential for multiple contractors with differing delivery methods
- Significant and overlapping regulatory review and permitting
- Budget and schedule controls

The consultant must clearly present their qualifications, philosophy and experience in engineering and managing similar projects with similar complexity and delivery methods.

Each submittal will be evaluated upon a scale of 1 to 10 for each of the above factors. Based on the qualification evaluation, it is the Village's intention to issue a RFP to select consultants. The Village President and Board of Trustees reserve the right to reject any and all submittals.

VI. INDEMNIFICATION

Respondents to this RFP shall understand that the successful proposer shall indemnify and hold harmless the Village of Winnetka, its agents, and its employees against any and all lawsuits, claims, demands, liabilities, losses or expenses, including court costs, and

attorney's fees, for or on account of any injury to any person or any death at any time resulting from such injury, or any damaged property, which may be alleged to have arisen out of the negligent acts, errors, or omissions of the Consultant. It is further understood that this indemnification shall not be construed to cover the negligent acts or omissions of the Village of Winnetka, its agents, or its employees. It is additionally understood that this indemnification shall not be construed to cover the negligent acts or omissions of parties unrelated to this contract.

VII. LIST OF AVAILABLE DOCUMENTS

The following documents are available for review upon request:

- Project Map
- Christopher B. Burke Engineering, Ltd. Report, June 2011
- Christopher B. Burke Engineering, Ltd. Report, October 2011
- Staff Tunnel Feasibility, September 2012
- Baird Outfall Report, June 2012
- Willow Road Jurisdictional Transfer Phase I Report

In addition, the Village will have digital copies available at the pre-submittal meeting.

VIII. ATTACHMENTS

- 1) Compliance Affidavit

ATTACHMENT 1

COMPLIANCE AFFIDAVIT

As a condition of entering into a contract with the Village of Winnetka, and under oath and penalty of perjury and possible termination of contract rights and debarment, the undersigned deposes and states that he has the authority to make any certifications required by this Affidavit on behalf of the bidder, and that all information contained in this Affidavit is true and correct in both substance and fact.

Section 1: BID RIGGING AND ROTATING

1. This bid is not made in the interest of, or on behalf of an undisclosed person, partnership, company, association, organization or corporation;
2. The bidder has not in any manner directly or indirectly sought by communication, consultation or agreement with anyone to fix the bid price of any bidder, or to fix any overhead profit or cost element of their bid price or that of any other bidder, or to secure any advantage against the Village of Winnetka or anyone interested in the proper contract;
3. This bid is genuine and not collusive or sham;
4. The prices, breakdowns of prices and all the contents quoted in this bid have not knowingly been disclosed by the bidder directly or indirectly to any other bidder or any competitor prior to the bid opening;
5. All statements contained in this bid are true;
6. No attempt has been or will be made by the bidder to induce any other person or firm to submit a false or sham bid;
7. No attempt has been or will be made by the bidder to induce any other person or firm to submit or not submit a bid for the purpose of restricting competition;
8. The undersigned on behalf of the entity making this proposal or bid certifies the bidder has never been convicted for a violation of State laws prohibiting bid rigging or rotating.

Section 2: TAX COMPLIANCE

1. The undersigned on behalf of the entity making this proposal or bid certifies that neither the undersigned nor the entity is barred from contracting with the Village of Winnetka because of any delinquency in the payment of any tax administered by the State of Illinois, Department of Revenue, unless the undersigned or the entity is contesting, in accordance with the procedures established by the appropriate revenue

act, liability of the tax or the amount of tax;

2. The undersigned or the entity making this proposal or bid understands that making a false statement regarding delinquency of taxes is a Class A Misdemeanor and in addition voids the contract and allows the municipality to recover all amounts paid to the entity under the contract in civil action.

Section 3: EQUAL EMPLOYMENT OPPORTUNITY

This EQUAL OPPORTUNITY CLAUSE is required by the Illinois Human Rights Act, 775 ILCS 5/101 et seq.

In the event of the contractor's non-compliance with any provision of the Equal Employment Opportunity Clause, the Illinois Human Rights Act, or the Rules and Regulations for Public Contracts of the Department of Human Rights, the contractor may be declared non-responsive and therefore ineligible for future contractor subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be canceled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies involved as provided by statute or regulations.

During the performance of this contract, the contractor agrees:

1. That it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin or ancestry; and further that it will examine all job classifications to determine if minority persons or woman are underutilized and will take appropriate action to rectify any such underutilization;
2. That, if it hires additional employees in order to perform this contract, or any portion hereof, it will determine the availability (in accordance with the Department's Rules and Regulations for Public Contract's) of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized;
3. That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service.
4. That it will send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other such agreement or understanding, a notice advising such labor organization or representative of the contractor's obligation under the Illinois Human Rights Act and the Department's Rules and Regulations for Public Contract. If any such labor organization or representative fails or refuses to cooperate with the contractor in its efforts to comply with such Act and Rules and Regulations, the contractor will promptly so notify the Department and

contracting agency will recruit employees from other sources when needed to fulfill its obligation hereunder.

5. That it will submit reports as required by the Department's Rules and Regulations for Public Contracts, furnish all relevant information as may from time to time be requested by the Department or contracting agency, and in all respects comply with the Illinois Human Rights Act and the Department's Rules and Regulations for Public Contracts.
6. That it will permit access to all relevant books, records, accounts, and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and the Departments Rules and Regulations for Public Contracts.
7. That it will include verbatim or by reference the provisions of this Equal Opportunity Clause in every subcontract it awards under which any portion of the contract obligations are undertaken or assumed, so such provisions will be binding upon such subcontractor. In the same manner as the other provisions of this contract, the contractor will be liable for compliance with applicable provisions of this clause by such subcontractors; and further it will promptly notify the Department in the event any subcontractor fails or refuses to comply therewith. In addition, the contractor will not utilize any subcontractor declared by the Illinois Human Rights Department to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

Section 4: ILLINOIS DRUG FREE WORK PLACE ACT

The undersigned will publish a statement:

1. Notifying employees that the unlawful manufacture, distribution, dispensation, possession, or a use of a controlled substance is prohibited in the work place;
2. Specifying the actions that will be taken against employees for violating this provision;
3. Notifying the employees that, as a condition of their employment to do work under the contract with the Village of Winnetka, the employee will:
 - A. Abide by the terms of the statement;
 - B. Notify the undersigned of any criminal drug statute conviction for a violation occurring in the work place not later than five (5) days after such a conviction.
4. Establishing a drug free awareness program to inform employees about:
 - A. The dangers of drug abuse in the work place;

- B. The policy of maintaining a drug-free work place;
 - C. Any available drug counseling, rehabilitation or employee assistance programs;
 - D. The penalties that may be imposed upon an employee for drug violations.
5. The undersigned shall provide a copy of the required statement to each employee engaged in the performance of the contract with the Village of Winnetka, and shall post the statement in a prominent place in the work place.
 6. The undersigned will notify the Village of Winnetka within ten (10) days of receiving notice of an employee's conviction.
 7. Make a good faith effort to maintain a drug free work place through the implementation of these policies.
 8. The undersigned further affirms that within thirty (30) days after receiving notice of a conviction of a violation of the criminal drug statute occurring in the work place he shall:
 - A. Take appropriate action against such employee up to and including termination; or
 - B. Require the employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

Section 5: SEXUAL HARRASSMENT POLICY

The undersigned on behalf of the entity making this proposal or bid certifies that a written sexual harassment policy is in place pursuant to Public Act 87-1257, effective July 1, 1993, 775 ILCS 5/2-105 (A).

This Act has been amended to provide that every party to a public contract must have written sexual harassment policies that include, at a minimum, the following information:

1. The illegality of sexual harassment;
2. The definition of sexual harassment under State law;
3. A description of sexual harassment, utilizing examples;
4. The vendor's internal complaint process, including penalties;

5. The legal recourse, investigative and complaint process available through the Department of Human Rights, and the Human Rights Commission;
6. Directions on how to contact the Department and Commission;
7. Protection against retaliation as provided by 6-101 of the Act.

Section 6: VENDOR INFORMATION

1. Is the bidder a publicly traded company? (yes or no) _____
If the answer is yes, state the number of outstanding shares in each class of stock.
Provide the name of the market or exchange on which the company's stock is traded.

2. Is the bidder 50% or more owned by a publicly traded company? (yes or no) _____

If the answer to the above question is yes, name the publicly traded company or companies owning 50% or more of your stock, state the number of outstanding shares in each class of stock and provide the name of the market or exchange on which the stock of such company or companies is traded.

IT IS EXPRESSLY UNDERSTOOD THAT THE FOREGOING STATEMENTS AND REPRESENTATIONS AND PROMISES ARE MADE AS A CONDITION TO THE RIGHT OF THE BIDDER TO RECEIVE PAYMENT UNDER ANY AWARD MADE UNDER THE TERMS AND PROVISIONS OF THIS BID.

SIGNATURE: _____

NAME: _____ TITLE: _____
(print or type)

Subscribed and sworn to me this _____ day of _____, 2012, A.D.

By:
(Notary Public)

-Seal-

Attachment 3:
MWH Global Submittal

Attachment 4:
Christopher B. Burke Engineering, Ltd (Hatch Mott McDonald, W.F.
Baird & Associates, Metropolitan

Are available for inspection at the Winnetka Library (768 Oak Street)
and at Village Hall (510 Green Bay Road) in the Village Manager's
Office



Agenda Item Executive Summary

Title: Winnetka Avenue Pump Station Improvements: Bid Award

Presenter: Steven M. Saunders, Director of Public Works/Village Engineer

Agenda Date: 09/17/2013

Consent: YES NO

<input type="checkbox"/>	Ordinance
<input type="checkbox"/>	Resolution
<input checked="" type="checkbox"/>	Bid Authorization/Award
<input type="checkbox"/>	Policy Direction
<input type="checkbox"/>	Informational Only

Item History:

July 16, 2013 Council Meeting

Executive Summary:

The existing Winnetka Avenue Pump Station, constructed in 1995, provides stormwater drainage for a large area of western Winnetka (over 900 acres and over 1,700 parcels). As part of the overall drainage improvement program developed by Christopher B. Burke Engineering, Ltd. (CBBEL), the capacity of the pump station needs to be increased in order to improve the flow in the Village's upstream storm sewers. The recommended improvements would increase the station's capacity from under 40,000 gallons/minute to 60,000 gallons/minute. The improvement will benefit the southwestern portion of the Village by increasing the discharge capacity of the Forest Preserve Ditch, reducing the tailwater effect of the ditch on the Village's upstream storm sewer pipes.

Bids for the project were opened on September 10, 2013. Four bidders responded, and the low bid of \$1,038,300 was submitted by Boller Construction, of Waukegan IL. CBBEL has reviewed the bids for completeness and accuracy, and their recommendation is attached. CBBEL recommends awarding a contract to Boller Construction. It should be further noted that Boller Construction has requested an extension of the 180 calendar day time limit set in the bid documents, due to a long lead time on the pumps. CBBEL has recommending negotiating an extended time limit prior to issuing a Notice to Proceed.

Recommendation / Suggested Action:

Consider awarding a contract to Boller Construction Company, of Waukegan, IL, in the amount of \$1,038,300 for the Winnetka Avenue Pump Station Improvements.

Attachments:

1. CBBEL award recommendation
2. Bid Tabulation



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

September 12, 2013

Village of Winnetka
1390 Willow Road
Winnetka, IL 60093

Attention: Mr. Steve Saunders
Public Works Director / Village Engineer

Subject: Bid Review
Storm Water Pump Station Rehabilitation
(CBBEL Project No. 10-0215)

Dear Steve:

As you know, four bids were received and opened on September 10, 2013 at the Village of Winnetka Public Works office. The bids received are summarized below:

CONTRACTOR	BID AMOUNT
Boller Construction Company, Inc.	\$1,038,300.00
Bolder Contractors, Inc.	\$1,098,550.00
Genco Industries, Inc.	\$1,145,450.00
Kovilic Construction Company, Inc.	\$1,670,540.00
<i>Engineer's Opinion of Probable Construction Cost</i>	<i>\$ 968,750.00</i>

Christopher B. Burke Engineering, Ltd. (CBBEL) has reviewed the submitted bids and offers the following review comments:

1. All bidders acknowledged receipt of the two Addendums.
2. All bidders provided the requisite Bid Bond.
3. There was a minor math error discovered in the amount of \$200.00 in the bid submitted by Boller Construction Company, Inc. The "as read" amount was \$1,038,500.00, however, the "as corrected" amount after adding the unit price items is \$1,038,300.00.

4. There were several contractors who took exceptions to the contract duration of 180 calendar days. The pump delivery time is being quoted by the manufacturer as 14 – 16 weeks with a 4 – 6 week delivery period. Boller Construction Company, Inc. is requesting a 250 calendar day construction duration. CBBEL acknowledges the 180 day duration may be insufficient due to the estimated equipment lead times provided by the manufacturer's representative at bid time. A negotiated completion date should be discussed with the apparent low bidder prior to a Notice to Proceed being issued.
5. Boller Construction Company, Inc. provided a list of recently completed projects demonstrating their experience.
6. CBBEL recommends a contract be awarded to Boller Construction Company, Inc. in the amount of \$1,038,300.00.

If you have any questions, please contact me.

Sincerely,



John P. Caruso, PE
Head, Mechanical/Electrical Dept.

JPC/pjb

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VILLAGE OF WINNETKA
 STORM WATER PUMP STATION REHABILITATION
 CBBEL PROJECT NO. 10-0215

SEPTEMBER 11, 2013

BID TABULATION

				Engineer's Opinion of Probable Construction Cost		Boller Construction Company, Inc. 3045 Washington Street Waukegan, IL 60085		Bolder Contractors 440 Lake-Cook Road Deerfield, IL 60015		Genco Industries, Inc. 13610 Kenton Ave. Crestwood, IL 60445		Kovic Construction Company, Inc. 3721 N. Carnation Street Franklin Park, IL 60131	
Item No.	Description	Unit	Qty.	Unit Cost	Cost	Unit Cost	Cost	Unit Cost	Cost	Unit Cost	Cost	Unit Cost	Cost
010510/01	CONSTRUCTION LAYOUT	LSUM	1	\$5,000.00	\$5,000.00	\$1,000.00	\$1,000.00	\$5,000.00	\$5,000.00	\$2,900.00	\$2,900.00	\$5,000.00	\$5,000.00
015000/01	TEMPORARY CONSTRUCTION FENCING	LSUM	1	\$5,000.00	\$5,000.00	\$880.00	\$880.00	\$3,000.00	\$3,000.00	\$3,600.00	\$3,600.00	\$3,000.00	\$3,000.00
260519/01	LOW VOLTAGE ELECTRICAL POWER CONDUCTORS AND CABLES	LSUM	1	\$15,000.00	\$15,000.00	\$3,400.00	\$3,400.00	\$3,400.00	\$3,400.00	\$3,700.00	\$3,700.00	\$20,000.00	\$20,000.00
260533/01	RACEWAYS AND BOXES FOR ELECTRICAL SYSTEMS	LSUM	1	\$10,000.00	\$10,000.00	\$14,700.00	\$14,700.00	\$15,000.00	\$15,000.00	\$16,150.00	\$16,150.00	\$50,000.00	\$50,000.00
262419/01	MOTOR CONTROL CENTER MODIFICATIONS	LSUM	1	\$75,000.00	\$75,000.00	\$51,400.00	\$51,400.00	\$60,000.00	\$60,000.00	\$56,500.00	\$56,500.00	\$120,000.00	\$120,000.00
262419/02	MOTOR CIRCUIT PROTECTION PANEL	EACH	2	\$15,000.00	\$30,000.00	\$20,200.00	\$40,400.00	\$22,000.00	\$44,000.00	\$22,200.00	\$44,400.00	\$10,000.00	\$20,000.00
262701/01	CONDUIT IN TRENCH, 3 SETS, 4" RGS	LSUM	1	\$2,500.00	\$2,500.00	\$12,700.00	\$12,700.00	\$12,700.00	\$12,700.00	\$17,800.00	\$17,800.00	\$10,000.00	\$10,000.00
262701/02	CABLE IN CONDUIT, 3 SETS, 4/C 400MCM	LSUM	1	\$3,000.00	\$3,000.00	\$4,800.00	\$4,800.00	\$5,000.00	\$5,000.00	\$5,300.00	\$5,300.00	\$10,000.00	\$10,000.00
262701/03	CABLE IN CONDUIT, 3 SETS, 4/C 400MCM & 1/C #3/0 GROUND	LSUM	1	\$5,000.00	\$5,000.00	\$4,700.00	\$4,700.00	\$5,000.00	\$5,000.00	\$5,400.00	\$5,400.00	\$12,000.00	\$12,000.00
262701/04	CT CABINET, DISCONNECT SWITCH, 1200 AMP	LSUM	1	\$25,000.00	\$25,000.00	\$19,700.00	\$19,700.00	\$20,000.00	\$20,000.00	\$23,500.00	\$23,500.00	\$20,000.00	\$20,000.00
262701/05	METER FITTING	LSUM	1	\$3,500.00	\$3,500.00	\$1,200.00	\$1,200.00	\$1,200.00	\$1,200.00	\$1,300.00	\$1,300.00	\$5,000.00	\$5,000.00
312000/01	EARTH EXCAVATION	LSUM	1	\$10,000.00	\$10,000.00	\$15,000.00	\$15,000.00	\$30,000.00	\$30,000.00	\$46,500.00	\$46,500.00	\$100,000.00	\$100,000.00
312000/02	COFFERDAMS	LSUM	1	\$20,000.00	\$20,000.00	\$26,000.00	\$26,000.00	\$20,000.00	\$20,000.00	\$42,500.00	\$42,500.00	\$65,000.00	\$65,000.00
312000/03	DEMOLITION	LSUM	1	\$10,000.00	\$10,000.00	\$21,900.00	\$21,900.00	\$65,000.00	\$65,000.00	\$28,000.00	\$28,000.00	\$100,000.00	\$100,000.00
312005/01	SUBBASE GRANULAR MATERIAL, TYPE B, 6"	SQ YD	50	\$50.00	\$2,500.00	\$12.00	\$600.00	\$20.00	\$1,000.00	\$26.00	\$1,300.00	\$20.00	\$1,000.00
312007/01	RIPRAP, RR5	SQ YD	150	\$75.00	\$11,250.00	\$72.00	\$10,800.00	\$90.00	\$13,500.00	\$105.00	\$15,750.00	\$150.00	\$22,500.00
312010/01	TRENCH BACKFILL	CU YD	50	\$40.00	\$2,000.00	\$48.00	\$2,400.00	\$35.00	\$1,750.00	\$90.00	\$4,500.00	\$100.00	\$5,000.00
312319/01	SITE DEWATERING	LSUM	1	\$15,000.00	\$15,000.00	\$8,600.00	\$8,600.00	\$5,000.00	\$5,000.00	\$9,900.00	\$9,900.00	\$25,000.00	\$25,000.00
312513/01	EROSION CONTROL FENCE	FOOT	500	\$5.00	\$2,500.00	\$5.00	\$2,500.00	\$3.00	\$1,500.00	\$6.00	\$3,000.00	\$5.00	\$2,500.00
312513/02	PUMP FILTER BAG	EACH	1	\$2,000.00	\$2,000.00	\$500.00	\$500.00	\$500.00	\$500.00	\$3,800.00	\$3,800.00	\$5,000.00	\$5,000.00
312513/03	BMP MAINTENANCE	LSUM	1	\$5,000.00	\$5,000.00	\$2,500.00	\$2,500.00	\$500.00	\$500.00	\$7,400.00	\$7,400.00	\$5,000.00	\$5,000.00
312513/04	CONCRETE WASHOUT	EACH	1	\$1,500.00	\$1,500.00	\$3,500.00	\$3,500.00	\$1,000.00	\$1,000.00	\$1,300.00	\$1,300.00	\$3,000.00	\$3,000.00
312513/05	STABILIZED CONSTRUCTION ENTRANCE	EACH	1	\$1,000.00	\$1,000.00	\$4,500.00	\$4,500.00	\$2,000.00	\$2,000.00	\$2,500.00	\$2,500.00	\$3,000.00	\$3,000.00
312513/06	DEWATERING BASIN	EACH	1	\$1,000.00	\$1,000.00	\$1,500.00	\$1,500.00	\$500.00	\$500.00	\$1,500.00	\$1,500.00	\$5,000.00	\$5,000.00
323113/01	FENCE & GATES	LSUM	1	\$5,000.00	\$5,000.00	\$3,500.00	\$3,500.00	\$5,000.00	\$5,000.00	\$4,500.00	\$4,500.00	\$7,000.00	\$7,000.00
334100/01	PUMP DISCHARGE PIPING	LSUM	1	\$10,000.00	\$10,000.00	\$8,000.00	\$8,000.00	\$1,000.00	\$1,000.00	\$7,900.00	\$7,900.00	\$15,000.00	\$15,000.00
334100/02	PUMP DISCHARGE PIPING FITTINGS	LSUM	1	\$10,000.00	\$10,000.00	\$2,000.00	\$2,000.00	\$10,000.00	\$10,000.00	\$8,850.00	\$8,850.00	\$15,000.00	\$15,000.00
334100/03	BOX CULVERT, 9' X 6'	FOOT	18	\$1,000.00	\$18,000.00	\$1,800.00	\$32,400.00	\$2,000.00	\$36,000.00	\$1,900.00	\$34,200.00	\$5,000.00	\$90,000.00
334100/04	BOX CULVERT, 9' X 6' END SECTION	EACH	2	\$9,000.00	\$18,000.00	\$5,000.00	\$10,000.00	\$20,000.00	\$40,000.00	\$16,500.00	\$33,000.00	\$40,000.00	\$80,000.00
334200/01	STORMWATER PUMPS AND ACCESSORIES	LSUM	1	\$400,000.00	\$400,000.00	\$490,920.00	\$490,920.00	\$480,000.00	\$480,000.00	\$498,500.00	\$498,500.00	\$570,000.00	\$570,000.00
334300/01	TRASHRACK WITH RAKING SYSTEM	LSUM	1	\$200,000.00	\$200,000.00	\$226,000.00	\$226,000.00	\$200,000.00	\$200,000.00	\$190,000.00	\$190,000.00	\$260,000.00	\$260,000.00
	BONDS AND INSURANCE	LSUM	1	\$45,000.00	\$45,000.00	\$10,300.00	\$10,300.00	\$10,000.00	\$10,000.00	\$20,000.00	\$20,000.00	\$16,540.00	\$16,540.00
TOTAL					\$968,750.00		\$1,038,300.00		\$1,098,550.00		\$1,145,450.00		\$1,670,540.00

As corrected

As corrected

As corrected



Agenda Item Executive Summary

Title: Ordinance M-13-2013: 672 Maple Street, Zoning Variation

Presenter: Michael D'Onofrio, Director of Community Development

Agenda Date: 09/17/2013

Consent: YES NO

- | | |
|-------------------------------------|-------------------------|
| <input checked="" type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | Resolution |
| <input type="checkbox"/> | Bid Authorization/Award |
| <input type="checkbox"/> | Policy Direction |
| <input type="checkbox"/> | Informational Only |

Item History:

No previous action.

Executive Summary:

Ordinance M-13-2013 grants variations from Section 17.30.050 [Front and Corner Yard Setbacks] and Section 17.30.110 [Garages] of the Winnetka Zoning Ordinance to permit an addition to the existing nonconforming screened porch that will result in a corner (front) yard setback of 31.33 ft. from Park Ave., whereas a minimum of 41.12 ft. is required, a variation of 9.79 ft. (23.81%) and the replacement of the existing nonconforming detached garage that will result in a south side yard setback of 5.5 ft., whereas a minimum of 12 ft. is required, a variation of 6.5 ft. (54.17%).

The applicants, Tor and Jennifer Solberg, are requesting the corner (front) yard setback variation to allow an addition and work beyond ordinary repair and maintenance to the existing nonconforming screened porch, which encroaches the required setback from Park Avenue. The proposed addition would "square-off" the corner of the polygonal screened porch, adding 70.45 s.f. The screened porch currently provides a corner (front) yard setback of 31.33 ft. from Park Avenue. The proposed porch will provide the same setback and not encroach any further than the existing nonconforming porch.

The second variation request is to replace the existing 415 s.f. detached garage and 110 s.f. garage canopy with a new 459 s.f. detached garage and 107 s.f. open porch on the garage. The proposed garage would provide a south side yard setback of 5.5 ft., whereas a minimum of 12 ft. is required. The existing garage provides a south side yard setback of 5.54 ft. and is therefore considered nonconforming.

At the August 12, 2013 Zoning Board of Appeals (ZBA), the five ZBA members present voted 5 to 0 to recommend approval of the zoning variations.

Recommendation / Suggested Action:

Consider introduction of Ordinance M-13-2013, granting variations for the corner (front) yard setback to permit the replacement and expansion of the nonconforming screened porch and side yard setback to replace the nonconforming detached garage.

Attachments:

- Agenda Report
- Attachment A: Zoning Matrix
- Attachment B: Ordinance M-13-2013
- Attachment C: GIS Map
- Attachment D: Application
- Attachment E: 2013 Plat of Survey
- Attachment F: Site Plan and Building Plans
- Attachment G: August 12, 2013 ZBA minutes

AGENDA REPORT

TO: Village Council

PREPARED BY: Michael D'Onofrio, Director of Community Development

SUBJECT: 672 Maple St., Ord. M-13-2013
Variations:
(1) Front and Corner Yard Setbacks
(2) Garages

DATE: September 10, 2013

Ordinance M-13-2013 grants variations from Section 17.30.050 [Front and Corner Yard Setbacks] and Section 17.30.110 [Garages] of the Winnetka Zoning Ordinance to permit an addition to the existing nonconforming screened porch that will result in a corner (front) yard setback of 31.33 ft. from Park Ave., whereas a minimum of 41.12 ft. is required, a variation of 9.79 ft. (23.81%) and the replacement of the existing nonconforming detached garage that will result in a south side yard setback of 5.5 ft., whereas a minimum of 12 ft. is required, a variation of 6.5 ft. (54.17%).

The lot is located at the southwest corner of Maple St. and Park Ave. with additional Park Ave. street frontage along the northwest property line. Therefore, the lot has three street frontages, requiring three front yard setbacks. The corner (front) yard setback is measured from Park Ave. along the north property line. Front yard setbacks of 50 ft. are required from Maple St. (east property line) and Park Ave. along the northwest property line. The corner (front) yard setback is less than 50 ft. because the zoning ordinance limits the corner setback based on the width of the lot. Pursuant to Section 17.30.050.C.2.a. of the zoning ordinance, the width of the buildable area, as measured from the minimum required side yard, shall not be reduced to less than 60% of the average lot width. In this case, the average lot width is 132.79 ft. and the minimum required side yard setback is 12 ft., which leads to the required corner setback of 41.12 ft.

The applicants, Tor and Jennifer Solberg, are requesting the corner (front) yard setback variation to allow an addition and work beyond ordinary repair and maintenance to the existing nonconforming screened porch, which encroaches the required setback from Park Ave. The proposed addition would "square-off" the corner of the polygonal screened porch, adding 70.45 s.f. The screened porch currently provides a corner (front) yard setback of 31.33 ft. from Park Ave. The proposed porch will provide the same setback and not encroach any further than the existing nonconforming porch.

The second variation request is to replace the existing 415 s.f. detached garage and 110 s.f. garage canopy with a new 459 s.f. detached garage and 107 s.f. open porch on the garage. The proposed garage would provide a south side yard setback of 5.5 ft., whereas a minimum of 12 ft. is required. The existing garage provides a south side yard setback of 5.54 ft. and is therefore considered nonconforming.

The property is located in the R-2 Single Family Residential District. The residence was built circa 1892. Subsequent building permits were issued in 1931 to construct the existing detached garage, in 1987 to construct an addition and make alterations to the residence, in 1990 to finish the third floor, and in 2007 to build an addition and renovate the residence. The petitioners purchased the property in 2006.

There is one previous zoning case for this property. An ordinance was approved by the Village Council on June 19, 1973 to allow an addition to the existing porch within the required corner (front) yard setback. The approved addition was never built.

An attached zoning matrix (Attachment A) summarizes the work proposed under this request.

Recommendation of Advisory Board

At the ZBA meeting August 12, 2013 the five members present voted 5 to 0 to recommend approval of the zoning variations. The findings of the ZBA can be found on pages 4 thru 6 of the attached ZBA Minutes.

Introduction of the ordinance requires the concurrence of a majority of the Council.

Recommendation

Consider introduction of Ordinance M-13-2013, granting variations for the corner (front) yard setback to permit the replacement and expansion of the nonconforming screened porch and side yard setback to replace the nonconforming detached garage.

Attachments

- Attachment A: Zoning Matrix
- Attachment B: Ordinance M-13-2013
- Attachment C: GIS Map
- Attachment D: Application
- Attachment E: 2013 Plat of Survey
- Attachment F: Site Plan and Building Plans
- Attachment G: August 12, 2013 ZBA minutes

Attachment A

ZONING MATRIX

ADDRESS: 672 Maple St.
CASE NO: 13-11-V2
ZONING: R-2

ITEM	REQUIREMENT	EXISTING	PROPOSED	TOTAL	STATUS
Min. Lot Size	25,200 SF	36,651 SF	N/A	N/A	OK
Min. Average Lot Width	115 FT	132.79 FT	N/A	N/A	OK
Max. Roofed Lot Coverage	9,162.75 SF (1)	4,827.6 SF	115.79 SF	4,943.39 SF	OK
Max. Gross Floor Area	10,244.73 SF (1)	6,962.8 SF	114.81 SF	7,077.61 SF	OK
Max. Impermeable Lot Coverage	18,325.5 SF (1)	9,153.3 SF	115.79 SF	9,269.09 SF	OK
Min. Front Yard (East)	.50 FT	45.98 FT	N/A	N/A	EXISTING NONCONFORMING
Min. Corner (Front) Yard (North)	41.12 FT	31.33 FT	31.33 FT	N/A	9.79 FT (23.81%) VARIATION
Min. Third Street (Northwest)	50 FT	(+) 50 FT	(+) 50 FT	N/A	OK
Min. Side Yard (South)	12 FT	5.54 FT (2)	5.5 FT (2)	N/A	6.5 FT (54.17%) VARIATION

NOTES:

(1) Based on lot area of 36,651 SF

(2) Setback to detached garage.

ORDINANCE NO. M-13-2013

**AN ORDINANCE GRANTING A VARIATION IN
THE APPLICATION OF THE ZONING ORDINANCE
OF THE VILLAGE OF WINNETKA,
COOK COUNTY, ILLINOIS (672 Maple)**

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, pursuant to which it has the authority, except as limited by said Section 6 of Article VII, to exercise any power and perform any function pertaining to the government and affairs of the Village; and

WHEREAS, the Council of the Village of Winnetka (“Village Council”) finds that establishing standards for the use and development of lands and buildings within the Village and establishing and applying criteria for variations from those standards are matters pertaining to the affairs of the Village; and

WHEREAS, the property commonly known as 672 Maple Street, Winnetka, Illinois (“Subject Property”), is legally described as follows:

Lot 2 in Block 9 in Park Addition to Winnetka in the Southwest Quarter of Section 16, Township 42 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois; and

WHEREAS, the Subject Property is located in the R-2 Zoning District provided in Chapter 17.24 of the Winnetka Zoning Ordinance, Title 17 of the Winnetka Village Code; and

WHEREAS, on July 9, 2013, the owner of the Subject Property filed an application for the following variations from requirements of the Lot, Space, Bulk and Yard Regulations for Single Family Residential Districts established by Chapter 17.30 of the Zoning Ordinance: (a) a variation from the Minimum Corner Setback requirement of Section 17.30.050(B), to permit a corner yard setback of 31.33 feet from the Subject Property’s Park Avenue frontage, rather than the minimum required corner setback of 41.12 feet, a variation of 9.79 feet (23.82%), to allow the existing, nonconforming screened porch at the northwest corner of the residence to be replaced; and (b) a variation from the garage setback requirements of Section 17.30.110(E) to permit a south side yard setback of 5.5 feet, rather than the required minimum of 12 feet, a variation of 6.5 feet (54.17%), to allow the replacement of the existing, nonconforming garage; and

WHEREAS, on August 12, 2013, on due notice thereof, the Zoning Board of Appeals conducted a public hearing on the requested variations and, by the unanimous vote of the five members then present, has reported to the Council recommending that the requested variations be granted; and

WHEREAS, there are practical difficulties and particular hardships associated with carrying out the strict application of the Zoning Ordinance with respect to the Subject Property in that: (a) the Subject Property is an irregularly shaped corner lot, located at the southwest corner of Maple Street and Park Avenue; (b) because Park Avenue curves due northwest and then due southwest, it has the effect of creating a third street frontage along the Subject Property’s northwest lot line, which imposes an additional 50-foot front setback requirement; (c) the Subject Property is improved with a single family home that was built in 1892, before the enactment of the Zoning

Ordinance and the imposition of setback requirements; (d) the portion of the Subject Property that functions as the rear yard is subject to a 12-foot side yard setback because it adjoins the side lot line of the property at 718 Park Avenue; (e) although the Subject Property has an area of 36,651 square feet, due to the Subject Property's irregular shape, curving northern property line, three street frontages and two side yards, as well as the absence of a true rear yard, the Subject Property's buildable area is severely limited in both size and shape, and the Subject Property does not have a rear quarter in which to build a garage; and (f) constructing a new garage in a conforming location would require moving the garage further back on the Subject Property, which would shift the garage toward the adjoining property to the west, making the garage more visible and reducing the perception of open space in that neighboring property's rear yard; and

WHEREAS, the Subject Property cannot yield a reasonable return if permitted to be used only under the conditions allowed by the Zoning Ordinance, in that: (a) both the existing garage and the existing screened porch are in disrepair and need replacing; (b) the nonconformities cannot be cured without eliminating the screened porch and garage entirely; (c) constructing the screened porch in a conforming location would decrease its functionality and usability; (d) due to the proximity of the existing garage to the house, constructing the garage in a conforming location would require not only shifting the garage toward the center of the Subject Property, but also setting it further back from the front of the property to extend the driveway to allow it to curve around the corner of house; and (e) constructing a new garage in a conforming location as described, would result in the removal of two mature trees and would reduce the amount of useable green space on the Subject Property, obscuring the view of the Subject Property's open space from the wrap-around porch at the rear of the house, and placing the garage wall in close proximity to the stone and brick patio behind the house; and

WHEREAS, the requested variations will not alter the essential character of the neighborhood, because (a) the proposed new garage and screened porch will maintain the established configuration of the Subject Property and will protect two mature trees; and (b) the architectural features of the proposed porch and garage will be consistent with the design of the house and will improve the appearance of the house as seen from the street; and

WHEREAS, the requested variations will not impair an adequate supply of light and air because the garage and screened porch are proposed to be rebuilt in the same locations as before and the Subject Property will comply with all height and bulk limitations; and

WHEREAS, the requested variations will not increase the hazard from fire and other dangers to the Subject Property, as the proposed construction will comply with all applicable building and fire protection codes; and

WHEREAS, the requested variations will not diminish the taxable value of land and buildings throughout the Village, and the taxable value of the Subject Property may be increased because of the proposed improvements; and

WHEREAS, the proposed construction will not contribute to congestion on the public streets, as the property will continue to be used for single family residential purposes; and

WHEREAS, there is no evidence that the requested variations will otherwise impair the public health, safety, comfort, morals, and welfare of the inhabitants of the Village; and

WHEREAS, the requested variations are in harmony with the general purpose and intent of the Winnetka Zoning Ordinance, in that they allow the renovation, restoration and rehabilitation of a

structurally sound existing building while maintaining the existing scale and appearance of the community and protecting established trees and landscaping.

WHEREAS, this Ordinance has been placed on the Village Council's agenda and made available for public inspection at Village Hall and on the Village's web site, in accordance with Sections 2.04.040 and 2.16.040 of the Winnetka Village Code and applicable law.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Winnetka, as follows:

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

SECTION 2: Subject to the requirements of Sections 3 and 4, below, the Subject Property, commonly known as 672 Maple and located in the R-2 Single-Family Residential District provided in Chapter 17.24 of the Winnetka Zoning Ordinance, Title 17 of the Winnetka Village Code is hereby granted the following variations from requirements of the Lot, Space, Bulk and Yard Regulations for Single Family Residential Districts established by Chapter 17.30 of the Zoning Ordinance: (a) a variation from the Minimum Corner Setback requirement of Section 17.30.050(B), to permit a corner yard setback of 31.33 feet from the Subject Property's Park Avenue frontage, rather than the minimum required corner setback of 41.12 feet, a variation of 9.79 feet (23.82%), to allow the existing, nonconforming screened porch at the northwest corner of the residence to be replaced; and (b) a variation from the garage setback requirements of Section 17.30.110(E) to permit a south side yard setback of 5.5 feet, rather than the required minimum of 12 feet, a variation of 6.5 feet (54.17%), to allow the construction of a new replacement of the existing, nonconforming garage with a new garage designed to be compatible with the architecture of the residence.

SECTION 3: The screened porch and garage shall be constructed in accordance with the plans and elevations submitted with the application for variations.

SECTION 4: The variations granted herein are conditioned upon the commencement of the proposed construction within 12 months after the effective date of this Ordinance.

[Remainder of this page intentionally left blank.]

SECTION 5: This Ordinance is passed by the Council of the Village of Winnetka in the exercise of its home rule powers pursuant to Section 6 of Article VII of the Illinois Constitution of 1970.

SECTION 6: This Ordinance shall take effect immediately upon its passage, approval and posting as provided by law.

PASSED this ___ day of _____ 2013, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED this ___ day of _____ 2013.

Signed:

Village President

Countersigned:

Village Clerk

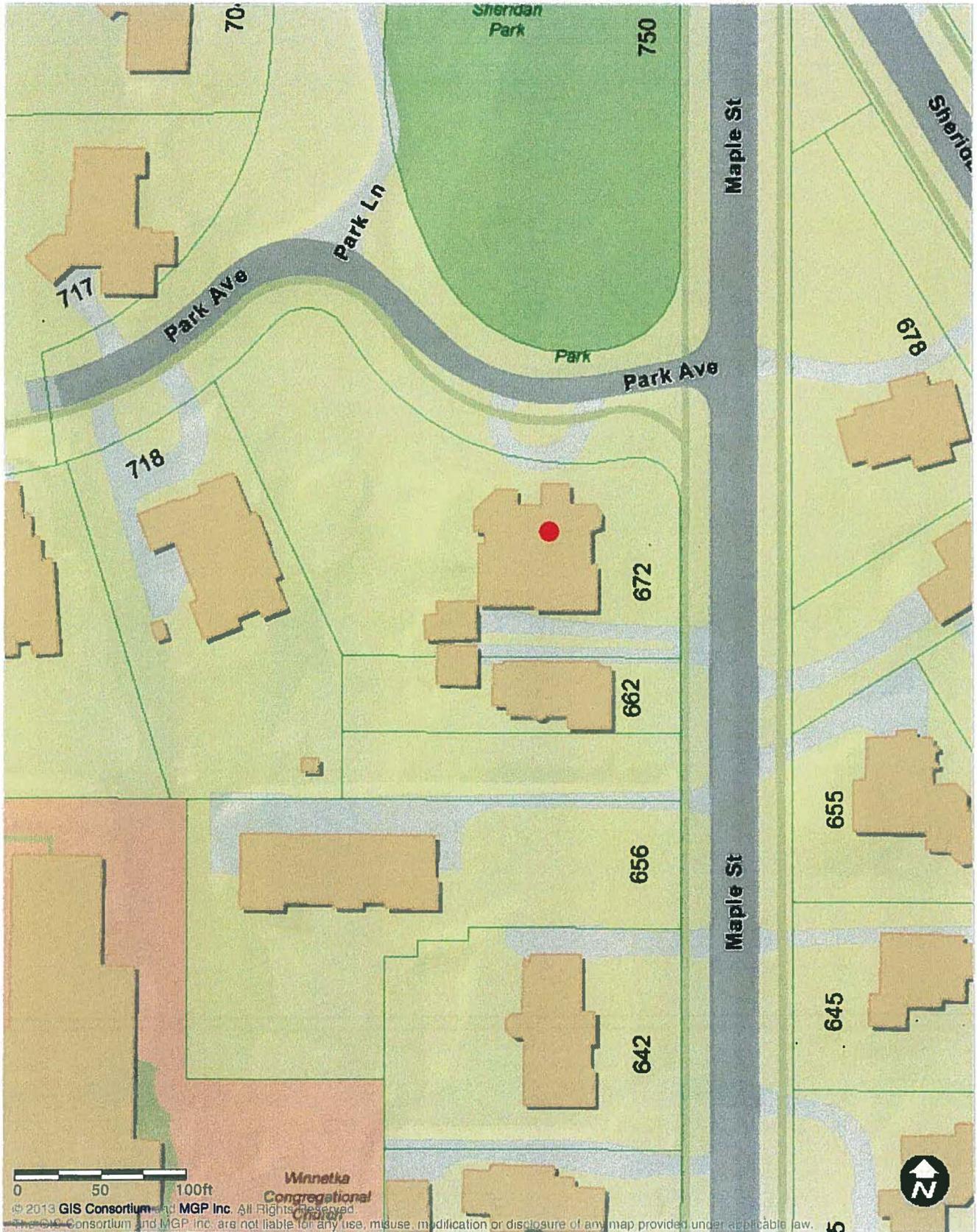
Published by authority of the President and Board of Trustees of the Village of Winnetka, Illinois, this ___ day of _____ 2013.

Introduced:

Passed and Approved:



MapOffice™ 672 Maple St.



APPLICATION FOR VARIATION
WINNETKA ZONING BOARD OF APPEALS



Owner Information:

Name: Tor & Jennifer Solberg
Property Address: 672 Maple Street
Home and Work Telephone Number: (847)446-1155 (630)773-1363
Fax and E-mail: _____

Architect Information: Name, Address, Telephone, Fax & E-mail:

Konstant Architecture - Paul Konstant
5300 Golf Rd. (P) 847-967-6115 (F) 847-967-0111
Skokie, IL 60077 pk@konstantarchitecture.com

Attorney Information: Name, Address, Telephone, Fax & E-mail:

Date Property Acquired by Owner: 07/07/2006

Nature of Any Restrictions on Property: Irregular lot shape, presence of 3 or more street frontages, existing non-conformity

Explanation of Variation Requested: Existing Garage is non-conforming & needs to be rebuilt, (Attach separate sheet if necessary) To rebuild in a conforming location would require removal of protected trees. Existing screen porch extends into required corner yard & needs to be rebuilt/renovated. Corner yard setback limits building area, despite large lot. Request to rebuild screen porch w/ squared corner, rather than polygon shape, to increase usability of porch.

OFFICE USE ONLY

Variation Requested Under Ordinance Section(s): _____

Staff Contact: _____ Date: _____

STANDARDS FOR GRANTING OF ZONING VARIATIONS

Applications must provide evidence and explain in detail the manner wherein the strict application of the provisions of the zoning regulations would result in a clearly demonstrated practical difficulty or particular hardship. In demonstrating the existence of a particular difficulty or a particular hardship, please direct your comments and evidence to each of the following items:

1. The property in question can not yield a reasonable return if permitted to be used only under the conditions allowed by regulations in that zone.
2. The plight of the owner is due to unique circumstance. Such circumstances must be associated with the characteristics of the property in question, rather than being related to the occupants.
3. The variation, if granted, will not alter the essential character of the locality.
4. An adequate supply of light and air to the adjacent property will not be impaired.
5. The hazard from fire and other damages to the property will not be increased.
6. The taxable value of the land and buildings throughout the Village will not diminish.
7. The congestion in the public street will not increase.
8. The public health, safety, comfort, morals, and welfare of the inhabitants of the Village will not otherwise be impaired.

For your convenience, you will find attached examples of general findings, for and against the granting of a variation, which have been made by the Zoning Board of Appeals and Village Council in prior cases.

NOTE: The Zoning Board of Appeals or the Village Council, depending on which body has final jurisdiction, must make a finding that a practical difficulty or a particular hardship exists in order to grant a variation request.

Property Owner's Signature:  Date: 7-9-13

(Proof of Ownership is required)

Variations, if granted, require initiation of construction activity within 12 months of final approval. Consider your ability to commence construction within this 12 month time period to avoid lapse of approvals.

**RE: Solberg Residence
672 Maple St.
Winnetka, IL**

Standards for Granting of Zoning Variations

1. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by regulation in that zone.

The existing garage is built in the required side yard setback, is in a state of poor repair and needs to be rebuilt. To rebuild the garage in a conforming location would require the garage to be located north and west of its existing location, which would require the removal of 2 mature trees, and decrease the usable space of the existing back yard. That impact will create an unreasonable return and an unreasonable result. This is even more clearly evident when the requested variation is considered in relation to the lack of negative impact that will result from rebuilding the garage in its existing location.

The existing screen porch is built in the required corner yard setback, and is also in poor condition, needing to be rebuilt. To rebuild the screen porch in its existing shape limits the usability of the porch. Because the porch is already non-conforming, it is requested to change the shape of the porch, to increase its usability. Limiting the rebuilt porch to its existing shape will create an unreasonable return, and an unreasonable resulting space.

2. The plight of the owner is due to unique circumstances. Such circumstances must be associated with the characteristics of the property in question rather than being related to the occupants.

There are several conditions which make the subject property and the plight of the owner unique.

First, the subject property is a corner lot, with the presence of 3 street frontages. The property is a corner lot therefore has no rear 20% setback in which to build the garage. The garage is over 100 feet from each street frontage, yet is still considered non-conforming.

Second, the curved northern boundary of the lot creates a buildable lot area that is severely restrictive, despite the large size of the lot.

Third, both the existing screened porch, and existing garage are in poor condition, and need to be rebuilt, but are built in existing non-conforming locations. The screen porch would not be able to be rebuilt in a conforming location, and the garage would not be able to be rebuilt in a conforming location

without removing protected trees, extending the driveway, and sacrificing backyard space.

All of these conditions evidence the unique nature of the subject property and the unique circumstances affecting the owner.

3. The variation, if granted, will not alter the essential character of the locality.

The subject property will be improved by rebuilding the existing screen porch and garage. The screen porch and garage are currently in a state of poor repair; rebuilding them will bring them to a level of quality that is consistent with the character of the surrounding area, and will enhance the essential character of the locality. Rebuilding the garage in its existing location rather than in a conforming location will also protect the essential character of the locality by protecting 2 mature trees.

4. An adequate supply of light and air to the adjacent property will not be impaired.

Because the screen porch and garage are proposed to be rebuilt in the same locations as before, the adequate supply of light and air to the adjacent property will not be impaired.

5. The hazard from fire and other damages to the property will not be increased.

The hazard from fire and other damages to the property will not be increased from the proposed improvements. All proposed new construction and selected materials meet or exceed current local building codes.

6. The taxable value of the land and building throughout the Village will not diminish.

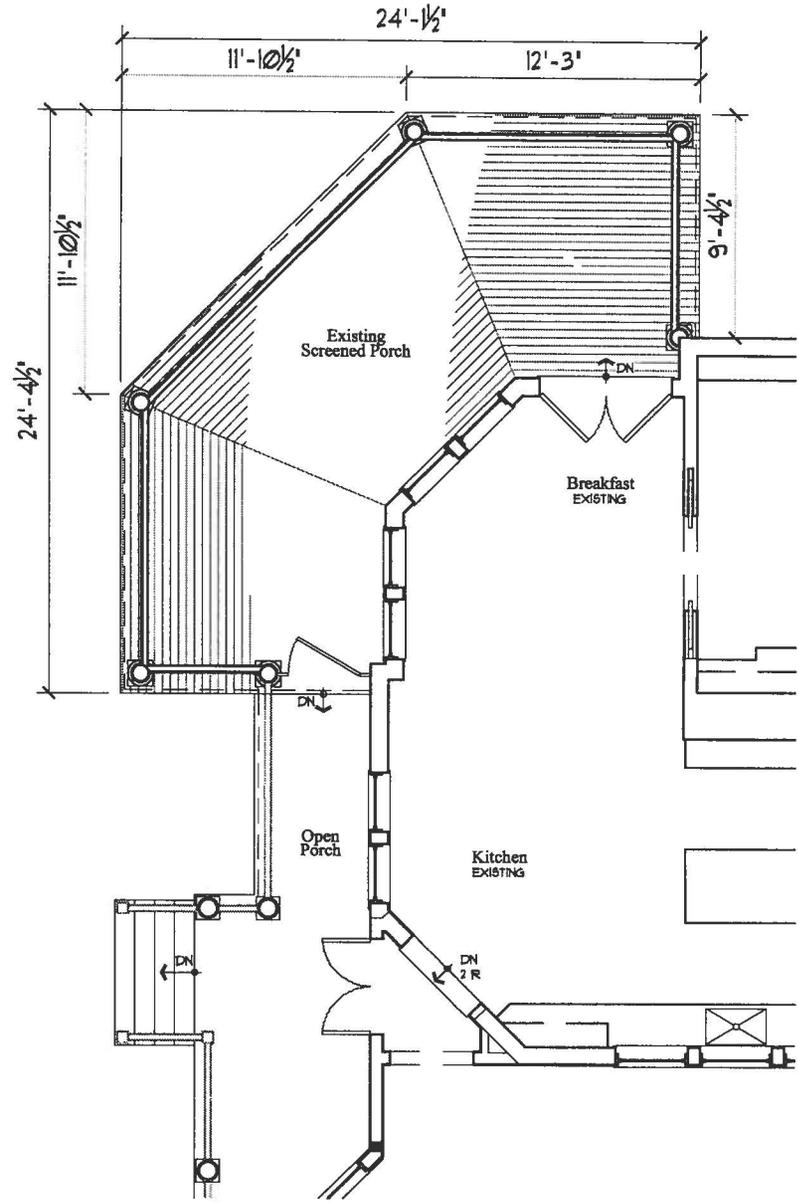
The variation, if granted, will not affect the taxable value of the land and buildings throughout the village.

7. The congestion to the public street will not increase.

The congestion to the public street will not increase because the occupancy will not increase beyond what is allowable for this property. There will be no difference in congestion to the public street by rebuilding the screen porch and garage in their existing locations.

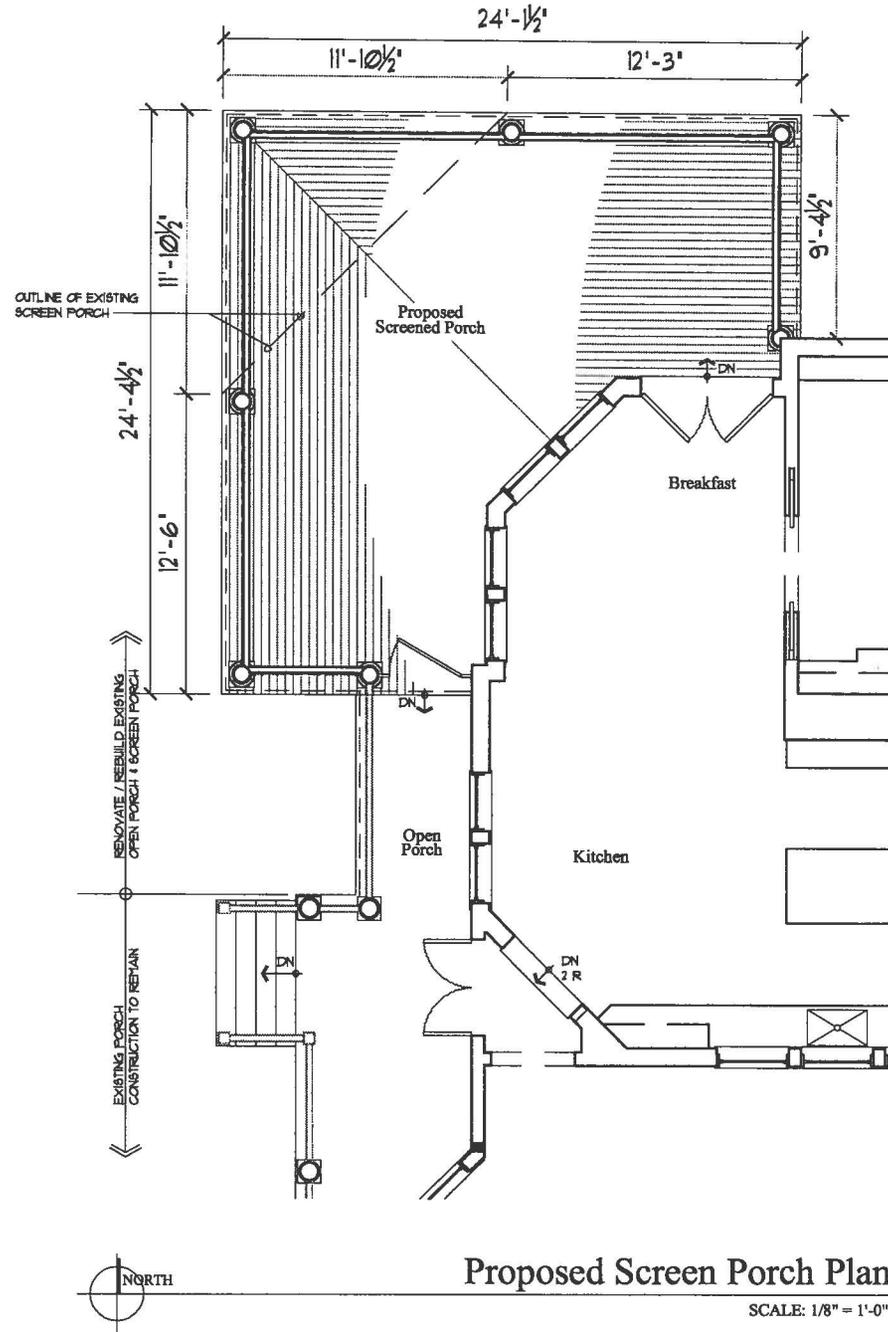
8. The public health, safety, comfort, morals, and welfare of the inhabitants of the village will not otherwise be impaired.

The public health and safety of the inhabitants of the village will be increased by bringing the existing screened porch and garage out of a state of poor repair, and rebuilding in accordance with all local building codes. If the variation is granted the, the public health, safety, comfort, morals, and welfare of the inhabitants of the Village of Winnetka will not otherwise be impaired.



Existing Screen Porch Plan

SCALE: 1/8" = 1'-0"



Proposed Screen Porch Plan

SCALE: 1/8" = 1'-0"



Existing North Elevation

SCALE: 1/8"=1'-0"

Konstant Architecture Planning
6300 QUIET ROAD BAKERSFIELD ILLINOIS 60077 847.587.8116

Solberg Residence
672 Maple Street. Winnetka, IL



Proposed North Elevation

SCALE: 1/8"=1'-0"

Konstant □ Architecture □ Planning
6300 Golf Road, Skokie, Illinois 60077 847-887-6113

Solberg Residence
672 Maple Street, Winnetka, IL



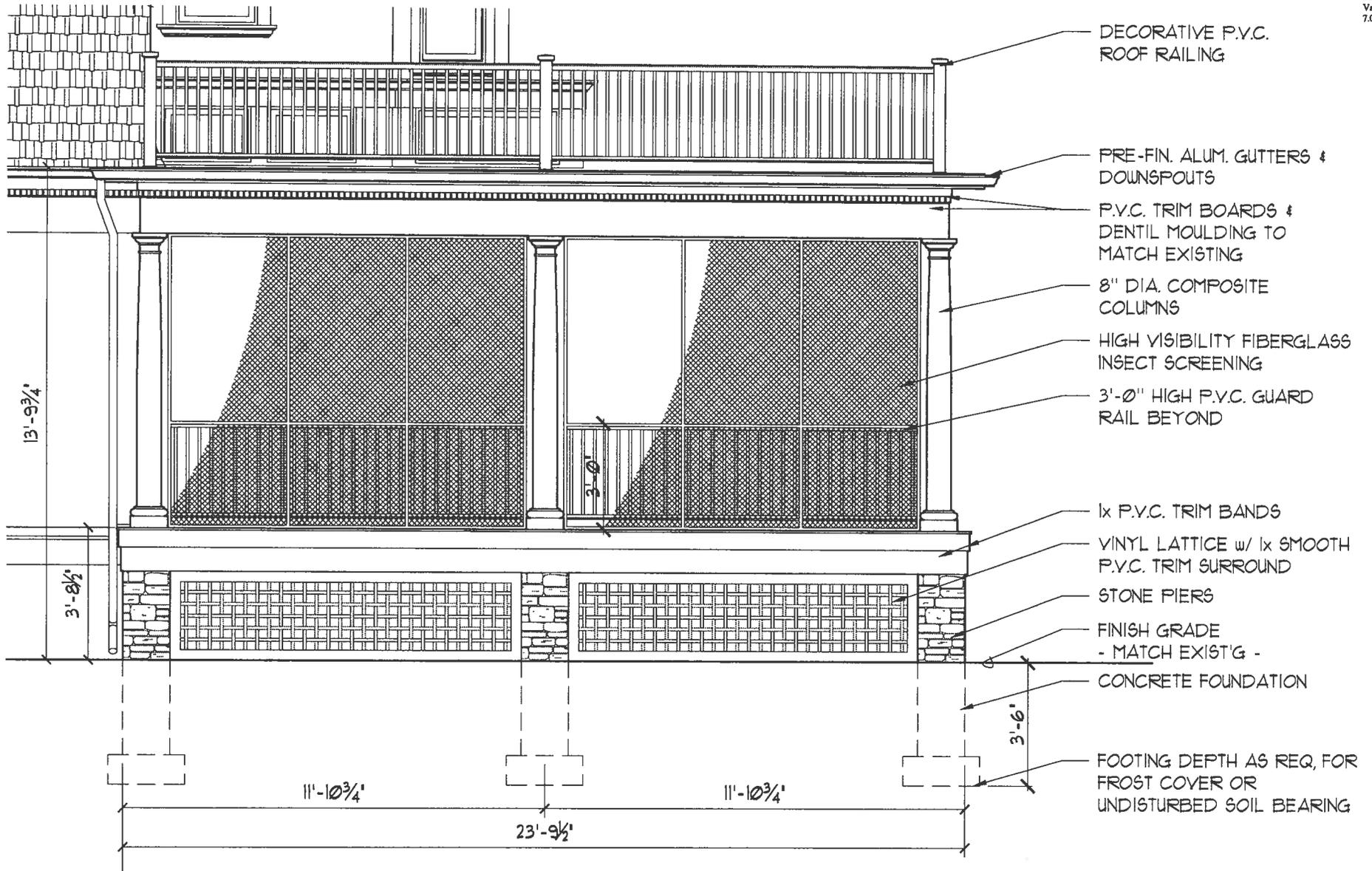
Existing North Elevation

SCALE: 1/4"=1'-0"



Existing West Elevation

SCALE: 1/4"=1'-0"



- DECORATIVE P.V.C. ROOF RAILING
- PRE-FIN. ALUM. GUTTERS & DOWNSPOUTS
- P.V.C. TRIM BOARDS & DENTIL MOULDING TO MATCH EXISTING
- 8" DIA. COMPOSITE COLUMNS
- HIGH VISIBILITY FIBERGLASS INSECT SCREENING
- 3'-0" HIGH P.V.C. GUARD RAIL BEYOND
- 1x P.V.C. TRIM BANDS
- VINYL LATTICE w/ 1x SMOOTH P.V.C. TRIM SURROUND
- STONE PIERS
- FINISH GRADE - MATCH EXIST'G -
- CONCRETE FOUNDATION
- FOOTING DEPTH AS REQ, FOR FROST COVER OR UNDISTURBED SOIL BEARING

13'-9 3/4"

3'-8 1/2"

3'-0"

11'-10 3/4"

23'-9 1/2"

11'-10 3/4"

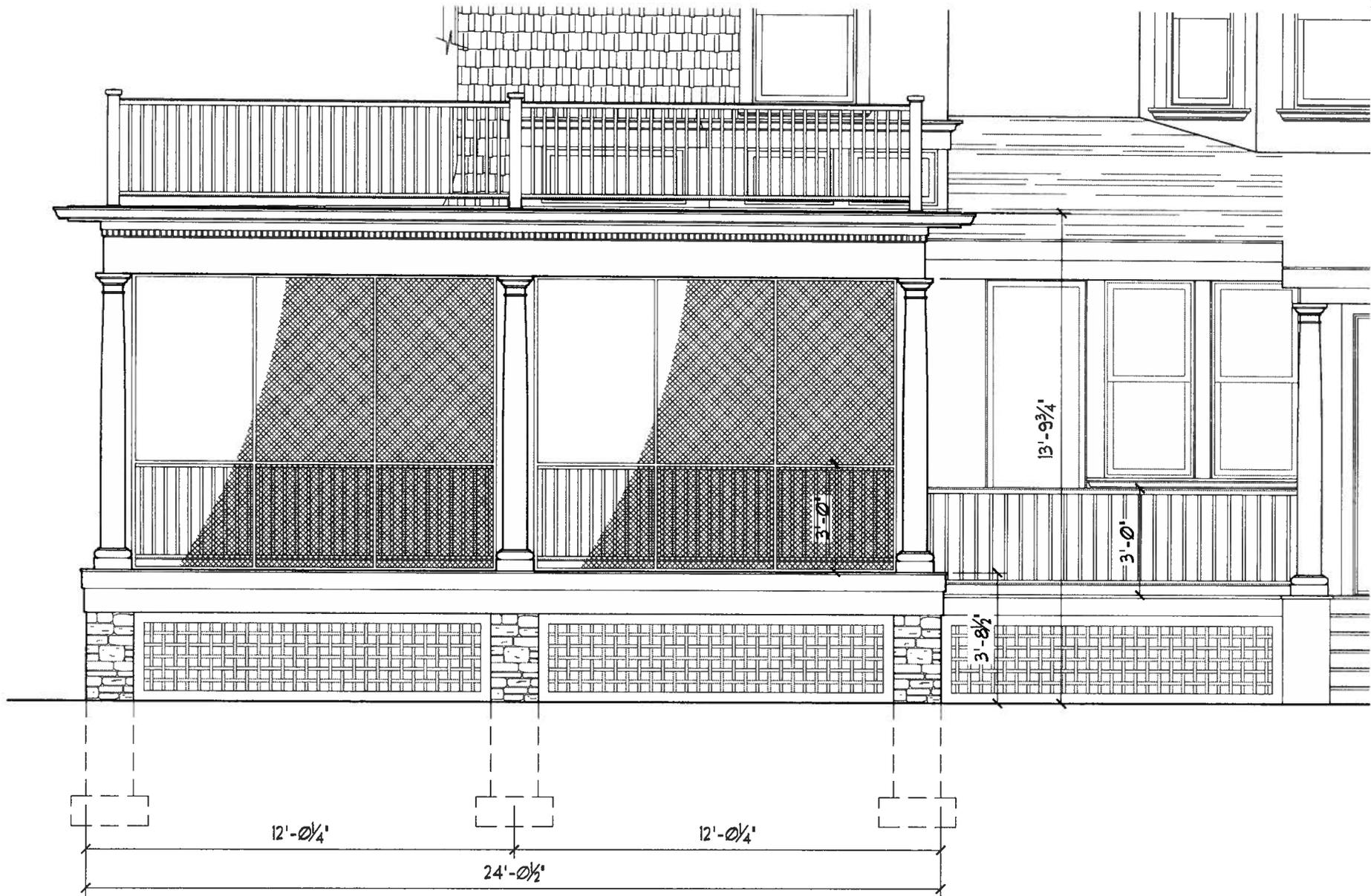
3'-6"

Proposed North Elevation

SCALE: 1/4"=1'-0"

Konstant Architecture Planning
8300 Golf Road Skokie Illinois 60077 847-867-8118

Solberg Residence
672 Maple Street, Winnetka, IL



Proposed West Elevation

SCALE: 1/4"=1'-0"

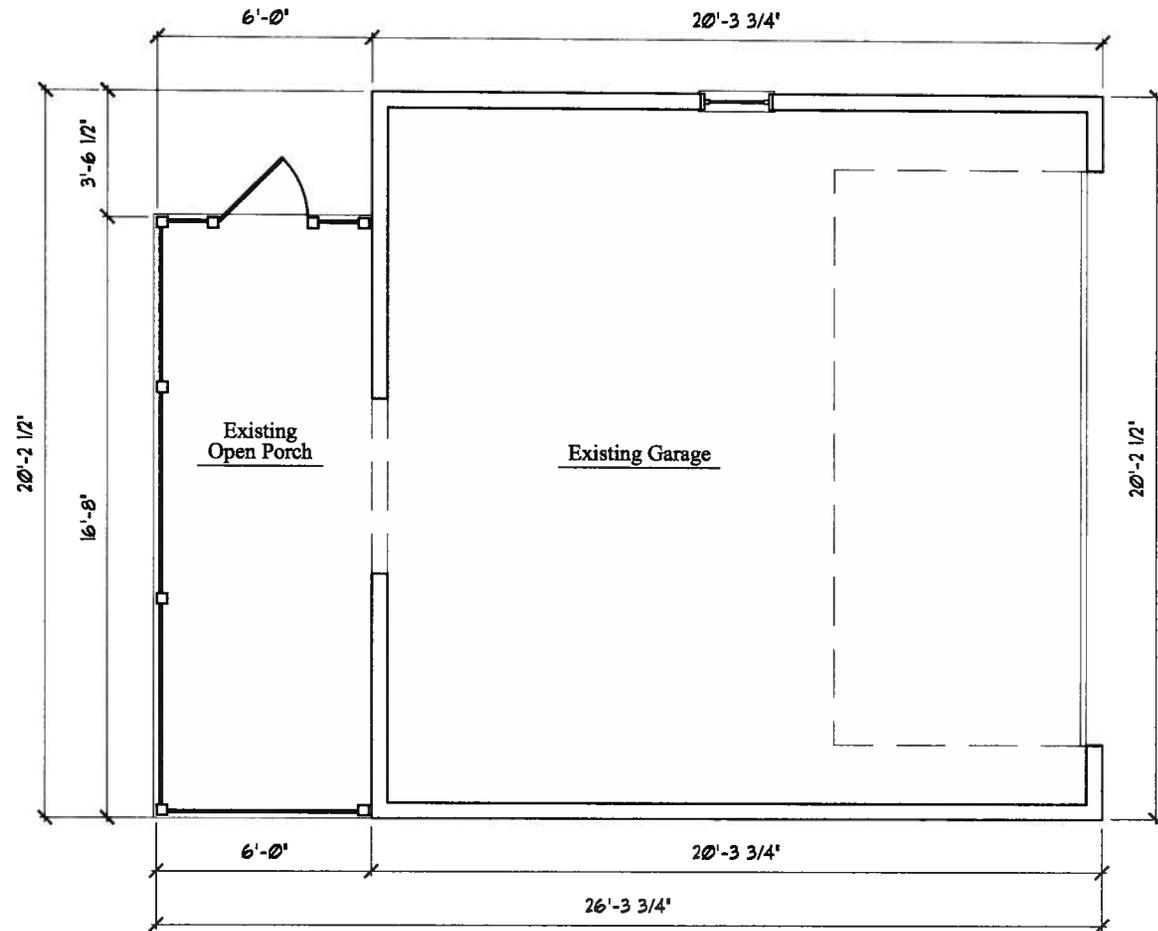
Konstant Architecture Planning
6300 Golf Road Skokie Illinois 60077 847-867-8118

Solberg Residence
672 Maple Street, Winnetka, IL



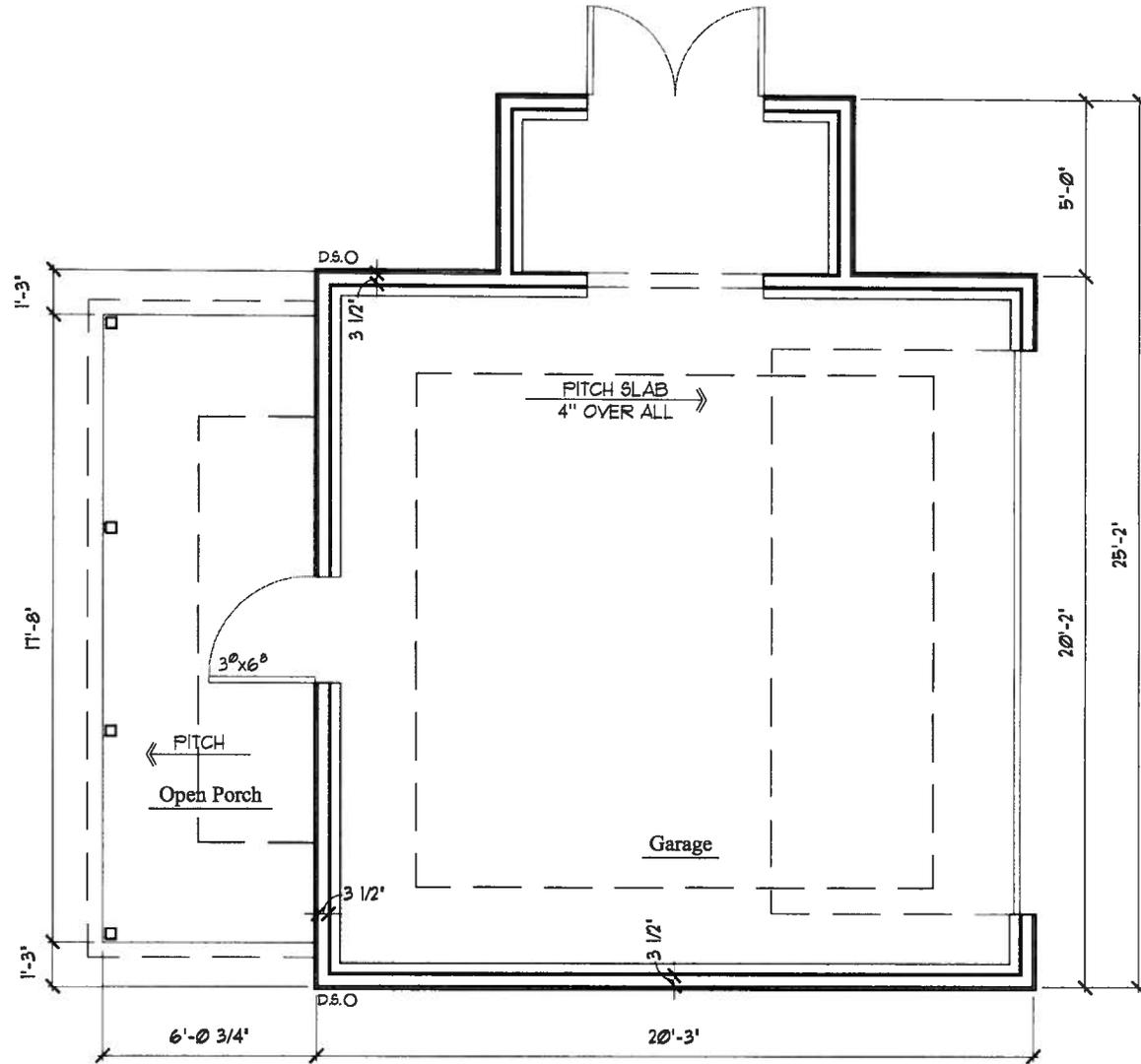
Existing West Elevation

SCALE: 1/8"=1'-0"



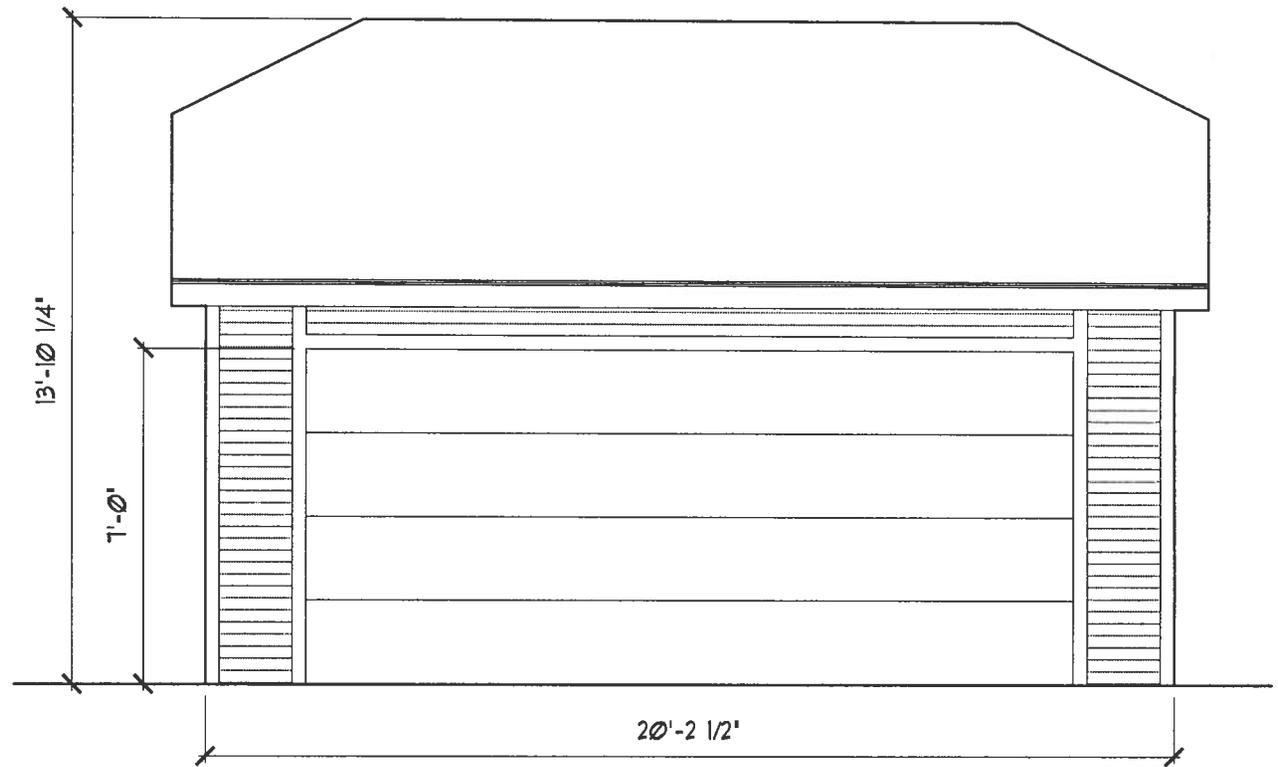
Existing Garage Plan

SCALE: 3/16" = 1'-0"



Proposed Garage Plan

SCALE: 3/16" = 1'-0"

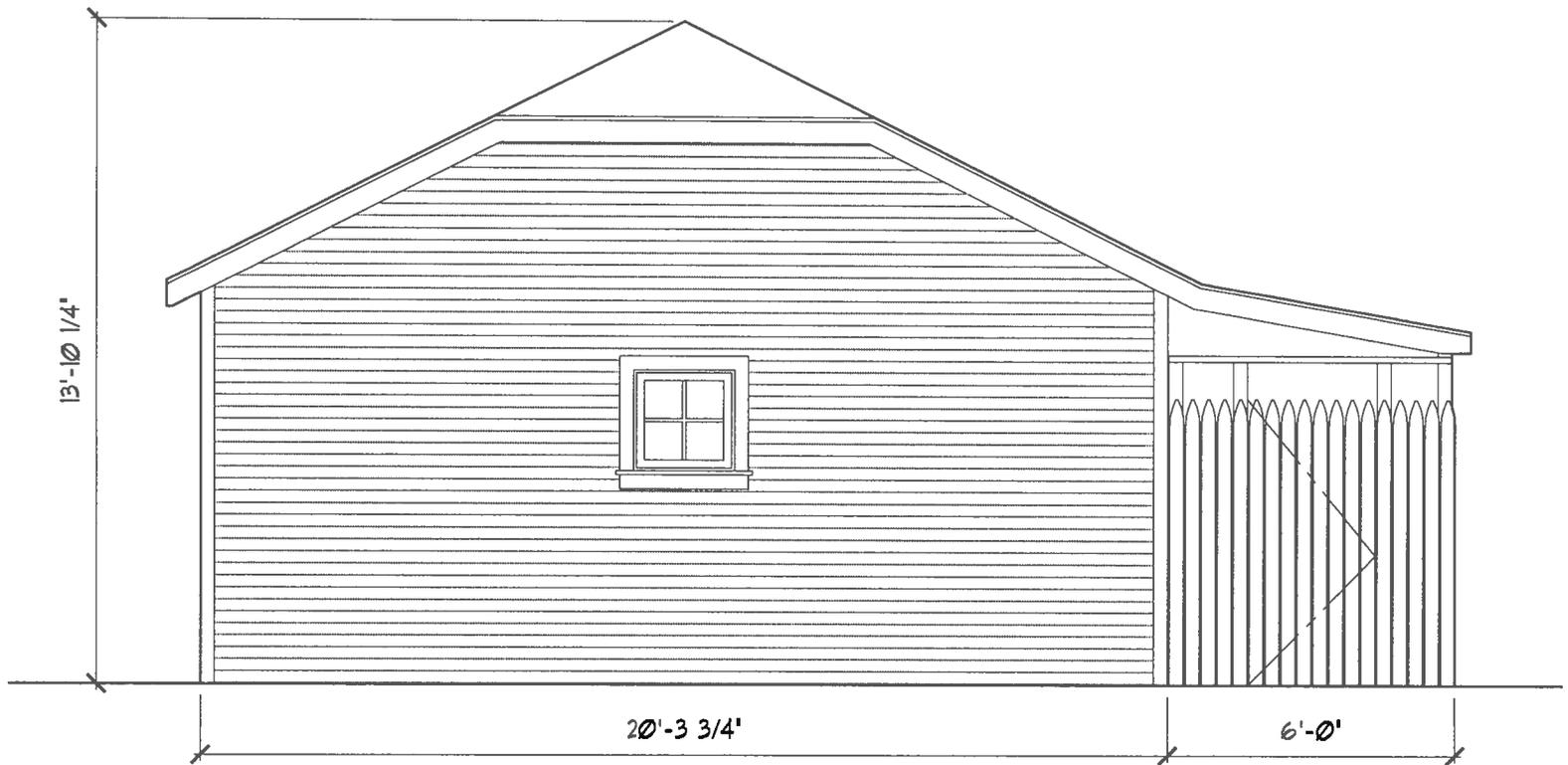


Existing Garage - East Elevation

SCALE: 1/4" = 1'-0"

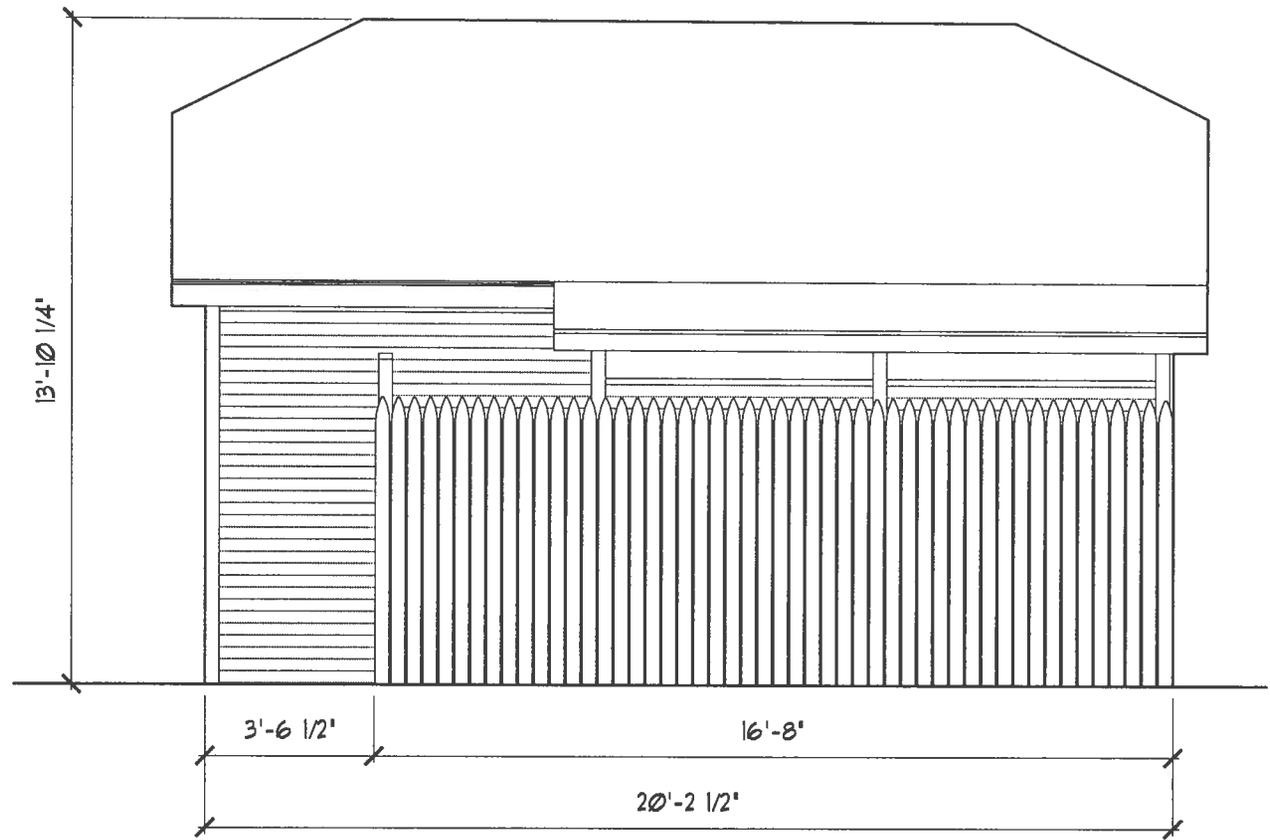
Konstant Architecture Planning
8300 Golf Road Skokie, Illinois 60077 847.887.8118

Solberg Residence
672 Maple Street, Winnetka, IL



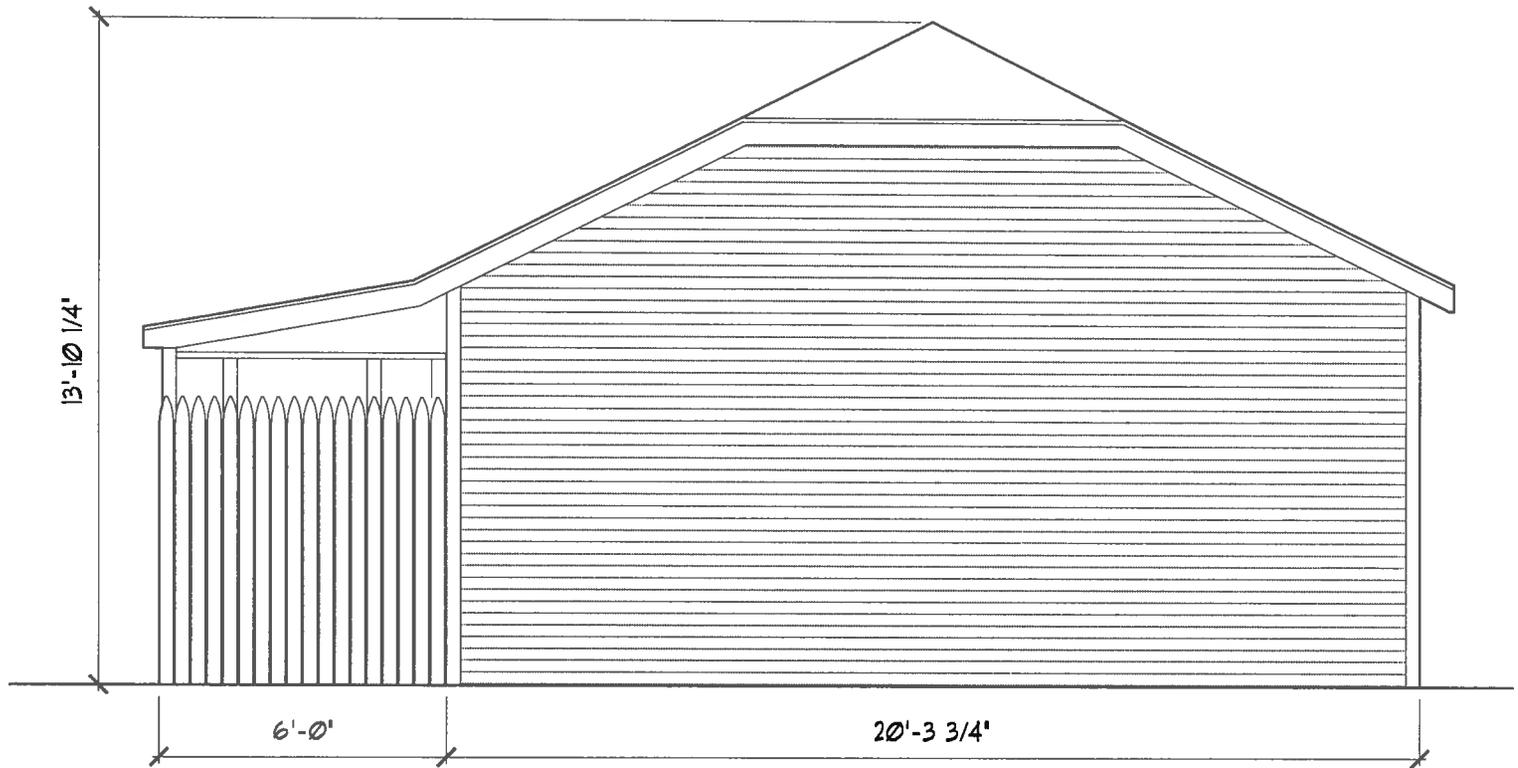
Existing Garage - North Elevation

SCALE: 1/4" = 1'-0"



Existing Garage - West Elevation

SCALE: 1/4" = 1'-0"

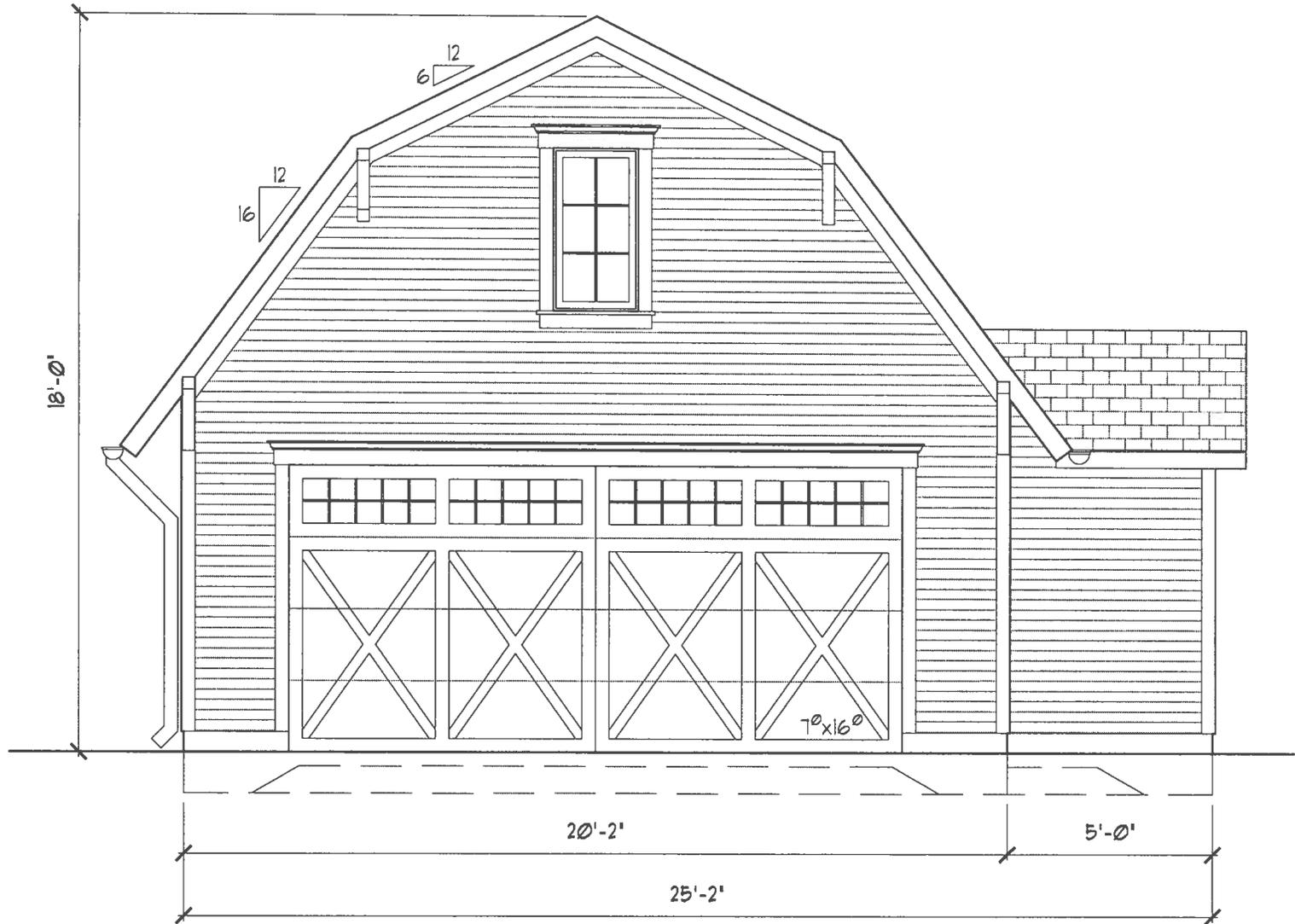


Existing Garage - South Elevation

SCALE: 1/4" = 1'-0"

Konstant Architecture Planning
5800 Golf Road Skokie, Illinois 60077 847-987-8113

Solberg Residence
672 Maple Street, Winnetka, IL



Proposed Garage - East Elevation

SCALE: 1/4" = 1'-0"

Konstant Architecture Planning
5300 Golf Road Skokie, Illinois 60077 847-867-6115

Solberg Residence
672 Maple Street, Winnetka, IL

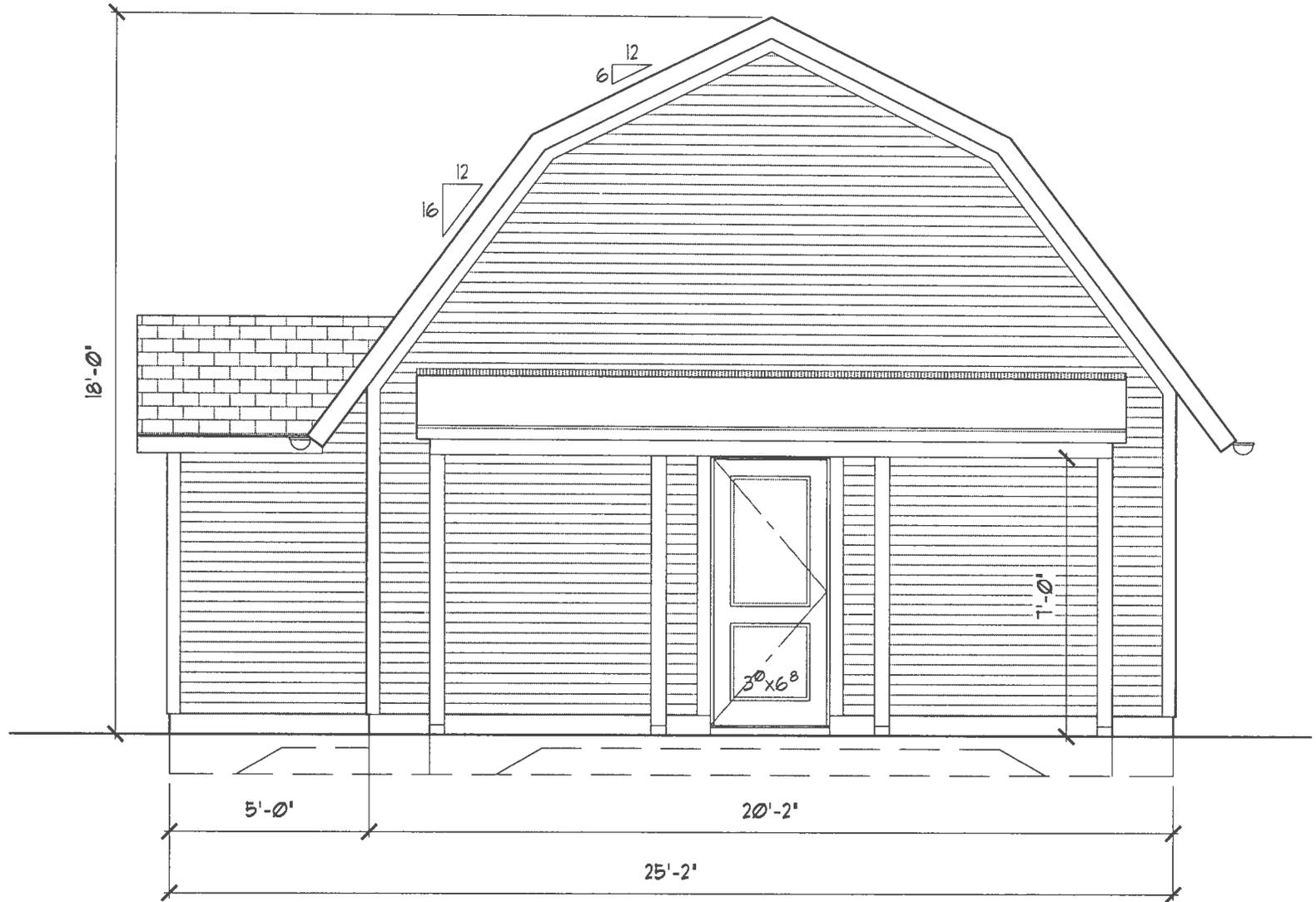


Proposed Garage - North Elevation

SCALE: 1/4" = 1'-0"

Konstant Architecture Planning
8200 Golf Road Skokie Illinois 60077 847-867-8158

Solberg Residence
672 Maple Street, Winnetka, IL

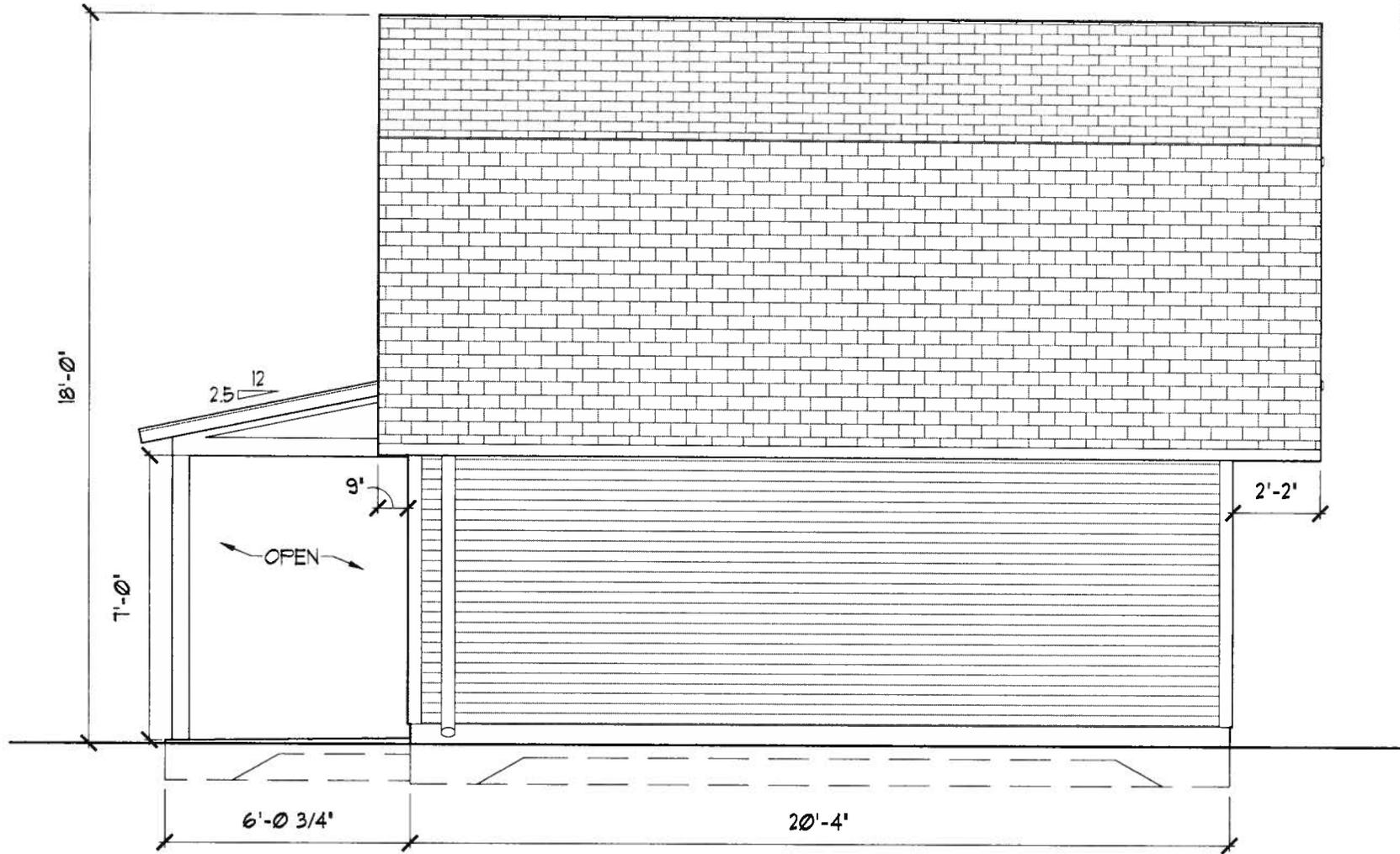


Proposed Garage - West Elevation

SCALE: 1/4" = 1'-0"

Konstant Architecture Planning
5300 Golf Road Skokie, Illinois 60077 847-867-6114

Solberg Residence
672 Maple Street, Winnetka, IL



Proposed Garage - South Elevation

SCALE: 1/4" = 1'-0"

Attachment G

Minutes adopted 09.09.2013

WINNETKA ZONING BOARD OF APPEALS EXCERPT OF MINUTES AUGUST 12, 2013

Zoning Board Members Present: Joni Johnson, Chairperson
Chris Blum
Andrew Cripe
Carl Lane
Scott Myers

Zoning Board Members Absent: Mary Hickey
Jim McCoy

Village Staff: Michael D'Onofrio, Director of Community
Development
Ann Klaassen, Planning Assistant

Agenda Items:

Case No. 13-11-V2: 672 Maple St.
Tor and Jennifer Solberg
Variations by Ordinance
1. Front and Corner Yard Setbacks
2. Garages

Case No. 13-11-V2, 672 Maple St., Tor and Jennifer Solberg, Variations by Ordinance: (1) Front and Corner Yard Setbacks and (2) Garages

Mr. D'Onofrio read the public notice. The purpose of this hearing is to hear testimony and receive public comment regarding a request by Tor and Jennifer Solberg concerning variations by Ordinance from Section 17.30.050 [Front and Corner Yard Setbacks] and Section 17.30.110 [Garages] of the Winnetka Zoning Ordinance to permit an addition to the existing nonconforming screened porch that will result in a corner (front) yard setback of 31.33 ft. from Park Ave., whereas a minimum of 41.12 ft. is required, a variation of 9.79 ft. (23.81%) and the replacement of the existing nonconforming detached garage that will result in a south side yard setback of 5.5 ft., whereas a minimum of 12 ft. is required, a variation of 6.5 ft. (54.17%).

Chairperson Johnson swore in those that would be speaking on this case.

Paul Konstant of Konstant Architecture introduced himself as the architect for the applicants. He informed the Board that the property involved in the case is located on a corner lot with three of the property surrounded by roads. Mr. Konstant stated that a front yard in Winnetka on a normal street is considered the shortest side of the property. He then stated that there are two requests, the first of which addressed the garage which is a detached structure. Mr. Konstant stated that the hardship is created by the fact that there is no rear quarter on the property and that the property being located on a corner and having three front yards meant it did not have a rear quarter. He then stated that the existing garage sat in the spot where the new garage would go.

Mr. Konstant described the existing garage as being in tough shape. He also stated that it would be a nonconforming structure and that it did not make sense to rebuild it the way it is. Mr. Konstant stated that their objective is to build a garage which conformed more to the existing and the gamble roof. He then referred the Board to the outline of the garage roof as shown in the illustration and stated that a gamble roof would offer more relief to the neighboring property and would be more in character with the existing home.

Mr. Konstant then stated that if they were to move the garage back to a conforming location, it would sit in a location which he identified for the Board and would result in exposing the side of the neighbors' garage which he also identified south of the applicants' garage. He also stated that it would require removing two mature trees and that it would threaten a third large oak tree. Mr. Konstant commented that it made sense to them to request a variation to build the garage in the same location.

Mr. Konstant stated that the second request included renovating the existing porch on the northwest corner of the home. He informed the Board that the dashed line indicated the existing end of the porch which he identified on the illustration. Mr. Konstant stated that the porch had unusual geometry and that the porch as it existed and the front of the home are already nonconforming. He indicated that you can see the line where the side yard setback was created by the corner lot relief and that basically, there are three front yards on the property due to the nature of the corner lot. Mr. Konstant then stated that is why 31 feet is significant not only to the front yard, but to the side yard.

Mr. Konstant went on to state that it would be significant to rebuild the porch with its unusual geometry and that the existing porch was not original to the home and was added later. He stated that in order to add in the spirit of the original home, he suggested to the applicants that it would make more sense to square the porch off. Mr. Konstant indicated that you can see the way the line worked and that they would not be getting any closer to the street because of the curvature there. He informed the Board that the amount of porch running in to the front yard setback is approximately 51 square feet and that it did not relate to the whole extent of the porch.

Mr. Konstant stated that he would like to remind the Board that part of the porch and part of the existing home is already nonconforming. He also noted that there are no neighbors across the street and that the home is on a corner with a park across the street. Mr. Konstant stated that there are no neighbors who would be affected by the addition to the west. He informed the Board that the applicants have a large family and that it would be more useful to them if the porch was built in a more typical geometry than what it was. Mr. Konstant added that the hardship is created by the existing property and having three front yards. Mr. Konstant commented that it would add to the architecture to build the porch back in a manner which is consistent with the home and respectful to more normal geometry. He then identified the new and existing porch in an illustration for the Board and asked if there were any questions.

Mr. Blum indicated that it looked as if a tree would have to be removed with the new porch.

Mr. Konstant responded that it would not and that the tree would remain. He indicated that it is just about out of the drip line.

Chairperson Johnson asked if they would have to remove any trees for the garage.

Mr. Konstant confirmed that they would not.

Chairperson Johnson then stated that in the application, to put the garage in a conforming location would require the need for more impermeable surface for the driveway.

Mr. Konstant confirmed that is correct. He also stated that they would have to pull it back and over.

Chairperson Johnson stated that she visited the property today and noticed a keypad and that she could not see it on any of the drawings. She then referred to the south side of the home and asked if that space is used for storage space or for a vehicle.

Tor Solberg confirmed that it is a garage.

Mr. Konstant informed the Board that they cannot put a vehicle in it and that it is used for storage.

Chairperson Johnson asked if there were any other questions. No additional questions were raised by the Board at this time. She then asked Mr. Solberg if he wanted to add anything.

Mr. Solberg informed the Board that the porch is rotting out and that they love the home and like the idea of keeping to the spirit of the design of the home.

Mr. Konstant noted that they did the original renovation on the home.

Chairperson Johnson called the matter in for discussion.

Mr. Lane commented that the application was well done. He stated that the points which stood out were the fact that the garage is abutting against the neighbors' garage and that moving it would widen the sight line for the neighbors which he commented would be worse. Mr. Lane also stated that additional impermeable surface would be needed by pushing the garage back, as well as the loss of mature trees. He then stated that leaving the garage in the same location would not add significant coverage which he commented is the right thing.

Mr. Lane then stated that with regard to the front porch, it was harder to identify the basis and that since they would just be extending it from where it is, it made sense. He then stated that to rehabilitate it, in order for the applicants to get a return to have more useful space, it made more sense if they are spending money on the porch. Mr. Lane referred to the fact that they would not be extending the porch significantly or getting further into the setback. He concluded by stating that he is generally in favor of the well done application.

Mr. Myers stated that he would like to add that he visited the property yesterday and that with regard to the porch, significant repair is needed and that it needed to be rebuilt. He also stated that they would be rebuilding it on the existing footprint and only adding a minimal amount.

Mr. Lane commented that it is hard to define a reasonable return component.

Mr. Myers referred to the fact that they would be rebuilding the porch and that it would not be a large amount.

Mr. Blum stated that while the square footage of the nonconformity would be increasing, it would not be going closer to the street. He then stated that with regard to the garage, he was concerned and that he appreciated the explanation of why the extra 4 feet of height was designed into it and that a different pitch would not be as noticeable from the neighbors' yard.

Mr. Cripe commented that it is a good plan and that the variation is preferable to the alternative.

Chairperson Johnson noted that the applicants would be adding a roof railing on the renovated patio which is consistent with the other features of the home. She also stated that it is not clear when the patio was added. Chairperson Johnson commented that it would be nice to make it look more consistent and original. She then asked for a motion.

Mr. Myers moved to recommend approval of the variations and that in support, to include page nos. 7, 8 and 9 from the applicants' description of the standards.

Mr. Lane seconded the motion. A vote was taken and the motion was unanimously passed, 5 to 0.

AYES: Johnson, Blum, Cripe, Lane, Myers

NAYS: None

FINDINGS OF THE ZONING BOARD OF APPEALS

1. The requested variations are within the final jurisdiction of the Village Council.
2. The requested variations are in harmony with the general purpose and intent of the Winnetka Zoning Ordinance. The proposal is compatible, in general, with the character of existing development within the immediate neighborhood with respect to architectural scale and other site improvements.
3. There are practical difficulties or a particular hardship which prevents strict application of Section 17.30.050 [Front and Corner Yard Setbacks] and Section 17.30.110 [Garages] of the Winnetka Zoning Ordinance which is related to the use or the construction or alteration of buildings or structures.

The evidence in the judgment of the Zoning Board of Appeals has established:

1. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by regulations in that zone. The existing garage is built in the required side yard setback, is in a state of poor repair and needs to be rebuilt. To rebuild the garage in a conforming location would require the garage to be located north and west of its existing location, which would require the removal of two (2) mature trees, and decrease the useable space of the existing back yard. That impact will create an unreasonable return and an unreasonable result. This is even more clearly evident when the requested variation is considered in relation to the lack of negative impact that will result from rebuilding the garage in its existing location.

The existing screen porch is built in the required corner yard setback and is also in poor condition, needing to be rebuilt. To rebuild the screen porch in its existing shape limits

the usability of the porch. Because the porch is already nonconforming, it is requested to change the shape of the porch, to increase its usability. Limiting the rebuilt porch to its existing shape will create an unreasonable return, and an unreasonable resulting space.

2. The plight of the owner is due to unique circumstances. Such circumstances must be associated with the characteristics of the property in question, rather than being related to the occupants. There are several conditions which make the subject property and the plight of the owner unique. First, the subject property is a corner lot, with the presence of three (3) street frontages. The property is a corner lot therefore it has no rear 25% setback in which to build the garage. The garage is over 100 feet from each street frontage, yet is still considered nonconforming. Second, the curved northern boundary of the lot creates a buildable lot area that is severely restrictive, despite the large size of the lot. Third, both the existing screen porch, and existing garage are in poor condition, and need to be rebuilt, but are built in existing nonconforming locations. The screen porch would not be able to be rebuilt in a conforming location, and the garage would not be able to be rebuilt in a conforming location without removing protected trees, extending the driveway, and sacrificing backyard space. All of these conditions evidence the unique nature of the subject property and the unique circumstances affecting the owner.
3. The variation, if granted, will not alter the essential character of the locality. The subject property will be improved by rebuilding the existing screen porch and garage. The screen porch and garage are currently in a state of poor repair; rebuilding them will bring them to a level of quality that is consistent with the character of the surrounding area, and will enhance the essential character of the locality. Rebuilding the garage in its existing location rather than in a conforming location will also protect the essential character of the locality by protecting two (2) mature trees.
4. An adequate supply of light and air to the adjacent property will not be impaired. Because the screen porch and garage are proposed to be rebuilt in the same locations as before, the adequate supply of light and air to the adjacent property will not be impaired.
5. The hazard from fire and other damages to the property will not be increased. The hazard from fire and other damages to the property will not be increased from the proposed improvements. All proposed new construction and selected material meets or exceed current local building codes.
6. The taxable value of land and buildings throughout the Village will not diminish. The variation, if granted, will not affect the taxable value of the land and buildings throughout the Village.
7. Congestion in the public street will not increase. The congestion in the public street will not increase because the occupancy will not increase beyond what is allowable for this property. There will be no difference in congestion to the public street by rebuilding the screen porch and garage in their existing locations.
8. The public health, safety, comfort, morals and welfare of the inhabitants of the Village not be otherwise impaired. The public health and safety of the inhabitants of the Village will be increased by bringing the existing screen porch and garage out of a state of poor

repair, and rebuilding in accordance with all local building codes. If the variation is granted, the public health, safety, comfort, morals, and welfare of the inhabitants of the Village of Winnetka will not otherwise be impaired.



Agenda Item Executive Summary

Title: MC-5-2013 - Establishing an Administrative Hearing Process (Introduction)

Presenter: Katherine S. Janega, Village Attorney

Agenda Date: 09/17/2013

Consent: YES NO

- | | |
|-------------------------------------|-------------------------|
| <input checked="" type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | Resolution |
| <input type="checkbox"/> | Bid Authorization/Award |
| <input type="checkbox"/> | Policy Direction |
| <input type="checkbox"/> | Informational Only |

Item History:

January 19, 2010 Council Meeting, Agenda pp. 80 - 94
May 11, 2010 Council Study Session, Agenda pp. 42-62
October 9, 2012 Council Study Session, Agenda pp. 2 - 24
April 16, 2013 Council Meeting, Agenda pp. 70 - 88

Executive Summary:

The Police Department has been exploring migrating from the enforcement of Village Code violations exclusively in Court, to an administrative adjudication process for all parking violations, vehicle compliance tickets, and certain other Village Code violations enforced by the Police Department. Pursuant to Council discussions at a series of meetings, most recently on April 16, 2013, Staff has done further study and prepared the attached Ordinance for the Council's consideration.

Ordinance MC-5-2013 would add two new chapters to the Village Code: Chapter 2.72, which establishes the Administrative Adjudication System, and Chapter 2.34, which creates the office of Administrative Hearing Officer. The Ordinance incorporates all of the provisions required by Article 1, Division 2.1 of the Illinois Municipal Code, which authorizes home rule municipalities to establish administrative adjudication systems, subject to certain limitations. (65 ILCS 5/1-2.1-1, et seq.) Consistent with the Council's policy direction, the scope of the system does not include building or zoning cases, or violations of Code provisions administered by the Community Development Department. At the same time, the language is drawn broadly to provide the Village the maximum flexibility to use the administrative adjudication system while retaining the ability to divert more serious offense to the court system. The procedures established in proposed Chapter 2.72 have been adjusted as necessary to be compatible with the current parking ticket processing and administration that is done pursuant to contract with Duncan Solutions. The section-by-section annotations in the attached Agenda Report provide a more detailed explanation of the proposed amendments, and highlights open policy issues.

Recommendation / Suggested Action:

Consider introduction of Ordinance MC-5-2013, titled "An Ordinance Amending the Winnetka Village Code to Establish a System of Administrative Adjudication."

Attachments:

Attachment 1 - Agenda Report
Attachment 2 - MC-5-2013, An Ordinance Amending the Winnetka Village Code to Establish a System of Administrative Adjudication
Attachment 3 - Agenda Report from April 16, 2013 Study Session (without attachments)
Attachment 3 - Minutes of April 16, 2013 Council Meeting (relevant excerpt)

ATTACHMENT 1

AGENDA REPORT

SUBJECT: **Ordinance MC-5-2013 – Amending the Winnetka Village Code to Establish a System of Administrative Adjudication**

PREPARED BY: Katherine S. Janega, Village Attorney
Patrick Kreis, Chief of Police

REFERENCE: January 19, 2010 Council Meeting, Agenda pp. 80 – 94
 May 11, 2010 Study Session, Agenda pp. 42 – 62
 October 9, 2012 Study Session, Agenda pp. 2 – 24
 April 16, 2013 Council Meeting, Agenda pp. 70 – 88

DATE: September 12, 2013

I. Background

At the October 9, 2012, Study Session, the Village Council considered preliminary legal, procedural and policy issues related to establishing an administrative adjudication process for violations of Village Code and motor vehicle provisions that are issued by the Winnetka Police Department, and provided policy direction on various related issues.

At the April 16, 2013, Council Meeting, pursuant to that policy direction, Staff provided a more detailed explanation of the legal authority for establishing an administrative adjudication system, outlined the contents of an ordinance that would establish an administrative adjudication system, and outlined the qualifications of the hearing examiner. At the same meeting, Staff also presented a proposed schedule of fines, presented an overview of cost and budgetary issues, and made recommendations for recovering administrative costs. In addition, Staff presented a proposed implementation timeline with a targeted implementation date of January 1, 2014. (See Attachment 3, Agenda Report from April 16, 2013, Council Meeting.)

II. Status of Policy Direction and Issues

In the course of its discussions on April 16, 2013, the Council provided direction on two of the key policy issues presented for the Council’s consideration. (See Attachment 4, Excerpt of April 16, 2013, Minutes.)

First, the Council agreed with Staff’s recommendation to include parking violations, other motor vehicle violations that the Village is permitted by law to handle through an administrative process, business offenses and small quasi-criminal offenses such as nuisances, possession of cannabis and minors in possession of tobacco or alcohol, which are administered primarily by the Police Department. The Council also agreed that the administrative adjudication process would not include violations of the Zoning Ordinance and Building Code, and other Code provisions administered by Community Development and other departments.

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MC-5-2013 – Administrative Adjudication System
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The Council also agreed with Staff's recommendation that the implementing ordinance provide for the assessment of a hearing fee, so that the Administrative Adjudication System would be budget neutral. Based on projected costs, the Council agreed that the fee should be set at \$40 initially, and recognized that the fee could be changed after the system is in operation and actual costs could be calculated.

Due to the hour, several other policy issues were left to be resolved at a future date, the most significant being the structure of fines, *i.e.*, whether graduated fines could be used for offenses other than parking violations, and whether certain offenses could be flagged for a mandatory appearance. The question of whether the implementing ordinance should provide for enforcing judgments through liens was also left for future discussion.

The Council did not formally determine whether the Village should expand the Village's contract with Duncan Solutions Professional Account Management, LLC, which already administers the Village's parking ticket system, to include the processing and management of records, as well as the collection of fines and fees for the administrative adjudication system. Staff continues to recommend that Duncan Solutions handle all of the administrative processing, as it would be easily implemented and therefore appears to be preferable to handling the records management in-house.

While the remaining policy issues will need to be resolved before and Ordinance MC-5-2013 can be finalized and presented for adoption, the draft Ordinance will enable the Council to put the policy issues in context and move the process forward. Once all policy issues have been resolved, Staff will be able to present the Council with both a final draft of Ordinance MC-5-2013 and a proposed revised implementation schedule.

III. Ordinance MC-5-2013

The attached draft of Ordinance MC-5-2013 (Attachment 2) amends the Village Code to establish the Administrative Adjudication System, covering the scope prescribed by the Council at the April 16th meeting. This is done by adding two new Chapters to the Village Code: Chapter 2.72, which establishes the Administrative Adjudication System, and Chapter 2.34, which creates the office of Administrative Hearing Officer.

Following is a detailed explanation of Ordinance MC-5-2013, beginning with an explanation of the recitals in the Preamble, followed by a table that lists and explains each of the sections in the two new Code chapters.

Preamble

The Preamble recites the Village's legal authority to establish the Administrative Adjudication System. That authority is stated broadly and stems from Article 1, Division 2.1 of the Illinois Municipal Code ("Municipal Code"), which applies solely to home rule municipalities, and authorizes the establishment of a "system of administrative adjudication." (65 ILCS 5/1-2.1-1, *et seq.*)

As defined in Section 1-2.1-2 of the Municipal Code, "system of administrative adjudication" means the adjudication of any violation of a Village ordinance, subject to certain limitations. For

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MC-5-2013 – Administrative Adjudication System
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example, administrative adjudication cannot be used for moving vehicle violations or for offenses that are reportable to the Secretary of State under the Illinois Vehicle Code. The Municipal Code also states that the “System of Administrative Adjudication” cannot extend beyond the scope of the Village’s statutory or home rule authority. (65 ILCS 5/1-2.1-2)

The Division 2.1 statutory administrative adjudication process is not exclusive and does not preclude using other methods for enforcing ordinances. (65 ILCS 5/1-2.1-3) It is also in addition to, rather than a limitation of, the Village’s home rule authority, so the Village could use its home rule powers to adopt other means of code enforcement if it so chooses, as long as they do not exceed the clear limitations set in Section 1-2.1-2. (65 ILCS 5/1-2.1-10)

For example, municipalities have additional administrative adjudication authority pursuant to Section 11-208.3 of the Illinois Vehicle Code, which authorizes municipalities to provide a system of administrative adjudication for vehicular standing, parking and compliance violations. (625 ILCS 5/11-208.3) However, because the Village is not relying on this provision, and because it necessarily falls within the scope defined in Section 1-2.1-2, it is not cited in the recitals.

Text of Proposed Chapter 2.72

The proposed Chapter 2.72 uses Division 2.1 as a template for the basic structure of the Administrative Adjudication System, and then adds related provisions as necessary to meet due process standards, and to customize the system so that it is consistent with the Village’s current practice for parking tickets, and reflects the structure of the Village Code, and the administrative structure of the Village.

Like all ordinances establishing an administrative adjudication system, new Chapter 2.72 has two defining characteristics: (i) it treats eligible offenses as civil violations rather than as quasi-criminal or criminal matters; and (ii) it provides for adjudication and enforcement in a more relaxed forum, where the strict rules of evidence do not apply and proof is by a preponderance of the evidence, rather than the formal rules of evidence and proof beyond a reasonable doubt standard that apply when matters are heard in Circuit Court.

Section	Title and Explanation
Chapter 2.72	
2.72.010	Purpose. Self-explanatory general statement of the reasons for the system.
2.72.020	Administrative Adjudication System. Establishes the system and defines its scope, which includes the chapter on alcoholic beverages, peddler and solicitors and taxicabs from Title 5 of the Village Code. It also covers both chapters on animals in Title 6, all of Title 9, which includes disorderly conduct, tobacco and cannabis offenses, and nuisances. It also covers all of the vehicle and traffic provisions in Title 10, subject to the exclusion required by Section 1-2.1-2 of the Illinois Municipal Code.

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Section	Title and Explanation
2.72.030	Hearing Procedures Not Exclusive. This statement assures that the Village can still avail itself of the court system for more serious infractions, and would enable the Village to set up a system for certain offenses to be handled administratively and other, more serious offenses be diverted to court.
2.72.040	Organization of Administrative Hearing System. The system has three parts: (i) the hearing officer; (ii) a records unit; and (iii) hearing room personnel.
2.72.050	Administrative Hearing Officer. This section (i) contains a cross-reference to Chapter 2.34, which creates the office and provides for appointment by the Village Manager; (ii) recites the minimum qualifications for the hearing office, which are set by statute; and (iii) defines the scope of the hearing officer’s authority within the framework of the actual hearing process.
2.72.060	Administrative Hearing Records Unit. This section establishes a records unit, but retains the Village Manager’s flexibility to determine where in the organization it should fit, and allows the functions to be performed by an independent contractor. As indicated in the prior Council meetings, it is anticipated that the records management would be done through the Police Department, through an expanded contract with Duncan Solutions. [Note: The Duncan Solutions contract is an open policy issue. The next three sections of the Chapter 2.72 are also impacted by that open policy issue.]
2.72.070	Notice of Violation. Provides for the process to be initiated by a notice of violation, issued by sworn law enforcement officers or a Community Service Officer, and lists the required content of the notice.
2.72.080	Service of Notice. The service provision allows several methods of service, with paragraphs 1, 2, 3 and 6 being based on the Code of Civil Procedure, and paragraphs 4 and 5 being the less formal, but legally sufficient method used for parking tickets and property-based offenses.
2.72.090	Pre-Hearing Procedures. The pre-hearing procedures include pre-payment provisions and a request for hearing provision based on the existing parking ticket procedures. Subsection D, which sets minimum notice periods for “non-emergency situations,” is required by Division 2.1 of the Municipal Code.

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Section	Title and Explanation
2.72.100	Hearing Procedures. The procedures require an audio recording, allow for representation during the hearing, provide for the issuance of subpoenas, relax the rules of evidence, and require a written determination and findings. The provisions pertaining to fines specifically prohibits incarceration as a penalty, as required by law. It also prohibits exceeding fines set by the Village Council. (See 2.72.170)
2.72.110	Liability for Failure to Appear at Hearing. This section establishes a procedure in the event of a default judgment for failure to appear.
2.72.120	Contesting Violations by Written Statement. This provision allows the recipient of a notice of violation to waive the right to appear and to contest the violation in writing. Many communities use this process only for non-residents. This provision has been drafted so it applies to any recipient who is not required to appear in person.
2.72.130	Certified Report and Contesting Certified Report. This section establishes the procedure required by the Motor Vehicle Code for notifying the Secretary of State of a person who has accumulated 10 or more unpaid non-moving vehicle violations. The notice subjects the person to suspension of his or her driver’s license.
2.72.140	Judicial Review. This provision provides for judicial review under the Administrative Review Law.
2.72.150	Debt to Village. This provision states that fines and penalties assessed under the administrative review process are enforceable judgments.
2.72.160	Enforcement of Judgments. The enforcement of judgment procedures include compliance bonds and property liens. [Note: This provision represents an open policy issue.]
2.72.170	Schedule of Fines and Penalties. This provision allows the Village Council to continue to set fines and penalties in specific chapters, and to set fees by resolution, but requires the new records section to publish a consolidated schedule of fines, penalties and fees. Subsection B states the maximum fine permitted under Division 2.1, and would automatically implement lower maximums, in the event of a statutory amendment.
2.72.180	Administrative Costs and Interest Charge. This section authorizes costs and interest charges to be set by resolution.

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Section	Title and Explanation
Chapter 2.34	Administrative Hearing Officer. This new chapter follows the Village Prosecutor chapter in the Village Code and follows the same structure.
2.34.010	Creation of Office; Appointment. As with the Prosecutor, the Administrative Hearing Officer is appointed by the Village Manager.
2.34.020	Compensation. The Hearing Officer’s compensation is set by the Village Manager with the approval of the Council, as with the Prosecutor.
2.34.030	Qualifications. This section cross-references to the statutory qualifications stated in Chapter 2.72.
2.34.040	Duties. In addition to conducting hearings under Section 2.72, this section would also allow the Village Manager to delegate liquor hearings and vehicle impoundment hearings (“Boot hearings”) to the Hearing Officer.

IV. Conclusion

Ordinance MC-5-2013 does not resolve all policy issues necessary to implement the administrative adjudication process. The financial issues, such as the level of fines, the Duncan Solutions contract, and the ultimate financial implications require more detailed discussion before the Ordinance can be finalized. (See Attachment 3, Section IV and V) The timetable for implementation, in turn, will depend on how those open issues are resolved, and so has not been addressed here.

Staff recommends that the Council consider introducing Ordinance MC-5-2013, then scheduling the open policy issues for further discussion. Based on the resolution of those policy issues, the ordinance can be amended as necessary, and then placed back on the Council’s agenda for adoption and the ensuing implementation.

ATTACHMENTS:

- Attachment 2 MC-5-2013 – An Ordinance Amending the Winnetka Village Code to Establish an Administrative Adjudication Process
- Attachment 3 Agenda Report from April 16, 2013 Council Meeting (without attachments)
- Attachment 4 Minutes of April 16, 2013, Council Meeting (relevant excerpt only)

RECOMMENDATION:

Consider introduction of Ordinance MC-5-2013, titled “An Ordinance Amending the Winnetka Village Code to Establish an Administrative Adjudication Process.”

**AN ORDINANCE
AMENDING THE WINNETKA VILLAGE CODE
TO ESTABLISH A SYSTEM OF ADMINISTRATIVE ADJUDICATION**

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, pursuant to which it has the authority, except as limited by said Section 6 of Article VII, to exercise any power and perform any function pertaining to the government and affairs of the Village; and

WHEREAS, Article 1, Division 2.1 of the Illinois Municipal Code, 65 ILCS 5/1-2.1-1, *et seq.*, authorizes home rule units to provide by ordinance for a system of administrative adjudication of municipal code violations to the extent permitted by the Illinois Constitution of 1970; and

WHEREAS, pursuant to said Article 1, Division 2.1, and pursuant to Section 5/11-208.3 of the Illinois Vehicle Code, 625 ILCS 5/11-208.3, the Village is authorized to establish a system of administrative adjudication for the adjudication of any violation of the Winnetka Village Code, except for (i) moving vehicle offenses under the Illinois Vehicle Code or similar traffic regulations, (ii) offenses reportable under Section 6-204 of the Illinois Vehicle Code, and (iii) any other proceedings not within the Village’s statutory or home rule authority; and

WHEREAS, the Village Council finds and determines that instituting a system of administrative adjudication to adjudicate contested matters with respect to violations of Village vehicular regulations, such as parking, standing, equipment and vehicle sticker regulations, and with respect to such other Village regulations as are permitted by the Illinois Constitution of 1970 and Illinois statutes, will facilitate the prompt and just resolution of disputes; and

WHEREAS, this Ordinance has been placed on the Village Council’s agenda and made available for public inspection at Village Hall and on the Village’s web site, in accordance with Sections 2.04.040 and 2.16.040 of the Winnetka Village Code and applicable law.

NOW, THEREFORE, be it ordained by the President and Board of Trustees of the Village of Winnetka as follows:

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

SECTION 2: Title 2 of the Winnetka Village Code, “Administration and Personnel,” is hereby amended by adding a new Chapter 2.72, which shall be titled “Administrative Adjudication” and shall provide as follows:

**Chapter 2.72
Administrative Adjudication**

Section:

- 2.72.010 Purpose**
- 2.72.020 Administrative Adjudication System**
- 2.72.030 Hearing Procedures Not Exclusive**
- 2.72.040 Organization of Administrative Hearing System**
- 2.72.050 Administrative Hearing Officer**
- 2.72.060 Administrative Hearing Records Unit**
- 2.72.070 Notice of Violation**
- 2.72.080 Service of Notice**
- 2.72.090 Pre-Hearing Procedures**
- 2.72.100 Hearing Procedures**
- 2.72.110 Liability for Failure to Appear at Hearing**
- 2.72.120 Contesting Violations by Written Statement**
- 2.72.130 Certified Report and Contesting Certified Report**
- 2.72.140 Judicial Review**
- 2.72.150 Debt to Village**
- 2.72.160 Enforcement of Judgments**
- 2.72.170 Schedule of Fines and Penalties**
- 2.72.180 Administrative Costs and Interest Charges**

Section 2.72.010 Purpose.

The purpose of this Chapter is to provide for the fair and efficient enforcement of the Village ordinances delineated in this Chapter through an administrative adjudication process and by establishing a schedule of fines and penalties.

Section 2.72.020 Administrative Adjudication System.

A. Administrative Adjudication System Established. There is hereby established and created within the Village a system of administrative adjudication, which shall be responsible for the adjudication of certain violations of this Code, as provided in this Chapter, and shall be administered by the Administrative Hearing Officer and Administrative Hearing Records Unit established in Sections 2.72.050 and 2.72.060 of this Chapter.

B. Scope of Jurisdiction. To the extent permitted by the Illinois Constitution of 1970 and applicable Illinois statutes, the following provisions of this Code, as they may be amended from time to time, shall be subject to enforcement and adjudication in the Administrative Adjudication System established by this Section:

1. Chapter 5.09, Alcoholic Beverages.
2. Chapter 5.48, Peddlers and Solicitors.
3. Chapter 5.68, Taxicabs

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4. Title 6, Animals, including all chapters within Title 6.
5. Title 9, Public Peace, Morals and Welfare, including all chapters within Title 9.
6. Title 10, Vehicles and Traffic, including all chapters within Title 10, excluding moving violations.
7. Such other Village ordinances and Code provisions as the Village Council may designate from time to time.

Section 2.72.030 Hearing Procedures Not Exclusive.

The provisions of this Chapter shall not preclude the Village from using other methods or proceedings to enforce and adjudicate the Code or other ordinances of the Village, including, without limitation, the institution of an action in the Circuit Court of Cook County, the United States District Court, or any administrative proceeding.

Section 2.72.040 Organization of Administrative Adjudication System.

The Administrative Adjudication System shall consist of one or more Administrative Hearing Officers, as further described in Section 2.72.050 of this Chapter, an Administrative Hearing Records Unit, as further described in Section 2.72.060 of this Chapter, and hearing room personnel assigned by the Chief of Police as provided in Section 2.72.090(I) of this Code.

Section 2.72.050 Administrative Hearing Officer.

A. Appointment. The Administrative Hearing Office shall be appointed by the Village Manager, as provided in Section 2.34.010 of this Code.

B. Qualifications. To qualify as an Administrative Hearing Officer, an individual must:

1. Be an attorney licensed to practice law in the State of Illinois for at least three years;
2. Be in good standing with the Illinois Supreme Court Attorney Registration and Disciplinary Commission; and
3. Complete a formal training program conducted by the Village Manager and the Village Attorney consisting of:
 - a. Instruction on the rules of procedure for administrative hearings;
 - b. Orientation to each subject area of the Code that will be adjudicated;
 - c. Observation of hearings conducted by Illinois municipalities that have adopted the administrative hearing system; and
 - d. Participation in hypothetical hearings, including ruling on evidence and issuance of final orders.

C. Authority and Jurisdiction. The Administrative Hearing Officer shall have the duty and authority to:

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1. Hear testimony and accept evidence that is relevant to the allegation of a violation.
2. Issue subpoenas, upon the request of the parties or their representatives, directing witnesses to appear and give relevant testimony at hearings, as provided in Section 2.72.090.
3. Preserve and authenticate the record of the hearing, including all exhibits and evidence introduced at the hearing.
4. Issue a written determination, based on the evidence presented at the hearing, on whether a violation occurred or exists. The written determination shall include a written finding of fact, decision and order, including any corrective measures, fines, penalties, and interest charges, or other actions, with which the defendant must comply.
5. Impose penalties consistent with applicable provisions of this Code, order the defendant to obtain a compliance bond, and require the defendant to take corrective measures to cure the violation upon finding a defendant liable for the charged violation, except as expressly provided in this Chapter.
6. Impose administrative costs in an amount not less than the minimum amount set by the Village Council in a resolution adopted pursuant to Section 2.72.170 of this Chapter, upon finding a defendant liable for the charged violation. The Administrative Hearing Officer does not have authority to waive, or to impose an amount less than, the minimum amount set by the Village Council.
7. Impose interest charges not less than the minimum amount set by the Village Council in a resolution adopted pursuant to Section 2.72.170 of this Chapter, if a defendant fails to pay the penalty, fine, or administrative costs set by the Administrative Hearing Officer on the day of the hearing; provided, however, that the Administrative Hearing Officer shall have no authority to waive, or to impose interest charges in an amount less than, the minimum interest charges set by the Village Council.
8. Postpone or continue a defendant's Hearing to a later Hearing date.
9. Impose, when applicable, Enforcement Expenses pursuant to Section 2.72.150(D) of this Chapter.
10. Ask questions of parties and witnesses.
11. Order the defendant to perform a term of community service, regardless of fines imposed or costs assessed.

Section 2.72.060 Administrative Hearing Records Unit.

A. Establishment. There is hereby established an Administrative Hearing Records Unit within the Administrative Adjudication System.

B. Appointment by Village Manager. The Village Manager will assign one or more employees of the Village to perform the functions set forth in this section and shall have the discretion to designate an employee of the Village to manage the operations of the Administrative Records Unit under the direction and control of the Village Manager. The Village Manager shall have the discretion to retain an independent contractor in addition

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to or in place of Village employees to perform any or all of the functions of the Administrative Records Unit.

C. Powers and Duties. The Administrative Hearing Records Unit shall have the duty and authority to:

1. Establish procedures reasonably required to manage the scheduling, operations and recordkeeping of the Administrative Adjudication System.

2. Adopt, distribute, and process all notices as may be required under this Chapter, or as may reasonably be required to carry out the purpose of this Chapter.

3. Collect payments made as a result of fines and/or penalties assessed and transmit such payments to the Director of Finance.

4. Certify reports to the Illinois Secretary of State concerning initiation of suspension of driving privileges in accordance with the provisions of this Chapter and section 6-306.5 of the Motor Vehicle Code (625 ILCS 5/6-306.5).

5. Refer to the Director of Finance the collection of unpaid fines and penalties, which may be pursued through private collection agencies that the Village may retain or by filing complaints in the Circuit Court of Cook County.

6. Certify copies of findings, decisions, and orders adjudicated pursuant to this Chapter, and any factual reports verifying the findings, decisions, and orders that are issued in accordance with this Chapter or the laws of the State of Illinois.

7. Oversee the operation and maintenance of the computer programs for the Administrative Adjudication System, including, without limitation:

a. Inputting information for the Notice of Violation provided for in Section 2.72.070 of this Chapter;

b. Establishing hearing dates and notice dates;

c. Recording the assessment of fines and penalties;

d. Recording payments and issuing payment receipts;

e. Issuing notices of hearing dates, notices of default, final notices and such other notices as may be necessary to implement the Administrative Adjudication System; and

f. Keeping accurate records of appearances and non-appearances at hearings, pleas entered, fines, and other penalties assessed and paid.

8. Postpone or continue a defendant's hearing to a later hearing date, if such request is made prior to the first scheduled hearing date.

Section 2.72.070 Notice of Violation.

A. Issuance of Notice of Violation. A notice of any violation ("Notice of Violation") will be issued by the persons authorized under this Chapter. The Notice of Violation shall contain information as to the nature of the violation, shall be certified, and will constitute prima facie evidence of the violation cited.

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B. Authority to Issue Notices. Any sworn law enforcement officer and any Community Service Officer assigned to the Winnetka Police Department who detects a violation of a provision of this Code that is subject to adjudication in the Administrative Adjudication System is authorized to issue a Notice of Violation and thereafter to serve the Notice of Violation in the manner set forth in this Section.

C. Form and Content of Notice of Violation. A Notice of Violation shall be issued in writing on a Village form, which may include pre-printed tickets or citations. The Notice of Violation shall contain at least the following information:

1. The date, time, and location of the alleged violation;
2. The name and address of the defendant, if known;
3. The type and nature of the alleged violation, including a citation of the provision of this Code alleged to have been violated, and whether the violation is one that requires the person receiving the notice to appear before the Administrative Hearing Officer;
4. The signature of the person issuing the Notice of Violation;
5. The process for responding to the violation, including pre-payment and requesting a hearing date, including the time frame within which to take such actions;
6. The legal authority and jurisdiction under which the hearing is to be held; and
7. The penalties for failure to respond to the Notice of Violation, including, where applicable, the failure to appear before the Administrative Hearing Officer.

D. For violations of the parking regulations in Chapter 10.24 of this Code, and for any violation of any Chapter of this Code that has a penalty provision that permits the pre-payment of fines, an initial ticket shall be issued in compliance with the most current policies and procedures of the ticket issuer's Village Department (the "Initial Ticket"). In lieu of paying the fine provided in the Initial Ticket, the defendant may request a hearing. If the defendant requests the hearing, then the Administrative Hearing Records Unit shall issue a Notice of Violation to the defendant in accordance with Section 2.72.080 of this Chapter, containing the information required by subsection C of this section.

Section 2.72.080 Service of Notice.

A. Service of a Notice of Violation shall be made in one or more of the following ways:

1. By handing the notice to the person responsible for the violation or handing it to his or her employee or agent;
2. By leaving the notice with any person thirteen years of age or older at the residence of the responsible person, and informing that person of the contents of the summons, provided the person making service shall also send a copy of the Notice of Hearing in a sealed envelope with postage fully prepaid, addressed to the defendant at his or her usual place of abode;
3. By mailing the Notice of Hearing by certified mail, return receipt requested, to the last known address of record of the individual/entity or his or her/its registered agent;

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4. For vehicle violations, by posting the Notice of Violation on the vehicle that is the subject of the violation, or by other means authorized by the Illinois Vehicle Code;

5. By posting the notice upon the property where the violation is found when the person alleged to have committed the violation is the owner, manager, or tenant of the property, and serving the owner/manager or agent therefor; or

6. In the case of a violation by a corporation or partnership, by serving the corporation or partnership in accordance with the Illinois Code of Civil Procedure (735 ILCS 5/2-201 *et seq.*).

B. Certification of Facts in Notice.

1. Except as provided in paragraph 2 of this subsection, the person issuing a Notice of Violation shall certify the correctness of the facts stated therein by signing his or her name to the notice at the time of issuance.

2. For electronically produced Notices of Violation, such as parking citations, the person that controls and operates the device that generates the notice shall certify the correctness of the facts stated therein by signing a single certificate attesting to the correctness of all notices produced by the device while under his or her control. The certificate shall be maintained by the Administrative Hearing Records Unit,

C. Record of Notice. The Administrative Hearing Records Unit will retain the original or a facsimile of the Notice of Violation and keep it as a record in the ordinary course of business.

D. Admissibility of Notice. The Notice of Violation or a copy thereof is admissible in any subsequent administrative or judicial proceeding to the extent permitted by law.

Section 2.72.090 Pre-Hearing Procedures

A. Minimum Notice Requirements.

1. The Notice of Violation shall specify whether the person receiving the notice must appear before the Administrative Hearing Officer, or if the fine or penalty for the violation can be pre-paid, in which case the amount of the fine or penalty shall be stated in the Notice of Violation.

2. The date, time, and place of the hearing will be set forth in the Notice of Violation, if appearance is mandatory, and in such additional notices as are issued in accordance with this Chapter, subject to the minimum time periods set forth in subsection D.

B. Pre-payment. Unless the Notice of Violation requires the recipient to appear before the Administrative Hearing Officer, the person receiving a Notice of Violation may pre-pay the fine or penalty specified on the notice. If the pre-payment is not made within 10 days after the Notice of Violation is issued, a late fee shall be assessed.

C. Request for Hearing. The recipient of a Notice of Violation may request a hearing on the violation. The request for hearing may be made by phone or in person, in the manner specified in the Notice of Violation. The request for hearing shall be made within 21 days after the date the Notice of Violation is issued.

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D. Period of Notice or Preparation. For hearings scheduled in all non-emergency situations, if requested by the defendant, the defendant will have at least 15 days after service of process to prepare for a hearing. For purposes of this subsection, “non-emergency situation” means any situation that does not reasonably constitute a threat to the public interest, safety, health, or welfare. If service is provided by mail, the 15-day period begins to run on the date that the notice is deposited in the mail.

Section 2.72.100 Hearing Procedures

All hearings conducted under the Administrative Adjudication System will be conducted by a Hearing Officer in accordance with the following rules and procedures:

A. Audio Recording. A digital or taped audio recording shall be made of every hearing.

B. Representation of Parties. The parties may be represented by counsel, present witnesses, and cross-examine opposing witnesses.

C. Subpoenas. Parties may request the Administrative Hearing Officer to issue, and the Administrative Hearing Officer has the authority to issue, subpoenas to direct the attendance and testimony of relevant witnesses and produce relevant documents.

D. Rules of Evidence Not Applicable. The formal and technical rules of evidence will not apply. Evidence, including hearsay, may be admitted, but only if it is of a type commonly relied upon by reasonable, prudent persons in the conduct of their affairs.

E. Written Determination. At the end of each hearing, the Administrative Hearing Officer shall issue a written determination of liability or non-liability, or a determination of liability based upon the failure of the defendant to appear at the scheduled hearing, as the case may be. Upon issuance, the written determination of liability must either be personally delivered to the defendant at the time of hearing, or shall be mailed to the defendant via first class mail, postage prepaid, addressed to the defendant's last known residence or place of business.

F. Assessment of Fines, Penalties and Costs.

1. Fines and Penalties. Pursuant to, and subject to the limitations set forth in, subsection paragraphs 5 and 7 of Section 2.72.050(C) of this Chapter, the Administrative Hearing Officer, upon a determination of liability, shall have the discretion to assess fines and penalties in accordance with this Code, assess interest charges for late payments, and order the defendant to undertake corrective actions to remedy the violation.

2. Penalty Limitations. In no event shall the Administrative Hearing Officer have authority to: impose a penalty of incarceration for or a fine that exceeds the amounts set by the Village Council as provided in Section 2.72.170 of this Chapter.

3. Administrative Costs. In addition, pursuant to, and subject to the limitations set forth in paragraph 6 of Section 2.72.050(C) of this Chapter, the Administrative Hearing Officer will assess administrative costs upon finding a defendant liable for the charged violation.

G. Fines Exclusive of Costs. The maximum monetary fine imposed pursuant to the procedures in this Chapter shall be exclusive of administrative costs, the costs of

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enforcement, interest charges for late payments, and costs incurred by the Village to secure compliance with the Village's Code and ordinances, all of which costs shall be in addition to any fines imposed pursuant to this Chapter. The maximum monetary fine also shall not apply to cases to enforce the collection of any tax imposed and collected by the Village.

H. Hearing Room Personnel. Hearing room personnel shall be designated and appointed by the Village's Chief of Police and are authorized and directed to:

1. Maintain hearing room decorum;
2. Execute such authority as is granted to courtroom deputies of the Circuit Court of Cook County; and
3. Perform such other duties or acts as may reasonably be required and as directed by the Administrative Hearing Officer.

Section 2.72.110 Liability for Failure to Appear At Hearing.

A. Default. If at the time set for hearing, the defendant, or the defendant's attorney or agent of record, fails to appear, and the hearing was neither postponed by the Administrative Hearing Records Unit as provided in paragraph 8 of Section 2.72.060(B) of this Chapter, nor continued by the Administrative Hearing Officer as provided in paragraph 8 of Section 2.72.050(C) of this Code, the Administrative Hearing Officer may enter a finding of default in the findings, decision and order, and may impose liability against the defendant including the assessment of fines and administrative costs. A copy of the finding of default, which is a final determination, will be promptly served upon the defendant by first-class mail, postage prepaid, addressed to the defendant at the defendant's last known residence or place of business, to notify the defendant of the procedure for setting aside the finding of default and of the opportunity to appeal the finding of default to the Circuit Court of Cook County as provided in Section 2.72.140 of this Chapter.

B. Petition to Set Aside of Default. A written petition to set aside a finding of default may be filed by a person owing an unpaid fine or penalty assessed for a violation, and will be considered, in accordance with the following procedures:

1. The petition must be filed with the Administrative Hearing Officer not later than 21 days from the date on which the finding of default was served; however, a defendant may file a petition to set aside the finding of default at any time, if such defendant establishes that the Village did not provide proper service of process.

2. Upon receiving a timely filed set-aside petition, the Administrative Hearing Officer shall consider the grounds raised in the petition and enter an order granting or denying the petition.

3. The grounds for setting aside a finding of default are limited to the following circumstances:

- a. If, on the date the Notice of Violation was issued, the person against whom the finding of default is made is not the owner or lessee of the cited vehicle, or is not the owner, tenant, or manager of the cited property;

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b. If the person against whom the finding of default is made had paid the fine or penalty prior to the finding of default for the violation in question;

c. If the defendant establishes an excusable failure to appear at the hearing or to request a new date for any hearing; or

d. If the defendant establishes that the Village did not provide proper service of process.

C. Findings and Order on Petition to Set Aside Default. In the event the finding of default is set aside, the Administrative Hearing Officer will notify the defendant by first class mail, postage prepaid, to the address set forth in the petition, and service thereof shall be complete on the date the notice is deposited in the United States mail. The notice of findings on the petition shall contain all of the following:

1. A statement that the finding of default, as well as any related administrative costs, has been set aside.

2. Notice of the new date, time, and place for the hearing on the merits of the violation for which the finding of default has been set aside.

3. An order extinguishing any lien that may have been recorded for any debt that became due and owing the Village as a result of the vacated default.

Section 2.72.120 Contesting Violations by Written Statement.

A. Right to Contest Violation in Writing. Any person who has been served with a Notice of Violation for which a personal appearance is not mandatory may contest the alleged violation on its merits without personally appearing at a hearing pursuant to the following procedures:

1. Requesting and completing, in full, the "Request for Hearing - Appearance Waiver Form;"

2. Acknowledging in the space specified in said form that the person is waiving the right to appear in person and is submitting to an adjudication based upon the notarized statement filed by him or her and the facts contained in the Notice of Violation;

3. Filing the required form with the Administrative Hearing Records Unit within 21 days after the date of the Notice of Violation, with the filing to be done in the manner described on the Notice of Violation; and

4. Filing with the Administrative Hearing Records Unit, at the same time as the Appearance Waiver Form, a notarized statement of facts specifying the grounds for challenging the Notice of Violation.

B. Facts Considered by Hearing Officer. The Hearing Officer will make a decision based upon the facts as contained in the defendant's notarized written statement of facts and in the Notice of Violation.

C. Notice of Hearing Officer's Determination. Notice of the determination of the Administrative Hearing Officer will be served upon the defendant by first-class mail, postage prepaid, addressed to the defendant at the address set forth in the statement of

facts submitted. Service of the notice of such determination will be complete on the date the notice is deposited in the United States mail.

Section 2.72.130 Certified Report and Contesting Certified Report.

A. Notice of Possible Suspension of Driver's License.

1. A notice of impending suspension of a person's driver's license will be sent to any person determined to be liable for the payment of any fine or penalty that remains due and owing on ten or more vehicular standing, parking, or compliance violations under Section 6-306.5 of the Motor Vehicle Code (625 ILCS 5/6-306.5). The notice shall be sent by first class United States mail, postage prepaid, to the address recorded with the Secretary of State. The notice shall state the following:

a. That the failure to pay the fine or penalty owing within 45 days of the date of the notice will result in the Village notifying the Secretary of State that the person is eligible for initiation of suspension proceedings; and

b. That the person to whom the notice is directed may obtain a photo-copy of an original ticket imposing a fine or penalty by sending a self-addressed, stamped envelope to the Village along with a request for the photo-copy.

B. Certified Report to the Secretary of State. Upon a failure of a person to pay fines or penalties deemed due and owing to the Village pursuant to Chapter 10.24 of this Code, and after exhaustion of the procedures set forth herein, the Administrative Hearing Records Unit shall make a certified report to the Secretary of State, pursuant to 625 ILCS 5/6-306.5(c), stating that the owner or lessee of a registered vehicle has failed to pay the fine or penalty due or owing the Village as a result of ten or more such violations of Chapter 10.24 of this Code, and thereby initiate the suspension of that person's driver's license.

C. Further Action by Village. The Administrative Hearing Records Unit will take no further action thereafter unless and until (i) the fines and penalties due and owing the Village are paid, or (ii) upon making a determination pursuant to subsection D and E of this section that the inclusion of the person's name on the certified report was in error. In either event, the Code Enforcement Administrator shall submit to the Secretary of State a notification to halt the driver's license suspension proceeding pursuant to 625 ILCS 5/6-306.5(d). The person named therein will receive a certified copy of such notification upon request and at no charge.

D. Within 21 days of the date of the Secretary of State's notice under 625 ILCS 5/6-306.5(b), a person may challenge the accuracy of the certified report by completing and filing a form provided by the Administrative Hearing Records Unit specifying the grounds on which such challenge is based. Grounds for challenge are limited to the following:

1. The person was neither the owner nor the lessee of the vehicle receiving the ten or more applicable Notices of Violations on the date or dates such notices were issued; or

2. The person has paid the fine and penalty for the ten or more violations indicated on the certified report.

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E. The Code Enforcement Administrator shall make a determination within 14 days of receipt of the form challenging the accuracy of the certified report, and will notify the person filing the challenge of the determination, and, if applicable, will notify the Secretary of State.

Section 2.72.140 Judicial Review.

Any final decision by a Hearing Officer that a violation does or does not exist constitutes a final determination for purposes of judicial review and will be subject to review under the Illinois Administrative Review Law (735 ILCS 5/3-101 et seq.).

Section 2.72.150 Debt to the Village.

Any fine, penalty, or part of any fine or penalty assessed in accordance with the provisions of this Chapter and remaining unpaid after the exhaustion of, or the failure to exhaust, administrative procedures under this Chapter and the conclusion of any judicial review procedures, will be a debt due and owing the Village, and, as such, may be collected in accordance with applicable law and as provided in section 2.72.160 of this Chapter.

Section 2.72.160 Enforcement of Judgments.

A. Enforcement of Fines. All fines and other moneys to be paid to the Village in accordance with this Chapter shall be remitted to the Village and deposited in the appropriate Village account as designated by the Village Manager.

B. Compliance Bond.

1. In order to ensure that violations are remedied in a timely manner, the Administrative Hearing Officer, upon issuing a determination of liability that includes an order of compliance, will have the authority to order the defendant in the case to obtain a bond ("Compliance Bond") to ensure defendant's timely compliance in correcting the violation. Any Compliance Bond ordered pursuant to this subsection B shall name the Village as a beneficiary and shall be in the amount specified by the Administrative Hearing Officer, provided that the amount of the Compliance Bond is to be reasonably related to the cost of compliance. If the defendant fails to remedy in a timely manner the violation for which a Compliance Bond has been ordered and issued, and the Village thereafter undertakes remediation or otherwise expends funds related to the violation for which a Compliance Bond has been ordered and issued, the Administrative Hearing Officer, after giving the parties notice and an opportunity to be heard, as provided in subsection F of this section, may issue an order permitting the Village to draw against the Compliance Bond in an appropriate amount, not to exceed the remediation costs incurred by the Village. Upon proof of compliance, the Administrative Hearing Officer will order the Compliance Bond amount, less the reasonable costs incurred by the Village, returned to the defendant.

2. In the event a defendant ordered to secure a Compliance Bond as provided by this subsection B, seeks judicial review of the portion of the Administrative Hearing Officer's order requiring a Compliance Bond and prevails on that issue, the Village, within 30 days after receiving a copy of the reviewing court's mandate, shall release the

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Compliance Bond and shall refund to the defendant the total amount the Village drew against the Compliance Bond.

C. Expiration of Judicial Review Period. After expiration of the period that judicial review under the Illinois Administrative Review Law may be sought, unless stayed by a court of competent jurisdiction, the findings, decision, and order of the Administrative Hearing Officer may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

D. Liability for Village Enforcement Expenses. If the defendant fails to comply with a judgment that orders the defendant to correct a violation or that imposes any fine or other sanction, any expenses incurred by the Village to enforce the judgment entered against that defendant, including without limitation, administrative costs, attorney's fees, court costs, and costs related to property demolition or foreclosure (collectively "Enforcement Expenses"), after they are fixed by a court of competent jurisdiction, or by an Administrative Hearing Officer in accordance with subsection F of this section, shall be a debt due and owing the Village and may be collected in accordance with applicable law, including without limitation, drawing against any Compliance Bond.

E. Lien on Property. In addition to all other enforcement actions set forth in this Chapter, the Administrative Hearing Officer, after providing the notice and opportunity to be heard as provided in subsection F of this section, shall have the authority to impose a lien on the real estate or personal estate, or both, of the defendant, in the amount of any debt due and owing the Village for any violation under this Chapter, including any and all Enforcement Expenses.

F. Final Notice and Hearing. Prior either to imposing Enforcement Expenses pursuant to subsection D of this section, or to imposing a lien pursuant to subsection E of this section, the Administrative Hearing Officer will conduct a hearing pursuant to notice sent to defendant by first-class mail, postage prepaid, not less than seven days prior to the date of the hearing. The defendant's failure to appear at such hearing will not preclude the Administrative Hearing Officer from imposing Enforcement Expenses or a lien.

Section 2.72.170 Fines, Penalties, Fees and Costs.

A. Amount Set by Village Council. Fines and penalties for any violation of any Village ordinance subject to administrative adjudication under this chapter shall be established from time to time by the Village Council. The Village Council may by resolution set administrative fees in an amount sufficient to recover the costs of administering the Administrative Adjudication System.

B. Maximum Fine. No fines or penalties set by the Village Council shall exceed \$50,000 or the statutory maximum, whichever is less.

C. Schedule of Fines and Penalties. The Administrative Hearing Records Unit shall publish a consolidated schedule of fines and penalties, which shall be posted on the Village's web site and at the Winnetka Police Department and shall be updated by the Administrative Hearing Records Unit as necessary to reflect amendments made by the Village Council.

Section 2.72.180 Administrative Costs and Interest Charges.

Administrative costs and interest charges assessed pursuant to this Chapter will be in the amounts established from time to time by the Village Council pursuant to an Administrative Hearings Costs and Interest Charges Schedule Resolution or similar enactment.

SECTION 3: Title 2 of the Winnetka Village Code, “Administration and Personnel,” is hereby amended by adding a new Chapter 2.34, which shall be titled “Administrative Hearing Officer” and shall provide as follows:

**Chapter 2.34
ADMINISTRATIVE HEARING OFFICER**

Sections:

- 2.34.010 Creation of Office; Appointment.**
- 2.34.020 Compensation.**
- 2.34.030 Qualifications.**
- 2.34.040 Duties.**

Section 2.34.010 Creation of Office; Appointment.

There is created the office of Administrative Hearing Officer, an administrative office of the Village. The Administrative Hearing Officer shall be appointed by the Village Manager.

Section 2.34.020 Compensation.

The compensation of the Village Prosecutor shall be fixed by the Village Manager with the approval of the Council.

Section 2.34.030 Qualifications.

The qualifications of the Administrative Hearing Officer shall be as provided in Section 2.72.050 of this Code.

Section 2.34.040 Duties.

The Administrative Hearing Officer shall be responsible for conducting hearings and adjudicating matters in the Village’s Administrative Hearing System, as provided in Chapter 2.72 of this Code. If so directed by the Village Manager, the Administrative Hearing Officer shall conduct liquor license hearings as provided in Chapter 5.09 of this Code, and vehicle impoundment or removal hearings, pursuant to the procedures established in Section 10.08.090 of this Code.

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ATTACHMENT 2

SECTION 4: This Ordinance is passed by the Council of the Village of Winnetka in the exercise of its home rule powers pursuant to Section 6 of Article VII of the Illinois Constitution of 1970.

SECTION 5: This Ordinance shall take effect immediately upon its passage, approval and publication as provided by law.

PASSED this ___ day of _____, 2013, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED this ___ day of _____, 2013.

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 _____, 2013.

Introduced:
Passed and Approved:

ATTACHMENT 3

AGENDA REPORT

SUBJECT: Administrative Hearing Process

PREPARED BY: Katherine S. Janega, Village Attorney
Patrick Kreis, Chief of Police

REFERENCE: January 19, 2010 Council Meeting, Agenda pp. 80 – 94
May 11, 2010 Study Session, Agenda pp. 42 – 62
October 9, 2012 Study Session, Agenda pp. 2 – 24

DATE: April 11, 2013

I. Background

At the October 9, 2012, study session, the Village Council considered preliminary legal, procedural and policy issues related to establishing an administrative adjudication process for violations of Village Code and motor vehicle provisions that are issued by the Winnetka Police Department.

Staff's presentation outlined the general legal authority and requirements for the administrative hearing process itself as well as for the hearing officer. In addition, Staff outlined the anticipated benefits an administrative adjudication system would provide for both the Village and the general public.

The Council's agenda materials also included a bullet list of the various steps needed to implement the administrative hearing process. (See Attachment 2, pp. 6-7) The discussion concluded with policy direction to proceed with the next steps, and to return to the Council with a draft of the administrative hearing process, including legal requirements and structures. (See Attachment 3)

Pursuant to that policy direction, Staff has explored several key issues and developed recommendations for the Council's consideration before preparing the detailed documentation that would be needed to implement an administrative adjudication program. This Agenda Report does the following:

- Provides a more detailed explanation of the legal authority for establishing an administrative adjudication system.
- Outlines the contents of an ordinance that would establish an administrative adjudication system.
- Outlines the qualifications of the hearing examiner.
- Provides a proposed schedule of fines.
- Presents a cost and budget overview.
- Makes recommendations for recovering administrative costs.
- Proposes an implementation timeline.

II. Legal Authority

The Village of Winnetka has the authority to pass an ordinance providing for a system of administrative adjudication for Village Code violations pursuant to Article 1, Division 2.1 of the Illinois Municipal Code (“Municipal Code”), which applies solely to home rule municipalities. (65 ILCS 5/1-2.1-1, *et seq.*) As defined in Section 1-2.1-2 of the Municipal Code, “system of administrative adjudication” means the adjudication of any violation of a Village ordinance, subject to certain limitations. For example, administrative adjudication cannot be used for moving vehicle violations or for offenses that are reportable to the Secretary of State under the Illinois Vehicle Code. It also cannot extend beyond the scope of the Village’s statutory or home rule authority. (65 ILCS 5/1-2.1-2)

Municipalities have additional administrative adjudication authority pursuant to Section 11-208.3 of the Illinois Vehicle Code, which authorizes municipalities to provide a system of administrative adjudication for vehicular standing, parking and compliance violations. (625 ILCS 5/11-208.3) Thus, administrative adjudication procedures can be used for parking violations and other non-moving vehicle violations such as local vehicle licensing, but cannot be used for misdemeanors and felonies.

Two other statutory provisions are noteworthy, as well. First, the Division 2.1 statutory administrative adjudication process is not exclusive and does not preclude using other methods for enforcing ordinances. (65 ILCS 5/1-2.1-3) Second, the statutory administrative adjudication process does not preempt home rule authority, so the Village could use its home rule powers to adopt other means of code enforcement. (65 ILCS 5/1-2.1-10) These two provisions would enable the Village to state a broad jurisdictional scope in the ordinance establishing the administrative adjudication process, while preserving the ability to use the court system for some violations. They also would enable the Village to use its home rule powers to “customize” its administrative adjudication system so that different processes could be used for different purposes. For example, some home rule municipalities have different processes for building and zoning cases, while others have carved out a separate process for red light camera violations.

The administrative adjudication process thus treats eligible offenses as civil violations rather than as quasi-criminal or criminal matters that require prosecution in the Circuit Court of Cook County. In place of the court system, the administrative adjudication requires establishing a “code hearing unit,” and assigning one or more hearing officers to conduct the hearings and decide the cases. (65 ILCS 5/1-2.1-4)

Regardless of the scope or specific purpose of any administrative process, all administrative adjudication systems have two defining characteristics: (i) they treat eligible offenses as civil violations rather than as quasi-criminal or criminal matters; and (ii) they provide for adjudication and enforcement in a local, administrative forum, where the rules of evidence are relaxed and proof is by a preponderance of the evidence, rather than requiring prosecution in the Circuit Court of Cook County, where formal rules of evidence apply and proof beyond a reasonable doubt is required.

III. Ordinance Establishing an Administrative Adjudication System

Municipal administrative adjudication systems must be established by ordinance that defines the administrative structure in detail. As has been done in other municipalities, if the Village proceeds to establish an administrative adjudication system, the implementing ordinance would amend the Village Code by adding at least one new chapter, using the detail of Division 2.1 as the template for the basic structure and then adding related Code amendments as necessary.

A preliminary outline and summary of Code provisions is attached. (Attachment 1) The outline provides all of the required components of an administrative hearing process. Those components, as prescribed by Article 2.1 are as follows:

- Establishes the administrative hearing process and defines its scope. Staff recommends that the scope be limited to parking and compliance violations, enforcement of nuisance regulations, disorderly conduct, animal control regulations, and violations of liquor regulations, including service to minors.
- Provides that the administrative adjudication procedures are not exclusive, and preserves the full scope of the Village's home rule authority.
- Requires that the administrative hearing officer be an attorney who has been licensed to practice in Illinois for at least three years and that the hearing officer successfully completes prescribed formal training before presiding at any hearings, as provided in Section 1-2.1-4 of the Municipal Code.
- Defines the powers of the hearing officer, as provided in Section 1-2.1-4 of the Municipal Code.
- Establishes procedures as provided in Section 1-2.1-5 of the Municipal Code, including methods of issuing a notice of violation, defining the content of notices, providing an opportunity to be heard, allowing for subpoena requests, and setting timetables for notices, requesting a hearing, responding to a notice of violation, making a payment, and setting a hearing date.
- Provides that the "formal and technical" rules of evidence do not apply, as provided in Section 1-2.1-6 of the Municipal Code.
- Provides that final decisions are subject to judicial review under the Administrative Review Law, as provided in Section 1-2.1-7.
- Establishes a procedure that allows non-residents to contest violations via sworn fact statements rather requiring them to appear at a hearing.
- Provides for the enforcement of judgments and the handling of default judgments, as provided in Section 1-2.1-8.

Besides amending the Village Code as outlined in Attachment 1, other Village Code amendments would include amending the authority of the Village Manager and the Chief of Police to correspond to the additional authority delineated in the administrative adjudication chapters. As explained in the next section, further amendments would be required to adjust the fine schedule, to require court appearances on some charges, and to establish administrative

costs, if the Council so chooses. These financial issues are discussed at greater length in the following sections.

IV. Fines and Alternative Enforcement

In an administrative hearing system, it is necessary to have fixed fines so that a ticket can be prepaid and so that the authority of the administrative hearing officer is clearly delineated. Because the Village's Code violations have always been heard in court, most of the fines established by the Village Code cover a range from a minimum of \$5 to a maximum of \$750 or, in some instances, \$1,000. (The \$750 fines reflect the statutory maximum for non-home rule municipalities and pre-date the Village's home rule status.)

It is therefore necessary to amend the Village Code to establish fixed fines for use in the administrative adjudication process. The range of fines would be retained for instances in which the Village would opt to pursue a violation in court.

Staff does not recommend establishing escalating fines for offenses other than those established for parking violations, which are firmly established and programmed into the parking ticket processing system. Sliding scales can be cumbersome to administer for most offenses. Therefore, rather than having a graduated or sliding scale of fines, Staff proposes addressing repeat offenders or aggravating circumstances by writing a traditional Local Ordinance citation that would require a court appearance. The prosecutor in such a case would be made aware of the previous adjudications or aggravating circumstances. Clear standards for when this approach would be used would be included in the ordinance, to avoid a broad delegation of discretion that could jeopardize the validity of the ordinance.

Staff also proposes that the Village Code provide for a mandatory appearance at an administrative hearing in certain cases, such as cases where a ticket is issued to a minor, 18 years and younger. The respondent would be instructed to appear at the hearing with a parent or guardian, thereby setting a practice that parallels Circuit Court rules and helping to ensure parents are aware of the conduct of their dependents.

A late fee must also be established for each fine category. Staff recommends applying the same time frames that are used in the current parking system. That system allows 10 days to pay a citation before a late fee is assessed. Staff is also recommending allowing 28 days to file a notice to contest the ticket. As is currently done, late fees would be suspended once a person requests a hearing, and would resume once a disposition is entered.

The Police Department is recommending establishing three primary categories of fines for violation notices issued under the new process. With some limited exceptions, the proposed categories and the corresponding fines are:

- Non-moving Traffic Offenses: \$100
- Personal Conduct Offenses: \$75
- Business Offenses: \$250

For basic comparison purposes, and with some exceptions, a traffic violator today pays \$147 for most offenses if settled by mail. If they appear in court and either plead or are found guilty, they often pay at least \$225. Likewise, a person receiving a Local Ordinance ticket is always required to appear in court and will pay the minimum \$165 unless found not guilty. Parking and Animal citations largely will remain unaffected as very few cases result in court hearings.

Staff is seeking Village Council policy direction on the basic fine structure, and will then develop a specific schedule of fines in conjunction with the Village Code amendments.

V. Administrative Services; Cost and Budget Overview

Start-up Costs. Staff is proposing to use Duncan Solution's Professional Account Management LLC (Duncan) to support the proposed administrative adjudication process. The Village has used Duncan to support parking and animal citation processing since 2004, and their services have proven to be reliable. Staff has also received favorable feedback from several communities that presently use Duncan for Administrative Adjudication.

The Police Department has obtained a written proposal from Duncan for administrative services. There are two aspects to the proposal. First, Duncan would provide the services needed to set up the administrative adjudication process, including expanding the scope of the current Auto Process system by programming in the additional offenses. It also includes setting up the overall system administration. Duncan proposes to perform this phase for a one-time charge of \$3,600 to set-up the standard Auto Process system. (Duncan also offers an enhanced Auto Process system, which may be considered in the future, after the Village has some experience with the system and the Village's new website becomes operational.)

The Police Department anticipates that the total start-up costs during the first year of an administrative adjudication process, including Duncan's proposal, would not exceed \$6,000. This amount can be absorbed in the current Police Department budget.

Ongoing Operational Costs. The second aspect of Duncan's proposal is to provide the actual ongoing services to support the process, by processing citations, scheduling hearing requests, suspending late fees, generating hearing dockets, recording final dispositions and collecting a hearing fee should the Council provide for one by Code.

Duncan proposes to charge the Village the same fee that it charges for processing parking tickets. The current fee is \$3.75 per ticket, with an annual CPU escalator, regardless of the fine amount or its final disposition, and also includes the following services, which are currently provided:

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- Toll-free customer service
- Payment processing
- Sending late notices
- Providing and maintaining hardware, ticket stock and computer services

The Village also has a separate contract with Duncan for the collection of delinquent fines and judgments, whereby it retains 24% of the total amount collected once an account is turned over to collections, typically after 80 days. Those services would also apply to collections of unpaid fines resulting from an administrative adjudication.

Because the Village Attorney is part of the Village's administrative staff and is frequently involved in enforcement matters, the Village Attorney cannot serve as either the hearing officer or the prosecutor. Therefore, the administrative adjudication process will require securing additional legal services from a hearing officer and the Village Prosecutor. The Police Department estimates that both the hearing officer and Village Prosecutor would be paid approximately \$500 per month, for a combined total of \$12,000 per year.

It is important to note that these figures are estimates, and are subject to such variables as the hourly rates or retainer fees charged for the hearing officer's and Village Prosecutor's services, the frequency of hearings, the number of hours of the hearing officer's time, the number of citations issued in a year, and the number of citations that go to collection. From the outset, Staff will attempt to control these costs by seeking competitive proposals for qualified hearing officer services, and by negotiating with the Village Prosecutor.

Proposed Hearing Fee. Staff recommends that the Village attempt to operate the administrative adjudication process on a revenue neutral basis, with the costs of operating the administrative adjudication process being covered largely by users of the system and not by other Village revenues. To achieve that goal, Staff is recommending that the Council consider imposing a "Hearing Fee" as part of the administrative adjudication process. Hearing fees are similar to the "court costs" that are assessed when a defendant unsuccessfully challenges a violation in the courts.

The Police Department has estimated enforcement levels and collection rates based on a review of several recent years of such data. Staff calculates that the net revenues from the administrative adjudication system would include fines and hearing fees collected, less Village costs and revenues that would otherwise be collected in the current system (Cook County Circuit Court). The Police Department's 2009 administrative adjudication survey showed that, among the municipalities that charged a hearing fee, the fees ranged from \$25 to \$50. Making some necessary assumptions and using the recommended fine categories described in Part III, above, Staff estimates that, if a \$25 hearing fee is established, the net revenues to the Village would be approximately \$12,500 annually. The net revenue is projected at \$17,500 if a \$40 fee is established.

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Without establishing a hearing fee, Staff projects that annual fines and fees would likely exceed costs by less than \$5,000. Additionally, if no hearing fee is implemented and actual experience differs significantly from estimates, the costs of an Administrative Adjudication, once established, could exceed the net fines and fees collected. Establishing a hearing fee lessens such risk.

Staff notes that the goal of the administrative hearing process is behavior modification rather than revenue enhancement and the amount of the proposed hearing fee has been set with that in mind. It should also be noted that the hearing fee would not apply to a person who pays the citation without contesting the ticket, or to a person who is found not liable by the hearing officer.

Finally, for comparison purposes, it is also worth noting that the Circuit Court of Cook County assesses a \$165 court fee in addition to any fine when a person contests a ticket there, and the Village sees only a small percentage of the fine paid, so that, even if the Village imposed a \$40 hearing fee, the total cost to a person who would pay a fine and ticket in the administrative process would be less than the total cost of contesting a ticket in court. At the same time, 100% of the amount received by the Village in the administrative process would be retained by the Village.

VI. Proposed Timetable

Staff recommends that the administrative adjudication process be implemented effective in January of 2014. The following timetable identifies target dates for completing the key tasks needed to implement the process

- | | | |
|-------------|-----------------------|-------------------------|
| Key: | VC = Village Council | PD = Police Department |
| | VM = Village Manager | FD = Finance Department |
| | VA = Village Attorney | VP = Village Prosecutor |
| | CP = Chief of Police | HO = Hearing Officer |

Target Date	Responsibility	Task
May, 2013	VC, VM, CP, VA VM, PD, VA VA	<ul style="list-style-type: none"> Obtain policy direction on scope of jurisdiction, fines, administrative fees, collections and administrative services Amend contract with Duncan Draft ordinance and fine schedules
June, 2013	VA, VC VA, VM, CP VA, VM, CP	<ul style="list-style-type: none"> Present ordinance and fine schedule for Council consideration and action Establish rules of procedure Prepare and issue request for qualifications for administrative hearing officer

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Target Date	Responsibility	Task
July 2013	VM, VA, CP VA, VM, CP VM, PD, VA	<ul style="list-style-type: none">• Screen and interview hearing officer candidates• Develop training programs for hearing officer and Staff• Establish retention policy for administrative hearing records
Aug. 2013	VM CP, VM VM, CP	<ul style="list-style-type: none">• Select hearing officer• Draft budget• Create staff and public education materials
Sept. 2013	VA, PD, HO, VP VA, VP, HO VA, PD VM, CP, HO, VP	<ul style="list-style-type: none">• Conduct hearing officer training sessions with Village Prosecutor; Conduct mock hearings with hearing officer and administrative staff• Conduct training of administrative staff• Complete outstanding training• Set hearing schedule
October – December 2013	VM, PD	<ul style="list-style-type: none">• Public education program
January 2014	PD, HO, VP	<ul style="list-style-type: none">• Commence hearing process

ATTACHMENTS:

- Attachment 1 Draft Outline of Ordinance Establishing an Administration Adjudication Process
- Attachment 2 Agenda Report from October 9, 2012
- Attachment 3 Minutes of October 9, 2012 Study Session

RECOMMENDATION:

Staff requests Village Council policy direction on the following issues:

- 1) What offenses should be eligible for administrative adjudication?
- 2) How should fines be structured?
- 3) Should the implementing ordinance provide for the assessment of a hearing fee? If so, at what amount?
- 4) Should the implementing ordinance provide for enforcing judgments through liens?
- 5) Should the Village contract with Duncan Solution's Professional Account Management, LLC, for administrative services, processing and collections?
- 6) Should the target implementation date be January of 2014?

ATTACHMENT 4

10) Old Business.

- a) Administrative Hearing Process. Village Attorney Katherine Janega explained that Staff is seeking Council input on policy issues in order to proceed with implementation of an administrative adjudication process beginning in 2014. The first item, scope of offenses to be covered by administrative adjudication, Staff's recommendation is to include parking, any other motor vehicle violations which the Village is authorized to handle by law, business offenses, and small quasi-criminal offenses. Attorney Janega said the process would not include building and zoning ordinances, which are enforced by the Community Development Department. Trustees Braun, McCrary, and Buck noted they were in favor of the process and glad that certain offenses can be handled more efficiently by the Village rather than in court. The Council inquired about other communities that currently perform administrative hearings, and Police Chief Patrick Kreis said that Lake Forest, Mount Prospect, Schaumburg, Skokie, and Lincolnwood all conduct administrative hearings.

The second policy issue discussed was fines. Attorney Janega stated that currently, all offenses that go to court are assigned a range of fines, which the judge then imposes. An administrative process will require a fixed fine. Staff recommended no changes to existing parking fines. Attorney Janega said with Council consent, a full table of offenses and fines would be developed to standardize what would be heard by the administrative officer, along with the range for any attempts through a civil process. Trustee Kates suggested a progressive set of fines for certain offenses, and escalating fines for repeat offenses, for offenses such as vandalism, graffiti, and disorderly conduct. Chief Kreis explained that the Village's existing ordinance provides for progressive fines in parking enforcement, but that the current databases of tickets would make it difficult to track repeat offenses at the time a ticket is issued. Attorney Janega added that Staff sought a way to be predictable as to which cases would go to administrative hearings and which would go to court, but suggested they can further evaluate how progressive fines might be administered. It was noted that the Council could determine that certain offenses always require a hearing and that tickets in those instances could not be pre-paid.

In addition to fine structure, the Council discussed the third policy issue of administrative hearing fee. Trustee Corrigan asked if the hearing structure would become a profit center for the Village, and Attorney Janega responded that Staff sought to make this process cost neutral. Research showed that comparable communities charged anywhere from \$0 to \$50. Staff felt the minimum fee to recover costs would be \$25 and the maximum likely a \$40 fee. Police Kreis explained that it will require several years of experience to predict the fees required for recovery, as the Village does not know how many will choose to pre-pay the tickets and not seek a hearing.

Responding to Trustee Braun, Chief Kreis said the goal of the process is to provide an avenue for people to contest a ticket that is more economical and efficient than the Cook County court process, which has a \$165 fee. Chief Kreis said his estimates assumed Winnetka might have about 500 administrative hearing cases per year. The Council also discussed that the Village would receive 100% of the hearing fee, in addition to the fine collected from the ticket itself by instituting an administrative process. The consensus among the Council was to implement a \$40 hearing fee.

ATTACHMENT 4

To be cognizant of the time, Attorney Janega said Staff would return with recommendations on the other policy issues, including the use of judgment liens and the expansion of the parking ticket administration contract, with a goal to implement the process in January, 2014. It was noted that the administrative hearing judge would be selected by the Village Manager, through an RFP process.

Public Comment, Jeffrey Liss: Mr. Liss inquired about the number of hearings and the estimates the Village made about cost-recovery. In response, Chief Kreis noted the Village typically writes about 5,000 parking tickets per year, and that only about 600 other types of ticketed offenses would come under the administrative process.