



PUBLIC MEETING NOTICE AND AGENDA  
COMMITTEE OF THE WHOLE MEETING

JANUARY 23, 2024  
7:30 P.M.

AGENDA

1. Call to Order
2. Pledge of Allegiance
3. Audience Participation  
The public is invited to make an issue-oriented comment on any matter of public concern. The public comment may be no longer than 3 minutes in duration.
4. Staff Presentations
  - A. Administration
    1. Agreement with OpenGov, Inc. for Software and Services related to Cartegraph Systems
  - B. Police Department
    1. Ordinance Amending Chapter 4, Police Department, of the Municipal Code
    2. Approval of Master Software Licensing Agreement with DACRA Tech, LLC and Ordinance Approving a Budget Amendment to the Operating Budget for FY Ending December 31, 2024
  - C. Community Development
    1. Informational Item concerning Conditional Uses for Arias Truck Repair at 8545 Pyott Road
    2. Ordinance Denying Variations for a Privacy Screening Fence at 2840 Briarcliff Lane
  - D. Public Works
    1. Contract with Rush Power Systems for Generator Maintenance and Inspection Services
5. Board of Trustees
6. Village President
7. Adjournment

MEETING LOCATION  
Lake in the Hills Village Hall  
600 Harvest Gate  
Lake in the Hills, IL 60156

The Village of Lake in the Hills is subject to the requirements of the Americans with Disabilities Act of 1990. Individuals with disabilities who plan to attend this meeting and who require certain accommodations so that they can observe and/or participate in this meeting, or who have questions regarding the accessibility of the meeting or the Village's facilities, should contact the Village's ADA Coordinator at (847) 960-7400 [TDD (847) 658-4511] promptly to allow the Village to make reasonable accommodations for those persons.

Posted by: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_



# REQUEST FOR BOARD ACTION

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**MEETING DATE:** January 23, 2024

**DEPARTMENT:** Administration

**SUBJECT:** One-year initial agreement with OpenGov Inc., with two (2) one-year renewal terms, for software and services related to Cartegraph Systems

## EXECUTIVE SUMMARY

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Staff seeks Village Board consideration to enter into a one-year, initial term master services agreement, with two one-year renewal terms, related to the Cartegraph Operations Management System (OMS) software and services.

The Village began using the Cartegraph OMS in 2015 to help manage the Village's assets and resident work order requests. The current contract expires on February 1, 2024. To continue to using this proprietary software, the Village needs to execute a new contract with OpenGov. The previous contracts were with Cartegraph Systems, LLC; however, OpenGov acquired Cartegraph in 2022. The Cartegraph OMS software has been an invaluable tool in managing Village assets, inventory, equipment, labor, and training. Public Works staff uses Cartegraph on a daily basis for their work orders, asset management, field work, and more. Under the recently amended purchasing policy, the annual amount of the software subscription can be approved via the Village Administrator; however, the three-year total is in excess of \$100,000. Staff respectfully requests Board approval to enter into a one-year initial agreement with OpenGov Inc., with two (2) one-year renewal terms, for software and services related to Cartegraph Systems.

## FINANCIAL IMPACT

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The Village's Fiscal Year 2024 Budget includes \$46,125.00 for support and use of the Cartegraph OMS work management software, a 5% increase over the FY23 cost. The costs for 2025 and 2026 also reflect a 5% increase in cost, at \$48,431.41 and \$50,852.98, respectively.

## ATTACHMENTS

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1. OpenGov Quote and Master Services Agreement

## SUGGESTED DIRECTION

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Motion to enter into a Master Services Agreement with OpenGov, Inc.



OpenGov Inc.  
 PO Box 41340  
 San Jose, CA 95160  
 United States

**Quote Number:** OG-00IL2168  
**Created On:** 1/16/2024  
**Order Form Expiration:** 2/1/2024  
**Subscription Start Date:** 2/2/2024  
**Subscription End Date:** 2/1/2025

**Prepared By:** Marguerite Kuntz  
**Email:** [mkuntz@opengov.com](mailto:mkuntz@opengov.com)  
**Contract Term:** 12 Months

**Customer Information**

**Customer:** Village of Lake in the Hills, IL  
**Bill To/Ship To:** 600 Harvest Gate  
 Lake in the Hills, Illinois 60156  
 United States

**Contact Name:** Trevor Bosack  
**Email:** [tbosack@lith.org](mailto:tbosack@lith.org)

**Order Details**

**Billing Frequency:** Annually in Advance  
**Payment Terms:** Net Thirty (30) Days

**SOFTWARE SERVICES:**

Product / Service	Start Date	End Date	Annual Fee
OMS Plus, OMS User (50 Users), Facilities, Flood Protection, Parks and Recreation Domain, Signal Domain, Stormwater Domain, Transportation Domain, Walkability Domain, Water Distribution Domain, OMS Integration Toolkit, Internal Requests, Asset Builder	2/2/2024	2/1/2025	\$46,125.16

**Annual Subscription Total: See Billing Table**

**Billing Table:**

Billing Date	Amount Due	
February 2, 2024	\$46,125.16	<i>Initial Term - Annual Software Fee #1</i>
February 2, 2025	\$48,431.41	<i>Optional Renewal Term - Renewal Period #1</i>
February 2, 2026	\$50,852.98	<i>Optional Renewal Term - Renewal Period #2</i>

**Order Form Legal Terms**

Welcome to OpenGov!  
 This Order Form is entered into between OpenGov, Inc. ("OpenGov"), and you, the entity identified above ("Customer"), effective as of the date of the last signature below. This Order Form incorporates the OpenGov Master Services Agreement ("MSA") available at <https://opengov.com/terms-of-service/master-services-agreement/>. If professional services are purchased, the applicable Statement of Work ("SOW") is also incorporated. The Order Form, MSA, and, if applicable, the SOW are the full "Agreement".  
 Unless otherwise specified above, fees for the Software Services and Professional Services shall be due and payable, in advance, 30 days from receipt of the invoice.  
 By signing this Agreement, Customer acknowledges that it has reviewed, and agrees to be legally bound by the Agreement. Each party's acceptance of this Agreement is conditional upon the other's acceptance of the Agreement to the exclusion of all other terms.

**Village of Lake in the Hills, IL**

Signature: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

**OpenGov, Inc.**

Signature: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

# OpenGov Master Services Agreement

The parties to this Master Services Agreement (this “Agreement”) are OpenGov, Inc., a Delaware corporation (“OpenGov”), and the customer named in the signature block below (“Customer”). This Agreement, which becomes binding when the parties have signed it (the “Effective Date”), sets forth the terms under which Customer will be permitted to use OpenGov’s hosted software services and receive professional services.

## 1. Definitions

- 1.1. “Customer Data” means data that is provided by Customer to OpenGov pursuant to this Agreement (for example, by email or through Customer’s software systems of record). Customer Data does not include any confidential personally identifiable information.
- 1.2. “Documentation” means materials produced by OpenGov that provide information about OpenGov’s software products and systems. Customers may access the most up-to-date Documentation on the Customer Resource Center page at [opengov.zendesk.com](https://opengov.zendesk.com).
- 1.3. “Intellectual Property Rights” means all intellectual property rights including all past, present, and future rights associated with works of authorship, including exclusive exploitation rights, copyrights, and moral rights, trademark and trade name rights and similar rights, trade secret rights, patent rights, and any other proprietary rights in intellectual property of every kind and nature.
- 1.4. “Order Form” means the document executed by the parties that specifies the Software Services that OpenGov will provide to Customer under this Agreement.
- 1.5. “Term” refers to the Initial Term defined in Section 6.1 plus all Renewal Terms defined in Section 6.2.

## 2. Software Services, Support, and Professional Services

- 2.1. Software Services. Subject to the terms and conditions of this Agreement, OpenGov will use commercially reasonable efforts to provide the commercial off-the-shelf software solutions identified in the applicable Order Form (“Software Services”).
- 2.2. Support and Service Levels. Customer support is available by email to [support@opengov.com](mailto:support@opengov.com) or by using the chat messaging functionality of the Software Services, both of which are available during OpenGov’s standard business hours. Customer may report issues any time. However, OpenGov will address issues during business hours. OpenGov will provide support for the Software Services in accordance with the Support and Software Service Levels found at [opengov.com/service-sla](https://opengov.com/service-sla), as long as Customer is entitled to receive support under the applicable Order Form and this Agreement.
- 2.3. Professional Services
  - 2.3.1. If OpenGov or its authorized independent contractors provides professional services

to Customer, such as implementation services, then these professional services (“Professional Services”) will be described in an applicable statement of work (“SOW”) agreed to by the parties. Unless otherwise specified in the SOW, any pre-paid Professional Services must be utilized within one year from the Effective Date.

- 2.3.2. Relevant travel expenses are provided in the SOW. Any other travel expenses related to the performance of the Professional Services shall be pre-approved by and reimbursed by Customer.

### **3. Restrictions and Responsibilities**

- 3.1. Restrictions. Customer may not use the Software Services in any manner or for any purpose other than as expressly permitted by the Agreement and Documentation. In addition, Customer shall not, and shall not permit or enable any third party to: (a) use or access any of the Software Services to build a competitive product or service; (b) modify, disassemble, decompile, reverse engineer or otherwise make any derivative use of the Software Services (except to the extent applicable laws specifically prohibit such restriction); (c) sell, license, rent, lease, assign, distribute, display, host, disclose, outsource, copy or otherwise commercially exploit the Software Services; (d) perform or disclose any benchmarking or performance testing of the Software Services; (e) remove any proprietary notices included with the Software Services; (f) use the Software Services in violation of applicable law; or (g) transfer any confidential personally identifiable information to OpenGov or the Software Services platform.
- 3.2. Responsibilities. Customer shall be responsible for obtaining and maintaining computers and third party software systems of record (such as Customer’s ERP systems) needed to connect to, access or otherwise use the Software Services. Customer also shall be responsible for: (a) ensuring that such equipment is compatible with the Software Services, (b) maintaining the security of such equipment, user accounts, passwords and files, and (c) all uses of Customer user accounts by any party other than OpenGov.

### **4. Intellectual Property Rights; License Grants; Access to Customer Data**

- 4.1. Software Services. OpenGov owns all interests and Intellectual Property Rights in the Software Services. The look and feel of the Software Services, including any custom fonts, graphics and button icons, are the property of OpenGov. Customer may not copy, imitate, or use them, in whole or in part, without OpenGov’s prior written consent. Subject to Customer’s obligations under this Agreement, OpenGov grants Customer a non-exclusive, royalty-free license during the Term to use the Software Services.
- 4.2. Customer Data. Customer Data and the Intellectual Property Rights therein belong to the Customer. Customer grants OpenGov and its partners (such as hosting providers) a non-exclusive, royalty-free license to use, store, edit, and reformat the Customer Data for the purpose of providing the Software Services. Customer further agrees that OpenGov and its partners may use aggregated, anonymized Customer Data for purposes of sales, marketing, business development, product enhancement, customer service, and data analysis. Insights gleaned from aggregated, anonymized Customer Data will

belong to OpenGov.

- 4.3. Access to Customer Data. Customer may download the Customer Data from the Software Services at any time during the Term, excluding during routine software maintenance periods. OpenGov has no obligation to return Customer Data to Customer.
- 4.4. Deletion of Customer Data. Unless otherwise requested pursuant to this Section 4.4, upon the termination of this Agreement, the Customer Data shall be deleted pursuant to OpenGov's standard data deletion and retention practices. Upon written request, Customer may request deletion of Customer Data prior to the date of termination of this Agreement. Such a request must be addressed to "OpenGov Vice President, Customer Success" at OpenGov's address for notice in Section 10.2.
- 4.5. Feedback. "Feedback" means suggestions, comments, improvements, ideas, or other feedback or materials regarding the Software Services provided by Customer to OpenGov, including feedback provided through online developer community forums. Customer grants OpenGov a non-exclusive, royalty-free, irrevocable, perpetual, worldwide license to use and incorporate into the Software Services and Documentation Customer's Feedback. OpenGov will exclusively own any improvements or modifications to the Software Services and Documentation based on or derived from any of Customer's Feedback including all Intellectual Property Rights in and to the improvements and modifications.

## 5. Confidentiality

- 5.1. "Confidential Information" means all confidential business, technical, and financial information of the disclosing party that is marked as "Confidential" or an equivalent designation or that should reasonably be understood to be confidential given the nature of the information and/or the circumstances surrounding the disclosure. OpenGov's Confidential Information includes, without limitation, the software underlying the Software Services, and all Documentation.
- 5.2. Confidential Information does not include: (a) data that the Customer has previously released to the public; (b) data that Customer would be required to release to the public upon request under applicable federal, state, or local public records laws; (c) Customer Data that Customer requests OpenGov make available to the public in conjunction with the Software Services; (d) information that becomes publicly known through no breach by either party; (e) information that was rightfully received by a party from a third party without restriction on use or disclosure; or (f) information independently developed by the Receiving Party without access to the Disclosing Party's Confidential Information.
- 5.3. Each party agrees to obtain prior written consent before disclosing any of the other party's Confidential Information. Each party further agrees to use the other's Confidential Information only in connection with this Agreement. Each party further agrees to protect the other party's Confidential Information using the measures that it employs with respect to its own Confidential Information of a similar nature, but in no event with less than reasonable care. If a party is required to disclose Confidential

Information by law or court order, they must notify the other party in writing before making the disclosure to give the other party an opportunity to oppose or limit the disclosure.

## **6. Term and Termination**

- 6.1. Initial Term. This Agreement begins on the Effective Date and ends on the date the subscription ends (“Initial Term”), according to the Order Form, unless sooner terminated pursuant to Section 6.3.
- 6.2. Renewal. This Agreement shall automatically renew for another period of the same duration as the Initial Term (each one is a new “Renewal Term”) unless either party notifies the other party of its intent not to renew this Agreement in writing no less than 30 days before the end of the then-current term.
- 6.3. Termination. If either party materially breaches any term of this Agreement and fails to cure such breach within 30 days after receiving written notice by the non-breaching party (10 days in the case of non-payment), the non-breaching party may terminate this Agreement. Neither party shall have the right to terminate this Agreement early without a legally valid cause.
- 6.4. Effect of Termination. Upon termination of this Agreement pursuant to Section 6.1, 6.2, or 6.3: (a) Customer shall pay in full for all Software Services and Professional Services performed up to and including the date of termination or expiration, (b) OpenGov shall stop providing Software Services and Professional Services to Customer; and (c) each party shall (at the other party’s option) return or delete any of the other party’s Confidential Information in its possession.

## **7. Payment of Fees**

- 7.1. Fees; Invoicing; Payment; Expenses.
  - 7.1.1. Fees. Fees for Software Services and for Professional Services are set forth in the applicable Order Form, and OpenGov will invoice Customer accordingly. Customer agrees to pay invoices within 30 days without setoffs, withholdings or deductions of any kind. Invoices are deemed received when OpenGov emails them to Customer’s designated billing contact. Obligations to pay fees are non-cancelable, and payments are non-refundable.
  - 7.1.2. Annual Software Maintenance Price Adjustment. OpenGov shall increase the fees for the Software Services during any Renewal Term by 5% each year of the Renewal Term.
  - 7.1.3. Travel Expenses. OpenGov will invoice Customer for travel expenses provided in the SOW as they are incurred. Customer shall pay all such valid invoices within 30 days of receipt of invoice. Each invoice shall include receipts for the travel expenses listed on the invoice.
  - 7.1.4. Customer Delays; On Hold Fee.
    - 7.1.4.1. On Hold. Excluding delays caused by a force majeure event as described in

Section 10.5, if OpenGov determines that Customer's personnel or contractors are not completing Customer's responsibilities described in the applicable SOW timely or accurately, OpenGov may place the Professional Services on hold. If OpenGov places a Customer on hold, OpenGov will ensure that Customer is made aware of its obligations necessary for OpenGov to continue performing the Professional Services. Upon placing a customer on hold, OpenGov may, without penalty, suspend Professional Services to the Customer and reallocate resources until the Customer has fulfilled its obligations. OpenGov shall bear no liability or otherwise be responsible for delays in the provision of the Professional Services occasioned by Customer's failure to complete Customer's responsibilities.

- 7.1.4.2. On Hold Notice; On Hold Fee. OpenGov may also issue an "On Hold Notice" specifying that the Customer will be invoiced for lost time in production (e.g., delayed or lost revenue resulting from rescheduling work on other projects, delay in receiving milestone payments from Customer, equipment, hosting providers and human resources idle) for a fee equal to 10% of the first year's fee for Software Services. OpenGov may remove the on hold status and may rescind the fee in its discretion upon Customer's fulfillment of its obligations set out in the On Hold Notice. And OpenGov may extend the timeline to complete certain Professional Services depending on the availability of qualified team resources (OpenGov cannot guarantee that these team resources will be the same as those who were working on the project prior to it being placed On Hold).
- 7.2. Consequences of Non-Payment. If Customer fails to make any payments required under any Order Form or SOW, then in addition to any other rights OpenGov may have under this Agreement or applicable law, (a) Customer will owe late interest penalty of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower and (b) If Customer's account remains delinquent (with respect to payment of a valid invoice) for 30 days after receipt of a delinquency notice from OpenGov, which may be provided via email to Customer's designated billing contact, OpenGov may temporarily suspend Customer's access to the Software Service for up to 90 days to pursue good faith negotiations before pursuing termination in accordance with Section 6.3. Customer will continue to incur and owe all applicable fees irrespective of any such Service suspension based on such Customer delinquency.
- 7.3. Taxes. All fees under this Agreement are exclusive of any applicable sales, value-added, use or other taxes ("Sales Taxes"). Customer is solely responsible for any and all Sales Taxes, not including taxes based solely on OpenGov's net income. If any Sales Taxes related to the fees under this Agreement are found at any time to be payable, the amount may be billed by OpenGov to, and shall be paid by, Customer. If Customer fails to pay any Sales Taxes, then Customer will be liable for any related penalties or interest, and will indemnify OpenGov for any liability or expense incurred in connection with such Sales Taxes. In the event Customer or the transactions contemplated by the Agreement are exempt from Sales Taxes, Customer agrees to provide OpenGov, as evidence of such tax exempt status, proper exemption certificates or other documentation acceptable to



OpenGov.

## **8. Representations and Warranties; Disclaimer**

8.1. By OpenGov.

8.1.1. General Warranty. OpenGov represents and warrants that it has all right and authority necessary to enter into and perform this Agreement.

8.1.2. Professional Services Warranty. OpenGov further represents and warrants that the Professional Services, if any, will be performed in a professional and workmanlike manner in accordance with the related SOW and generally prevailing industry standards. For any breach of the Professional Services warranty, Customer's exclusive remedy and OpenGov's entire liability will be the re-performance of the applicable services. If OpenGov is unable to re-perform such work as warranted, Customer will be entitled to recover all fees paid to OpenGov for the deficient work. Customer must give written notice of any claim under this warranty to OpenGov within 90 days of performance of such work to receive such warranty remedies.

8.1.3. Software Services Warranty. OpenGov further represents and warrants that for a period of 90 days after the Effective Date, the Software Services will perform in all material respects in accordance with the Documentation. The foregoing warranty does not apply to any Software Services that have been used in a manner other than as set forth in the Documentation and authorized under this Agreement. OpenGov does not warrant that the Software Services will be uninterrupted or error-free. Customer must give written notice of any claim under this warranty to OpenGov during the Term. OpenGov's entire liability for any breach of the foregoing warranty is to repair or replace any nonconforming Software Services so that the affected portion of the Software Services operates as warranted or, if OpenGov is unable to do so, terminate the license for such Software Services and refund the pre-paid, unused portion of the fee for such Software Services.

8.2. By Customer. Customer represents and warrants that (a) it has all right and authority necessary to enter into and perform this Agreement; and (b) OpenGov's use of the Customer Data pursuant to this Agreement will not infringe, violate or misappropriate the Intellectual Property Rights of any third party.

8.3. Disclaimer. OPENGOV DOES NOT WARRANT THAT THE SOFTWARE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SOFTWARE SERVICES. EXCEPT AS SET FORTH IN THIS SECTION 8, THE SOFTWARE SERVICES ARE PROVIDED "AS IS" AND OPENGOV DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

## **9. Limitation of Liability**

9.1. By Type. NEITHER PARTY, NOR ITS SUPPLIERS, OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS OR EMPLOYEES, SHALL BE RESPONSIBLE OR

LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, PUNITIVE, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES; OR (C) FOR ANY MATTER BEYOND A PARTY'S REASONABLE CONTROL, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.

- 9.2. By Amount. IN NO EVENT SHALL EITHER PARTY'S AGGREGATE, CUMULATIVE LIABILITY FOR ANY CLAIMS ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT EXCEED THE FEES PAID BY CUSTOMER TO OPENGOV FOR THE SOFTWARE SERVICES UNDER THIS AGREEMENT IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY.
- 9.3. Limitation of Liability Exclusions. The limitations of liability set forth in Sections 9.1 and 9.2 above do not apply to, and each party accepts liability to the other for: (a) claims based on either party's intentional breach of its obligations set forth in Section 5 (Confidentiality), (b) claims arising out of fraud or willful misconduct by either party and (c) either party's infringement of the other party's Intellectual Property Rights.
- 9.4. No Limitation of Liability by Law. Because some jurisdictions do not allow liability or damages to be limited to the extent set forth above, some of the above limitations may not apply to Customer.

## **10. Miscellaneous**

- 10.1. Logo Use. OpenGov shall have the right to use and display Customer's logos and trade names for marketing and promotional purposes in OpenGov's website and marketing materials, subject to Customer's trademark usage guidelines provided to OpenGov.
- 10.2. Notice. Ordinary day-to-day operational communications may be conducted by email, live chat or telephone. However, for notices, including legal notices, required by the Agreement (in sections where the word "notice" appears) the parties must communicate more formally in a writing sent via USPS certified mail and via email. OpenGov's addresses for notice are: OpenGov, Inc., 6525 Crown Blvd #41340, San Jose, CA 95160, and legal@opengov.com.
- 10.3. Anti-corruption. Neither OpenGov nor any of its employees or agents has offered or provided any illegal or improper payment, gift, or transfer of value in connection with this Agreement. The parties will promptly notify each other if they become aware of any violation of any applicable anti-corruption laws in connection with this Agreement.
- 10.4. Injunctive Relief. The parties acknowledge that any breach of the confidentiality provisions or the unauthorized use of a party's intellectual property may result in serious and irreparable injury to the aggrieved party for which damages may not adequately compensate the aggrieved party. The parties agree, therefore, that, in addition to any other remedy that the aggrieved party may have, it shall be entitled to seek equitable injunctive relief without being required to post a bond or other surety or to prove either

actual damages or that damages would be an inadequate remedy.

- 10.5. Force Majeure. Neither party shall be held responsible or liable for any losses arising out of any delay or failure in performance of any part of this Agreement, other than payment obligations, due to any act of god, act of governmental authority, or due to war, riot, labor difficulty, failure of performance by any third-party service, utilities, or equipment provider, or any other cause beyond the reasonable control of the party delayed or prevented from performing.
- 10.6. Severability; Waiver. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. Any express waiver or failure to exercise promptly any right under this Agreement will not create a continuing waiver or any expectation of non-enforcement.
- 10.7. Survival. The following sections of this Agreement shall survive termination: Section 5. (Confidentiality), Section 7 (Payment of Fees), Section 4.4 (Deletion of Customer Data), Section 8.3 (Warranty Disclaimer), Section 9 (Limitation of Liability) and Section 10 (Miscellaneous).
- 10.8. Assignment. There are no third-party beneficiaries to this Agreement. Except as set forth in this Section 10.8, neither party may assign, delegate, or otherwise transfer this Agreement or any of its rights or obligations to a third party without the other party's written consent, which consent may not be unreasonably withheld, conditioned, or delayed. Either party may assign, without such consent but upon written notice, its rights and obligations under this Agreement to its corporate affiliate or to any entity that acquires all or substantially all of its capital stock or its assets related to this Agreement, through purchase, merger, consolidation, or otherwise. Any other attempted assignment shall be void. This Agreement will benefit and bind permitted assigns and successors.
- 10.9. Independent Contractors. This Agreement does not create an agency, partnership, joint venture, or employment relationship, and neither party has any authority to bind the other.
- 10.10. Governing Law and Jurisdiction. California laws govern this Agreement, without regard to conflict of laws principles. Exclusive jurisdiction for litigation of any dispute, controversy or claim arising out of or in connection with this Agreement shall be only in the Federal or State court with competent jurisdiction located in San Mateo County, California, and the parties submit to the personal jurisdiction and venue therein.
- 10.11. Complete Agreement. OpenGov has made no other promises or representations to Customer other than those contained in this Agreement. Any modification to this Agreement must be in writing and signed by an authorized representative of each party.

*Signatures*

**Customer:**

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

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

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

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

**OpenGov, Inc.**

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

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

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

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



# REQUEST FOR BOARD ACTION

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**MEETING DATE:** January 23, 2024

**DEPARTMENT:** Police

**SUBJECT:** Ordinance Amending Chapter 4, Police Department, of the Lake in the Hills Municipal Code

## EXECUTIVE SUMMARY

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Pursuant to Public Act 103-0357 which was effective January 1, 2024, the citizenship requirement for the position of police officer has been expanded to include an individual who is not a citizen but is legally authorized to work in the United States under federal law or is an individual against whom immigration action has been deferred by the U.S. Citizenship and Immigration Services under the federal Deferred Action for Childhood Arrivals (DACA) process. The law required a change to the citizenship section of Chapter 4 of the Municipal Code.

When situations present to change one section of the Municipal Code, we have taken the opportunity to make all the recommended changes to a Chapter to ensure that we are working towards a more streamlined and organized set of regulations. While the majority of the changes involve clarifying language and processes, the more notable changes are as follows:

- Permitting the POWER test card be submitted in lieu of taking the physical agility test.
- Changing the full-time employment capacity period of a lateral entry candidate from (18) months to six (6) months.
- The Chief of Police may consider and appoint qualified candidates who have served as full time employees of the Village for at least six (6) months instead of (18) months.
- The probationary period of entry level candidates has been extended to (18) months from (12) months.
- Section 4.10 Accidental Injury to, or death of, police officer; Outdated language was stricken to reference the Village's Personnel Rules & Regulations and the Illinois Worker's Compensation and Occupational Diseases Act.

## FINANCIAL IMPACT

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None

## ATTACHMENTS

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1. Ordinance Amending Chapter 4, Police Department, of the Lake in the Hills Municipal Code

## RECOMMENDED MOTION

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Motion to approve the Ordinance amending Chapter 4, Police Department, of the Lake in the Hills Municipal Code.

**VILLAGE OF LAKE IN THE HILLS**

**ORDINANCE NO. 2024 - \_\_\_\_\_**

**An Ordinance Amending Chapter 4, Police Department,  
of the Lake in the Hills Municipal Code**

WHEREAS, the Village of Lake in the Hills, McHenry County, Illinois (the "Village") is a home rule municipality as contemplated under Article VII, Section 6, of the Constitution of the State of Illinois, and the passage of this Ordinance constitutes an exercise of the Village's home rule powers and functions as granted in the Constitution of the State of Illinois; and

WHEREAS, subject to said Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals and welfare; and

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Lake in the Hills, McHenry County, Illinois, as follows:

SECTION 1: Chapter 4, Police Department, Section 4.01, Department Established, of the Lake in the Hills Municipal Code shall be amended to read as follows:

**4.01 DEPARTMENT ESTABLISHED**

There is hereby established a department of the Village of Lake in the Hills which shall be known as the Police Department ("Department" for purposes of this Chapter). The Department shall consist of the following sworn personnel: one Chief of Police, one Deputy Chief of Support Services, one Deputy Chief of Patrol Services and the appropriate number of sergeants and patrol officers as approved and authorized by the Village President and Board of Trustees.

**A. Appointments**

1. The Chief of Police shall be appointed pursuant to the provisions of Section 4.02.
2. The Deputy Chief of Support Services and the Deputy Chief of Patrol Services shall be exempt positions and may be appointed from any rank of sworn full-time officers, but must have at least five years of full-time service as a police officer in the Village's Police Department. The Deputy Chief of Support Services and the Deputy Chief of Patrol Services shall serve at the discretion of the Chief of Police and, if removed from the position, shall revert to the rank held immediately prior to the appointment of Deputy Chief of Support Services or Deputy Chief of Patrol Services position.

3. Appointments to all other sworn positions of the Department shall be made by the Chief of Police through the selection of individuals identified on the eligibility lists of qualified candidates as developed by the Board of Police Commissioners and as more fully described in Section 4.09.0.3 and any other provisions of this Chapter. Said eligibility lists for both initial entry and promotional positions shall list, in order of their scores, all candidates who have successfully passed the examination process as determined by the Board of Police Commissioners.

a. Exception: The Chief of Police may, in his or her discretion, choose to appoint, ahead of any other applicant listed on the eligibility list of qualified candidates for initial entry, any applicant who has at least ~~18~~6 months previous full-time experience as a police officer and meets all other criteria as defined by the Chief of Police pursuant to an established Lateral Entry program.

SECTION 2: Chapter 4, Police Department, Section 4.09, Board of Police Commissioners, Sub-Section H, Reports and Budget Request, of the Lake in the Hills Municipal Code shall be amended to read as follows:

#### 4.09 BOARD OF POLICE COMMISSIONERS

H. ~~ANNUAL~~-REPORTS AND BUDGET REQUEST: The Commission shall submit to the Village President, on request, an annual/periodic reports of its activities. The Commission's budget shall be set as part of the Village's annual budget process. and annual budget request prior to the end of each fiscal year.

SECTION 3: Chapter 4, Police Department, Section 4.09, Board of Police Commissioners, Sub-Section K, Applications for Entry Level Position (other than lateral transfers), of the Lake in the Hills Municipal Code shall be amended to read as follows:

K. APPLICATIONS FOR ENTRY LEVEL POSITION (other than lateral transfers):

1. CITIZENSHIP; RESIDENCE: Each applicant for an entry-level position must be a citizen of the United States, except; however, an individual who is not a citizen but is legally authorized to work in the United States under federal law or is an individual against who immigration action has been deferred by the U.S. Citizenship and Immigration Services under the federal Deferred Action for Childhood Arrivals (DACA) process is authorized to apply for the position of police officer, subject to all requirements and

limitations, other than citizenship, to which other applicants are subject and the individual being authorized under federal law to obtain, carry, or purchase or otherwise possess a firearm. Any person who becomes a Member of the Department shall become a resident of the Village or a resident within 20 air miles of the corporate limits of the Village, within 12 months from the date of his or her probationary.

2. APPLICATION DOCUMENTS:

- a. Forms Compliance. Every application for an entry-level position in the Police Department shall be filed on forms furnished approved by the Commission. Every applicant must comply with all requirements of said forms. Applications must be filed with-as prescribed by the Commission on or before the deadline established for such filing by the Commission, which deadline shall be at least seven days prior to the scheduled physical agility test. All such applications shall be addressed to the Commission and filed at the Village Hall.~~—,~~ unless a testing company is utilized, in which case applications shall be returned pursuant to the instructions of the testing agency. All applications must be signed. All applications and all materials submitted with applications shall become the property of the Commission.
- b. False Statements. Any false statement knowingly made by a person in an application for examination or connivance in any false statement made in any certificate that may accompany such application shall be deemed good cause for rejection of the application and exclusion from the examination.
- c. Testing Agency. The Commission may elect to participate in a testing agency, in which event the procedures of the agency shall be followed as determined by the Commission.
- d. Birth Certificate. The applicant shall furnish a copy of his or her birth certificate with the application.



3. DISQUALIFICATION:

The Commission may (i) refuse to examine an applicant, (ii) refuse, after examination, to certify an applicant as eligible, ~~or (iii) remove or otherwise discharge an individual from the Department:~~

- a. Who is found lacking in any of the established preliminary requirements for the service for which application is made; or
- b. Who currently is using narcotics or drugs or who is addicted to the use of narcotics, drugs, or intoxicating beverages and is not currently in a rehabilitation program for such addiction; or
- c. Who has been convicted of a felony, or any crime involving moral turpitude, or any misdemeanor; or
- d. Who has been dismissed from any public service for cause; or
- e. Who does not possess a high school education or its equivalent; or
- f. Who has attempted to practice any deception or fraud in his or her application; or
- g. Who has failed, or failed to complete, any Criteria of the application process or the examination process; or
- h. Who fails to meet any State statutory standard or criterion for the position sought.

4. Defective Applications.

It is the responsibility solely of the applicant to submit a properly completed application in a timely fashion. Any defect in an application shall be grounds for disqualification of the applicant from consideration.

5. Special Qualifications.

If the position for which an examination is being given requires special qualifications of the applicants, then the Commission may require evidence from each applicant of special training or practical experience necessary to satisfy such special qualification.

6. Age Requirement.

Applicants for the position of police officer must be at least 21 years of age at time of appointment and, subject to the Act, less than 35 years of age to be eligible to take an examination for an entry level position.

7. Notice of Acceptance.

The Commission or selected testing service secretary—shall notify each applicant whose application has been accepted by the Commission to present himself or herself for examination with an executed physician's certificate signed not earlier than six months prior to the date of the application stating that the applicant is physically capable of participating in a strenuous physical agility test.

8. Release of Liability.

In consideration of being admitted to the examination process, all applicants shall execute and deliver to the Commission a waiver and release, on a form prescribed by the Commission, of any and all liability resulting from participation in the examination.

9. Admission to Examination.

No applicant shall knowingly be admitted to an examination that does not meet the minimum qualifications fixed for the position sought. The fact that an applicant is admitted to any examination shall not be considered as evidence that he or she is qualified, or eligible, for said examination or for the position sought.

10. Disclaimer of Right or Interest in Applicant.

Neither the filing of an application, nor the acceptance of an application, nor an applicant's satisfaction of any general or special qualification for filing an application or for being admitted to an examination, nor anything else in this Section shall be construed as creating any vested, property, for, or be liberty, or other right or interest in any person to apply for, be examined appointed to any position in the Police Department.

SECTION 4: Chapter 4, Police Department, Section 4.09, Board of Police Commissioners, Sub-Section L, Examinations for Entry Level Position, of the Lake in the Hills Municipal Code shall be amended to read as follows:

L. EXAMINATIONS FOR ENTRY LEVEL POSITION

1. Examination Call.

The Commission shall call, from time to time as necessary, an examination to create a register of persons eligible for an entry-level position in the Police Department.

2. Notice of Examination.

The Physical Agility and Written Test examination criteria~~s~~ for an entry-level position shall be commenced on the date or dates fixed by the Commission, ~~and notice shall be published in a local newspaper in accordance with the Act.~~ These examination criteria~~s~~ may be postponed by order of the Commission, which order shall state the reasons for such postponement and shall designate a new date for the examination criteria~~s~~. Applicants shall be notified of the postponement of any examination criteria and of the new date fixed for that examination criteria.

3. Type of Testing.

The examination criteria~~s~~ shall be such as will fairly test the capacity of the applicant to discharge the essential functions and the duties of the position for which the examination is being given. Each examination criteria shall be

conducted by the Commission or by agents or consultants as directed by the Commission and shall be graded by the Commission. All testing materials and test scores shall be the property of the Commission. The grading of tests by the Commission shall be final and conclusive and not subject to review by any other board or tribunal of any kind or description, except as provided by law.

4. All elements of the selection process are administered, scored, evaluated, and interpreted in a uniform manner by the Board of Police Commissioners of the Village of Lake in the Hills.
5. The steps in the selection process will be conducted by trained personnel.
6. Minimum Passing Grades Required.

Each applicant must achieve the minimum-passing grade required on each criteria of an examination. The failure of an applicant to achieve the minimum passing grade for any criteria of an examination shall disqualify that applicant from any further participation in the examination process.

7. Examination Criteria.

An examination for an entry-level position shall include the following criteria, which have the following minimum-passing grades:

a. Physical Agility Test	Pass/Fail
b. Written Test.	70%
c. Background Check.	Pass/Fail
d. Personal or Group Interview.*	<del>70%</del>
e. Psychological Examination.*	Pass/Fail
f. Medical Examination.*	Pass/Fail

The minimum-passing grades for the written test and personal or group interview criteria are based on a maximum grade of 100% and are not based on a scoring curve.

\*Criteria (d) may be administered by the Commission only to such number of applicants determined by the Commission to be necessary to

satisfy present and near future hiring needs. The Commission shall defer criteria (e) and (f) until an entry-level position is open and a conditional offer of employment has been made.

8. Physical Agility Test.

Each applicant for any entry-level position shall submit himself or herself for a physical agility test, which shall fairly test whether an applicant is capable of performing the essential physical functions of the position. An applicant may submit a valid POWER test card issued within the last year in lieu of taking the physical agility test administered by Commission.

9. Written Test.

Each applicant for any entry-level position who has successfully passed all prior criteria of the examination shall submit himself or herself for a written test. The written test shall be conducted by the Commission or by such person as the Commission may designate. The results of the written test shall be submitted to the Commission.

10. Background Check.

The Chief of Police, ~~at the request of the Commission,~~ shall conduct background checks of applicants for an entry-level position who have successfully passed all prior criteria of the examination and to whom a conditional offer of employment has been made. The background checks shall review available data and information related to the applicants' compliance with the general qualifications and criteria for the position being sought, including the applicant's criminal history, employment history, references, educational background, ~~credit history,~~ litigation history, military record, driving record, neighborhood and community standing and service, and such other data and information pertinent to a proper and thorough review and analysis of each applicant. The results of the background checks shall be submitted to the Commission-Chief of Police for evaluation.

11. Personal or Group Interview.

Each applicant for an entry-level position who has successfully passed all prior criteria of the examination shall submit himself or herself for a personal interview when so directed by the Commission. At least two members of the Commission shall be present to conduct the Personal or Group interview. The Commission may designate others to participate in the administration of the interview. The examiners may ask questions of the applicants that will enable the examiners to evaluate the applicants on speech, alertness, ability to communicate, judgment, emotional stability, intellectual skills, self-confidence, and general fitness for the position.

12. Psychological Examination.

Each applicant for an entry level position who has successfully passed all prior criteria of the examination and to whom a conditional offer of employment has been made shall submit himself or herself for a psychological examination when, and at the time and place, directed by the Police Department. The psychological examination shall be given solely to determine an applicant's suitability for and ability to perform the essential functions of the position for which he or she is applying. The examiner shall prepare and submit a report of the examination to the ~~Commission for its evaluation~~Chief of Police.

13. Medical Examination.

Each applicant for an entry level position who has successfully passed all prior criteria of the examination and to whom a conditional offer of employment has been made shall submit himself or herself for a medical examination, including a vision examination and drug screening, by a licensed physician designated by the Police Department for the purpose of determining fitness for and physical ability to perform all of the essential functions and duties of the position for which he or she is applying. Without limiting the preceding sentence the essential functions of

the position of Police Officer include being able to see with 20/20 vision in each eye, either with or without correction, and without being colorblind. The results of the examination shall be submitted to the ~~Commission~~ Chief of Police for its evaluation. A positive result on a confirmatory drug-screening test shall be a sufficient basis for a determination by the ~~Commission~~ Chief of Police that an applicant has failed the medical examination. At any point in the examination process, an applicant may be requested to submit evidence of vision sufficient to meet the standards of the Police Department or to submit to a vision examination to determine if his or her vision meets such standards. Each applicant shall be responsible for advising the ~~Commission~~ Chief of Police of any change in his or her physical condition subsequent to the medical examination. The ~~Commission~~ Chief of Police, in its discretion, may require an applicant to submit to a follow-up medical examination prior to appointment to a position.

14. Reimbursement.

If any Member voluntarily leaves the Department at any time prior to 24 months from the date of his or her original appointment, the member shall reimburse the Village according to the following formula for the costs incurred by the Village in sending the Member to basic law enforcement training, as well as costs for the uniforms provided.

For every month that the Member leaves prior to serving 24 months with the Department, the Member shall pay to the Village 1/24th of the total amount expended by the Village for the officer's training at the Police Training Institute "Basic Training", and for uniforms purchased.

Resignation by a Member for whatever reason shall be prima facie evidence that the Member left voluntarily.

If the Member is forced to leave the Department as a result of serious medical problems that affect the Member's ability to safely and efficiently function as a police officer, or upon

the death of a Member, the requirement of reimbursement may be waived.

15. The Commission will maintain records on testing results of each applicant in accordance with the Illinois Compiled Statutes.

SECTION 5: Chapter 4, Police Department, Section 4.09, Board of Police Commissioners, Sub-Section M, Lateral Entry Program, of the Lake in the Hills Municipal Code shall be amended to read as follows:

M. LATERAL ENTRY PROGRAM

1. The Chief of Police will be responsible for overseeing the Lateral Entry Program. All persons applying for consideration by the Village of Lake in the Hills Police Department under the Lateral Entry Program must comply with the following requirements:
  - A. Must possess a current Law Enforcement Officer Certification and have been employed in a full time law enforcement capacity for a minimum of ~~18~~6 months. The totality of the individual's law enforcement training and work experience will be considered.
  - B. An individual wishing to be considered for the Lateral Entry Program will submit an application and letter to the Chief of Police.
  - C. Must meet the current standards for a police officer applicant.
  - D. The potential candidate must be evaluated and recommended by the police department's selection committee as assigned by the Chief of Police.
  - E. The selection committee will conduct an initial interview with the candidate and if recommended, coordinate a ride along, preferably with ~~one~~ of the Department's Police Training ~~Officers~~. After the ride along, the ~~Police Training~~ Officer will provide an overview of the session with the candidate to the Chief of Police.
  - F. If the candidate has been recommended to continue through the process, a ~~panel~~



~~interview will be conducted comprised of members of the command staff and training officers.~~ final interview will be conducted as prescribed by the Chief of Police. If the candidate is still recommended, they will be required to complete the physical agility testing.

G. Psychological Examination - An applicant for a lateral entry position who has successfully passed all prior criteria of the examination and to whom a conditional offer of employment has been made shall submit himself or herself for a psychological examination when, and at the time and place, directed by the Police Department. The psychological examination shall be given solely to determine an applicant's suitability for and ability to perform the essential functions of the position for which he or she is applying. The examiner shall prepare and submit a report of the examination to the Department for its evaluation.

H. Medical Examination - An applicant for a lateral entry position who has successfully passed all prior criteria of the examination and to whom a conditional offer of employment has been made shall submit himself or herself for a medical examination, including a vision examination and drug screening, by a licensed physician designated by the Police Department for the purpose of determining fitness for and physical ability to perform all of the essential functions and duties of the position for which he or she is applying. Without limiting the preceding sentence, the essential functions of the position of Police Officer include being able to see with 20/20 vision in each eye, either with or without ~~correction~~corrective lenses, and without being colorblind. The results of the examination shall be submitted to the Chief of Police Commission for its evaluation. A positive result on a confirmatory drug-screening test shall be a sufficient basis for a determination by the Police Department that an applicant has failed the medical examination. At any point in the examination process, an applicant may be requested to submit evidence of vision sufficient to meet the standards of the Police Department or to submit to a vision examination to determine if his or her vision meets such standards. Each applicant shall be

responsible for advising the Police Department of any change in his or her physical condition subsequent to the medical examination. The Police Department, in its discretion, may require an applicant to submit to a follow-up medical examination prior to appointment to a position.

2. A lateral entry hire will be required to successfully complete a Police Officer Training Program as established by the Department. Length and content of field training may vary based upon qualifications and experience.
3. Lateral entry hires will be required to meet the one year probationary standards of the Department for sworn members.
4. The Chief of Police may place a lateral entry hire at any step on the wage schedule, if any, in effect at that time, or otherwise at a salary consistent with the Department's policies and interests, based on the lateral entry hire's training, experience, and other relevant qualifications.

SECTION 6: Chapter 4, Police Department, Section 4.09, Board of Police Commissioners, Sub-Section N, Examinations for Promotional Positions, of the Lake in the Hills Municipal Code shall be amended to read as follows:

N. EXAMINATIONS FOR PROMOTIONAL POSITIONS

1. The Chief of Police oversees the selection of exempt rank personnel independent of the Board of Police Commission. The current exempt rank positions are the Deputy Chief of Support Services and Deputy Chief of Patrol Services.
2. A written announcement of promotional testing under the Board of Police Commission control is to be provided to all eligible personnel. The following information is included on all notices prominently posted:
  - a. A description of the position/job classification for which there will be an eligibility list established or for which any vacancy exists.
  - b. A schedule of dates, times, and locations of all elements of the process.
  - c. A description of the eligibility requirements for the position. The

eligibility requirements for the position of Sergeant are as follows;

1. Employee shall have three years of service at time of appointment
2. Employee can not have been placed on a performance improvement plan in the        year  prior to appointment.

d. A description of the process to be used in selecting personnel for the vacancies.

3. Promotional Testing Order.

Vacancies in the Department, above the entry-level position, shall be filled as determined by the Chief of Police through promotion from within the Department. Each examination for promotion shall be competitive among the Members of the next lower rank who are qualified for the position and who desire to submit themselves to such examination. If there are no Members, the Commission shall extend the opportunity to take the examination successively through all the lower orders of rank in the Department.

4. Type of Testing; Examination Criterias.

All testing materials and test scores shall be the property of the Commission. Each Examination Criteria shall be conducted by the Commission or by agents or consultants as directed by the Commission and shall be graded by the Commission. The grading of tests by the Commission shall be final and conclusive and not subject to review by any other board or tribunal of any kind or description, except as provided by law.

Each applicant must achieve the minimum passing grade required on each criteria of an examination. The failure of an applicant to achieve the minimum passing grade for any criteria of an examination shall disqualify that applicant from any further participation in the examination process.

Criteria.

An examination for a promotional position shall include the following criteria, which have the following minimum-passing grades:

- |                        |           |
|------------------------|-----------|
| a. Written Examination | 70%       |
| b. Assessment          | Pass/Fail |

5. Examination.

Each applicant for a promotional position shall submit himself or herself for an examination. The examination will be a written test as well as an assessment designed to measure merit and ability. The written test and assessment shall be conducted by the Commission or by such person as the Commission may designate.

6. Personal Interview.

Each applicant for a promotional position who has successfully passed the written and assessment process of the examination, shall submit himself or herself for a personal interview at the time and place directed by the Commission. The Commission may, at its discretion, delegate to others the administration, scoring, and/or responsibility for conducting the interview and one or more of the Commissioners may be present during the personal interview. The examiners may ask questions of the applicants that will enable the examiners to evaluate the applicants on speech, alertness, ability to communicate, judgment, emotional stability, intellectual skills, self-confidence, and general fitness for the position.

7. Promotions in the Department provide an equal opportunity for sworn personnel to be considered for promotion based upon testing components and procedures tailored to meet the needs of the Department and which are job related and nondiscriminatory.

SECTION 7: Chapter 4, Police Department, Section 4.09, Board of Police Commissioners, Sub-Section O, Eligibility Lists and Registers of Eligibles, of the Lake in the Hills Municipal Code shall be amended to read as follows:

O. ELIGIBILITY LISTS AND REGISTERS OF ELIGIBLES

1. Establishment of Registers of Eligibles.

The Commission shall establish and maintain, from time to time as appropriate, a Register of Eligibles for each rank within the Police Department, except for the position of Chief of Police and the Deputy Chiefs, in alphabetical

order without reference to examination results.

No preference points for any reason shall be added to the test results of any applicant. The secretary then shall prepare and submit to the Chief of Police the examination results showing the relative excellence of the applicants, as determined by examination. This compilation of results shall not be reviewed by anyone other than the Chief of Police.

2. Removal of Names from Register of Eligibles.

The secretary shall strike from the Register of Eligibles for an entry level or for a promotional rank the name of:

- a. Any applicant who may be disqualified pursuant to this Section;
- b. Any applicant who ceases to meet the qualifications for the rank to be filled;
- c. Any applicant who fails to accept, in writing signed by the applicant, the position within the time set by the Commission for acceptance, except as otherwise provided in this Section.

3. Appointments.

All vacancies in the Department, entry or promotional level, shall be filled from the Eligibility List or through the Lateral Entry program by the Chief of Police who shall have complete access to all personnel files and test results of the individuals listed on the Eligibility List. The Chief of Police must appoint from one of the top three qualified candidates, based on the scoring criteria established by the Board of Police Commissioners. However, for entry level appointments, the Chief may additionally consider and appoint any otherwise qualified candidate who has currently served at least ~~18~~6 months as a full-time employee of the Village in any capacity or department. When more than one sworn position is being appointed contemporaneously, the Chief of Police, in addition to all other provisions, may also consider the next three top scoring candidates for each position above one being appointed (e.g. if two positions are being

appointed, the top six scoring candidates plus qualified Village employees and qualified Lateral applicants as described previously, may be considered and appointed).

4. Probationary Period.

- a. Entry-level Positions. All persons appointed to an entry-level position in the Police Department shall serve a probationary period of ~~12~~18 months and such additional period up to six months as the Chief of Police ~~Safety~~ may determine. During such probationary period, the Probationary Employee may be discharged, removed, or suspended at will, for any reason or no reason at all, by the Chief.

Promotional Appointments: All promotional appointments in the Department shall be subject to a promotional probationary period of 6 months. Any such appointee who fails to satisfactorily complete the promotional probationary period, as solely determined by the Chief of Police without hearing or cause, for any reason or no reason at all, shall be returned to his/her prior rank and salary.

- b. No Vested Rights. During any probationary period, the appointee shall not be deemed to have any vested, property, or other rights or interests in his or her employment with the Village, and nothing in this section or in the other provision of this Chapter shall be construed as creating any such right or interest.

5. Acceptance or Waiver of Appointment.

An applicant must accept in writing an appointment or promotion within the time set by the Commission at the time the offer is made. However, an applicant may, in writing within seven days after notice of the offer of appointment, decline and request that the Commission maintain his or her name on the Register of Eligibles. Each applicant may request that his or her name remain on the

Register of Eligibles only once.

SECTION 8: Chapter 4, Police Department, Section 4.09, Board of Police Commissioners, Sub-Section O, Suspensions; Demotions; Discharges, of the Lake in the Hills Municipal Code shall be amended to read as follows:

PE. SUSPENSIONS; DEMOTIONS; DISCHARGES

1. Cause Required for Removal or Discharge.

Except as provided in this Section, no member of the Police Department shall be permanently removed or discharged from the Department, unless the Commission determines that cause exists, after a charge has been filed and the Member has had an opportunity to be heard in his or her own defense, all as provided for in this Section.

2. Suspensions; Appeals to the Commission.

a. Suspension. The Chief of Police shall have the power to suspend any Member of the Police Department without pay for a period of not more than 5 days. The Chief shall serve a written notice of suspension on the Member. The notice shall set forth the grounds for the suspension. The Chief shall notify the Commission promptly of every suspension.

b. Appeal Hearing. Any Member suspended may appeal to the Commission for a review of the suspension by filing notice of appeal within 5 days after Service of written notice of the suspension, regardless of when the suspension is to be served. A hearing shall be had on the appeal in accordance with the provisions of this Section, except that the Member shall have the burden of establishing that there were no grounds for the suspension.

The Commission shall review the action of the Chief of Police to determine if it is just and reasonable in light of all the evidence presented. The Commission may sustain the action of the Chief, may reverse the action of the Chief with instructions

that the Member receive his or her pay for the period involved, may suspend the Member for an additional period of not more than 30 days, or may remove or discharge the Member depending on the evidence presented.

3. Demotions. Appeals to the Commission.

- a. The Chief of Police shall have the power to demote any Member of the Police Department. The Chief shall serve a written notice of the demotion on the Member. The notice shall set forth the grounds for the demotion. The Chief shall notify the Commission promptly of every demotion.
- b. Appeal Hearing. Any Member demoted may appeal to the Commission for a review of the demotion by filing notice of appeal within 5 days after Service of written notice of the demotion. A hearing shall be had on the appeal in accordance with the provisions of this Chapter, except that the Member shall have the burden of establishing that there were no grounds for the demotion.
- d. The Commission shall review the action of the Chief of Police in light of all the evidence presented. The Commission may sustain the action of the Chief, reverse the action of the Chief with instructions that the Member receive his or her pay for the period involved, or remove or discharge the Member depending on the evidence presented. In the event the decision to demote is sustained by the Commission, the police officer shall be paid the salary of the lower rank upon demotion.

4. Charges.

- a. Complainant. Any person may bring charges against a Member.
- b. Charges. Charges shall be in writing, shall be signed by the complainant, and shall state with specificity the facts alleged to constitute cause for removal or discharge or grounds for suspension. The charges shall



be filed with the secretary and shall be served on the Member.

5. Pre-Hearing Procedures.

- a. Hearing Date. After the filing of a charge, the Commission shall set the date, time, and place for hearing. In the case of charges filed for removal or discharge, the hearing shall be commenced within 30 days after the filing of the charges, in accordance with the Act.
- b. Notice of Hearing. The secretary shall promptly serve notice of the hearing on the parties, which service shall be made not less than 5 days prior to the hearing date.
- c. Answer. The Member may file a written answer to the charges. The written answer shall be signed by the Member, shall be filed with the secretary, and shall be served on the complainant and the Commission not less than 48 hours prior to the hearing.
- d. Reply. The complainant may reply to any affirmative matter contained in such answer by signing, filing, and serving such reply not less than 8 hours prior to the hearing.
- e. Continuance. Motions for continuance of the hearing made by either party shall be in writing and shall be filed with the secretary and served on the opposing party not less than 72 hours prior to the time set for hearing. The Commission may waive the time requirement on good cause being shown and a finding that no prejudice will result to any party from any waiver. The Commission may grant or deny a continuance on the motion of either party, or may grant a continuance on its own motion, but, in the case of charges filed for removal or discharge, no continuance that extends the commencement of the hearing beyond 30 days from the filing date shall be granted. If a continuance is granted on the motion of a Member who has been suspended by the Commission, with or without pay, pursuant to

this Section and the continuance causes postponement of the conclusion of the hearing to a date more than 30 days after the date on which charges were filed, a waiver of pay shall be required from the Member for the period beginning with the 31st day after such filing and continuing to the date of the conclusion of the hearing.

- f. Attendance of Witnesses. Any party may file, at any time prior to the hearing, an application with the secretary for the issuance of a subpoena or subpoenas for any person or persons to appear at the hearing, or to have any such person produce books, papers, records, accounts, and other documents at the hearing. Such application shall be in writing and shall adequately identify such person, persons, or documents sought to be subpoenaed. The Commission shall issue such subpoenas if the Commission deems the testimony of such person or such documents to be relevant to the hearing. The subpoenas may be authorized either by resolution at a Commission meeting or by the signature of any two Commissioners without a meeting. Subpoenas may be served by any person of the age of 21 years or older.
- g. Evidence Depositions. Evidence depositions may be taken and utilized in the manner and under the conditions prescribed in courts of general jurisdiction in the State.
- h. Stipulations. The parties may stipulate and agree in writing, or on the record, as to evidentiary facts or other matters. Any facts so stipulated shall be considered as evidence in the proceeding.
- i. Suspension Before Hearing. The Commission may suspend the Member pending hearing, with pay or without pay, for not more than 30 days. If the Commission, after a hearing, determines that the charges are not sustained, then the Member shall receive any pay withheld during the suspension period.

6. Hearing.

- a. Commencement and Adjournment. A hearing shall ~~be commenced~~commence on the date established therefore in accordance with this Section. The hearing may be adjourned from time to time as determined by the Commission.
- b. Quorum to Conduct Hearing. Two Commissioners shall constitute a quorum of the Commission to conduct the hearing.
- c. Public Hearings and Closed Hearings. All hearings of the Commission shall be held in accordance with the Illinois Open Meetings Act. Each hearing shall be public, but at any time before or during a hearing the Commission may determine that the hearing or any portion of the hearing, except for final action, shall be closed. The Commission may deliberate in public session or in closed session, provided that final action shall be taken only in public session.
- d. Counsel. Each party, at his or her election and expense, may be represented by any attorney at law licensed to practice law in the State. Such attorney shall file and serve his or her appearance with the Commission.
- e. Oath. Each witness shall be sworn under oath prior to testifying. A court reporter or any Commissioner may administer the oath.
- f. Order of Proceedings: Cross Examination. After disposition of any preliminary motions for continuance, motions directed to the charges, or other motions, the party with the burden of proof shall present and examine witnesses and offer other evidence substantiating the charges that have been made against the Member. Thereafter, the Member may present and examine witnesses and offer other evidence refuting the charges. The party with the burden of proof then may present evidence in rebuttal. All parties shall have the right to cross-examine witnesses presented by the opposite party.

The Commission may determine to change the order of proceedings for a particular hearing as it determines is just and appropriate.

g. Rules of Evidence.

(1) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence, as applied in civil cases in the State, may be followed generally; provided, however, that when necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. The Commission shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made by either party and must be ruled upon by the Commission. Such objections and rulings shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of parties will not be prejudiced substantially, any part of the evidence may be received in written form.

(2) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available.

(3) The Commission may take notice of judicially cognizable facts.

h. Burden of Proof. Except as provided in this Section the complainant shall have the burden of proving the charges brought by a preponderance of the evidence.

i. Argument. The Commission may permit opening statements and also may permit closing arguments, first on behalf of the party with the burden of proof, next on behalf of the

Member, and finally on behalf of the party with the burden of proof, within time limits to be established by the Commission in each case.

- j. Record of Proceedings. The hearing proceedings shall be recorded digitally or through a court reporter ~~on tape by a tape recorder~~ supplied by the Commission. Any such media or record ~~tape~~ shall be made available to any party for audition or transcription at such party's expense. The Commission or any party in addition may provide for a transcript to be taken by a reporter in which event digital~~tape~~ recording shall not be required. Upon the request of the Commission or any party, the transcript maybe produced in writing to be paid for by the person making the request.

7. Findings and Decision.

- a. Vote. To reach a finding on charges of guilty, at least 2 Commissioners must vote guilty. A vote of guilty as to a charge by fewer than 2 Commissioners constitutes a finding of not guilty. To reverse a suspension appealed to the Commission, at least 2 Commissioners must vote to reverse.
- b. Finding of Not Guilty. If the Member is found not guilty as to each and every charge, or if a suspension appealed pursuant to this Section is reversed, then the Commission shall make a finding that the charges or suspension are not sustained and shall enter an order terminating immediately any suspension and requiring the Police Department to reimburse the Member for all wages not paid to the Member during such suspension period.
- c. Finding of Guilty. If the Commission finds the Member guilty of any one or more of the charges, or denies the appeal of a suspension, then the Commission shall adopt findings of fact in support of such determination. The Commission may order the discharge and removal of the Member from

office immediately or may order the suspension of the Member from office, with or without pay, for a period of not more than 30 days, including any period of suspension, with or without pay, by the Chief of Police or the Commission prior to such finding.

- d. Notice of Findings and Decisions. The Commission shall promptly serve notice on the parties of its findings and decision.
- e. No Rehearing. Such findings and decision of the Commission shall be final and not subject to rehearing.

8. Appeal of Commission Decision.

Any party aggrieved by a final decision of the Commission may seek judicial review of such decision in accordance with the Act and the Illinois Administrative Review Law.

SECTION 9: Chapter 4, Police Department, Section 4.10, Accidental Injury to, or Death of, Police Officer, of the Lake in the Hills Municipal Code shall be amended to read as follows:

**4.10 ACCIDENTAL INJURY TO, OR DEATH OF, POLICE OFFICER**

A. DEATH ALLOWANCES: ~~In addition to any other benefit provided by law, a full-time police officer shall be provided a life insurance policy in accordance with what is provided to other benefit-eligible employees of the Village, as prescribed by the Personnel Rules & Regulations, as may be amended from time to time. The Village shall provide a paid group term life insurance policy in an amount at least equal to the employee's annual salary as of first full pay period in January each calendar year but no less than \$50,000 for regular, full-time employees, subject to the benefit reductions set forth in the issued life insurance policy and certificate of coverage. This plan also includes coverage for spouse and dependent children. In the event a police officer employed by the Village is killed or fatally injured while in the performance of his or her duties, the Village shall provide an allowance of money to the family or dependents of such officer, the amount of which shall be the greater of \$15,000.00 or the amount, if any, by life insurance provided by the Village.~~

B. MEDICAL CARE AND HOSPITAL TREATMENT: A police officer may be eligible for payment of any medical expenses in accordance with the Illinois Workers' Compensation and Occupational Diseases Acts.

~~1. In case of an accident resulting in an injury to, or death of, a police officer in the employ of the Village while~~

~~in the performance of his or her duties, the Chief of Police may secure and provide proper medical care and hospital treatment for such police officer, and to that end may incur expenses in connection therewith to be paid from funds appropriated therefore by the Board of Trustees or from proceeds of insurance funds.~~

~~2. All bills showing the items of expense incurred for any medical care and hospital treatment referred to in Section 4.10-B-1 shall be presented to the Chief of Police, Village President or his or her designee, who shall satisfy himself as to the reasonableness of the charges made for the services so rendered and make his or her recommendation to the Board as to the payment of such items of expense by the Village. The Board of Trustees shall thereupon make its determination on the matter and, if necessary, appropriate funds to cover the items of expense.~~

~~C. HOSPITAL PLAN FOR DEPENDENTS HEALTH INSURANCE: In case of a police officer employed by the Village is killed in the line of duty or who dies as a result of duty connected injuries, the Village shall pay 50 percent of the cost of the existing Village hospital plan or its replacement plan from time to time for the dependents of such officer for a period of five years after the date of death of such police officer. A police officer and/or their dependents may be eligible for continuation of Village provided health insurance, in accordance with the Public Safety Employees Benefits Act and other applicable state and Village policies.~~

~~D. INVESTIGATION OF FACTS:~~

~~1. It shall be the duty of the Chief of Police, Village President or his or her designee to make a complete investigation of all facts surrounding any accident resulting in an injury to or death of a police officer in the employ of the Village while in the performance of his or her duties, to obtain the statements of all material witnesses and to present a report thereof to the Board of Trustees. Such report shall also show the date and hour of any such accident, the place of occurrence of the same, the names and addresses of witnesses, the apparent nature and extent of the injury and whether the injury or death was caused under circumstances creating a legal liability for damages on the part of some person other than the Village.~~

~~2. Upon the death of a police officer who is killed or fatally injured while in the performance of his or her duty, the Chief of Police, Village President or his or her designee shall make out a certificate setting forth the facts which caused the death and having attached the certificate of the attending physician stating that such death was the result of violence or accident. Such certificate shall be required to release the funds set forth in Sections 4.10-A and 4.10-C.~~

DE. REIMBURSEMENT BY THIRD PARTY: If the Village Attorney is of the opinion that any accident referred to in this Section 4.10 created a legal liability for damages on the part of some person other than the Village, it shall be the duty of the Chief of Police to demand from such person reimbursement to the Village for the amount expended by the Village for the medical care and hospital treatment of such police officer. In default of payment of such amount so expended, the Village Attorney may institute proceedings to recover of the Village the amount so expended.

EF. Nothing herein shall conflict with or relieve the Village of its statutory obligations regarding continuation of salary and/or benefits for police officers injured or killed in the performance of their duties.

SECTION 10: If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

SECTION 11: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 12: This Ordinance shall be in full force and effect upon its passage, approval and publication in pamphlet form (which publication is hereby authorized) as provided by law.

Passed this 25th day of January 2024 by roll call vote as follows:

	Ayes	Nays	Absent	Abstain
Trustee Stephen Harlfinger	_____	_____	_____	_____
Trustee Bob Huckins	_____	_____	_____	_____
Trustee Bill Dustin	_____	_____	_____	_____
Trustee Suzette Bojarski	_____	_____	_____	_____
Trustee Diane Murphy	_____	_____	_____	_____
Trustee Wendy Anderson	_____	_____	_____	_____
President Ray Bogdanowski	_____	_____	_____	_____

APPROVED THIS 25TH DAY OF JANUARY, 2024

\_\_\_\_\_  
Village President, Ray Bogdanowski

(SEAL)

ATTEST:

\_\_\_\_\_  
Village Clerk, Shannon DuBeau

Published: \_\_\_\_\_





# REQUEST FOR BOARD ACTION

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**MEETING DATE:** January 23, 2024

**DEPARTMENT:** Police

**SUBJECT:** Approval of Master Software Licensing Agreement with DACRA Tech LLC

## EXECUTIVE SUMMARY

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The Village currently utilizes an ordinance violation software to process the entire life cycle of tickets issued for violations of the Lake in the Hills Municipal Code. The Village has experienced significant issues with the current vendor and proposed in the FY24 budget a replacement software option which was approved. The processing of ordinance violations involves several departments, so a committee was formed involving Police, Finance, and Community Development to evaluate three vendors; DACRA Tech, Quicket Solutions, and Tyler Technologies. Based upon two-year service agreements the following were the estimated costs;

- Quicket Solutions - \$53,400 (\$28,200 in 2024 and \$25,200 in 2025)
- DACRA Tech - \$65,000 (\$35,000 in 2024 and \$30,000 in 2025)
- Tyler Technologies - \$145,372 (\$112,696 in 2024 and \$32,676 in 2025)

Reference checks were conducted on the vendors. The agencies contacted reported being pleased with DACRA's performance, but were not favorable to their experiences with Quicket Solutions. The department has had our own internal dealings with Quicket Solutions and found that the system does not perform as advertised. Ultimately, DACRA was selected as the preferred vendor. Additionally, DACRA provides an all-in-one solution for the processing of state and municipal e-citations which would have a significant impact on the efficiencies within the Patrol and Records divisions.

## FINANCIAL IMPACT

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The initial investment in 2024 with DACRA Tech LLC is \$35,000 which had been budgeted in the Capital Improvement Fund (CIP). This includes \$15,000 in installation costs and another \$20,000 for eight months of maintenance costs. Year 2 includes a full twelve months of maintenance costs for a total of \$30,000.

Since the one-time costs do not meet the minimum capital threshold for software (\$25,000), a budget amendment will be required to move \$35,000 from the CIP Fund to the General Fund. At the same time, the budgeted General Fund transfer to the CIP Fund will be reduced by \$35,000 for a net zero effect on fund balance for both funds.

## **ATTACHMENTS**

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1. DACRA Tech LLC Master Software Licensing Agreement
2. Ticket Project Proposal Memorandum
3. Budget Amendment Ordinance

## **RECOMMENDED MOTION**

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1. Motion to approve the DACRA Tech LLC Master Software License Agreement
2. Motion to approve an Ordinance Approving a Budget Amendment to the Operating Budget for the Fiscal Year Ending December 31, 2024.

## DACRA TECH LLC MASTER SOFTWARE LICENSING AGREEMENT

This MASTER SOFTWARE LICENSING AGREEMENT (this “**Agreement**”) is dated \_\_\_\_\_ (the “**Effective Date**”) by and between Dacra Adjudication Systems, LLC d/b/a Dacra Tech, LLC, a Delaware limited liability company, (“**Dacra**”), and **Village of Lake in the Hills** (the “**Municipality**”), and together with DACRA collectively, the “**parties**”).

### RECITALS

WHEREAS, Dacra is engaged in the business of developing, managing and deploying municipal software applications, including but not limited to, a flagship citation issuance and adjudication system as well as other software tools and services including, e-Citation, Adjudication, Tow Management, and Fine Payment Processes; and

WHEREAS, the Municipality desires to utilize certain services of Dacra under the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the covenants and conditions set forth in this Agreement and in consideration for the use of the Services by the Municipality;

### AGREEMENT

1. Standard Terms and Conditions. The parties hereby incorporate by reference into this Agreement the foregoing recitals as well as the Master Terms and Conditions as set forth within **Exhibit A** (the “**Master Terms and Conditions**”).

2. Services. The Municipality hereby retains certain software services from Dacra as set forth within **Exhibit B** (the “**Services**”).

3. Pricing. In exchange for the use of the Services, the Municipality will be billed Fees as set forth within **Exhibit C** (the “**Fees**”).

4. Term. The term of this Agreement (the “**Term**”) shall be two (2) years and shall commence on the Effective Date. This Term of this Agreement shall automatically renew for successive periods of one year each at the then current pricing absent written notice by one party to the other party not less than 90 days prior to the expiration of the Term then in effect. Municipality will be notified of the then current pricing no less than 90 days prior to the expiration of the term.

5. Notices. Any notices or communications required or permitted to be given by this Agreement must be given in writing and personally delivered; or mailed by prepaid, certified mail, or courier; or transmitted by electronic mail transmission (including PDF) to whom such notice or communication is directed, to the mailing address or regularly monitored electronic mail address of such party as follows:

If to the Municipality:

Village of Lake in the Hills  
Attention: Deputy Chief Mannino  
600 Harvest Gate  
Lake in the Hills, IL. 60156  
Email: TBD

If to Dacra:

Dacra Tech, LLC  
Attention: Dave Braner, CEO  
450 Devon Avenue, Suite 100  
Itasca, IL. 60143  
Email: [David.Braner@Dacratech.com](mailto:David.Braner@Dacratech.com)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

**Dacra Tech, LLC**  
a Delaware limited liability company

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

Name (print): Dave Braner

Title: Chief Executive Officer

Date: January 17, 2024

**Village of Lake in the Hills**  
an Illinois municipal corporation

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

Name:

Title:

Date

[Signature page to Master Software Licensing Agreement]

**EXHIBIT A**  
**MASTER TERMS AND CONDITIONS**

**A. Limited License Granted**

Municipality is hereby granted during the Term of this Agreement, a nonexclusive, non-assignable, royalty free, limited license (the “**License**”) to use the Services (including access to any software owned by Dacra as encompassed within the Services) solely for the Municipality’s ordinance and code compliance purposes and subject to the terms of the Agreement.

**B. Third-Party Agreements**

Municipality hereby agrees that it may be required to enter into one or more additional contracts at the sole expense of Municipality with one or more third-party vendors in order to use and/or maximize some features of the software provided by Dacra such as the Municipality’s online payment processor or the Municipality’s collection agency.

**C. Data**

Municipality at all times will retain sole ownership of its Municipal Data. The term “**Municipal Data**” refers to all citation and hearing data collected on behalf of the Municipality with respect to the Services. Dacra at all times retains the right and license during the Term to access the Municipal Data and to grant third parties access to the Municipal Data in order to use and/or maximize some features of the software provided by Dacra such as the Municipality’s online payment processor or the Municipality’s collection agency.

**D. Dacra’s Intellectual Property**

Dacra or its licensors retain all ownership and Intellectual Property Rights in and to the Services, including any software, algorithms, programs, tools, code or instrumentalities encompassed therein in any manner and/or relating to the Services as utilized by the Municipality. Additionally, Dacra retains all ownership and Intellectual Property Rights to anything (including without limitation software and written product) delivered under the Agreement, including any future developments thereof, regardless of whether any Municipal employees or agents, had any input or in any way assisted in any such new development. Municipality hereby acknowledges that it may not:

- (i) Allow access to the Services available in any manner to any third-party or for any purpose not authorized by this Agreement unless such access is expressly permitted in writing by Dacra;
- (ii) Copy, reproduce, distribute, republish, download, display, post or transmit in any form or by any means, any materials provide by Dacra; and
- (iii) Modify, make derivative works of, disassemble, reverse compile, or reverse engineer any part of the Services (the foregoing prohibition includes but is not limited to review of data structures or similar materials produced by programs).

As utilized herein, the phrase “**Intellectual Property Rights**” shall include, without limitation, all patent, trademark, trade secret and copyrights relating in whole or in part to the Services and whether such right arises by registration with the United States Patent & Trademark Office (the “USPTO”), through the United States Library of Congress, with any state or municipal body and/or arising by common law or statute, including without limitation the Illinois Trade Secrets Act, 765 ILCS 1065 et seq or the Defend Trade Secrets Act of 2016.

**E. Further Assurances**

Municipality further agrees at any time in the future and upon request by Dacra, to execute any further documentation as may be reasonably necessary to effectuate the intent of the parties to this Agreement in

accordance with the terms of this paragraph D, including, without limitation, a future assignment of Intellectual Property Rights.

#### **F. Pricing and Billing**

The Fee set forth in the Agreement will remain fixed during the Term absent a written amendment signed by the parties. Municipality agrees to pay any sales, value-added or other similar taxes imposed by applicable law that Dacra must pay based on the Services, except taxes based on Dacra's income. For any partial month during the Term, the Fees shall be prorated based on the number of days that the Services were provided for such month. Dacra may audit Municipality's use of the Services. Municipality hereby agrees to cooperate with Dacra's audit and provide reasonable assistance and access to information. All payments shall be made in accordance with, and subject to, the Illinois Local Government prompt Payment Act (50 ILCS 505/1-9).

#### **G. Termination**

Municipality may terminate this agreement at any time with 90 day written notice provided. Dacra may immediately suspend the License in the event: (i) Municipality fails to pay any sums due Dacra under the Agreement within ten (10) days after written notice from Dacra of the payment default, or (ii) in the event of a breach of this Agreement by Municipality which is not cured within 10 days of written notice thereof. In the event of such termination, Municipality agrees to pay all fees due Dacra which accrue or are incurred prior to the termination of the Agreement.

#### **H. Limitation of Liability**

TO THE EXTENT NOT PROHIBITED BY LAW, DACRA HEREBY DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTY OF MERCHANTABILITY AND THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. NEITHER PARTY SHALL BE LIABLE HEREUNDER FOR ANY INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF REVENUE OR PROFITS. THE PARTIES AGREE THAT DACRA'S MAXIMUM LIABILITY FOR ANY DAMAGES ARISING OUT OF OR RELATED TO THE SERVICES, OR THE AGREEMENT, WHETHER IN CONTRACT OR TORT, OR OTHERWISE, SHALL IN NO EVENT EXCEED, IN THE AGGREGATE, THE GREATER OF: (A) THE TOTAL AMOUNTS ACTUALLY PAID TO DACRA FOR THE SERVICES IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM; OR (B) SUCH AMOUNT OF CLAIMED DAMAGES THAT ARE ACTUALLY COVERED AND PAID IN FULL BY AN INSURANCE CARRIER PROVIDING INSURANCE TO DACRA UNDER THE TERMS OF A POLICY OF INSURANCE CARRIED BY DACRA AS REQUIRED UNDER THE TERMS OF THE AGREEMENT, (THE "LIMITATION OF LIABILITY"). MUNICIPALITY HEREBY ACKNOWLEDGES THAT DACRA DOES NOT GUARANTEE THAT THE SERVICES WILL BE PERFORMED ERROR-FREE OR UNINTERRUPTED. DACRA IS HEREBY HELD HARMLESS FROM ALL CLAIMS, DAMAGES, LIABILITIES AND EXPENSES RELATING TO THIS AGREEMENT TO THE EXTENT IN EXCESS OF THE LIMITATION OF LIABILITY.

#### **I. Other**

- (i) Nothing contained in this Agreement shall be construed as creating a joint venture, partnership, or employment relationship between the parties, nor shall either party have the right, power, or authority to create any obligation or duty, express or implied, on behalf of the other.
- (ii) Upon the full execution of this Agreement, all prior agreements, if any, shall terminate and

be of no further force and effect, and shall be superseded and replaced in their entirety by this Agreement.

- (iii) Dacra may assign this Agreement by providing a 90-day written notice of the assignee who will assume Dacra's obligations under this Agreement. Municipality may not assign this Agreement without Dacra's prior written consent, which may be withheld in the sole discretion of Dacra.
- (iv) Municipality shall obtain at its sole expense any rights and consents from third-parties necessary for Dacra and its subcontractors to perform the Services under the Agreement.
- (v) The Agreement is governed by the substantive and procedural laws of Illinois. All disputes shall be resolved solely in the Circuit Court of McHenry County, Illinois.
- (vi) Neither party to this Agreement shall be responsible for failure or delay of performance if caused by: an act of war, hostility, pandemic, or sabotage; act of God; electrical, internet, or telecommunication outage that is not caused by the obligated party; government restrictions (including the denial or cancellation of any export or other license); other event outside the reasonable control of the obligated party.
- (vii) This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, and each of which together shall constitute a single instrument. Copies of this Agreement (as well as any documents related to this Agreement) signed and transmitted by a party by electronic transmission shall be deemed for all purposes as containing the original signature of the transmitting party and legally binding upon such transmitting party.
- (viii) Dacra may publish that the Municipality utilizes one or more Services of Dacra.

#### **J. Maintenance and Support**

Dacra shall provide the following maintenance and support as a component of the Services using guidelines, structures, and materials meeting the following criteria:

- (i) **Training.** As part of the start-up and implementation phase of the delivered Services, all users will be trained on the use of the Services through a combination of in-person and/or webinars and recorded training video sessions for all users not able to participate in the initial training sessions. Additional training provided beyond the start-up phase will be quoted and agreed to in writing.
- (ii) **Support.** Dacra shall provide access to live support to a designated user of Municipality available via e-mail or phone during Dacra's normal business hours. The Dacra support team will be fluent in the functionality of the system.
- (iii) **Exclusions.** Dacra updates the Service on an as needed basis from time-to-time to implement bug fixes, if any, and enhanced functionality to the existing Service such as additional reporting and enhanced user interface. Notwithstanding the forgoing, all provision and maintenance of hardware and software, including but not limited to laptop computers, desktop computers, printers, modems & routers and software to operate the hardware such as operating systems, and browsers [Google Chrome, Microsoft Edge, IOS] necessary to run the Service, are the sole cost and responsibility of Municipality.

1. Continuity of Service. Dacra, as part of its commitment to the continuity of the Services, shall maintain the following service level that details the minimum customer support standards to be followed for issues, both major and minor, as well as, any modifications made to the Service from time-to-time. As part of the Service, Dacra will create an alert email distribution group for use by the Municipality to send notification of issues as they arise. Municipality may also contact Dacra via phone.

Dacra will respond to Municipality initiated issues in accordance with the following levels:

- (i) MAJOR - The Service is down or precludes the Municipality from successful operation of the total system and requires immediate attention (the "Downtime") (for example, the Municipality is unable to connect, via an approved internet browser, to the Service).
  - (ii) MINOR - A minor issue exists with the Service, but the majority of the functions are still usable, and some circumvention may be required to provide service (for example, subcommand gives an incorrect response). Also includes minor issues or questions that do not affect the Service function (for example, the text of a message is worded poorly or misspelled).
2. Uptime Initiative. Dacra shall make reasonable efforts to maintain the Services such that the Services will be operational and accessible by the Municipality's users a minimum of 99% of the time, not including maintenance which will be scheduled with Municipality in advance and will be kept to an absolute minimum.

#### **K. Insurance Requirements**

Dacra shall maintain during the entire term of the Contract, the following insurance coverages:

- (i) Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury, and property damage. The general aggregate shall be \$2,000,000 per project.
- (ii) Professional Liability: \$1,000,000 single limit for errors and omissions, professional / malpractice liability.
- (iii) Worker's Compensation and Employers' Liability: As required by Illinois law.
- (iv) Umbrella Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury, and property damage.



## EXHIBIT B

### SERVICES REQUESTED BY MUNICIPALITY

The Dacra Services included in this Agreement are the Municipal Enforcement Adjudication Module, Mobile State & Municipal e-Citation Module, and Police Patrol Management Module which will be deployed to the Municipality with the functionality stated hereunder.

## DACRA MUNICIPAL ENFORCEMENT SYSTEM FEATURES – JANUARY 31, 2023

### Dacra System Architecture and Security

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- **Architecture**
  - Web-based platform that works on standard hardware
  - .NET stack with SQL back end separated from the front end via entity framework services
  - Bi-directional sync data integration with IUCS LEADER
  - JSON APIs available as well as numerous government and public safety software system integrations
  
- **Security**
  - Dacra is hosted in Azure Government Cloud, a restricted cloud dedicated to government services. Azure Government Cloud provides the highest level of security and compliance to include SOC2, PCI, ISO, etc.
  - Criminal Justice Information Services (CJIS) compliant
  - Single Sign On (SSO) authentication available
    - Extensive citation auditing features, tracks changes to a citation after it has been issued, recording both original and changed values, the logged in user, and date and time of any change
  
- **Hardware Required**
  - Requires Google Chrome/ Microsoft Edge access
  - Windows based devices required is utilizing LEADS integrated
  - iPads preferred for handheld ticketing
  - Compatible with either 4" or 8 ½" Printers

### Municipal Enforcement Adjudication Module

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- **Municipal Enforcement Citation Tools:** Create local ordinance administrative adjudication cases easily with features customized for the following:
  - Local Ordinance/Compliance/Animal/Building Code Ticketing
  - "3-Click" Parking Ticketing
  - Unpaid Utility/Ambulance Fee Violations
  - Citation Auditing and Tools
  
- **Complete Hearing Management Tools:** Efficiently manage violation notices, unified administrative hearings, and final determination notices with features such as:
  - Variable Hearing Notices by Department
  - Multiple Concerned Party Notification
  - Hearing Room Management and FDO Issuance
  - Batch Process Hearing Officer Tools
  
- **Extensive Fine Tracking and Payment Tools:** Dacra automatically monitors unpaid citations and escalates fines accordingly. Along the way fines can be paid through a variety of in-person and online tools and integrations.
  - Complex Fine Structure Tracking
  - Online Payments with Partial Payment Capability

## Mobile State and Municipal E-Citation Module

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- **State of Illinois E-Citations:**
  - Issue and print Illinois citations, updated to Administrative Office of Illinois Courts standards:
    - Illinois AOIC Compliant Electronic Uniform Citation
    - Illinois AOIC Compliant Electronic Overweight Citation
    - Illinois AOIC Compliant Electronic Civil Law Citation
- **Mobile Municipal Enforcement Adjudication Citation Tools:**
  - Issue and print local ordinance citations:
    - Parking Citations – Multiple entry methods to speed parking citation issuance
    - Animal – Track animal specific information with violator history available
    - Compliance Violations – Department specific ordinance compliance citations
    - Tow Ticketing – Issue administrative tow seizure and hearing notices
    - Legacy Tickets – Historical citation data can be imported for violation payment
- **Additional Citation Features:**
  - Easily create additional “companion” violations for the same violator with one click
  - Agency defined mandatory field completion
  - Statute/Ordinance “Easy Search” Functionality
  - Offense location and respondent GPS mapping tools
  - Citation digital evidence record storage
  - Extensive citation data analytics and mapping capability
- **Illinois TSS/RP and Pedestrian Stop Data Collection:**
  - Easily collect traffic stop data to reduce entry time and generate Illinois S.O.S Reports for uploading.
  - Collect the requisite data and generate a pedestrian stop receipt as required within Illinois.
- **Violator History Reports:**
  - Citation and warning history summary displayed to issuing officer with ability to investigate detail with one click.
  - Effectively manage expungements for violations as required by state and local rules.
- **Hand-Held Ticketing:**
  - Dacra’s “3 Click” Parking Ticket feature provides the industry’s fastest way to accurately issue a parking violation via tablets complete with photo evidence.

## Police Patrol Management Module

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- **Towed Vehicle Management Tools**
  - **Abandoned Vehicle Tracking:** Identify and track abandoned vehicles with required notices and follow-up reports.
  - **Police Tow and Impound Inventory Management:** Create and process tow receipts, vehicle search record, concerned party notices, tow yard inventory audit logs, and Certificates of Purchase management.
  - **Administrative Tows:** Dacra manages tow and violation data from the issuance of the seizure/administrative hold, through payment, and into the hearing, ensuring violator due process and reducing department risk.
  - **Tow Holds:** Tow “holds” can be applied to a vehicle, restricting the release of that vehicle until the investigative, insurance, DUI and other such holds are removed.
- **Officer Docs:** Store, issue, and print single use documents used for in the patrol environment from the squad.

- **Crime Prevention Notices:** Customize, issue, and track Crime Prevention Notices to communicate areas of concern to residents. Extract data later to send notices to residents that need to be aware of community concerns.
- **Night Parking Permits:** Issue night park permits online via secure algorithm. Provide real-time notification of night park permits to officers, ensuring a seamless, convenient process for the parker, and the officer.

### **DACRA 3<sup>rd</sup> Party Integrations**

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- **API/Interface Set-Up and Configuration:** Dacra custom integrations will provide omni-directional or bi-directional interfaces to 3<sup>rd</sup> party vendors to increase the efficiency of the System. The functionality is defined hereunder with associated pricing defined in **Exhibit C**.

**EXHIBIT C**  
**FEES PAID BY MUNICIPALITY**

In exchange for the use of the Dacra Services included in **Exhibit B**, Municipality will pay Fees including a Monthly Service Fee, and applicable Integration Fee(s) hereunder:

- A. **Service Set-Up Fee:** In exchange for the set-up and configuration of the Services defined in **Exhibit B**, and upon execution of this agreement, the Municipality will pay a \$10,000.00 fee.
- B. **Monthly Service Fee:** In exchange for the monthly use of the Services defined in **Exhibit B**, and upon execution of this agreement, Municipality will be billed a Monthly Service Fee calculated by totaling the below Monthly Licensing Fee for the modules licensed, and the Monthly Usage Fee for citations issued that month:

<b>Monthly Service Fee = Monthly Licensing Fee + Monthly Usage Fee</b>	<b>Monthly Service Fee</b>
<b>Monthly Licensing Fee</b> – Adjudication, e-Citation, & Police Patrol Modules	
- Year 1: Go-Live Date – December 31, 2024	\$2,500
- Year 2: January 1, 2025 – December 31, 2025	\$2,500
<b>Monthly Usage Fee</b> – Calculated by totaling fees for citations issued that month:	
- Adjudication Citations Issued That Month –500 included at no cost	\$3 each
- State Citations Issued That Month –500 included at no cost	\$1 each

- B. **Integration Fee(s):** In exchange for development, configuration, and maintenance of the custom APIs and interfaces defined in **Exhibit B** the Municipality will be billed upon go-live of the interface, with annual maintenance billed in conjunction with the next agreement execution anniversary:

<b>Additional Fee Description</b>	<b>One-Time Fee</b>
Dacra Import of Legacy Citation Data Provided in Importable Format	\$5,000
Dacra standard Central Square Tri-Tech CAD interface to transfer driver/vehicle data	Waived
Use of DACRA APIs for Data Transfer	Waived



1115 Crystal Lake Road  
Lake in the Hills, IL 60156

Main: 847-658-5676  
Fax: 847- 960-7552  
[www.lith.org/police](http://www.lith.org/police)

## MEMORANDUM

**To:** Chief Mary Frake  
**From:** Deputy Chief Matthew Mannino  
**Date:** 11/14/23  
**Subject:** Ticket Project Proposal for 2024

Due to the various issues we have experienced with our current ordinance ticket vendor, I began researching new vendors. Initially I was in conversation with Quicket Solutions, who is our current traffic ticket vendor provided by the McHenry County Clerk's office free of charge. Initial thoughts were to purchase the ordinance ticket portion of the system from Quicket to have one system for all tickets, traffic and ordinance. However, since implementation of the Quicket traffic ticketing system, we have been experiencing a variety of issues still present to this day.

In order to make the best-informed decision, I formed a committee to explore other vendors consisting of staff that would be utilizing the product from the Police Department, Community Development and Finance. The committee viewed three in-person presentations: Quicket Solutions, DACRA Tech. and Tyler Technologies. I was then provided quotes from each company, which I have detailed below in ranked order based upon the recommendation of the committee.

### Cost

1. DACRA Tech.
  - a. \$2500/month for Adjudication Module, State and Municipal e-citation module and Police Patrol Module. This fee to start at go live date – tentatively May 1, 2024.
    - i. 500 municipal citations included each month - \$3 each after that (we should not exceed the included amount).
    - ii. 500 state citation included each month - \$1 each after that (we should not exceed the included amount).
    - iii. No charge for warnings.
  - b. \$10,000 one-time cost for setup, configuration and initial training.
  - c. \$5,000 one-time cost for Import of legacy citation data.
  - d. Total estimated 2024 cost: \$35,000
  - e. Total estimated 2025 cost: \$30,000
2. Quicket Solutions:
  - a. \$25,200/year for Municipal e-citation module and Adjudication module. State citations are already included as this is a service, we receive from the McHenry County Clerk's Office.

- b. \$3,000 one-time cost for training
  - c. Total estimated 2024 cost: \$28,200
  - d. Total estimated 2025 cost: \$25,200
3. Tyler Technologies:
- a. \$11,491/year for enforcement module
  - b. \$21,185/year for municipal justice module
  - c. \$19,470 one-time cost for setup, configuration and initial training + \$60,550 one-time cost for municipal justice.
  - d. Total estimated 2024 cost: \$112,696
  - e. Total estimated 2025 cost: \$32,676

### Reference Checks

The committee agreed that DACRA Tech. was the preferred vendor, followed by Quicket Solutions. The committee voted against Tyler Technologies. Being that the committee liked DACRA Tech. and Quicket Solutions, I checked references of three police agencies who have experience with both systems: Addison, South Elgin and McHenry City.

1. Addison Police Department: I spoke with Records Supervisor Brian Lindstrom. This is a summary of our conversation:
  - a. Addison is in Dupage County and that county chose to initially go with Quicket Solutions for traffic tickets moving from VP2. Addison then enlisted Quicket Solutions and signed a contract in approximately Fall of 2022.
  - b. Due to the Dupage County Contract, Quicket delayed Addison's project for months.
  - c. Quicket was not able to implement the Dupage County system or Addison's and continued to have excuses and pushed delivery dates. They were having issues with data parsing and integration.
  - d. Dupage County cancelled their contract with Quicket and reportedly lost \$250,000 by doing this.
  - e. Addison then cancelled their contract and reportedly lost \$18,000 by doing this.
  - f. Addison then went to DACRA. Addison had some struggles with this move due to their legacy system, but if it wasn't for that, they would have no complaints with DACRA.
  
2. South Elgin Police Department: I spoke with Deputy Chief Czechowski. This is a summary of our conversation:
  - a. South Elgin was with DACRA, formally a different company, and the new CEO was causing difficulties so South Elgin looked for a different vendor.
  - b. Quicket Solutions sent a representative who touted an "all-in-one" solution for crash, tickets, and RMS. This was all in theory because it never got implemented.
  - c. Quicket never worked as promised.
  - d. Tech support was offshore and officers became frustrated because support was not helpful.
  - e. There had to be lots of prodding for implementation but there were always issues and their implementation date kept getting pushed back.
  - f. They were having problems with data parsing and auto populating of data.
  - g. Towards the end of their first year of the contract, Kane County Clerk's office notified South Elgin that Quicket was not authorized to submit e-citations to them, which Quicket told them they were authorized.

- h. Due to the “go live” deadline being pushed back by Quicket, the South Elgin Contract expired and had to go back to writing paper tickets.
  - i. There had to be several conference calls with Quicket and the CEO. Quicket kept promising fixes, but issues still persisted.
  - j. South Elgin went back to DACRA and their prior issues have been resolved due to a new CEO.
  - k. DC Czechowski forwarded several documents to me:
    - i. A memorandum documenting their initial issues with DACRA, the move to Quicket and then going back to DACRA (see attached).
    - ii. Reference checks that he did with other agencies with positive reviews of DACRA: Elgin, Geneva and North Aurora (see attached).
3. McHenry City: I emailed DC Walsh and IT Manager Aaron Greve (see attached). This is a summary:
- a. DC Walsh said his agency has no issues with DACRA.
  - b. IT Manager Greve said DACRA has been working well for their officers and administrative staff. McHenry uses DACRA local citations and Quicket for state citations due to the Clerk’s office offers this at no cost to the department.
  - c. Sgt. Draftz spoke with a sergeant who said DACRA is “super easy” to use and they “love it”. McHenry still uses Quicket for station citations and they “hate it”.

### **Implementation Considerations**

- 1. McHenry County Clerk’s Office: I spoke with Kathy Keefe via phone and email. There would be no charge from the Clerk’s office if we switched from Quicket to DACRA for state citations. They would work with DACRA to develop an import for the citation into the Clerk’s case management system at no cost to the Village (they would fund this with their Electronic Citation Funds).
- 2. DACRA is able to run the LEADS interface from Central Square to DACRA using the same process as McHenry City and this will not cost us anything.

### **Recommendation**

Based on the recommendation of the committee and after reference checks, I recommend the Village pursue a contract with DACRA Tech. for state and municipal citations/adjudication. Although Quicket Solutions has the contract with the County for state citations, based upon my reference checks and our own internal issues still persisting with Quicket, I cannot recommend the Village pursue a contract with Quicket for municipal citations/adjudication. The Village could pursue a contract with DACRA Tech. for just the adjudication, municipal citations and patrol modules without the state citation module for a savings of \$250/month; however, this is not the recommended solution. The recommended solution would be the all-in-one solution to combine state and municipal e-citations into one system. This would not only be more efficient for our officers but also for our Records section who have to manage the records side of the system. Having this all-in-one solution would also fall within our current philosophy of combining programs and software into one system for efficiency purposes.

Signed,



Matthew J. Mannino  
Deputy Chief of Support Services

**VILLAGE OF LAKE IN THE HILLS**

**ORDINANCE NO. 2024-\_\_\_\_\_**

**An Ordinance Approving a Budget Amendment  
to the Operating Budget for the  
Fiscal Year Ending December 31, 2024**

WHEREAS, the Village of Lake in the Hills, an Illinois municipal corporation (the "Village"), situated in McHenry County, Illinois, is a home rule municipality as contemplated under Article VII, Section 6, of the Constitution of the State of Illinois, and the passage of this Ordinance constitutes an exercise of the Village's home rule powers and functions to provide for the financial welfare of the Village and its residents, as granted in the Constitution of the State of Illinois; and

WHEREAS, the Village of Lake in the Hills acting by and through its President and Board of Trustees has previously approved an Operating Budget for the Fiscal Year ending December 31, 2024 as part of Ordinance No. 2023-42; and

WHEREAS, it is necessary and appropriate to delete, add to, or otherwise change certain sub-classes within object classes and certain object classes themselves in said Operating Budget as provided in Exhibit A to this Ordinance;

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the VILLAGE OF LAKE IN THE HILLS, McHenry County, Illinois, as follows:

SECTION 1: That amendments to the Operating Budget for the Fiscal Year Ending December 31, 2024 are hereby approved in the form and content as provided in Exhibit A which is attached hereto and made a part thereof.

SECTION 2: If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4: This Ordinance shall be in full force and



effect immediately from and after its passage by a vote of two-thirds of the corporate authorities and approval and publication in pamphlet form (which publication is hereby authorized) as provided by law.

Passed this 25th day of January, 2024 by roll call vote as follows:

	Ayes	Nays	Absent	Abstain
Trustee Stephen Harlfinger	_____	_____	_____	_____
Trustee Bob Huckins	_____	_____	_____	_____
Trustee Bill Dustin	_____	_____	_____	_____
Trustee Suzette Bojarski	_____	_____	_____	_____
Trustee Diane Murphy	_____	_____	_____	_____
Trustee Wendy Anderson	_____	_____	_____	_____
President Ray Bogdanowski	_____	_____	_____	_____

APPROVED THIS 25TH DAY OF JANUARY, 2024

\_\_\_\_\_  
Village President, Ray Bogdanowski

(SEAL)

ATTEST: \_\_\_\_\_  
Village Clerk, Shannon DuBeau

Published:



# INFORMATIONAL MEMORANDUM

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**MEETING DATE:** January 23, 2024

**DEPARTMENT:** Community Development

**SUBJECT:** Conditional Uses for Arias Truck Repair at 8545 Pyott Road

## EXECUTIVE SUMMARY

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At the January 11, 2024 Committee of the Whole meeting staff presented a request from Oleksandr Kes Kovalskiy of Arias Truck Repair, Inc. regarding a conditional use permit for automotive service to allow for the use of the property at 8545 Pyott Road for truck repair, and for a conditional use permit to allow the outdoor storage of vehicles accessory to the truck repair business. Village staff had reviewed the requested conditional uses according to the seven standards listed in the Zoning Code, and found that the request was not supported one of the seven factors. Further, while staff did find that the request is supported by the other six review factors, it was noted that those positive findings were subject to the applicant complying with a long list of conditions. Therefore, staff had recommended that the conditional use permits be denied. The Planning & Zoning Commission conducted a public hearing on December 18, 2023 to consider the requested conditional uses. Based on the staff report and the testimony provided during the public hearing, the Commission recommended denial of the requests by a vote of 6-0.

The Board of Trustees received public comments supporting the approval of the conditional uses from the current owner of the subject property at 8545 Pyott Road, from the realtor representing the owner, and from the owner of the neighboring property at 8585 Pyott Road. The trustees then generally expressed the opinion that the conditional uses could be approved if the applicant were to be able to comply with the list of conditions.

At the January 11, 2024 Board of Trustees meeting, the trustees removed the motion to pass an ordinance denying the conditional uses from the Consent Agenda, and considered the case during Unfinished Business. The trustees heard additional comments from the current property owner and from the applicant, and reviewed the draft list of conditions one-by-one. The trustees provided Village staff with direction regarding which conditions could be eliminated, which conditions could be amended, and which conditions should be required. The trustees then approved a motion to postpone consideration of the requests until the January 25, 2024 Board of Trustees meeting.

Based on the direction from the trustees, Village staff drafted a new ordinance to grant approval of the requested conditional uses subject to a list of conditions. The draft conditions included in the ordinance are listed below along with detailed explanations.

## Conditions

*The proposed conditions are in italics.* Staff comments about the conditions are in regular text.

1. *All vehicle repairs must take place inside the Existing Building on the Property and no exterior vehicle repairs shall be allowed.* COMMENT: This condition remains unchanged.
2. *Vehicles in disrepair may not be stored outside the Existing Building for longer than 30 days.* COMMENT: This condition remains unchanged.
3. *The Applicant must install and maintain painted pavement markings around the perimeter of the outdoor vehicle storage areas, subject to review and approval of the paint locations by Village staff.* COMMENT: Staff eliminated the requirement for a fence, and replaced it with a requirement for painted pavement marking. This eliminates the need for FAA approval of the fence, and eliminates potential conflicts with airplanes and snow plows, while still allowing formal demarcation of the permitted vehicle parking areas.
4. *The Applicant must enter into a through-the-fence airport access license agreement with the Village, and such an agreement must remain in effect at all times that the Proposed Uses are operated on the Property.* COMMENT: Staff eliminated the requirement to obtain FAA approval, and reduced the condition to only require Village approval of a through-the-fence airport access license agreement.
5. *The Applicant and Owner must dedicate a permanent ingress and egress easement to the Village over the western 20 feet of the property, with said easement to be coterminous with the existing non-exclusive ingress/egress easement granted in the document recorded with the McHenry County Recorder as document number 2021R0012200.* COMMENT: The most recent 2014 license agreement for the subject property gave the Village the right to allow third-party aircraft parking on the western 20,000 square feet of the private property. After that agreement terminated when the property was sold in March of 2021, the aircraft parking area was no longer available, and airport tenants and pilots indicated their belief that the remaining aircraft maneuvering space to the west is too narrow. Therefore, staff has proposed that an ingress-egress easement be granted to the Village along the western edge of the subject property to ensure that aircraft can easily taxi to the north and south. To prevent the easement from being burdensome to the applicant, staff has proposed that the Village easement be in the exact same location and width as an ingress/egress existing easement held by the owner of the property to the south at 8585 Pyott Road.
6. *The Applicant and Owner must dedicate a permanent fence/gate easement to the Village at no cost to replace the easement granted in the document recorded with the McHenry County Recorder as document number 1998R0062992.* COMMENT: This condition remains unchanged.
7. *No vehicle parking, stopping or standing shall be allowed on the northern 25.39 feet and western 20 feet of the Property.* COMMENT: The northern 25.39 feet covers an existing Village easement at the main entrance to the airport. The western 20 feet covers the proposed easement in condition 5 above.

Staff has presented the above conditions to the applicant and the owner in the form of a draft ordinance to grant approval of the requested conditional uses. The applicant and owner have agreed to comply with the conditions, and have confirmed their agreement by signing the "Unconditional Agreement and Consent" form in Exhibit B of the attached ordinance.

## ATTACHMENTS

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1. Ordinance Granting Conditional Uses

## **SUGGESTED DIRECTION**

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The January 11, 2024 Board of Trustees meeting included an agenda item titled, "Motion to pass Ordinance No. 2024- \_\_\_\_, An Ordinance Denying Conditional Uses for Arias Truck Repair at 8545 Pyott Road." The motion to pass that ordinance was rescinded, and instead the trustees postponed consideration of the ordinance until the January 25, 2024 Board of Trustees meeting. Therefore, if a trustee is against denial of the conditional uses and in favor of approval of the conditional uses, staff suggests the following two motions and votes on January 25:

1. A motion to kill the motion to pass an ordinance denying conditional uses for Arias Truck Repair at 8545 Pyott Road.
2. Motion to approve an ordinance granting conditional uses for Arias Truck Repair at 8545 Pyott Road.

### NOTES:

- The first motion above requires a favorable vote by a simple majority of the trustees present to be passed.
- In accordance with the Illinois Municipal Code (65 ILCS 5/11-13-1.1), any proposed conditional use which fails to receive the approval of the Planning and Zoning Commission shall not be approved by the corporate authorities except by a favorable majority vote of all trustees holding office. Therefore, the second motion above requires a favorable vote by a minimum of four trustees to be passed.

**VILLAGE OF LAKE IN THE HILLS**

**ORDINANCE NO. 2024 - \_\_\_\_**

**An Ordinance Granting Conditional Uses  
for Arias Truck Repair at 8545 Pyott Road**

WHEREAS, the Village of Lake in the Hills, McHenry County, Illinois (the "Village"), is a home rule municipality as contemplated under Article VII, Section 6, of the Constitution of the State of Illinois, and the passage of this Ordinance constitutes an exercise of the Village's home rule powers and functions to regulate for the protection of the public health, safety, morals, and welfare, as granted in the Constitution of the State of Illinois; and

WHEREAS, LALL, LLC (the "Owner") is the record title owner of that certain property located in the AD-2 Airport District 2 Zoning District ("AD-2 District"), consisting of approximately 1.4084 acres, commonly known as 8545 Pyott Road in the Village, and legally described in Exhibit A attached to and, by this reference, made a part of this Ordinance (the "Property"); and

WHEREAS, the Property is currently improved with a 14,223 square-foot metal clad airplane hangar building (the "Existing Building"), and areas of outdoor bituminous pavement (the "Outdoor Paved Areas"); and

WHEREAS, Arias Truck Repair, Inc (the "Applicant") desires to use the Existing Building for an automotive service use to repair trucks, and desires to store trucks on the Outdoor Paved Areas (collectively, the "Proposed Uses") on the Property; and

WHEREAS, Section 11 of the Zoning Code prohibits the use of property in the AD-2 District for automotive service except upon the granting by the Board of Trustees of a conditional use therefor; and

WHEREAS, Section 11 of the Zoning Code prohibits the use of property in the AD-2 District for the outdoor storage of vehicles accessory to a principal use except upon the granting by the Board of Trustees of a conditional use therefor; and

WHEREAS, in order to permit the Proposed Uses on the Property, the Applicant, with the consent of the Owner, has filed applications for: (i) a conditional use for automotive service; and (ii) a conditional use for outdoor storage of vehicles accessory to a principal use (collectively, the "Requested Relief"); and

WHEREAS, pursuant to Section 21.6 of the Zoning Code, a public hearing of the Village of Lake in the Hills Planning and Zoning Commission ("PZC") to consider the Requested Relief was duly advertised in the Northwest Herald on December 1, 2023, and was held on December 18, 2023; and

WHEREAS, on December 18, 2023, after deliberation the PZC voted (6 aye, 0 nay, 1 absent, 0 abstain) to approve findings of fact and make a report and a recommendation to the President and Board of Trustees that the Requested Relief be denied; and

WHEREAS, the President and Board of Trustees of the Village of Lake in the Hills have considered the findings of fact, the report, and the recommendation of the PZC; and

WHEREAS, the President and Board of Trustees have determined that the Requested Relief meets the standards for conditional uses as set forth in Section 24.6 of the Zoning Code, in that:

- A. The requested conditional uses on the Property are necessary or desirable to provide a service or a facility which is in the interest of public convenience and would contribute to the general welfare of the neighborhood or community, in that they would allow an established Village business to continue operating in the vicinity and continue providing a service to local residents and businesses, and in that the short-term parking of serviced vehicles behind the building on the property would allow vehicles to be stored without blocking traffic in the vicinity;
- B. The requested conditional uses would not be detrimental to the health, safety, morals or general welfare of persons residing or working in the vicinity, or injurious to property values or improvements in the vicinity, in that the proposed automotive service use with accessory outdoor storage is similar to existing adjacent uses that are not detrimental;
- C. The requested conditional uses will not impede the normal and orderly development and improvement of surrounding properties for uses permitted in the district in that the surrounding properties have a similar zoning and are already developed;
- D. The requested conditional uses are harmonious and compatible with the goals and objectives of the Village's comprehensive planning documents in that the map for Subarea 3 in the Village's comprehensive planning documents calls for commercial development on the subject property, and the proposed uses are commercial in nature;
- E. The requested conditional uses would not create traffic congestion or hazards in that the proposed truck repair business would generate a similar amount of traffic as the existing trailer upfitting business on the Property, and the existing business does not create any traffic congestion or traffic hazards;

- F. The requested conditional uses can be adequately served by the existing private well and septic systems, can be adequately served by public utilities that already serve the property, and can be adequately served by existing police and fire protection services;
- G. The requested conditional uses will comply with the applicable regulations of the Zoning Code, in that no new buildings or pavement are proposed to be constructed on the Property; and

WHEREAS, the President and Board of Trustees have determined that it will serve and be in the best interests of the Village to grant the Requested Relief to the Applicant, subject to the conditions, restrictions, and provisions of this Ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Village President and Board of Trustees of the Village of Lake in the Hills, McHenry County, Illinois as follows:

SECTION 1: The Corporate Authorities find that the statements in the foregoing preambles are true, and the statements are incorporated into, and made a part of, this Ordinance as the findings of the Village President and Board of Trustees.

SECTION 2: APPROVAL OF CONDITIONAL USES. In accordance with and pursuant to Section 24.2 of the Zoning Code and the home rule powers of the Village, and subject to, and contingent upon, the conditions, restrictions, and provisions set forth in Section 3 of this Ordinance, the Village President and Board of Trustees hereby grant the approval of the conditional use to allow for the use of the Property for automotive service, and hereby grant the approval of the conditional use to allow the outdoor storage of vehicles accessory to the principal use of automotive service on the Property, all on the terms and conditions set forth herein.

SECTION 3: CONDITIONS. Notwithstanding any use or development right that may be applicable or available pursuant to the provisions of the Zoning Code, the approvals granted pursuant to Section 2 of this Ordinance are hereby granted expressly and specifically subject to, and contingent upon, the development, use, and maintenance of the Property in compliance with each and all of the following conditions:

- A. COMPLIANCE WITH REGULATIONS. Except to the extent specifically provided otherwise in this Ordinance, the development, use, operation, and maintenance of the Proposed Uses and the Property must comply at all times with all applicable Village codes and ordinances, as the same have been or may be amended from time to time.

B. CONDITIONS OF OPERATION. The, use, operation, and maintenance of the Proposed Uses must comply with the following conditions:

1. All vehicle repairs must take place inside the Existing Building on the Property and no exterior vehicle repairs shall be allowed.
2. Vehicles in disrepair may not be stored outside the Existing Building for longer than 30 days.
3. The Applicant must install and maintain painted pavement markings around the perimeter of the outdoor vehicle storage areas, subject to review and approval of the paint locations by Village staff.
4. No vehicle parking, stopping or standing shall be allowed on the northern 25.39 feet and western 20 feet of the Property.

C. REQUIRED EASEMENTS. The Applicant and Owner must dedicate easements to the Village as follows:

1. The Applicant and Owner must dedicate a permanent ingress and egress easement to the Village over the western 20 feet of the property, with said easement to be coterminous with the existing non-exclusive ingress/egress easement granted in the document recorded with the McHenry County Recorder as document number 2021R0012200.
2. The Applicant and Owner must dedicate a permanent fence/gate easement to the Village at no cost to replace the easement granted in the document recorded with the McHenry County Recorder as document number 1998R0062992.

D. AIRPORT ACCESS LICENSE AGREEMENT. The Applicant must enter into a through-the-fence airport access license agreement with the Village, and such an agreement must remain in effect at all times that the Proposed Uses are operated on the Property.

E. ESTABLISHMENT AND CONTINUATION OF USE. Pursuant to Section 24.9 of the Zoning Code, the approvals granted pursuant to this Ordinance will be automatically null and void if the Proposed Uses are not established within one year of approval of this Ordinance or if the Proposed Uses have been discontinued for a period of one year.

F. REIMBURSEMENT OF VILLAGE COSTS. In addition to any other costs, payments, fees, charges, contributions, or dedications required under applicable Village codes, ordinances, resolutions, rules, or regulations, the Owner



and Applicant must pay to the Village, promptly upon presentation of a written demand or demands therefor, all legal fees, costs, and expenses incurred or accrued in connection with the review, negotiation, preparation, consideration, and review of this Ordinance. Further, the Owner and Applicant are liable for, and must pay upon demand, all costs incurred by the Village for publications and recordings required in connection with the aforesaid matters.

SECTION 4: RECORDATION; BINDING EFFECT. A copy of this Ordinance will be recorded with the McHenry County Recorder of Deeds. This Ordinance and the privileges, obligations, and provisions contained herein inures solely to the benefit of, and is binding upon, the Owner, the Applicant, and each of their respective heirs, representatives, successors, and assigns, except as provided in Section 3.E herein.

SECTION 5: FAILURE TO COMPLY WITH CONDITIONS. Upon the failure or refusal of the Owner or the Applicant to comply with any or all of the conditions, restrictions, or provisions of this Ordinance, in addition to all other remedies available to the Village, the approvals granted in Section 2 of this Ordinance will, at the sole discretion of the President and Board of Trustees, by ordinance duly adopted, be revoked and become null and void; provided, however, that the President and Board of Trustees may not so revoke the approvals granted in Section 2 of this Ordinance unless it first provides the Owner and the Applicant with two months advance written notice of the reasons for revocation and an opportunity to be heard at a regular meeting of the Board of Trustees. In the event of revocation, the development and use of the Property will be governed solely by the regulations of the zoning district in which the Property is located, and only the previous approvals granted specific to the Property by the Village, prior to the adoption of this Ordinance and the applicable provisions of the Zoning Code, as the same may, from time to time, be amended. Further, in the event of such revocation, the Village Administrator and Village Attorney are hereby authorized and directed to bring such zoning enforcement action as may be appropriate under the circumstance.

SECTION 6: AMENDMENTS. Any amendments to the approvals granted in Section 2 of this Ordinance that may be requested by the Owner or the Applicant after the effective date of this Ordinance may be granted only pursuant to the procedures, and subject to the standards and limitations, provided in the Zoning Code.

SECTION 7: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 8: EFFECTIVE DATE.

A. This Ordinance will be effective only upon the occurrence of all of the following events, which are conditions precedent:

1. Passage by the President and Board of Trustees in the manner required by law;
2. Publication in pamphlet form (which publication is hereby authorized) in the manner required by law; and
3. The filing by the Owner and the Applicant with the Village Clerk of an Unconditional Agreement and Consent, in the form of Exhibit B attached to and, by this reference, made a part of this Ordinance, to accept and abide by each and all of the terms, conditions, and limitations set forth in this Ordinance and to indemnify the Village for any claims that may arise in connection with the approval of this Ordinance.

B. In the event the Owner or the Applicant do not file fully executed copies of the Unconditional Agreement and Consent, as required by Section 8.A.3 of this Ordinance, within 30 days after the date of final passage of this Ordinance, the President and Board of Trustees will have the right, in their sole discretion, to declare this Ordinance null and void and of no force or effect.

Passed this 25th day of January, 2024 by roll call vote as follows:

	Ayes	Nays	Absent	Abstain
Trustee Stephen Harlfinger	_____	_____	_____	_____
Trustee Bob Huckins	_____	_____	_____	_____
Trustee Bill Dustin	_____	_____	_____	_____
Trustee Suzette Bojarski	_____	_____	_____	_____
Trustee Diane Murphy	_____	_____	_____	_____
Trustee Wendy Anderson	_____	_____	_____	_____
President Ray Bogdanowski	_____	_____	_____	_____

APPROVED THIS 25TH DAY OF JANUARY, 2024

\_\_\_\_\_  
Village President, Ray Bogdanowski

(SEAL)

ATTEST: \_\_\_\_\_  
Village Clerk, Shannon DuBeau

Published: \_\_\_\_\_

**EXHIBIT A**

**LEGAL DESCRIPTION OF THE PROPERTY**

LOT 1 IN THE FINAL PLAT OF LOTS 1 AND 2 OF STEARMAN SUBDIVISION CONSOLIDATION, BEING A RESUBDIVISION OF LOTS 1 AND 2 OF STEARMAN SUBDIVISION, BEING A PART OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 43 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 5, 2014 AS DOCUMENT NUMBER 2014R0014071, IN MCHENRY COUNTY, ILLINOIS.

Commonly known as 8545 Pyott Road, Lake in the Hills, Illinois.

PIN: 19-17-276-003

**EXHIBIT B**

**UNCONDITIONAL AGREEMENT AND CONSENT**

TO: The Village of Lake in the Hills, Illinois ("Village"):

WHEREAS, LALL, LLC ("Owner") is the record title owner of that certain property in the Village commonly known as 8545 Pyott Road ("Property"); and

WHEREAS, Ordinance No. \_\_\_\_\_, adopted by the Village President and Board of Trustees on January 25, 2024 ("Ordinance"), grants conditional use permits to Arias Truck Repair, Inc ("Applicant") for the use of the Property for an automotive service use to repair trucks, and to store trucks outdoors accessory to the principal automotive service use; and

WHEREAS, Section 8 of the Ordinance provides, among other things, that the Ordinance will be of no force or effect unless and until the Owner and the Applicant shall have filed, within 30 days following the passage of the Ordinance, their unconditional agreement and consent to accept and abide by each and all of the terms, conditions, and limitations set forth in the Ordinance.

NOW, THEREFORE, the Owner and the Applicant do hereby agree and covenant as follows:

1. The Owner and the Applicant do hereby unconditionally agree to accept, consent to, and abide by each and all of the terms, conditions, limitations, restrictions, and provisions of the Ordinance.

2. The Owner and the Applicant acknowledge that public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, have considered the possibility of the revocation provided for in the Ordinance, and agree not to challenge any such revocation on the grounds of any procedural infirmity or a denial of any procedural right.

3. The Owner and the Applicant acknowledge and agree that the Village is not and will not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village's granting of conditional use permit approvals for the Property or its adoption of the Ordinance, and that the Village's approvals do not, and will not, in any way, be deemed to insure the Owner or the Applicant against damage or injury of any kind and at any time.

4. The Owner and the Applicant do hereby agree to hold harmless and indemnify the Village, the Village's corporate authorities, and all Village elected and appointed officials, officers, employees, agents, representatives, and attorneys, from

any and all claims that may, at any time, be asserted against any of such parties in connection with the Village's adoption of the Ordinance granting conditional use permit approvals for the Property.

Dated: January 18 2024

ATTEST:

**LALL, LLC**

By: Preston Miller

By: Chris Gantz

ATTEST:

**ARIAS TRUCK REPAIR, INC**

By: [Signature]

By: [Signature]



# REQUEST FOR BOARD ACTION

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**MEETING DATE:** January 23, 2024

**DEPARTMENT:** Community Development

**SUBJECT:** An Ordinance Denying Variations for a Privacy Screening Fence at 2840 Briarcliff Lane

## EXECUTIVE SUMMARY

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On October 13, 2023 the Village received an anonymous complaint about a tarp installed on top of an existing six-foot-tall fence on the subject property at 2840 Briarcliff Lane. Village staff investigated and found black fabric material tied to metal poles with rope, with the fabric extending along the rear lot line over the top of an existing white vinyl privacy fence to a height of approximately 9.5 feet. Village records show that the white vinyl privacy fence was installed with a valid fence permit, and that the final inspection for the fence was approved on May 5, 2022. When questioned by Village staff, a resident of the subject property stated that the black fabric material was installed just after installation of the white vinyl fence by the same contractor. The owner indicates on the submitted application form that they believe they cannot use the rear area of the subject property without the black fabric screen because the removal of the screen would allow a neighboring property owner to scrutinize and comment upon activities taking place in the rear yard of the subject property.

Staff informed the resident that the structure does not comply with the standards in the Village codes and must be removed. On November 16, 2023 the Village issued a written Notice of Violation that required the structure to be removed by December 22, 2023. Therefore, on December 5, 2023 one of the owners of the property, Nicole Xicotencatl, submitted an application to the Village for a zoning variation to allow the structure to remain.

The application submitted by Ms. Xicotencatl requests a variation from Section 13.5 of the Zoning Code to allow the existing structure to remain in place, and describes the structure as "a light and air permeable privacy screen." Section 13.5 is the table of permitted accessory structures. The table does not list light and air permeable privacy screens as permitted accessory structures. However, the table does list "fences" as permitted accessory structures, and the existing structure meets the definition of a fence in Section 3 of the Zoning Code. As such, the structure must comply with the fence regulations in Section 15 of the Zoning Code.

Within Section 15 of the Zoning Code, Section 15.3-3 states that fences in rear yards shall not exceed six feet in height. The black fabric fence is located in the rear yard of the subject property, and the submitted application indicates that the top of the structure is located 9.5 feet above the ground, which violates Section 15.3-3. Further, Section 15.2.A of the Zoning Code states that all fences shall be constructed of suitable plastic material (PVC, vinyl, and composite), wood, chain link, decorative aluminum, or wrought iron.

The existing black fabric material is not listed as an acceptable material for a fence, and staff finds that such a temporary type of a material and construction is not a suitable fence material. Therefore, in order to allow the existing structure to remain in place, the applicant must receive approval of variations from Sections 15.2.A and 15.3-3 of the Zoning Code.

Village staff reviewed the three variations according to the nine standards listed in the Zoning Code. Staff found that the request is supported by five of the nine review factors, but that the request is not supported four of the nine factors. Specifically, staff made the following negative findings:

- Review condition A: *The property could yield a reasonable return without the granting of the requested variations in that it is common throughout the Village for residential properties to be bought and sold that are adjacent to other residential rear yards from which neighboring residents can make comments, and in that the property directly next door at 2850 Briarcliff Lane has similar conditions as the subject property and was able to be sold for a reasonable return without the need for the same variation.*
- Review condition C: *The variations, if granted, would alter the essential character of the locality, in that 9.5-foot-tall privacy screens made of temporary black fabric material would drastically alter the visual appeal of the neighborhood.*
- Supplemental standard D: *The physical conditions of the specific property would not bring a hardship upon the owner if the strict letter of the regulation were to be carried out, in that the subject property is of the same size, shape and topography as all surrounding properties, and that the height of the house and deck on the adjacent property to the rear is common in the vicinity.*
- Supplemental standard E: *The conditions upon which the petition for variation is based would be applicable generally to other property within the same zoning classification, in that it is not uncommon for neighboring properties owners to have disagreements.*

Therefore, based on the four negative findings above, staff recommended that the requested variations be denied.

The Planning & Zoning Commission conducted a public hearing on January 15, 2024 to consider the three variations. The Commission heard testimony from the applicant, and heard public comments from the applicant's family members and friends. The majority of the testimony and comments included impassioned descriptions of harassment by the applicant's rear-yard neighbor at 2831 Hillsboro Lane. The rear-yard neighbor did not attend the public hearing. The recording of the January 15 meeting is available on the Village website at:

<https://www.lith.org/Home/Components/Calendar/Event/2707/123?toggle=allpast>

Based on the staff report and the testimony provided during the public hearing, the Commission recommended denial of the requests by a vote of 4 ayes, 1 nay, and 2 absent. While all of the commissioners present at the hearing expressed sympathy with the applicant regarding the feud with her neighbor, the four commissioners voting in favor of denial indicated that the subject property does not have any unique physical characteristics to justify a zoning variation, and that it would set a bad precedent to allow such a screening fence based solely upon a dispute with a neighbor.

## **FINANCIAL IMPACT**

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None.

## **ATTACHMENTS**

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1. Ordinance
2. Staff Report
3. Application
4. Zoning Map, Future Land Use Map, Aerial Photo, and Property Photos

## **RECOMMENDED MOTION**

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Motion to pass an ordinance denying variations for a privacy screening fence at 2840 Briarcliff Lane.

NOTE: For the above motion, an AYE vote would be in favor of denial, and a NAY vote would be against denial.



**VILLAGE OF LAKE IN THE HILLS**

**ORDINANCE NO. 2024 - \_\_\_\_**

**An Ordinance Denying Variations  
for a Privacy Screening Fence at 2840 Briarcliff Lane**

WHEREAS, the Village of Lake in the Hills, McHenry County, Illinois (the "Village"), is a home rule municipality as contemplated under Article VII, Section 6, of the Constitution of the State of Illinois, and the passage of this Ordinance constitutes an exercise of the Village's home rule powers and functions to regulate for the protection of the public health, safety, morals, and welfare, as granted in the Constitution of the State of Illinois; and

WHEREAS, Nicole E. Manning-Xicotencatl and Rene Xicotencatl (the "Owners") are the record title owners of that certain property located in the R-2 One-Family Dwelling Zoning District ("R-2 District"), consisting of 7,489 square feet, commonly known as 2840 Briarcliff Lane in the Village, and legally described in Exhibit A attached to and, by this reference, made a part of this Ordinance (the "Property"); and

WHEREAS, the Property is currently improved with a single-family detached residence; and

WHEREAS, in May of 2022 the Owners had a contractor install a privacy screening fence consisting of black fabric material tied to metal poles with rope, with the fabric extending along the rear lot line of the Property over the top of an existing white vinyl privacy fence to a height of approximately 9.5 feet, and with the poles mounted in the ground about one foot away from the fence inside the rear yard of the Property (the "Privacy Screening Fence"), as shown in the photograph attached to and, by this reference, made a part of this Ordinance as Exhibit B; and

WHEREAS, the Village received an anonymous complaint about the Privacy Screening Fence on October 13, 2023, and the Village issued a written notice of violation to the Owners on November 16, 2023 informing them that Privacy Screening Fence does not meet the requirements in Sections 13 and 15 of the Zoning Code and must be removed from the Property; and

WHEREAS, pursuant to the table of permitted accessory structures in Section 13.5 of the Zoning Code, privacy screens are not listed as permitted accessory structures in the R-2 District, but fences are listed as permitted accessory structures in the R-2 District, and the Privacy Screening Fence meets the definition of a fence in Section 3 of the Zoning Code; and

WHEREAS, pursuant to Section 15.3-3 of the Zoning Code, fences in rear yards in the R-2 District shall not exceed six feet in height; and

WHEREAS, pursuant to Section 15.2.A of the Zoning Code, all fences shall be constructed of suitable plastic material (PVC, vinyl, and composite), wood, chain link, decorative aluminum, or wrought iron; and

WHEREAS, in order to permit the Privacy Screening Fence to remain on the Property, the Owners have filed an application for: (i) a variation Section 13.5 of the Zoning Code to allow a privacy screen as a permitted accessory structure in the rear yard; (ii) a variation Section 15.3-3 of the Zoning Code to allow a fence to have a height of 9.5 feet; and (iii) a variation Section 15.2.A of the Zoning Code to allow a fence made of temporary fabric instead of a suitable approved fence material (collectively, the "Requested Relief"); and

WHEREAS, pursuant to Section 21.6 of the Zoning Code, a public hearing of the Village of Lake in the Hills Planning and Zoning Commission ("PZC") to consider the Requested Relief was duly advertised in the Northwest Herald on December 26, 2023, and was held on January 15, 2024; and

WHEREAS, on January 15, 2024, after deliberation the PZC voted (4 aye, 1 nay, 2 absent, 0 abstain) to approve findings of fact and make a report and a recommendation to the President and Board of Trustees that the Requested Relief be denied; and

WHEREAS, the President and Board of Trustees of the Village of Lake in the Hills have considered the findings of fact, the report, and the recommendation of the PZC, and have determined that the Requested Relief does not meet the standards for variations as set forth in Section 23 of the Zoning Code, in that:

- A. The Property could yield a reasonable return without the granting of the Requested Relief in that it is common throughout the Village for residential properties to be bought and sold that are adjacent to other residential rear yards from which residents can view and have opinions about neighboring yards, and in that the property directly next door at 2850 Briarcliff Lane has similar conditions as the Property and was able to be sold for a reasonable return without the need for the same variations;
- B. The Requested Relief, if granted, would alter the essential character of the locality, in that 9.5-foot-tall privacy screens made of temporary black fabric material would drastically alter the visual appeal of the neighborhood;

- C. The physical conditions of the Property would not bring a hardship upon the Owners if the strict letter of the regulations were to be carried out, in that the Property is of the same size, shape and topography as all surrounding properties, and that the height of the house and deck on the adjacent property to the rear is common in the vicinity;
- D. The conditions upon which the Requested Relief is based would be applicable generally to other property within the same zoning classification, in that it is not uncommon for property owners to view neighboring properties and have opinions, sometimes negative, about neighboring properties; and,

WHEREAS, the President and Board of Trustees have determined that it will serve and be in the best interests of the Village to deny the Requested Relief.

NOW, THEREFORE, BE IT ORDAINED by the Village President and Board of Trustees of the Village of Lake in the Hills, McHenry County, Illinois as follows:

SECTION 1: The Corporate Authorities find that the statements in the foregoing preambles are true, and the statements are incorporated into, and made a part of, this Ordinance as the findings of the Village President and Board of Trustees.

SECTION 2: The findings, report and recommendation of the PZC are hereby accepted.

SECTION 3: DENIAL OF VARIATIONS. In accordance with and pursuant to Section 24.2 of the Zoning Code and the home rule powers of the Village, the Village President and Board of Trustees hereby deny the variation from Section 13.5 of the Zoning Code to allow a privacy screen as a permitted accessory structure in the rear yard of the Property, hereby deny the variation from Section 15.3-3 of the Zoning Code to allow a fence to have a height of 9.5 feet, and hereby deny the variation from Section 15.2.A of the Zoning Code to allow a fence made of temporary fabric instead of a suitable approved fence material.

SECTION 4: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 5: EFFECTIVE DATE. This Ordinance will be effective only upon the occurrence of all of the following events, which are conditions precedent:

- A. Passage by the President and Board of Trustees in the manner required by law; and
- B. Publication in pamphlet form (which publication is hereby authorized) in the manner required by law.

Passed this 25th day of January, 2024 by roll call vote as follows:

	Ayes	Nays	Absent	Abstain
Trustee Stephen Harlfinger	_____	_____	_____	_____
Trustee Bob Huckins	_____	_____	_____	_____
Trustee Bill Dustin	_____	_____	_____	_____
Trustee Suzette Bojarski	_____	_____	_____	_____
Trustee Diane Murphy	_____	_____	_____	_____
Trustee Wendy Anderson	_____	_____	_____	_____
President Ray Bogdanowski	_____	_____	_____	_____

APPROVED THIS 25TH DAY OF JANUARY, 2024

\_\_\_\_\_  
Village President, Ray Bogdanowski

(SEAL)

ATTEST: \_\_\_\_\_  
Village Clerk, Shannon DuBeau

Published: \_\_\_\_\_

**EXHIBIT A**

**LEGAL DESCRIPTION OF THE PROPERTY**

LOT 430 IN CONCORD HILLS AT MEADOWBROOK UNIT 7, BEING A SUBDIVISION OF PART OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 43 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 3, 1996, AS DOCUMENT NUMBER 1996R0045156, IN MCHENRY COUNTY, ILLINOIS.

Commonly known as 2840 Briarcliff Lane, Lake in the Hills, Illinois.

PIN: 18-23-126-033

**EXHIBIT B**

**PHOTO OF THE PRIVACY SCREENING FENCE**



# REQUEST FOR PUBLIC HEARING AND COMMISSION ACTION

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## PLANNING AND ZONING COMMISSION

**MEETING DATE:** January 15, 2024

**DEPARTMENT:** Community Development

**SUBJECT:** Variations for a Privacy Screening Fence at 2840 Briarcliff Lane

## EXECUTIVE SUMMARY

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### General Information

*Requested Action:*

- Variation from Section 13.5 of the Zoning Code to allow a fence to be considered a privacy screen and to allow a privacy screen as a permitted accessory structure in the rear yard.
- Variation from Section 15.3-3 of the Zoning Code to allow a fence that exceeds 6 feet in height.
- Variation from Section 15.2.A of the Zoning Code to allow a fence made of temporary fabric instead of a suitable approved fence material.

*Owner:* Nicole and Rene Xicotencatl

*Applicant:* Nicole Xicotencatl

*Purpose:* To allow an existing 9.5-foot-tall fabric screening fence installed without a permit to remain on the subject property.

*Location and Size:* 2840 Briarcliff Lane. Approximately 7,489 square feet in area.

*Zoning and Land Use:*

Site:	R-2 One-Family Dwelling – Single-Family Residential
North:	R-2 One-Family Dwelling – Single-Family Residential
East:	R-2 One-Family Dwelling – Single-Family Residential
South:	R-2 One-Family Dwelling – Single-Family Residential
West:	R-2 One-Family Dwelling – Single-Family Residential
Future Land Use:	Low Density Residential

## Background

On October 13, 2023 the Village received an anonymous complaint about a tarp installed on top of an existing six-foot-tall fence on the subject property at 2840 Briarcliff Lane. Village staff investigated and found black fabric material tied to metal poles with rope, with the fabric extending along the rear lot line over the top of an existing white vinyl privacy fence to a height of approximately ten feet, and with the poles mounted in the ground about one foot away from the fence inside the rear yard of the subject property. Village records show that the white vinyl privacy fence was installed with a valid fence permit issued on February 17, 2022, and that the final inspection for the fence was approved on May 5, 2022. When questioned by Village staff, a resident of the subject property stated that the black fabric material was installed just after installation of the fence by the same contractor. Staff informed the resident that the structure does not comply with the standards in the Village codes and must be removed. On November 16, 2023 the Village issued a written Notice of Violation that required the structure to be removed by December 22, 2023. Therefore, on December 5, 2023 one of the owners of the property, Nicole Xicotencatl, submitted an application to the Village for a zoning variation to allow the structure to remain.

The application submitted by Ms. Xicotencatl requests a variation from Section 13.5 of the Zoning Code to allow the existing structure to remain in place, and describes the structure as “a light and air permeable privacy screen.” Section 13.5 is the table of permitted accessory structures. The table does not list light and air permeable privacy screens as permitted accessory structures. However, the table does list “fences” as permitted accessory structures, and the existing structure meets the definition of a fence. Specifically, Section 3 of the Zoning Code defines a fence as, “a structure erected for the purpose of enclosing or visually defining an area.” As such, the structure must comply with the fence regulations in Section 15 of the Zoning Code.

Within Section 15 of the Zoning Code, Section 15.3-3 states that fences in rear yards shall not exceed six feet in height. The black fabric fence is located in the rear yard of the subject property, and the submitted application indicates that the top of the structure is located 9.5 feet above the ground, which violates Section 15.3-3. Further, Section 15.2.A of the Zoning Code states that all fences shall be constructed of one or more of the following materials: suitable plastic material (PVC, vinyl, and composite), wood that is treated or a species that is naturally resistant to withstand decay and rot, chain link, decorative aluminum, wrought iron, or other suitable material. The existing black fabric material is not listed as an acceptable material for a fence, and staff finds that such a temporary type of a material and construction is not a suitable fence material. Therefore, in order to allow the existing structure to remain in place, the applicant must receive approval of variations from Sections 15.2.A and 15.3-3 of the Zoning Code.

## Analysis

Per Section 23.7 of the Zoning Code, there are three conditions and six supplemental standards that shall be considered by the Planning and Zoning Commission in determining whether to recommend approval of a variation. The applicant has indicated on their submitted application form how they believe these factors are met. Staff will provide a detailed analysis below of all factors regarding variations from Sections 13.5, 15.3-3 and 15.2.A of the Zoning Code as listed above.

Staff has reviewed whether the subject property could yield a reasonable return if required to comply with the accessory structure and fence requirements. The applicant indicates on the



submitted application form that they believe they cannot use the rear area of the subject property without the black fabric screen because the removal of the screen would allow a neighboring property owner to scrutinize and comment upon activities taking place in the rear yard of the subject property, and that they believe it is reasonable to be able to use their rear yard without such scrutiny and commentary. However, staff notes that the maximum allowable fence height in residential rear yards throughout the Village is six feet, and residents throughout the Village are able to see over fences into their neighbors' yards and make comments. Such similar properties throughout the Village are still bought and sold on a regular basis while yielding a reasonable return. In fact, in order to make a finding that the property could not yield a reasonable return without a variation, one would generally need to find that the property could not be sold without the variation or that the property cannot be used for any legal purpose without the variation. While staff has no doubt that the applicant's feud with their rear-yard neighbor at 2831 Hillsboro Lane is real, staff finds that the subject property could easily be sold for a reasonable return without the granting of the requested variations and without the need for the existing black fabric privacy screen. For example, the rear-yard neighbors at 2831 Hillsboro Lane can also see directly into the rear yard of the applicant's neighbors at 2850 Briarcliff Lane, and available public records show that the property at 2850 Briarcliff Lane was sold in 2021. Therefore, staff finds that the subject property could yield a reasonable return without the granting of the requested variations, which does not support the request.

Staff has reviewed whether the plight of the owner is due to unique circumstances, and notes that the applicant's feud with their rear-yard neighbor is well described in the submitted application form. While anecdotal evidence might suggest that neighbor disagreements have become more common in recent years, staff would find that constant harassment by a neighbor would be a unique situation. Therefore, staff finds that the applicant has demonstrated a unique circumstance that supports the variation request.

Staff has reviewed whether the variations, if granted, would alter the essential character of the locality. The subject property is in the middle of a residential subdivision with over 400 similar lots with similar homes constructed by the same builder. Without actually speaking with all of the residents in the subdivision, staff finds it to be likely that some residents have a good relationship with their neighbors while other residents have difficult relationships with their neighbors. If the requested variations were to be granted for the subject property based primarily on the relationship with a neighboring property owner, staff finds that it would open the door for other properties throughout the subdivision to be granted similar variations. If 9.5-foot-tall temporary fabric privacy screens were to be allowed to proliferate throughout the neighborhood, staff finds that this would drastically alter the visual appeal and character of the area. While visual appeal is a subjective concept, staff finds that other legal privacy enhancements such as evergreen trees and tall bushes are clearly different than black fabric screens. Such plantings already exist through the neighborhood, and the addition of evergreen trees and tall bushes in the rear yard of the subject property would eliminate the need for the variation without altering the character of the area. Therefore, staff finds the granting of the requested variations would alter the essential character of the locality, which does not support the request.

In review of whether the physical surroundings, shape or topographical conditions of the specific property would bring a particular hardship upon the owner as distinguished from a mere inconvenience, the submitted application states that the rear-adjacent property is topographically higher in elevation than the subject property, and that this causes a hardship. However, staff has

examined the plats of survey for the two properties and finds both properties are essentially flat and level, and that the adjacent property is only a few inches higher than the subject property. Specifically, the ground elevation directly adjacent to the foundation of the house on the subject property is 882.9 feet and the elevation at the foundation on the adjacent property is 883.2 feet, which is only 3.6 inches (0.3 feet) higher. Staff finds that this small elevation difference does not bring a particular hardship, and doesn't even rise the level of being an inconvenience. The submitted application also indicates that the presence of an elevated deck on the adjacent property also creates a hardship. However, staff finds that there are two-story-tall residences throughout the subdivision, and elevated decks are common in the subdivision. Staff finds that such a common structure as an elevated deck on an adjacent property is not a unique physical surrounding and does not create a hardship specific to the subject property. Further, staff notes that the subject property is of the same size, shape and topography as the majority of lots in the subdivision. Therefore, staff finds that the physical surroundings, shape and topographical conditions of the subject property are not in any way unique and do not bring any hardship upon the owner, which does not support the request.

As noted above, staff finds that the physical conditions upon which the variation is based are common throughout the neighborhood and do not create a hardship. The submitted application form states that the reported harassment by the neighbor would not be applicable to other properties within the same zoning classification. As noted above, staff finds it likely that the residents of other properties within the subject zoning district do not get along well with some of their neighbors, and that this is likely not a unique condition. Regardless, staff notes that the concern of harassment by a neighbor is an issue to be handled in criminal court or civil court, and is not an issue that would justify the granting of zoning variations. Therefore, staff finds that the conditions upon which the petition for variation is based would be applicable generally to other property within the same zoning classification.

In review of whether the purpose of the variation is based exclusively upon a desire to make more money out of the property, staff notes that the submitted application is clearly based on the primary issue of the poor relationship between the applicants and their rear-yard neighbors. Therefore, staff finds that the purpose of the variation is not at all based on a desire to make more money, which supports the request.

Staff has reviewed whether the alleged difficulty or hardship has been created by any person presently having interest in the property. While the need for the requested variations has clearly been created by the owner of the subject property by their installation of a non-compliant fence without a permit, staff finds that it is more difficult to determine who created the alleged hardship regarding the dispute with their neighbor. In any argument between two parties, whether related to property issues or not, staff finds it to be a truism that there are always two sides to the story. Staff has only received the applicant's side of the story as of the date of the drafting of this report. Therefore, based on the available information, staff finds that the applicant did not create the alleged hardship. However, staff suggests that the Planning and Zoning Commission consider any comments that may be made by the neighboring residents during the public hearing, which may alter the finding of fact regarding this particular review standard.

Staff has reviewed whether the granting of the variations will be detrimental to the public welfare or injurious to other property in the neighborhood. As shown in the attached staff photographs, the black fabric is temporarily tied to metal poles with rope instead of being attached with permanent fasteners. Also, the black fabric is a temporary type of material that would not meet the zoning code

or building code requirements for a permanent construction material. Therefore, staff finds that the rope connections are more likely to degrade over time when compared to permanent fasteners, and that the black fabric is likely to degrade much more quickly than a permanent fencing material. As such, staff finds that there is an increased chance that such temporary materials could be blown off the poles and onto neighboring properties during heavy storms. Regardless, the materials are soft and not likely to cause injuries to neighbors. Therefore, staff finds that the variations will not cause injury to other properties and will not affect the public welfare.

Finally, staff has reviewed whether the proposed variations will impair an adequate supply of light and air to adjacent property or substantially increase the danger of fire, or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood. The submitted application states that the black fabric material is light and air permeable, and the attached staff photos show that the fabric has small holes that allow light to pass through. As a code-compliant alternative to the existing structure, the applicant could easily have ten-foot-tall evergreen trees or shrubs installed in the same location, and such plants would block a similar amount of light and air without diminishing property values. Staff does not know the flame-spread rating of the black fabric, but notes that the existing structure is located more than ten feet away from any buildings. As such, staff finds that it does not increase danger from fire. Therefore, staff finds that the requested variations to allow the 9.5-foot-tall black fabric fence would not reduce the supply of light and air to the surrounding properties and would not substantially increase the danger of fire.

#### Findings – Summary

Based on the analysis noted above, staff offers draft findings that do not support the approval of the requested variations, in that the evidence does not sustain four of the nine conditions and standards. Specifically, staff finds negatively regarding findings A, C, D and E. The Planning and Zoning Commission’s decision must be consistent with the findings, otherwise the commissioners should deliberate new findings at the public hearing.

#### Findings – Detail

The Planning and Zoning Commission may recommend and the Board of Trustees shall permit a variation of the provisions of the Zoning Code only if the evidence, in the judgement of the Village, sustains each of the following three conditions:

- A. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located: *The property could yield a reasonable return without the granting of the requested variations in that it is common throughout the Village for residential properties to be bought and sold that are adjacent to other residential rear yards from which neighboring residents can make comments, and in that the property directly next door at 2850 Briarcliff Lane was able to sold for a reasonable return without the need for the same variation.*
- B. The plight of the owner is due to unique circumstances: *The plight of the owner is due to the unique circumstance in that the applicant has documented an apparently severe disagreement with the occupants of the adjacent property at 2831 Hillsboro Lane.*

C. The variation, if granted, will not alter the essential character of the locality: *The variations, if granted, would alter the essential character of the locality, in that 9.5-foot-tall privacy screens made of temporary fabric material would drastically alter the visual appeal of the neighborhood.*

For the purpose of supplementing the above standards, the Village, in making its determination whether there are practical difficulties or particular hardship, also shall take into consideration the extent to which the following facts, favorable to the applicant, have been established by the evidence that:

D. The particular physical surroundings, shape or topographical conditions of the specific property involved would bring a particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulation were to be carried out: *The physical conditions of the specific property would not bring a hardship upon the owner if the strict letter of the regulation were to be carried out, in that the subject property is of the same size, shape and topography as all surrounding properties, and that the height of the house and deck on the adjacent property to the rear is common in the vicinity.*

E. The conditions upon which the petition for variation is based would not be applicable generally to other property within the same zoning classification: *The conditions upon which the petition for variation is based would be applicable generally to other property within the same zoning classification, in that it is not uncommon for neighboring properties owners to have disagreements.*

F. The purpose of the variation is not based exclusively upon a desire to make more money out of the property: *The purpose of the variation is not based exclusively upon a desire to make more money out of the property, but rather is based exclusively on a dispute between the applicants and their rear-yard neighbors.*

G. The alleged difficulty or hardship has not been created by any person presently having interest in the property: *Based solely upon the statements in the submitted application, the difficulty or hardship alleged by the applicant has not been created by any person presently having interest in the property.*

H. The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located: *The granting of the requested variations will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located, in that the black fabric material and rope connections are soft and not likely to cause any damage or injury.*

I. The proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase the danger of fire, or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood: *The proposed variations will not impair an adequate supply of light and air to adjacent property or substantially increase the danger of fire, or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood, in that the structure is light and air permeable and is located more than ten feet away from any buildings.*

## ATTACHMENTS

1. Application
2. Exhibits
3. Plats of Survey

## **RECOMMENDED ACTION**

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The Planning and Zoning Commission may recommend a variation of the provisions of the Zoning Code only if the evidence sustains each of the conditions and supplemental standards listed in the code. As detailed above, staff finds that the evidence sustains only five of the nine conditions and standards. Therefore, regardless of the compelling nature of the alleged hardship regarding harassment by a neighbor, staff has no choice but to recommend denial of the requested variations. Therefore, staff recommends that the Planning and Zoning Commission review, deliberate, and make the following motion:

A motion to recommend denial of the requested variation from Section 13.5 of the Zoning Code to allow a fence to be considered a privacy screen and to allow a privacy screen as a permitted accessory structure, a variation from Section 15.3-3 of the Zoning Code to allow a fence that exceeds 6 feet in height, and variation from Section 15.2.A of the Zoning Code to allow a fence made of temporary fabric instead of a suitable approved fence material, all on the property at 2840 Briarcliff Lane, per the findings noted in the staff report dated January 15, 2024.



## Village of Lake in the Hills Development and Zoning Application

Date: 12-3-2023

### Property Information

Common street address: 2840 Briarcliff Lane, Lake in the Hills, IL

PIN (Property Index Number): 1823126033

Current Zoning: Residential Proposed Zoning: Residential

Current Use: Residential Proposed Use: Residential

Is the request consistent with the Comprehensive Plan?

Number of Acres: 0.17 If greater than 4 acres, 2 acres for government property or 5 acres for manufacturing zoned land, application shall be processed as a Planned Development as a Conditional Use. See definition of Planned Development and PD Section of Zoning Ordinance.

Legal description of the property (print or attach exhibit): see attached

### Property Owner Information

Name(s): Nicole & René Xicotencatl

Business/Firm Name (if applicable):

Address: 2840 Briarcliff Lane

City/State/Zip: Lake in the Hills, IL 60156

Phone Number: 847-909-7780

Email: nxicot@comcast.net

### Applicant Information

Name(s): Nicole Xicotencatl

Business/Firm Name (if applicable):

Address: 2840 Briarcliff Lane

City/State/Zip: Lake in the Hills Illinois 60156

Phone Number: 847-909-7780

Email: nxicot@comcast.net

**Lake in the Hills Development and Zoning Application**  
**Page 2**

1	2	3	4	5	6
Request	Select Request with X	Required Fee ac = Acre	For Requirements See Appendix	Public Hearing Required See Appendix A2	Total Fee (enter Amount per Column 3)
Annexation		\$1,000/ac payable upon annexation	D	Yes	
Sketch Plan		\$0	E	No	
Tentative Plan		\$500 + \$10/ac	F	No	
Final Plat		\$500 + \$10/ac	G	No	
Plat of Vacation and/or Resubdivision Plat		\$500 + \$10/ac	H	No	
<b>Conditional Use</b>					
Conditional Use		\$500 + \$10/ac over 2 ac	I	Yes	
Rezoning		\$500 + \$10/ac over 2 ac	J	Yes	
Text Amendment		\$500	K	Yes	
Variance – Residential		\$100	L	Yes	\$100.00
Variance – Non-Residential		0-2 ac = \$250 Over 2 ac = \$500	L	Yes	
Development Plan Review		\$500 + \$10/ac	M	No	
<b>Total Fees</b>					
<b>Additional Fees</b>					
Stormwater Permit Application Fee to be paid at time of permit issuance Minor = \$250 Intermediate or Major = \$1,000					N/A
Reimbursement of Fees Required ( <b>Attach Appendix B</b> ) = <del>\$2,000 + \$100/acre for</del> \$500 every acre over 5 acres					\$ 500.00

*Cheryl E. Quotenecatt* 12/03/2023  
 Property Owner Signature Date

*Cheryl E. Quotenecatt* 12/03/2023  
 Applicant Signature Date

**If Owner/Applicant is a School District please, complete and submit Appendix N**

*All required appendices and documentation shall be submitted with this application. Incomplete applications will not be processed.*

## **APPENDIX L Variation**

This appendix shall be filled out, signed, and submitted with the following information along with the Development and Zoning Application and in accordance with Village Ordinances <http://www.lith.org/administration/page/municipal-code-zoning> and all other applicable requirements:

1. Compliance with Appendix A regarding public notice and hearing requirements
2. Plat of Survey
3. Current Deed to verify property ownership
4. Development Plans (if applicable) that comply with the Zoning Ordinance and all other Village ordinances to include:
  - a. Existing Conditions Plan
  - b. Site Plan
  - c. Utility Plan
  - d. Grading Plan
  - e. Landscape Plan
  - f. Lighting Plan
  - g. Color Building Elevations
  - h. Sign Plan
  - i. Detail Page
5. Stormwater Application and associated reports, if applicable (Appendix C)
6. All documents and information necessary to comply with Village Ordinances.
7. Reimbursement of Fees Agreement, if applicable (Appendix B)

**Submit 1 hard copy of each report and a PDF of each report.**

**Submit 1 Full Size (minimum 24" x 36") hard copy and a full size PDF of each required plan.**



PROPERTY ADDRESS/PIN 2840 Briarcliff Lane  
Lake in the Hills, IL

1. Please indicate the variation that is being sought, include section(s) and paragraph(s) of the Zoning Ordinance and any dimension(s) and a brief description of the proposed use, construction or development that prompted the request:

Please see attached.

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**Please indicate the variation that is being sought, include section(s) and paragraph(s) of the Zoning Ordinance and any dimension(s) and a brief description of the proposed use, construction or development that prompted the request:**

A variation to Section 13, paragraph 5 is being sought to approve an existing accessory structure located on the rear of the property of 2840 Briarcliff Lane.

The accessory structure is a light and air permeable privacy screen that functions to increase the privacy for the residents of the property. The dimensions of the screen are 4 feet tall by 39 feet wide. The privacy screen is supported by four flagpoles that are independently cemented into the ground for stability. The privacy screen is situated beginning at a height of 5.5 feet above the ground and is installed one foot inside of the bounds of the privacy fence surrounding the property, though the privacy screen only covers the rear property line. The screen was installed and deemed safe by North Fence, an accredited professional landscaping company that services the community.

The purpose of the screen is to further ensure the privacy of the residents and prevent further harassment from the rear-adjacent neighbor, which has been ongoing for two decades. The harassment began after an incident in 2002 when the rear-adjacent neighbor's dog bit the youngest child of the family residing at 2840 Briarcliff Lane (the current residents). As a result of this unfortunate accident, McHenry County deemed the rear-adjacent neighbor's dog to be unsafe and mandated euthanization. Since then, the rear-adjacent neighbor has conducted countless acts of "revenge" against the current residents of 2840 Briarcliff Lane, even resorting to harassment on the basis of race, culture, and disability.

The residents have unsuccessfully attempted many methods to ensure separation and privacy, including but not limited to planting vegetation (evergreen and large shrubbery), installing a regulation 6-foot privacy fence, and utilizing patio sun umbrellas. For over 20 years, the rear-adjacent neighbor has verbally harassed the residents, conducted video surveillance of the residents on their private property, and has even leveraged local law enforcement by submitting false anonymous complaints that have never resulted in ticketing for the residents of 2840 Briarcliff Lane. All of this harassment culminated in the Summer of 2022 when the rear-adjacent neighbor filed legal action against the residents of 2840 Briarcliff Lane—the matter went to the McHenry County Court system, wherein it was dismissed due to lack of supporting evidence of the rear-adjacent neighbor's claims. During the court proceedings, the rear-adjacent neighbor testified to knowing very detailed information about the schedule of the residents of 2840 Briarcliff Lane, due to continuous observation and video surveillance. In addition to this very disturbing admission by the rear-adjacent neighbor, there was also video presented in court by the neighbor that showed a full, continuous view of the private property of 2840 Briarcliff Lane within the bounds of the privacy fence. This video footage was from a "security camera", but it was positioned in a way that did not show the back door of the rear-adjacent property, and instead was presumably used to further violate the privacy of the residents of 2840 Briarcliff Lane.

After learning how deeply violated their privacy was, the residents of 2840 Briarcliff Lane installed a privacy screen above the previously installed privacy fence, and as a result, the harassment from the rear-adjacent neighbor seemed to stop. However, it is believed that the rear-adjacent neighbor, in another attempt at leveraging community resources to conduct her harassment, has contacted the Village of Lake in the Hills with an apparent complaint about the privacy screen.

For over 18 months, the privacy screen has fulfilled its function in providing sufficient privacy and protection from the harassment of the rear-adjacent neighbor. The total cost of all harassment prevention efforts taken by the residents of 2840 Briarcliff Lane is well over \$20,000, including the cost of the fence and installation, the planting of vegetation, the legal fees to fight harassment via the court system, and the countless lost wages as a result of time spent attempting to resolve this dispute.

The residents of 2840 Briarcliff Lane would like to petition the Village to allow an exception to the Zoning Ordinance (Section 13, paragraph 5) to include the privacy screen in an effort to continue the prevention of and protection from harassment by the rear-adjacent neighbor.

Supporting documentation will be submitted with the application.

PROPERTY ADDRESS/PIN 2840 Briarcliff Lane  
Lake in the Hills, IL

**Standards and Findings of Facts for a Variance per Section 23.7 of the Zoning Ordinance**

The Planning and Zoning Commission may recommend and the Board of Trustees shall permit a variation of the provisions of this Zoning Code, as authorized in this Section, only if the evidence, in the judgement of the Village sustains each of the following three conditions:

1. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located. **Explain how this standard is met.**

See attached.

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2. The plight of the owner is due to unique circumstances. **Explain how this standard is met.**

See attached.

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3. The variation, if granted, will not alter the essential character of the locality. **Explain how this standard is met.**

See attached.

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PROPERTY ADDRESS/PIN 2840 Briarcliff Lane  
Lake in the Hills IL

For the purpose of supplementing the above standards, the Village, in making this determination whenever there are practical difficulties or particular hardship, also shall take into consideration the extent to which the following facts, favorable to the applicant, have been established by the evidence:

4. That the particular physical surroundings, shape or topographical conditions of the specific property involved would bring a particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulation were to be carried out. **Explain how this standard is met.**

See attached.

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5. That the conditions upon which the petition for variation is based would not be applicable generally to other property within the same zoning classification. **Explain how this standard is met.**

See attached.

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6. That the purpose of the variation is not based exclusively upon a desire to make more money out of the property. **Explain how this standard is met.**

See attached.

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7. That the alleged difficulty or hardship has not been created by any person presently having interest in the property. **Explain how this standard is met.**

See attached.

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PROPERTY ADDRESS/PIN 2840 Briarcliff Lane  
Lake in the Hills IL

8. That the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located. **Explain how this standard is met.**

See attached.

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9. That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood. **Explain how this standard is met.**

See attached.

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Mike & Deborah 12-03-2023

Applicant's Signature

Date

Mike & Deborah 12-03-2023

Property Owner's Signature

Date

## **Standards and Findings of Facts for a Variance per Section 23.7 of the Zoning Ordinance**

- 1. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located. Explain how this standard is met.**

The back of the property is unable to be used for the enjoyment of the owners due to scrutiny and harassment of the rear-adjacent neighbor. It is perfectly reasonable to expect to be able to use the full extent of one's property privately, especially with the enclosure of a privacy fence. The privacy screen further ensures the reasonable expectation of the ability to use one's property however one sees fit without the scrutiny or commentary of the rear-adjacent neighbor.

- 2. The plight of the owner is due to unique circumstances. Explain how this standard is met.**

The owner and family residing on the property have experienced surveillance and harassment by the rear-adjacent neighbor. All other manners of dispute resolution and mediation have failed in preventing this continued surveillance and harassment, except the privacy screen which has seemingly caused the cessation of direct harassment.

- 3. The variation, if granted, will not alter the essential character of the locality. Explain how this standard is met.**

The accessory structure/privacy screen is necessary only due to the presence of the specific resident of the rear-adjacent property. Upon departure of either this neighbor or the property owner of 2840 Briarcliff Lane, the accessory structure will be removed. Additionally, this privacy screen functions no differently than any other privacy enhancements such as evergreen trees, tall bushes, clotheslines, sheds, or privacy fences, which are all permitted under the property zoning regulations.

- 4. That the particular physical surroundings, shape, or topographical conditions of the specific property involved would bring a particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulation were to be carried out. Explain how this standard is met.**

The rear-adjacent property is topographically higher in elevation than the property located at 2840 Briarcliff Lane, and the rear-adjacent property features an elevated deck at the rear of the home. These two elements combined nullify the effect of a regulation 6-foot privacy fence, denying the property owners of 2840 Briarcliff Lane the right to privacy in their own backyard. Without the accessory structure, the property owners are subject to unique and violating surveillance which causes severe distress to the residents, including one of whom is in physical and emotional recovery from years of medical trauma (a lower leg soft tissue sarcoma and subsequent amputation). This resident, because of her physical disability, not only has limited ability to navigate the backyard, but also cannot do so with sufficient privacy—in fact, prior to erecting the privacy screen, the disabled resident was subject to questioning, unsolicited commentary, and mocking by the rear-adjacent neighbor.

- 5. That the conditions upon which the petition for variation is based would not be applicable generally to other property within the same zoning classification.**

**Explain how this standard is met.**

This standard is met for two reasons: First, the topography of the rear-adjacent neighbor's yard makes a privacy fence insufficient to prevent sight line into the backyard at 2840 Briarcliff Lane. Second, the particular harassment of the resident of the rear-adjacent property is unique and specific to the resident herself—these harassing behaviors include submitting repeated false complaints to the local police, inappropriate and cruel verbal harassment pertaining to disability, race, and culture, and the installation of a so-called security camera that is trained on the backyard of the property at 2840 Briarcliff Lane, the view of which is only prevented by the installation of the privacy screen. The assumption here is that other properties subject to the zoning classification are not also subject to both the unique topography and this specific brand of harassment from this specific neighbor.

- 6. That the purpose of the variation is not based exclusively upon a desire to make more money out of the property. Explain how this standard is met.**

The approval of the accessory structure will not result in any financial gain for the property owners. As previously stated, the accessory structure will be removed if the property owners sell their home, or if the rear-adjacent neighbor moves away. Moreover, the maintenance of the property as required by Village zoning laws would be impeded—the rear-adjacent neighbor has harassed not only the owner of the property but also maintenance workers and landscapers when they have been present and working on the property. This behavior has ceased since the installation of the privacy screen but would surely resume immediately if the screen were mandated to be removed. This would result in a reluctance to perform landscape improvements beyond any basic maintenance, thus in fact lowering the property value for the property owners and surrounding properties.

- 7. That the alleged difficulty or hardship has not been created by any person presently having interest in the property. Explain how this standard is met.**

The current property owners have a deep desire to remain in the community and do not have immediate plans to sell their home. The only interest at play here is the interest for the current property owners to remain in their home and enjoy their property to the full extent, with their privacy intact.

- 8. That the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located. Explain how this standard is met.**

The accessory structure is free-standing, cemented into the ground, and installed by a professional landscaping company. It has been deemed safe and stable, and does not present any risk of injury to any other structure or individual in the community. Nor does this privacy screen impact any ongoing maintenance or neighborhood improvements—it



does not interfere with overhead power lines, underground infrastructure, adjacent buildings or structures, and it is not visible from the street. The impact of this structure on the community is non-existent.

- 9. That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood. Explain how this standard is met.**

The accessory structure extends less than 4 feet above the top of the 6-foot privacy fence, and the screen attached is light and air permeable. For these reasons, it does not block adequate supply of light or air to any adjacent property. Additionally, as previously stated, the privacy screen is a temporary structure that provides privacy which has been otherwise compromised by the actions of the rear-adjacent neighbor. Upon the departure of either the neighbor or the property owner, the structure will be removed.

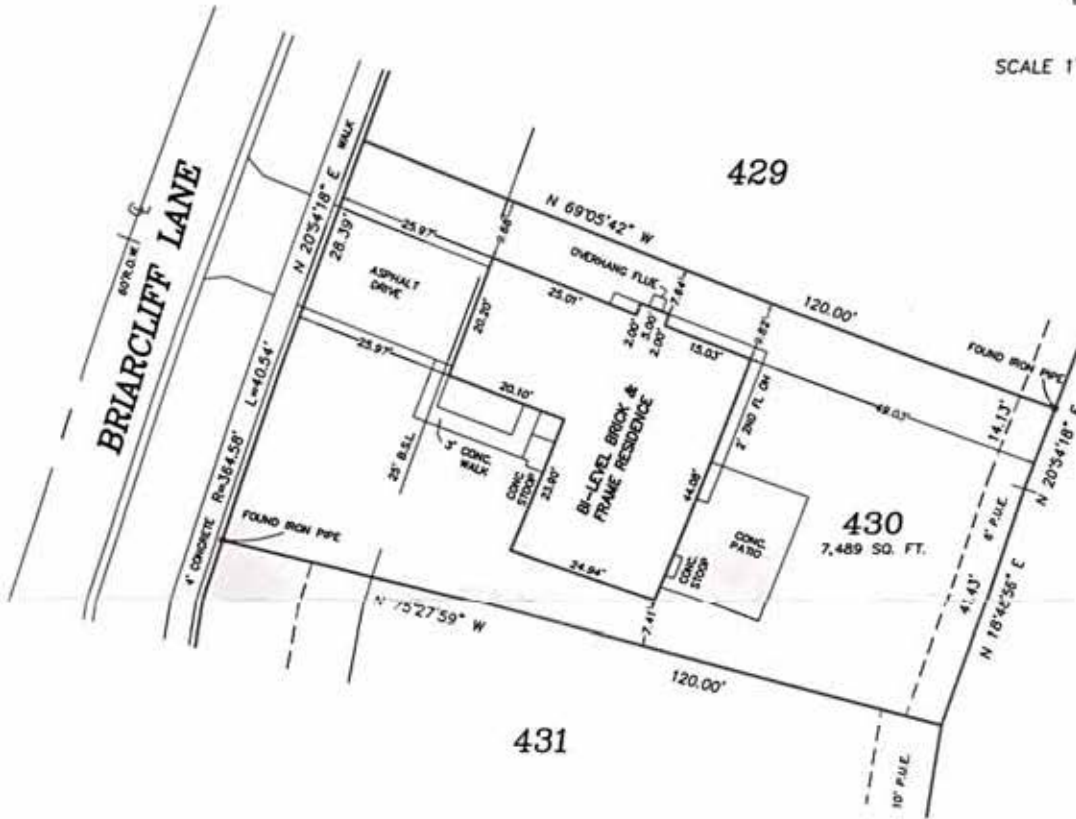
# PLAT OF SURVEY

LOT 430 IN CONCORD HILLS AT MEADOWBROOK UNIT 7 BEING A SUBDIVISION OF PART OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 43 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF RECORDED ON SEPTEMBER 3, 1996 AS DOCUMENT NO. 96R045156, IN MCHENRY COUNTY, ILLINOIS.

2840 BRIARCLIFF LANE



SCALE 1" = 20'



NOTE: THERE IS A 4.0' SIDE YARD PUBLIC UTILITY EASEMENT ON ALL LOTS FOR A TOTAL OF 8.0' UNLESS OTHERWISE NOTED.

SURVEYOR'S CERTIFICATE

STATE OF ILLINOIS }  
COUNTY OF DUPAGE }

THIS IS TO CERTIFY THAT THE ABOVE DESCRIBED PROPERTY WAS SURVEYED BY HAGENSEE SURVEYING, LLC, UNDER THE DIRECTION OF AN ILLINOIS PROFESSIONAL LAND SURVEYOR AND THAT THE PLAT HEREON DRAWN IS A CORRECT REPRESENTATION OF SAID SURVEY. ALL DISTANCES ARE SHOWN IN FEET AND DECIMALS THEREOF.

GIVEN UNDER MY HAND AND SEAL AT DOWNERS GROVE, ILLINOIS THIS 29<sup>th</sup> DAY OF

MARCH A.D., 2000  
BY: David P. Withnar  
ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 3357



LOT SVY	6-14-96 GEF
PERMIT	4-16-98 DPW
SPOT	6-23-98 SDR
FINAL	6-10-99 P.V.

Mar 25, 2000 - 10:20 Dwg Name: D:\p\permits7.dwg Updated By: Julie

**Hagensee Surveying, LLC**

3050 Finley Road, Suite 302  
Downers Grove, IL 60515  
(630) 369-1000  
FAX (630) 369-1374

REVISIONS

6-09-99 G. SURVEY P.V.  
03-25-00: UPDATE - JAM

LEGEND

- - FOUND IRON PIPE (F.I.P.)
- T/F - TOP OF FOUNDATION
- T/C - TOP OF CURB
- F/G - FINISH GRADE
- B.S.L. - BUILDING SETBACK LINE
- P.U.A. D.E. - PUBLIC UTILITY & DRAINAGE EASEMENT
- P.U.E. - PUBLIC UTILITY EASEMENT
- U.E. - UTILITY EASEMENT
- 725.0 - EXISTING GRADES
- (723.2) - PROPOSED GRADES

CASLH/H521

Drawn By: GEF Date: 6-14-96 Job No. 600-022

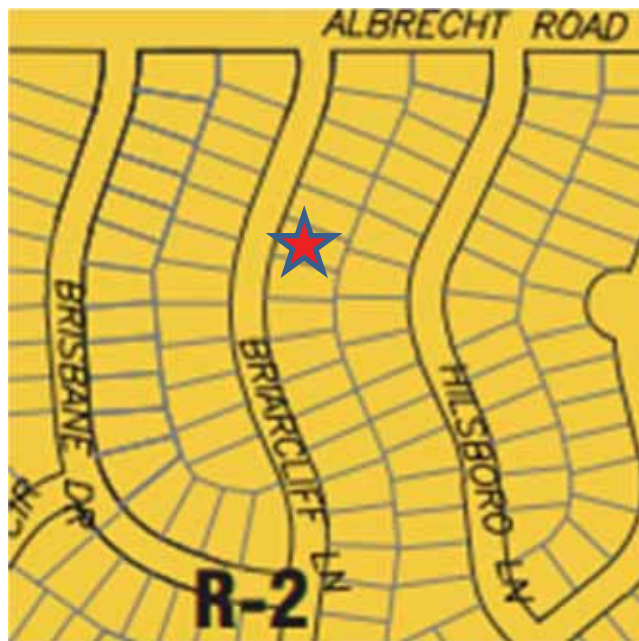
# Variations for a Privacy Screening Fence at 2840 Briarcliff Lane



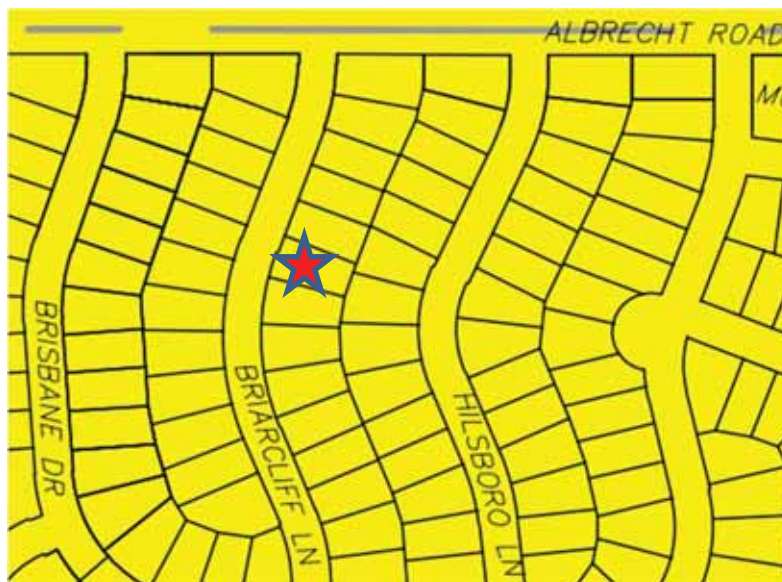
EXHIBITS

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ZONING MAP



FUTURE LAND USE MAP



AERIAL PHOTO



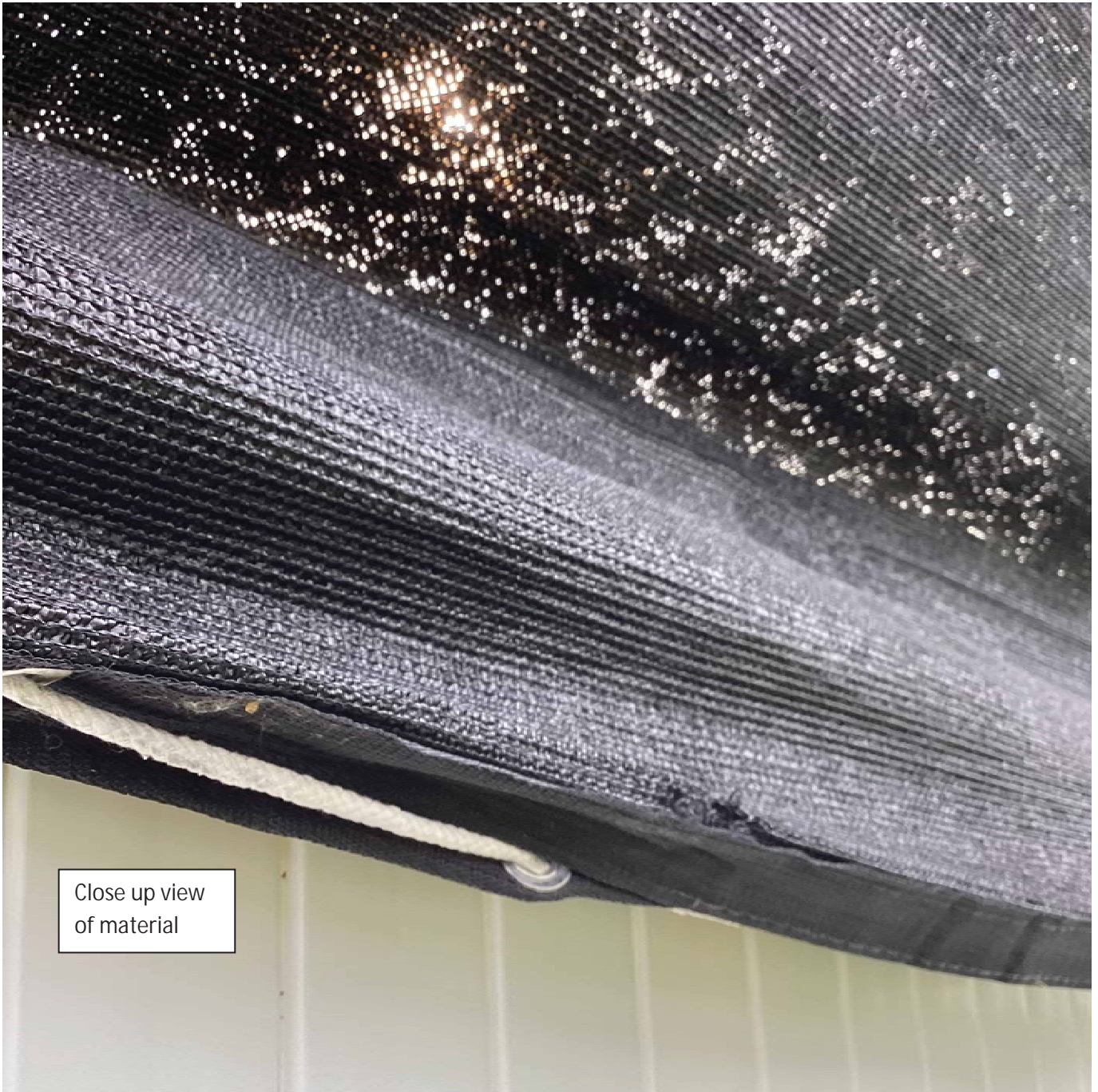
PROPERTY PHOTOS

View from rear yard  
of 2840 Briarcliff Lane



View from rear yard  
of 2840 Briarcliff Lane,  
view along fence





Close up view  
of material

View of pole  
and attachment  
method





View from  
Hillsboro Lane





# REQUEST FOR BOARD ACTION

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**MEETING DATE:** January 23, 2024

**DEPARTMENT:** Public Works

**SUBJECT:** Generator Maintenance and Inspection Services

## EXECUTIVE SUMMARY

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Staff seeks Board approval to accept the bid and award a contract to Rush Power Systems of Belvidere, IL for generator maintenance and inspection services in an amount not to exceed \$46,056.00.

Village staff released a Request for Proposal (RFP) for generator maintenance and inspection services through December 31, 2025. The RFP was posted to the Village's website, a public notice was published in the Northwest Herald, and Village staff contacted sixteen vendors to notify them of this opportunity. On January 10, 2024, eight sealed proposals were opened, and two-year pricing ranged from a high of \$81,616.00 to a low of \$46,056.00 from Rush Power Systems.

Rush Power Systems have been performing maintenance and inspection services for the Village since 2020 and staff have been pleased with their performance. As such, Village staff recommends awarding this two-year contract to Rush Power Systems for \$46,056.00.

## FINANCIAL IMPACT

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The lowest bid for the full term of the contract through December 31, 2025 is \$46,056.00. Of this amount, the cost for FY2024 is \$27,633.60, which exceeds the budgeted amount of \$20,500.00 by \$7,133.60. The budgeted expense had been split between the General Fund (37%) and the Water Fund (67%). Therefore, the FY2024 cost to the General Fund will be \$10,109.85 and the cost to the Water Fund will be \$17,523.75.

The FY2025 expense will be significantly reduced to \$18,422.40, which will again be split \$6,739.90 to the General Fund and \$11,682.50 to the Water Fund.

## ATTACHMENTS

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1. Rush's Bid Certification Sheet
2. Bid Tabulation Sheet

## RECOMMENDED MOTION

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Motion to accept the bid and award a contract for generator maintenance and inspection services with Rush Power Systems in an amount not-to-exceed \$46,056.00.

**APPENDIX 4**

**VILLAGE OF LAKE IN THE HILLS  
 BID CERTIFICATION FORM**

**CONTRACTOR'S NAME:** Rush Power Systems LLC  
**ADDRESS:** 1981 Belford N Dr  
Belvidere IL 61008

**1. COST OF WORK:**

The undersigned, having familiarized [himself/herself] with conditions affecting the cost of the work and its performance and having carefully examined and fully understood the INSTRUCTION TO CONTRACTORS, hereby affirms and agrees to enter into a contract with the Village of Lake in The Hills, Illinois;

The undersigned hereby also certifies that in accordance with 710 ILCS 7/33E-11 that, the Contractor is not barred from submitting a bid for this contract as a result of a violation of either Section 33E-3 or Section 33E-4 concerning bid rigging, bid rotating, kickbacks, bribery and other interference with public contracts;

To PROVIDE all supervision, labor, material, equipment, and all other expense items to perform completely the entire work covered by all specifications for the entire work;

Location	Service	2024	2025	Total	
310 Council Trail Well 6	Preventative Maintenance	\$1535 <sup>20</sup>	767 <sup>60</sup>	\$2302 <sup>80</sup>	3838
	Load Bank Testing	\$767 <sup>60</sup>	767 <sup>60</sup>	\$1535 <sup>20</sup>	
4145 Spring Lake Dr. Wells 9 & 17	Preventative Maintenance	\$1535 <sup>20</sup>	767 <sup>60</sup>	\$2302 <sup>80</sup>	3838
	Load Bank Testing	\$767 <sup>60</sup>	767 <sup>60</sup>	\$1535 <sup>20</sup>	
401 Wright Drive Well 10	Preventative Maintenance	\$1535 <sup>20</sup>	767 <sup>60</sup>	\$2302 <sup>80</sup>	3838
	Load Bank Testing	\$767 <sup>60</sup>	767 <sup>60</sup>	\$1535 <sup>20</sup>	
5664 McKenzie Well 12	Preventative Maintenance	\$1535 <sup>20</sup>	767 <sup>60</sup>	\$2302 <sup>80</sup>	3838
	Load Bank Testing	\$767 <sup>60</sup>	767 <sup>60</sup>	\$1535 <sup>20</sup>	
1212 Crystal Lake Road Transfer Station	Preventative Maintenance	\$1535 <sup>20</sup>	767 <sup>60</sup>	\$2302 <sup>80</sup>	3838
	Load Bank Testing	\$767 <sup>60</sup>	767 <sup>60</sup>	\$1535 <sup>20</sup>	
9300 Haligus Road Well 16	Preventative Maintenance	\$1535 <sup>20</sup>	767 <sup>60</sup>	\$2302 <sup>80</sup>	3838
	Load Bank Testing	\$767 <sup>60</sup>	767 <sup>60</sup>	\$1535 <sup>20</sup>	
550 Harvest Gate Well 15	Preventative Maintenance	\$3070 <sup>40</sup>	1535 <sup>20</sup>	\$4605 <sup>60</sup>	7676
	Load Bank Testing	\$1535 <sup>20</sup>	1535 <sup>20</sup>	\$3070 <sup>40</sup>	

Location	Service	2024	2025	Total	
600 Harvest Gate Village Hall	Preventative Maintenance	\$1535 <sup>20</sup>	\$767 <sup>60</sup>	\$2302 <sup>80</sup>	3838
	Load Bank Testing	\$767 <sup>60</sup>	\$767 <sup>60</sup>	\$1535 <sup>20</sup>	
1115 Crystal Lake Road Police Department	Preventative Maintenance	\$1535 <sup>20</sup>	\$767 <sup>60</sup>	\$2302 <sup>80</sup>	3838
	Load Bank Testing	\$767 <sup>60</sup>	\$767 <sup>60</sup>	\$1535 <sup>20</sup>	
2 East Oak Police Department	Preventative Maintenance	\$1535 <sup>20</sup>	\$767 <sup>60</sup>	\$2302 <sup>80</sup>	3838
	Load Bank Testing	\$767 <sup>60</sup>	\$767 <sup>60</sup>	\$1535 <sup>20</sup>	
9010 Haligus Road Public Works	Preventative Maintenance	\$1535 <sup>20</sup>	\$767 <sup>60</sup>	\$2302 <sup>80</sup>	3838
	Load Bank Testing	\$767 <sup>60</sup>	\$767 <sup>60</sup>	\$1535 <sup>20</sup>	
<b>TOTAL</b>		\$2633 <sup>60</sup>	\$1942 <sup>40</sup>	\$4605 <sup>60</sup>	46,056.00

FOR THE LUMP SUM OF \_\_\_\_\_ Dollars (\$ 46,056.00)  
 [Include a breakdown of unit and total prices for items as required.]

**Optional RFP pricing**

1. Please include a separate document containing a list of generators available to rent and a pricing schedule for each generator.
2. Please include a separate document containing your hourly labor rates for as-needed generator repair work that may be needed in addition to the Preventative Maintenance and Load Bank Testing Services.

**2. COSTS:**

The undersigned hereby affirms and states that the prices quoted herein constitute the total cost to the Village for all work involved in the respective items and that this cost also includes all insurance, royalties, transportation charges, use of all tools and equipment, superintendence, overhead expense, all profits, and all other work, services, and conditions necessarily involved in the work to be done and materials to be furnished in accordance with the requirements of the contract documents considered severally and collectively. All bids shall be held valid for a period of 60 days after the bid due date.

The undersigned hereby also certifies that this bid is genuine and not collusive or sham; that said Contractor has not colluded, conspired, connived or agreed, directly or indirectly, with any other Contractor or person, to put in a sham bid or to refrain from submitting a bid; and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference with any person, to fix the proposed price elements of said bid, or that of any other Contractor, or to secure any advantage against any other Contractor or any person interested in the proposed contract.

The undersigned hereby also certifies in accordance with 65 ILCS 5/11-42.1-1 that the Contractor is not delinquent in the payment of any tax administered by the Illinois Department of Revenue unless the amount and/or liability is being properly contested in accordance with the procedures established by the appropriate revenue act.

The undersigned hereby also certifies in accordance with 720 ILCS 5/33 E that the Contractor will not participate in bid rigging and/or rotating, kickbacks, bribery, and other related interference with public contracts. The statute requires that a certification be submitted by a Contractor specifically attesting to the provisions of 5/33E-3 and 5/33E-4.

The undersigned hereby also certifies in accordance with 775 ILCS 5/2-105 that the Contractor must furnish evidence of adoption of a written policy on sexual harassment pursuant to the statute. The Village's interpretation

of this statute is that such a policy does not have to be submitted with the bid, but the Contractor must have one in order to receive a contract.

The undersigned hereby also certifies that the bid is in compliance with all other applicable federal, state, and local laws.

**3. DELIVERY REQUIREMENTS:**

The undersigned hereby affirms and states that the prices listed as "Performed and Delivered" are the unit and total costs for the delivery of item(s) to their designated locations ready for use.

**4. TIME OF COMPLETION:**

The undersigned affirms and declares that if awarded the contract for said **Inspection and Maintenance Services for Village Generators**, [he/she] will completely perform the contract in strict accordance with its terms and conditions within the terms and conditions after notification of award of the contract.

**5. SPECIFICATIONS:**

The undersigned will furnish all labor, material, equipment, and services necessary for said **Inspection and Maintenance Services for Village Generators** in accordance with the following specifications and drawings (if required) as attached.

**6. CONDITIONS:**

- A. The Village is exempt from federal excise tax and the Illinois Retailers' Occupation Tax. The undersigned certifies that this proposal does not include any money for these taxes.
- B. To be valid, bids shall be itemized so that selection for purchase may be made, there being included in the price of each item the cost of delivery, insurance, bonds, overhead, and profit.
- C. The Village shall reserve the right to add to or deduct from the base bid and/or alternate bid any item at the prices indicated in the itemization of the bid.

Dated on \_\_\_\_\_ this 8<sup>th</sup> day of January, 2024.

By: [Signature]  
(Signature)

Its: President  
Title

Mark Rush being duly sworn, deposes and states that he/she is the \_\_\_\_\_  
President of Rush Power Systems and that the statement  
above is

true and correct. Subscribed and sworn before me this 8<sup>th</sup> day of January, 2024.



[Signature]  
Notary Public

**VILLAGE OF LAKE IN THE HILLS**

Accepted this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

By: \_\_\_\_\_  
(Signature)

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

# Inspection and Maintenance Services for Village Generators

Village of Lake in the Hills, IL - Bid Tabulation

Company	2024	2025	Total
Charles Equipment	\$32,227.10	\$18,830.95	\$51,058.05
Alta Equipment	\$34,477.00	\$20,488.00	\$54,965.00
Midwest Power Industry Inc	\$30,217.00	\$18,865.00	\$49,082.00
Genserve	\$26,649.00	\$24,730.00	\$51,379.00
Interstate Power Systems	\$39,342.17	\$27,204.36	\$66,546.53
Rush Power	\$27,633.60	\$18,422.40	\$46,056.00
Industrial Engine	\$42,080.00	\$27,255.00	\$69,335.00
JRC Generators	\$51,656.37	\$29,959.96	\$81,616.33