

AGENDA
COMMITTEE OF THE WHOLE
August 11, 2020
2200 Harnish Drive
Village Board Room
- AGENDA -
7:30 P.M.

In light of the current COVID-19 public health emergency, Governor J.B. Pritzker’s Gubernatorial Disaster Proclamation, and the Village’s Continuation of Proclamation of Local Disaster Emergency in response thereto, the Village President has determined that an entirely in-person meeting is not practical or prudent because of the disaster. This meeting will be held remotely and in-person, but there will be a limit of twelve (12) in-person seats available for the public in the Village Board Room at the Ganek Municipal Center (2200 Harnish Drive, Algonquin). Face coverings/masks will be required of all those entering the building. The following information is being made available to the public for the purpose of public participation in the spirit of transparency, and an open meeting process.

The complete Village Board meeting packet may be viewed online via the Village Board’s link on the Village’s website, www.algonquin.org. If you would like to listen and/or participate in the meeting remotely, please go to <https://algonquin.zoom.us/j/94701668674> or dial in (877)853-5257 or (888)475-4499 **webinar ID 947 0166 8674**. If you wish to submit any public comment, please contact the Deputy Village Clerk in advance of the meeting at 847-658-5609 or meetingcomments@algonquin.org. You may also comment during the “**AUDIENCE PARTICIPATION**” portion of the meeting. After logging into the Zoom meeting, please raise your hand and you will be called on, if you are dialing in, dial *9 to raise your hand. The Village will attempt to read public comments received prior to the meeting during the “**AUDIENCE PARTICIPATION**” portion of the meeting. Any comments received during the meeting, but after the “**AUDIENCE PARTICIPATION**” portion has ended, will be provided in writing to the Village Board members after the meeting. Remote meetings will be recorded for the purpose of accurate meeting minutes

Trustee Sosine – Chairperson
Trustee Steigert
Trustee Jasper
Trustee Brehmer
Trustee Glogowski
Trustee Spella
President Schmitt

1. **Roll Call – Establish Quorum**
2. **Public Comment – Audience Participation**
(Persons wishing to address the Committee must register with the Chair prior to roll call.)
3. **Recognize Veronica Walker as McHenry County Chiefs of Police Scholarship Recipient**
4. **Lake Braewood Corridor Study Presentation**
5. **Community Development**
 - A. Consider an Extension to the CarMax to Extend the Development Agreement Terms
 - B. Consider a Special Event Permit for the Algonquin Rotary Club Harvest Market
September 19, 2020 from 9 am to 4 pm
6. **General Administration**
 - A. Consider the Fiscal Year End 2020 Budget Amendment
 - B. Consider Amending Chapter 6A of the Algonquin Municipal Code
 - C. Consider A Resolution Authorizing a Binding Public Question on the November 3, 2020, General Election Ballot on the Question of Appointing the Algonquin Village Clerk
7. **Public Works & Safety**
 - A. Consider a Mutual Aid Agreement for McHenry County Sheriff’s SWAT Team
8. **Executive Session**
9. **Other Business**
10. **Adjournment**



VILLAGE OF ALGONQUIN
PUBLIC WORKS DEPARTMENT

– M E M O R A N D U M –

DATE: *August 6, 2020*

TO: *Committee of the Whole*

FROM: *Michele Zimmerman, Assistant Public Works Director*

SUBJECT: *Lake Braewood Corridor Study*

Over the past five years, Lake Braewood has been experiencing on-going high water levels, flooding, and silt inundation. These issues have made maintenance of this stormwater facility increasingly difficult and next to impossible to achieve. In 2018, in response to resident concerns regarding these issues, the Village hired Christopher B. Burke Engineering to look at the lake and adjacent riparian corridors to garner what could be studied about the drainage and condition of this part of the Village.

After hydraulic modeling of the drainage tributary, a bathymetry study of silt deposits at the bottom of the lake, the historical condition of the land and technical guidance in the Jelke-Fox River Watershed Plan, CBBEL formed a concept plan for restoration of the Lake Braewood corridor, which will alleviate residential concerns as well as addressing current environmental regulations and maximizing cost effectiveness.

Christopher B. Burke Engineering will be presenting an overview of the concept plan, detailing out options, phasing and costs. From this information, we look to guidance from the Committee on how to proceed with engineering to alleviate the problems and concerns we are experiencing with is area, and what would be the best course of action for the Village as a whole.

MEMORANDUM

July 28, 2020

TO: Robert Mitchard – Public Works Director

COPY: Michele Zimmerman – Assistant Public Works Director
Mike Kerr – CBBEL

FROM: David Buckley – CBBEL

SUBJECT: **Lake Braewood Dam – Presentation
Dixie Creek Corridor Restoration**

Lake Braewood (Lake) is located north of Gaslight Dive in Braewood Park and is surrounded by 9 residential properties in the Village of Algonquin (Village). The Lake is formed by an on-line impoundment or dam located at the north end of the Lake which is an on-line reservoir on the watercourse known as Dixie Creek and is tributary to Ratt Creek (downstream of Edgewood Drive) before outletting to the Fox River.

Christopher B. Burke Engineering, Ltd. (CBBEL) has completed an investigation of the watershed draining to the Lake (Dixie Creek corridor), the integrity of the on-line impoundment (dam), maintenance history of the dam as well as the water quality of the Lake formed by the dam.

Given the size of the impoundment and tributary area to the Lake, the dam is regulated by the Illinois Department of Natural Resources – Office of Water Resources (IDNR-OWR) and is required to be inspected on a yearly basis. However, the dam was constructed before 1958 and does not meet the IDNR-OWR requirements for emergency overflow, general safety requirements and maintenance access.

The results of this investigation have been summarized in a presentation for Village staff review. The dam is an unpermitted impoundment and requires substantial improvements to meet IDNR-OWR requirements. The presentation will focus on the cost to rehabilitate the dam including on-going maintenance costs versus dam removal with restoration of the Dixie Creek corridor. The presentation will provide information for the Village's decision-making process with respect to the future of the dam and the Dixie Creek corridor restoration efforts.

DRB

N:\ALGONQUIN\070273\070273.00123\Water\Docs\IM 070273_123_summary agenda 072820.docx



CHRISTOPHER B. ENGINEERING, LTD.

9575 W Higgins Road, Suite 600 Rosemont, Illinois 60018-4920 Tel (847) 823-0500 Fax (847) 823-0520



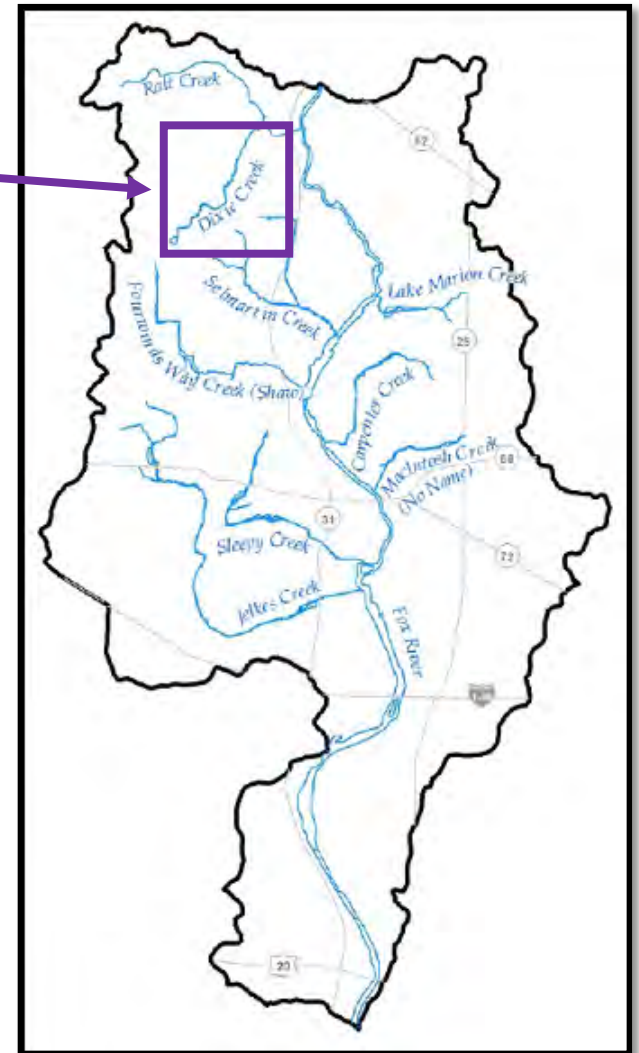
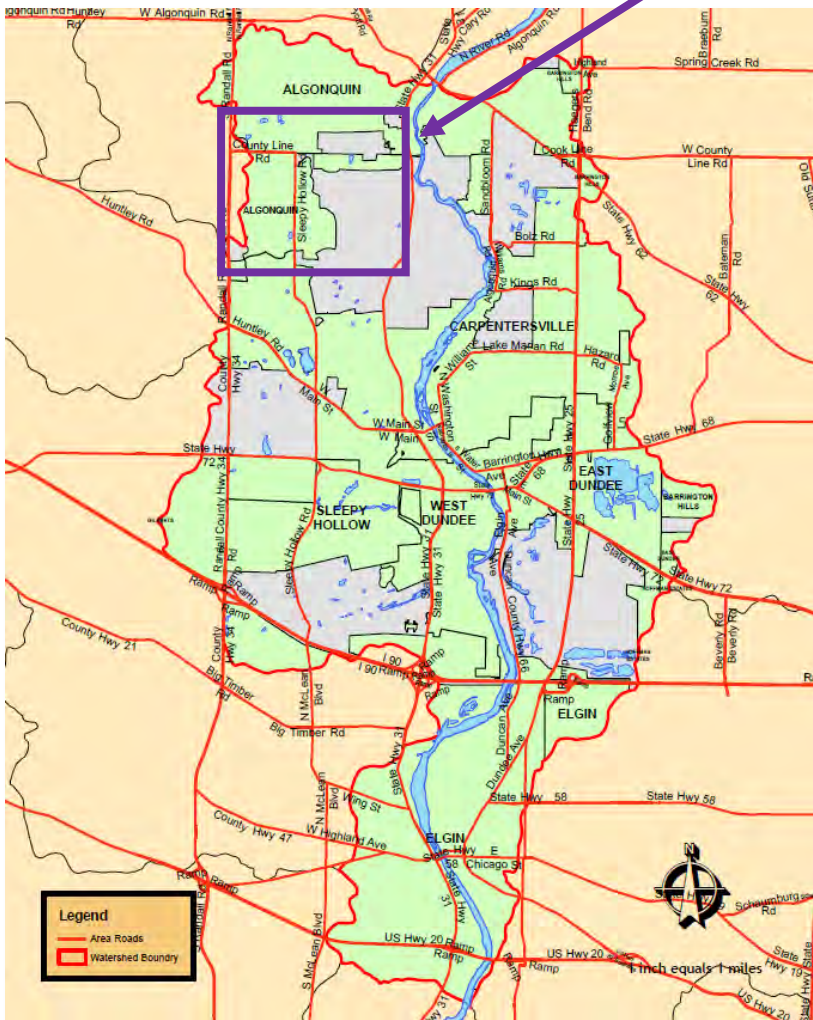
Dixie Creek Corridor Restoration



Christopher B. Burke Engineering, Ltd.

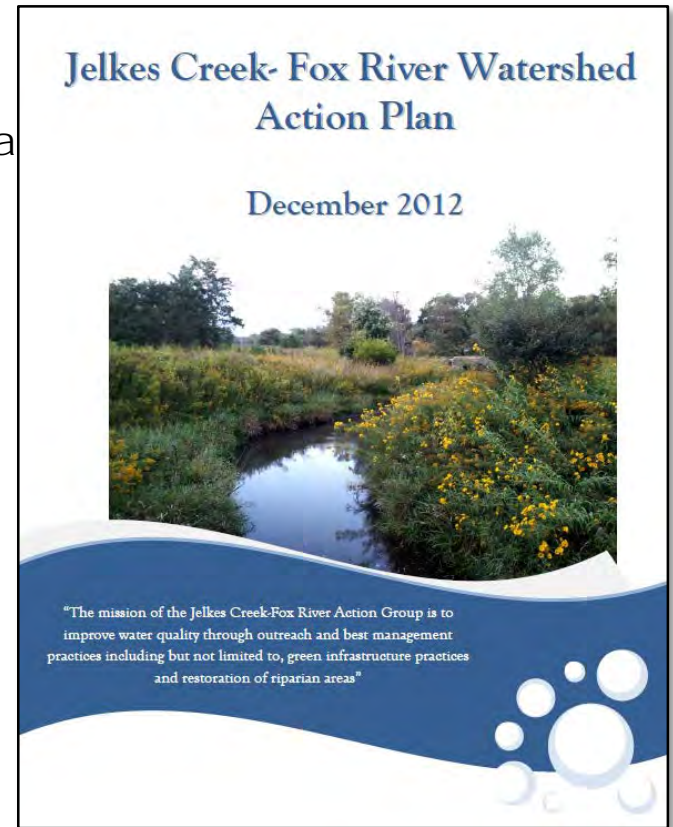
Fox River Watershed

Dixie Creek Watershed Location



Jelkes Creek / Fox River Watershed Action Plan

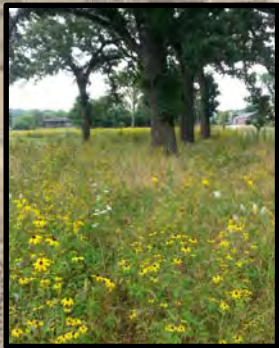
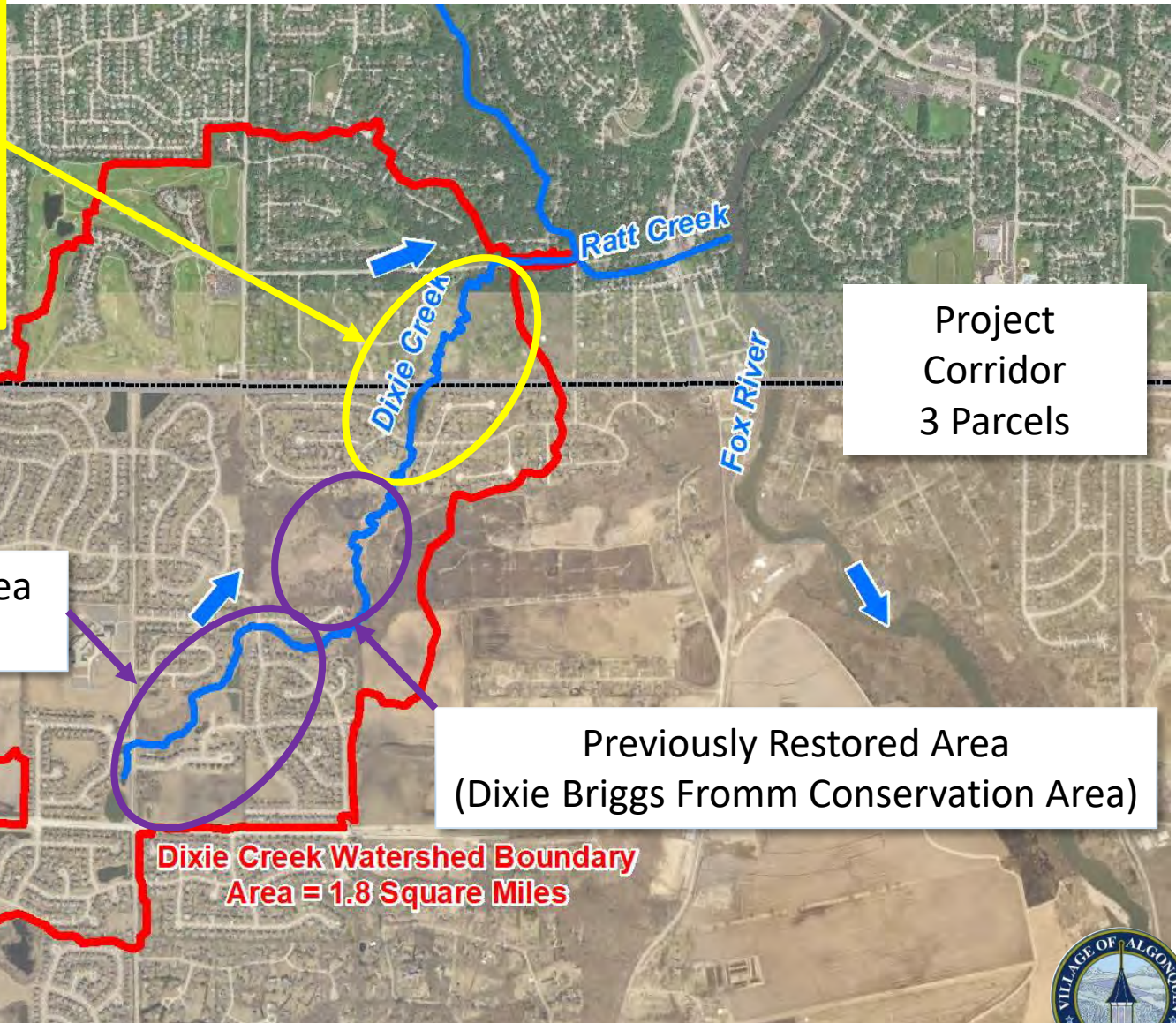
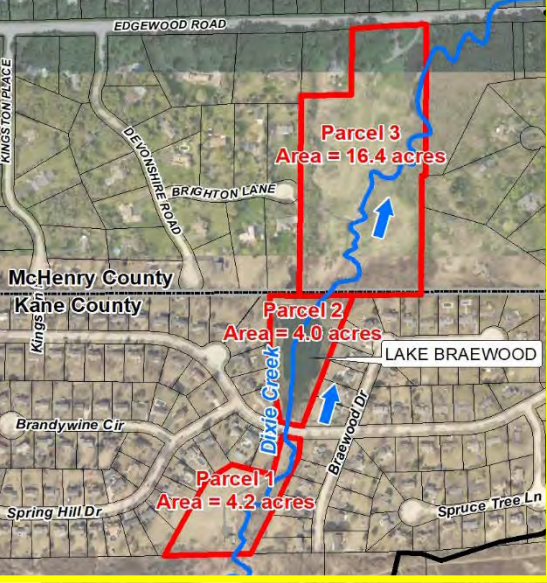
- On behalf of the Kane-DuPage Soil and Water Conservation District
 - Developed using an Illinois EPA Section 319 Grant in December 2012
 - IDNR / NRCS
 - Max McGraw Wildlife Foundation
 - Municipalities / Residents
 - Approved by IEPA and Stakeholders (Village of Algonquin)
- Plan is developed to reduce non-point source impairments.
 - Improve water quality
 - Reduce nutrient
 - Habitat restoration (remove or repair dams)
 - Educate the public about impairments
 - Preserve and restore natural aspects



 **Dixie Creek corridor restoration is identified in the Plan.**



Dixie Creek Corridor



Jelkes Creek / Fox River Watershed Action Plan – Dixie Creek Corridor

- Plan identifies multiple impoundments/dams throughout the watershed
 - Impairment of aquatic life
 - Sediment trap
- Lake Braewood on Dixie Creek (Fox River tributary) is identified as an online impoundment and removal is recommended
 - Disruption of flow regime
 - Accumulation of sediment and pollutants
 - Highly variable dissolved oxygen
- Plan recommends acquiring the Fields Property (downstream of Lake Braewood impoundment)
 - Village purchased 2018
 - Extensive stream and wetland restoration opportunity
 - 4 acres of wetland filtration areas
 - Uplands planted with mesic prairie



Online Impoundment – Lake Braewood

- Class 1, high-hazard dam per IDNR-OWR dam classification
 - Constructed between 1953 and 1962 (unpermitted)
- **Currently there is no dam safety permit as required by IDNR-OWR**
 - **Any modification to the dam/outfall requires a permit from IDNR-OWR**
- Major modifications are required to become compliant
 - Structural and geotechnical design (engineering clay embankment)
 - Existing embankment material is not suitable
 - groundwater found in boring
 - low shear strength
 - high moisture content
 - silty clay
 - Principal spillway
 - Emergency overflow spillway
 - Right of access authorization
 - Operation and maintenance plan required
 - Easement agreements for all 100-year inundation areas
 - Drawdown facility required for inspections and maintenance



Lake Braewood Dam

- Dam overtops for events greater than the 5-year design storm
- 100-year inundation area on 11 properties require easements
- Cost to bring dam to compliance = \$5.4 Million

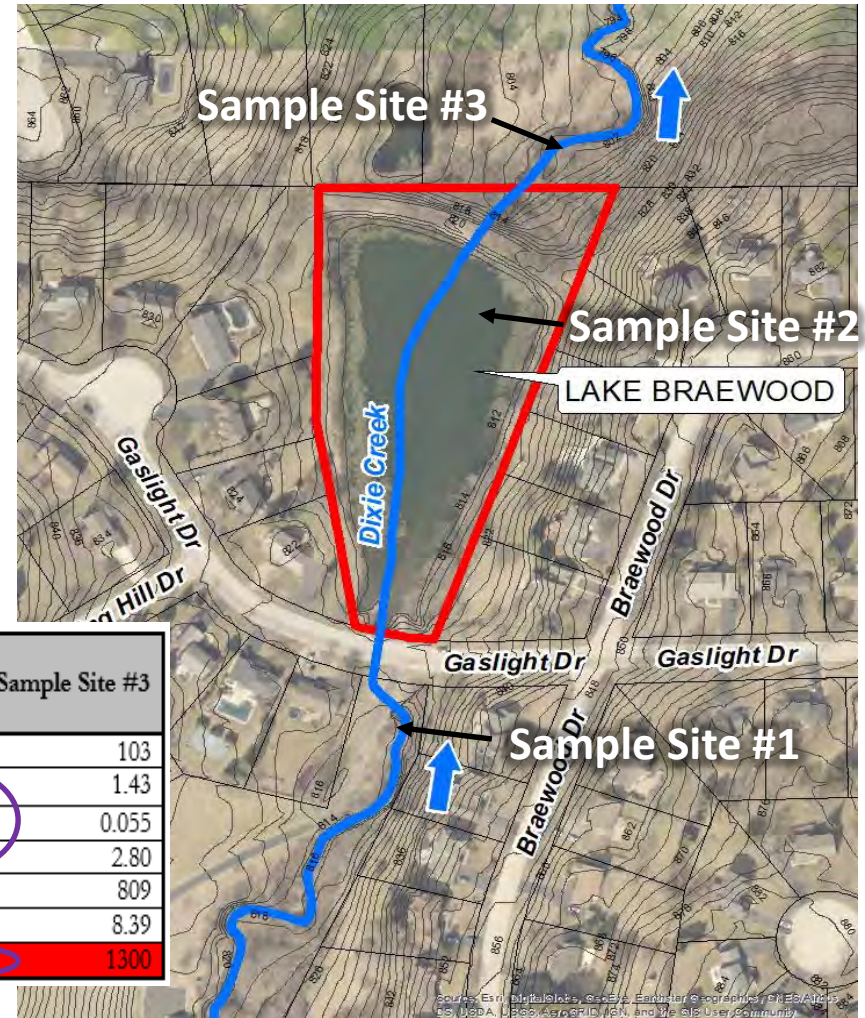


Existing Conditions – Upstream



Lake Braewood Poor Water Quality

- Sample Site #1
 - High E.coli
 - High Phosphorus
- Sample Site #2
 - Extremely High E.coli
 - High Phosphorus
- Sample Site #3
 - High E.coli



Parameter	Statistical, Numerical, or General Use Guideline	Sample Site #1	Sample Site #2	Sample Site #3
Chloride	<500 mg/l**	106	101	103
Nitrate-Nitrite Nitrogen (N)	<15.0 mg/l*	1.25	2.41	1.43
Total Phosphorus (TP)	<0.075 mg/l*	0.124	0.088	0.055
Total Suspended Solids (TSS)	<12 mg/l**	4.2	8.68	2.80
Conductivity	<1,667 µmhos/cm***	798	777	809
pH	>6.5 or <9.0*	8.22	8.41	8.39
E. coli	<235 MPN/100ml	1986	>2420	1300

*Lake Braewood is accumulating nitrogen, phosphorus, suspended solids & E-coli.



E. Coli

- Bacteria in urban stormwater is ultimately from animal waste.
 - Animal waste, particularly birds (geese population)
 - Residential lawns (runoff from irrigated lawns are high contributors)
 - Driveways and streets are major contributors with rooftops and parking lots are smaller sources (Minnesota's Stormwater Manual)
- E. Coli associated with runoff is transported to receiving streams by attachment to sediment particles in streams.



Lake Braewood Poor Water Quality



Frequent algae blooms, high total suspended solids and debris

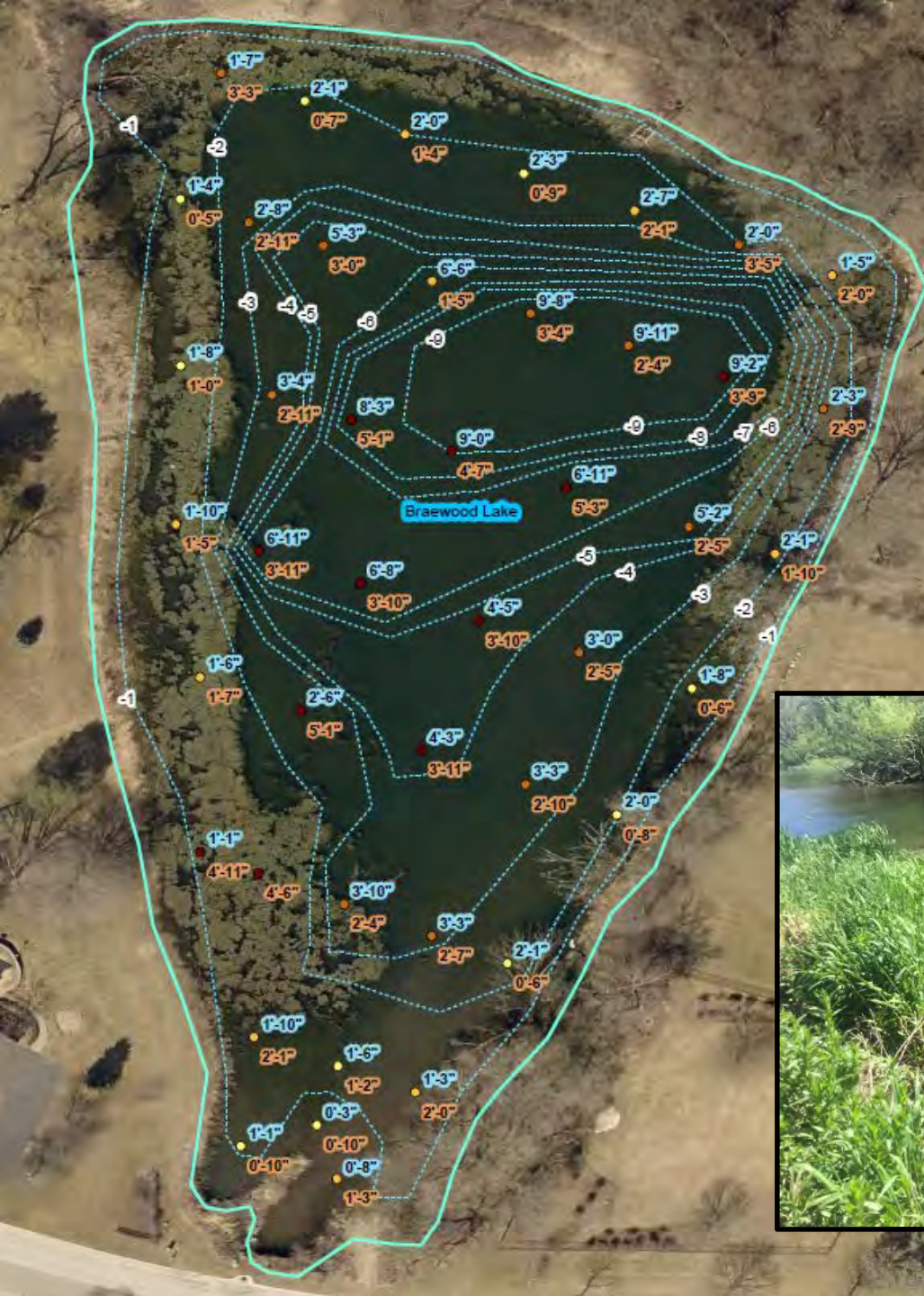


Sediment delta at pond inflow – poor habitat and conveyance



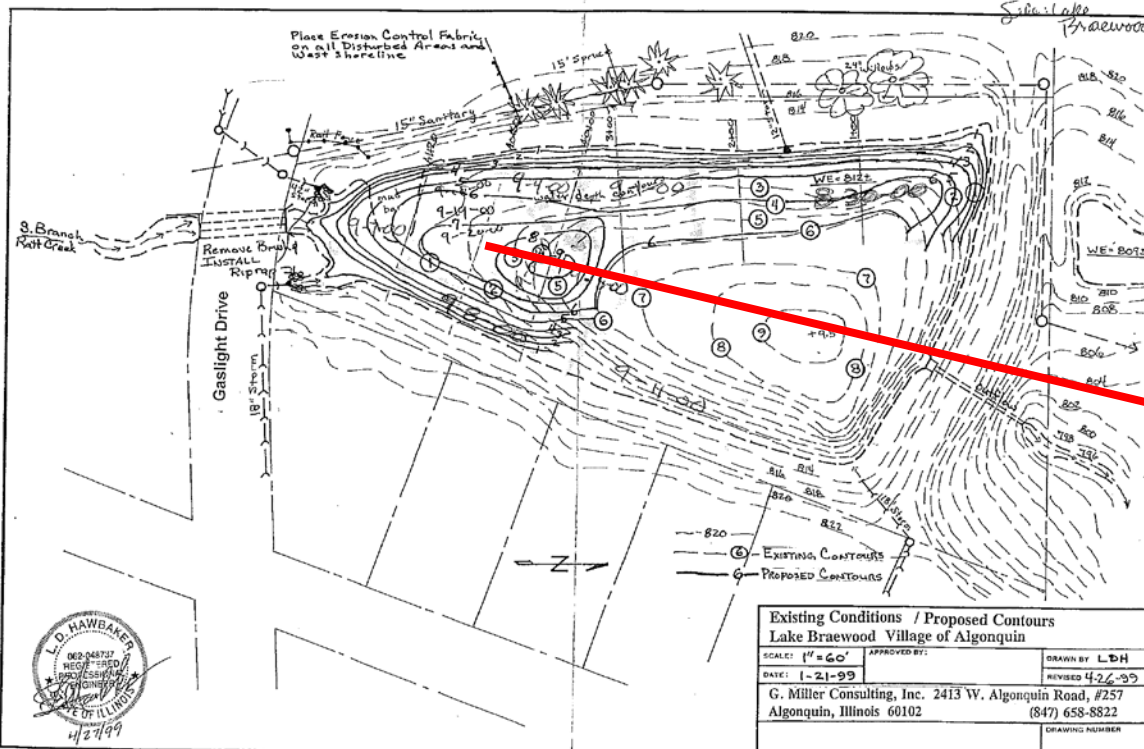
Lake Braewood Sediment Sink

- Blocks flow
- Reduces storage volume
- Causes upstream overbank flooding
- Sediment depth = 3-5 feet deep
- Requires dredging every 15-20 years



Lake Braewood Maintenance

- No access to outlet
- \$23,000 in 2000 to dredge
- Future dredging is required (10.2 ac-ft → \$1.7 million)
16,500 cy @ \$100/yd



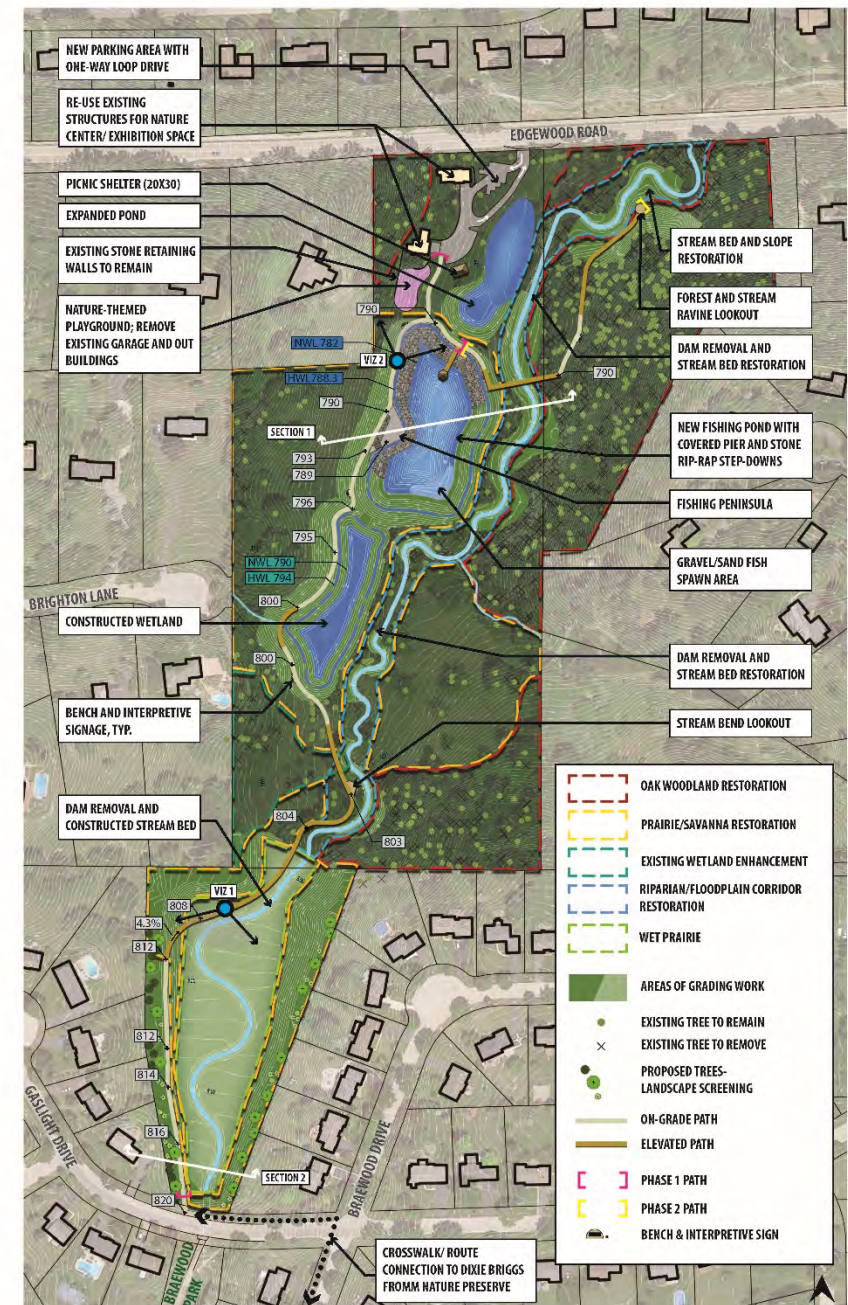
Lake Braewood Maintenance

- Service requests are made by residents, who are prompted by water encroaching onto adjacent properties.
- Village receives highest volume of complaints for maintenance on this outlet structure.
 - Outlet structure is constantly blocked.
- Access for Village is only from row boat.
 - Service request is hazardous to staff.
- Maintenance does NOT solve an on-going problem.
- Dam outlet cannot be modified without an IDNR permit



Proposed Conditions

- Low maintenance, long term solution
- IEPA approved Watershed Based Plan recommends removal of the dam and restoration of the corridor
 - Decrease water surface elevations
 - Eliminate overtopping
 - Habitat Restoration
- Combine with Village owned property downstream
- Allows for "Staged Improvements" utilizing grants.



Removal of Dam and Re-establishing the Creek and Wetlands



Proposed Conditions – Downstream of the Fields Property



Christopher B. Burke Engineering, Ltd.



APPLIED ECOLOGICAL SERVICES



VILLAGE OF ALGONQUIN

LAKE BRAEWOOD DAM REMOVAL AND CREEK RESTORATION

Visualization 2: North Pond Area | *View Looking north from proposed fishing pond towards interpretive and open space areas at village owned structures*

DRAFT
February 2020

Lake Braewood Improvement Summary

Dam is Maintained (next 20 years)		Dam is Removed	
Reconstruction to meet permit requirements	\$5.4 Million	Remove dam, restore channel	\$5.6 Million
Maintenance (2 X dredging)	\$3.4 Million	Maintain vegetation \$200/acre/year	\$20,000
Maintenance calls (5X / year for 20 years)	\$100,000	Not required	\$0
Total	\$8.9 Million	Total	\$5.6 Million
Access grants	(5 properties)	Not required	0
Floodplain easements	(11 properties)	Not required	Floodplain reduced to channel on Village property
100 Year Water Surface Elevation (Upstream Face)	820.8 feet	804.2 feet	Floodplain reduced approximately 16.5 feet
Water quality remains poor		Water quality improves, sediment is removed, E. Coli Nitrogen and Phosphorus reduced	

Long term look ahead for rehabilitation and 20 of years of maintenance vs removal



Lake Braewood

Staged Improvement / Grant Opportunity

Improvement	Engineer's Estimate	Grant Available	Available Funds	Typical Range Awarded
Dam removal and restoration	\$5.6 Million	IEPA Section 319	\$6.5 Million	\$50K – \$1.2 Million
Culvert removal and replacement (Gaslight Dr)	\$960K	CMAQ		
Downstream channel restoration	\$2.4 Million	IEPA Section 319	\$6.5 Million	\$50K – \$1.2 Million
Playground, shelter and other park amenities	\$ 830K	IDNR – Open Space Lands Acquisition and Development (OSLAD)	\$400K	\$400K
Savannah and Oak Woodland restoration	\$ 375K	IEPA Section 319	\$6.5 Million	\$50K – \$1.2 Million
Bike Path (Phase 1)	\$630K	IDNR – Illinois Bicycle Path Grant Program	\$1 Million	\$200K
Bike Path (Phase 2)	\$400K	IDNR – Illinois Bicycle Path Grant Program	\$1 Million	\$200K

This table describes a few of the grant opportunities that exist for a project of this type. There are many other avenues for grant funding that are not listed above.

Questions?



Additional info for possible discussion in the following slides



Dixie Briggs Fromm Conservation Area

- Upstream
- Link corridor into a continuous system
- Eliminate fragmentation



Dam Removal Projects

- North Branch Chicago River
 - \$3.5 million (4 dams)
 - Tam Shanter Dam
 - Chick Evans Golf Course Dam
 - Winnetka Road Dam
 - North Branch Dam at River Park
 - Des Plaines River
 - Hofmann Dam
 - Armitage Dam
 - Fairbank Road Dam
 - Other dams
 - Dempster Street Dam
 - Touhy Avenue Dam
- } (\$7.3 million)
- Removing dams improves water quality, aquatic habitat and recreational safety while addressing the issue of dealing with crumbling and aging infrastructure, which would be much more expensive to repair or replace. Removal will save the state and local communities money in the future.





VILLAGE OF ALGONQUIN
COMMUNITY DEVELOPMENT DEPARTMENT

– M E M O R A N D U M –

DATE: August 6, 2020

TO: Committee of the Whole

FROM: Russell Farnum, AICP, Community Development Director

SUBJECT: *Consideration of CarMax Agreement Extension*

Enclosed please find a letter from Peter Bazos, representing CarMax, regarding a request to extend the terms of the development agreement relating to the CarMax development of the property at the southeast corner of Randall Road and Huntington Drive.

As Committee members may recall, the agreement had development milestones that had to be met at certain intervals. However, since approval of the agreement, the Randall Road construction project has become a major impediment to CarMax's completion of their project in a timely manner.

The Randall Road project is a McHenry County DOT project. When the agreement was drafted and negotiated, the Randall Road project construction had not yet begun, and the County was still in the process of acquiring right of way and easements necessary to build the project. Unbeknownst to either CarMax or the Village Staff, the County acquired (through eminent domain) a substantial construction easement over the property that CarMax was purchasing. That portion of the property is currently occupied by the concrete and asphalt crushing, storage and recycling operations in process for the Randall Road construction project.

The easement occupies a large portion of CarMax's future vehicle display lot. In addition, the location of the easement prevents mass grading the property, connection to utilities, construction of one of the access locations, and other factors related to improving the site. As a result, CarMax cannot even proceed with beginning construction of their building until the easement is vacated.

CarMax and Village Staff worked extensively with McHenry County and the Randall Road contractor to look at alternatives for relocating or eliminating that construction easement. There are no feasible alternatives that offer the convenience and space required to continue these operations. Consequently, CarMax is forced to push back their construction timelines until the County is done with the construction easement, approximately 1-1/2 years overall. It is imperative to note that CarMax is committed to building the Algonquin project and has already

made a substantial investment in purchasing the property and proceeding with demolition of the building that was on the property.

Consensus to direct the Village Attorney to draft the requested amendments to the Agreement, and to bring said amendments forth for Board approval, is recommended.



July 10, 2020

Transmitted via Email to
russellfarnum@algonquin.org
Russell Farnum, AICP
Community Development Director
Village of Algonquin

Peter C. Bazos
Bradley T. Freeman
Mark Schuster
Jonathan S. Pope
Aaron H. Reinke

Christopher S. Nudo
of counsel

Writer's Contact:
pbazos@bazosfreeman.com
847-742-8800 x2030

Re: Our Client: CarMax Auto Superstores, Inc. (“**CarMax**”)

Dear Mr. Farnum:

As you know, I represent CarMax in connection with its proposed development of the property commonly known as 2401 Huntington Drive, Algonquin, Illinois (the “**Subject Property**”). This letter is in follow-up to several discussions that my client and I have had with you and your team.

First, let me set forth the background of what has occurred with respect to the Subject Property:

1. In August of 2018, by its Ordinance #2018-0-19 (the “**Subject Ordinance**”) the Village did approve with respect to the Subject Property (i) rezoning, (ii) approval of final plat of subdivision, (iii) approval of final planned unit development for Lots 1 and 3, and (iv) a special use permit for the proposed CarMax operation on Lot 1.
2. The Village also entered into Business Development Agreement with CarMax dated August 7, 2018 (the “**BDA**”).
3. Under the Subject Ordinance, CarMax was required to obtain demolition permit for existing building and commence demolition within 12 months.
4. Under the BDA, the following deadlines were imposed:

BDA Section	Description of Deadline	Status
4A	CarMax to complete purchase of the Subject Property no later than December 31, 2018	Completed
4B	CarMax to obtain demolition, site development and building permits and commence demolition, site work and other construction by not later than January 1, 2022	Demolition permit obtained and demolition completed. Site work and construction of the new improvements for the Project have not yet been commenced.

1250 Larkin Avenue #100 Elgin, IL 60123
847-742-8800 (o) 847-742-9777 (fx)

www.bazosfreeman.com



4C	CarMax shall obtain an occupancy permit by not later than December 31, 2022.	
5D	In the event CarMax is able to obtain a certificate of occupancy within calendar year 2020, the Village agrees to increase its sales tax rebate to CarMax from 50% to 75% for sales occurring within calendar year 2020 and 50% to 60% from sales occurring in calendar year 2021.	

5. CarMax promptly obtained a demolition permit and demolished the existing industrial structure on the Subject Property in calendar year 2019, as required.

6. However, CarMax discovered that the prior owner of the Subject Property had granted to McHenry County a temporary construction easement (the “**Temporary Easement**”) over a significant portion along the west and north boundaries of the Subject Property as highlighted in red on the attached Easement Exhibit. As can be seen on the Easement Exhibit, the Temporary Easement intrudes significantly into the area on Lot 1 where improvements to be constructed by CarMax, thereby preventing such construction.

7. Notwithstanding attempts by CarMax and Village Staff to do so, efforts to relocate the Temporary Easement to the southern part of the Subject Property (shown in purple on the enclosed Easement Exhibit) were unsuccessful.

8. As a result, CarMax was forced to delay the commencement of construction of the Project until the Temporary Easement expires (because it had no legal right to intrude upon the Temporary Easement). By its terms, the Temporary Easement does not expire until the earlier of (i) the arrival of January 5, 2023, or (ii) the completion of the County road project (in either case, the “**Temporary Easement Termination Date**”).

9. The last paragraph of Section 15 of the BDA states as follows:

The Paragraph shall not apply for issues related to *force majeure* or other circumstances beyond the reasonable control of CarMax or the Village, provided that CarMax or the Village have taken reasonable actions and made commercially reasonable, good faith efforts to otherwise comply with the deadlines set forth herein.

10. Section 21.11 of the Algonquin Zoning Ordinance provides, in effect, that if no construction has been started on any phase of the final planned development within two (2) years from the date of approval (in this case, on or before August 7, 2020) “...the permits shall be declared null and void and the project shall not be initiated unless it is re-submitted and re-approved in the same manner that was approved in the first instance. The Village Board may, however, extend the period for initiating construction upon a showing of good and sufficient cause.”

CarMax has been very frustrated by its inability to construct the Project on Lot 1 but, as noted above, it is legally prevented from doing so by matters beyond its control—namely the existence of the Temporary Easement. Accordingly, CarMax hereby requests from the Village the following relief:



1. As to Section 4B of the BDA, the date of January 1, 2022 should be replaced with the date of July 5, 2023.
2. As to Section 4C of the BDA, the date of December 31, 2022 should be replaced with the date of July 5, 2024.
3. The first sentence of Section 5B of the BDA should be replaced with the following sentence:
 - B. The Village shall retain Twenty-Five Percent (25%) of all Sales Tax Revenue generated by the Project at the Property during the first 12 months following the Commencement Date, Forty Percent (40%) of all such Sales Tax Revenue during the 13th through the 24th month following the Commencement Date, and Fifty Percent (50%) of all such Sales Tax Revenue for all months after the 24th month following the Commencement Date, and shall pay a Sales Tax Rebate to CarMax of the remaining Seventy-Five Percent (75%), Sixty Percent (60%), and Fifty Percent (50%) of such Sales Tax Revenue for such periods, respectively, generated by the Project for a Ten (10) year period after the Commencement Date or until such time as the total Sales Tax Rebate paid to CarMax by the Village equals or exceeds the Rebate Cap (as defined in Section 6 below), whichever occurs first (such period of time is hereinafter referred to as the “**Rebate Term**”).
4. Section 5D of the BDA can be deleted based on the proposed change to Section 5B.
5. CarMax requests that all permit applications and permit approvals previously made by the Village remain valid through the construction commencement deadline of July 5, 2023.
6. CarMax requests that the Village extend the deadline otherwise imposed by Section 21.11 of the Village Zoning Ordinance (with respect to the commencement of construction) to be July 5, 2023 (to match the requested change to Section 4B of the BDA).

Mr. Farnum, CarMax remains committed to the development of Lot 1 of the Subject Property as a new CarMax outlet and is anxious to accomplish that development as soon as legally possible. Given the force majeure event faced by CarMax, we hope that the Village Board will support the amendments requested above. We are happy to provide any further information you might request. Best regards.

Very truly yours,

/s/ Peter C. Bazos

Peter C. Bazos, Esq.

PCB/awy

CC: J-M Dixon, CarMax
John Thatcher, Centerpoint



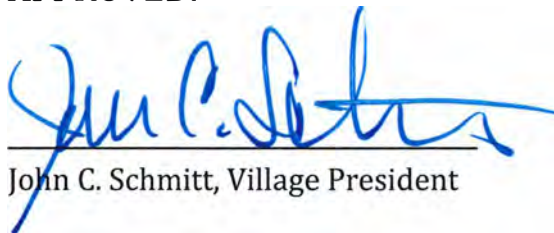
2018 - R - 42
VILLAGE OF ALGONQUIN
RESOLUTION

BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF ALGONQUIN, KANE AND MCHENRY COUNTIES ILLINOIS: that the Village President is authorized to execute an Agreement between the Village of Algonquin and CARMAX AUTO SUPERSTORES, INC., a Virginia corporation ("CarMax") for a sales tax rebate for redevelopment of a tract of land of approximately fifteen (15) acres, located at the southeast corner of Randall Road and Huntington Drive, in an amount not to exceed \$800,000, attached hereto and hereby made part hereof.

DATED this 7th day of August, 2018

(seal)

APPROVED:



John C. Schmitt, Village President

ATTEST:



Gerald S. Kautz, Village Clerk

BUSINESS DEVELOPMENT AGREEMENT

THIS BUSINESS DEVELOPMENT AGREEMENT (the "Agreement") is made and entered into as of this 7th day of August, 2018, by and between THE VILLAGE OF ALGONQUIN, Kane and McHenry Counties, Illinois, an Illinois Home Rule municipal corporation duly organized and existing under the laws of the State of Illinois ("Village"), and CARMAX AUTO SUPERSTORES, INC., a Virginia corporation ("CarMax").

WITNESSETH:

WHEREAS, CarMax entered into an agreement to purchase certain real estate located within the corporate limits of the Village of Algonquin, Illinois, which real estate is legally described in Exhibit A attached hereto and made a part hereof, and which real estate is hereinafter referred to as the "Property"; and

WHEREAS, the Property is an industrially developed tract of land of approximately fifteen (15) acres, located at the southeast corner of Randall Road and Huntington Drive; and

WHEREAS, CarMax intends to redevelop a portion of the Property by constructing and operating a motor vehicle dealership selling and servicing primarily used automobiles on such portion of the Property (the "Project"), reserving the remaining portion of the Property for future development by CarMax or others (the "Surplus Property"); and

WHEREAS, the Village has determined that it is in the Village's best interest for CarMax to construct the Project in the Village of Algonquin; and

WHEREAS, the Village has determined that it is essential to the economic and social welfare of the Village that the Village promote the economic vitality of the community by assuring opportunities for development and sound and stable commercial growth within the corporate limits of the Village; and

WHEREAS, the Village, in adopting this Agreement, is exercising the powers provided by the Illinois statutes, specifically, 65 ILCS 5/8-11-20; and

WHEREAS, the Village has made the findings required by law and contained in 65 ILCS 5/8-11-20; specifically,

That the Property contains a structure that has remained significantly unoccupied or underutilized for a period of at least one (1) year; and

That the Project is expected to create and increase job opportunities within the Village; and

That the Project will serve to further the development of adjacent areas; and

That without the agreement, the Project would not be economically feasible; and

That CarMax meets high standards of creditworthiness and financial strength as demonstrated by one (1) or more of the following:

1. Corporate debenture ratings of BBB or higher by Standard & Poor's Corporation or Baa or higher by Moody's Investors Service, Inc.;
2. A letter from a financial institution with assets of Ten Million and 00/100 Dollars (\$10,000,000.00) or more attesting to the financial strength of the developer; or
3. Specific evidence of equity financing for not less than ten percent (10%) of the total Project costs; and

That the Project will strengthen the commercial sector of the Village; and

That the Project will enhance the tax base of the Village; and

That this Agreement is made in the best interest of the Village; and

WHEREAS, the Village has further concluded that it may authorize this incentive under the authority of 65 ILCS 5/8-1-2.5 regarding expenses for economic development; and

WHEREAS, the Village, as a home rule unit of government is otherwise authorized to enter this Agreements and enact ordinances as the same pertains to its government and affairs (ILL.CONST. Art VII, §6); and

WHEREAS, the Village desires to have CarMax develop and operate the Project on the Property, as such will help to improve the social and economic welfare of the Village; and

WHEREAS, to make it economically feasible for CarMax to purchase the Property and to construct the Project thereon, the Village has agreed to offset a portion of the on-site and off-site development costs of the Project through the use of a rebate of a portion of the Sales Tax Revenue generated by CarMax within the corporate limits of the Village. The term "Sales Tax Revenue," as used herein, shall mean the Village's share of taxes imposed by the State as a Retailers' Occupation Tax, or any other sales tax or successor tax that may be enacted by the State as a replacement thereto, that are generated by the operation of the Project by CarMax on all or any portion of the Property, and distributed to the Village, and

WHEREAS, CarMax will be required to first comply with all planning and zoning regulations and apply for and receive preliminary and final PUD approval, and must construct and operate a bona fide car dealership prior to said tax rebate; and

WHEREAS, the Sales Tax Rebate (as defined in Section 5 below) is being provided by the Village to CarMax to provide CarMax with an incentive to develop the Project on the Property; and

WHEREAS, in exchange for the benefits derived from this Agreement, CarMax has agreed to redevelop the Property with certain upgraded design features including quality architecture; parking lot, perimeter and foundation landscaping; and tasteful signage, consistent with the plans approved by the Village Board as part of the final planned development; and

WHEREAS, the tax on the retail sales subject to this Agreement, absent the Agreement, would not have been paid to another unit of local government; and CarMax affirms that it does not

maintain, within another unit of local government, a retail location from which the tangible personal property to be sold at this motor vehicle dealership would have been delivered to purchasers, or a warehouse from which the tangible personal property would have been delivered to purchasers in the manner prohibited by 65 ILCS 5/8-11-21; and

WHEREAS, the President and Board of Trustees have determined that entering into this Agreement is in the best interests of the Village;

NOW THEREFORE, in consideration of the foregoing and the covenants hereinafter set forth, it is mutually agreed as follows:

1. Recitals: The recitals set forth hereinabove are hereby incorporated by reference, as if fully set forth herein.

2. Legislative Authority: The Village made the findings of fact required by 65 ILCS 5/8-11-20. The Village represents that the adoption of this Agreement is within its scope of authority pursuant to statute and home rule authority, and that it is duly authorized and empowered to enter into and carry out the terms of this Agreement.

3. Parties to the Agreement: This Agreement is made by and between CarMax and the Village as the parties to the Agreement. In the event that CarMax ceases to operate the Project on the Property at any time during the term of this Agreement for a period of longer than six (6) months, other than in connection with remodeling or reconstructing the Project or for reasons not within the reasonable control of CarMax, the Village shall have no further obligations under this Agreement.

4. Responsibilities of CarMax: CarMax agrees to diligently undertake the following:

A. CarMax shall complete the purchase of the Property by no later than December 31, 2018;

B. CarMax shall apply for and obtain demolition, site development and building permits and commence demolition, site work and other construction necessary to establish the Project on the Property by no later than January 1, 2022;

C. CarMax shall diligently prosecute construction of same, and shall obtain an occupancy permit by no later than December 31, 2022;

D. CarMax agrees to construct all Project improvements in substantial accordance with Village codes, plans and specifications to be submitted and approved by the Village, and CarMax shall operate its business on the Property in accordance with all Village codes and all applicable laws and regulations of the Village, the State of Illinois and the United States government.

5. Sales Tax Rebate: Subject to compliance with the terms of this Agreement, CarMax shall be entitled to receive, on a quarterly basis, a sales tax rebate payment as follows (the "Sales Tax Rebate"):

A. Eligibility for the Sales Tax Rebate, as outlined further below, shall begin upon CarMax's completion of and occupancy (by evidence of a temporary or final certificate of occupancy) of the Project on the Property (the "Commencement Date");

B. The Village shall retain fifty percent (50%) of all Sales Tax Revenue generated by the Project at the Property and shall pay a Sales Tax Rebate to CarMax of the remaining fifty percent (50%) of such Sales Tax Revenue generated by the Project for a ten (10) year period after the Commencement Date or until such time as the total Sales Tax Rebate paid to CarMax by the Village equals or exceeds the Rebate Cap (as defined in Section 6 below), whichever occurs first (such period of time is hereinafter referred to as the "Rebate Term"). The Village shall have no obligation to pay any funds to CarMax from any source other than from the Municipal Retailers' Occupation Sales Taxes generated by the Project at the Property and actually received by the Village from the Illinois Department of Revenue.

C. CarMax shall provide the Village with a written authorization enabling the Village to obtain certified reports from the Illinois Department of Revenue (such as the Illinois Department of Revenue document "Authorization to Release Sales Tax Information to Local Governments" or any other such authorization necessary to enable the Village to obtain certified reports from the Illinois Department of Revenue), verifying the taxable sales by CarMax for each calendar quarter during the Rebate Term. CarMax represents to the Village that it currently files all records pertaining to its business in the State of Illinois with the Illinois Department of Revenue electronically, and CarMax agrees to continue to file all such records electronically during the Rebate Term.

D. In the event the Commencement Date occurs within calendar year 2020, CarMax's Sales Tax Rebate shall be seventy-five percent (75%) of the Sales Tax Revenue generated by the Project at the Property in calendar year 2020, and CarMax's Sales Tax Rebate shall be sixty percent (60%) of the Sales Tax Revenue generated by the Project at the Property in calendar year 2021; however, in no case shall the total rebate exceed the Rebate Cap.

6. Maximum Rebate Amount: Notwithstanding anything in this Agreement to the contrary, the combined total of the Sales Tax Rebate amounts payable to CarMax by the Village under this Agreement shall not exceed Eight Hundred Thousand and 00/100 Dollars (\$800,000.00) (the "Rebate Cap").

7. Term and Timeline of Rebate Payments: The obligations hereunder shall expire upon the expiration of the Rebate Term (the "Termination Date"), after which the Village shall have no further obligations to share or rebate Sales Tax Revenue under the terms of this Agreement (other than Sales Tax Rebates arising from taxable events during the Rebate Term, which have not yet been paid to CarMax prior to the Termination Date, which obligation shall survive the

expiration of this Agreement). Payment to CarMax shall be made on an annual basis, within sixty (60) days from and after the Village's actual receipt of the Village's distributive share of Sales Tax Revenue. The Village shall provide CarMax with a report of all Sales Tax Revenue generated by CarMax and actually received by the Village for the preceding period.

8. Sales Tax Reports: The parties acknowledge and agree that the Village shall use commercially reasonable efforts to obtain the Sales Tax Revenue information pertaining to the Project directly from the Illinois Department of Revenue pursuant to the authorization from CarMax contemplated by Section 5C above. To the extent that such information is not available to the Village, the Village shall notify CarMax of such unavailability, and CarMax agrees that, within seventy-five (75) days after the end of each quarter of each calendar year of the Rebate Term, CarMax shall provide the Village with a statement, accompanied by a summary of the Gross Receipts pertaining to the Project for such calendar year (or the portion of any partial calendar year falling within the Rebate Term), in a form reasonably acceptable to the Village, signed by an officer of CarMax, which shall set forth the dollar amount of sales taxes paid to the State of Illinois for the benefit of the Village during the prior calendar year. The term "Gross Receipts," as used herein shall have the same meaning as that which is ascribed to it in the Retailer's Occupation Tax Act. Additionally, CarMax shall maintain and have available for inspection by the Village copies of any and all sales tax returns, sales tax reports, amendments, proof of payment or any other Sales Tax information filed with the State of Illinois or other appropriate governmental entity, to the extent relating to the Project, which documents are being held for and shall be made available to the Village for purposes of identifying Sales Tax Revenue collected pursuant to this Agreement.

9. Limitation of Village Responsibilities: Other than the Sales Tax Rebate pursuant to this Agreement, the Village shall have no obligation to incur any expense associated with the construction and completion of the Project.

10. Confidentiality of Financial Information: To the extent permitted by law, the Village shall endeavor to maintain the confidentiality of the information contained in any financial reports submitted by CarMax, the Gross Receipts and other financial information of CarMax received by the Village, but shall be permitted to disclose such information and documents to employees and consultants that the Village (except for any consultant that has a financial interest in any motor vehicle dealership within the Chicago metropolitan area, which consultant shall not be retained), in its sole discretion, deems appropriate in order to monitor compliance and audit this Agreement. CarMax understands and agrees that the provisions of this Agreement shall be a matter of public record, as shall any and all payments to CarMax pursuant to this Agreement.

11. Mutual Assistance: The Village and CarMax agree to do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement and to reasonably aid and assist each other in carrying out the terms hereof.

12. Provisions Concerning Limitation on Debt: The Village's receipt, or anticipated receipt, of Sales Tax Revenue, either directly or indirectly, from CarMax, as provided earlier in this Agreement, shall be a condition precedent to any obligation of the Village to pay monies to CarMax.

13. Governing Law, Waiver and Notices: This Agreement shall be governed by the laws of the State of Illinois, and the sole and exclusive venue for any disputes arising out of this Agreement shall be the Twenty-Second Judicial Circuit, McHenry County, Illinois. A waiver of any part of this Agreement shall be limited to that specific event and shall not be a waiver of the entire Agreement. Any notices required in this Agreement shall be effective when in writing and three (3) days after mailing by certified mail, return receipt requested, or by delivering the same in person or to any officer of such party or by prepaid telegram or private overnight courier, when appropriate, addressed to the party to be notified.

All notices to the Village shall be sent to:

Village Manager
Village of Algonquin
2200 Harnish Drive
Algonquin, IL 60102

With a copy to :
Village Attorney
Kelly A. Cahill
Zukowski, Rogers, Flood & McArdle
50 Virginia St.
Crystal Lake, IL 60014

All notices to CarMax shall be sent to:

CarMax Auto Superstores, Inc.
12800 Tuckahoe Creek Parkway
Richmond, VA 23238

Attention: Real Estate Department

With a copy to:

CarMax Auto Superstores, Inc.
P.O. Box 29965
Richmond, VA 23242
Attention: Tax Department

or to such other address as a party may designate for itself by notice given from time to time to the other parties in the manner provided herein.

14. Time is of the Essence: Time is of the essence of this Agreement. The parties shall make every reasonable effort to expedite the subject matters hereof, and they hereby acknowledge that the successful performance of this Agreement requires their continued cooperation.

15. Remedies: The failure by CarMax to comply with any material term, provision, or condition of this Agreement within the times herein specified in any material respect after notice and an opportunity to cure shall constitute an event of default. Upon the occurrence of an event of default by CarMax, the Village shall provide written notice to CarMax specifying the nature of the default. Upon receipt of such notice of default, CarMax shall have ninety (90) days to cure the default, if it can reasonably be cured within ninety (90) days, or must begin curing the default within a reasonable time thereafter, if it cannot be cured within ninety (90) days. If a default by CarMax is not cured as provided above, the Village may withhold payment of any Sales Tax Rebate that may be due, until CarMax establishes compliance with the terms of this Agreement, or the Village may terminate this Agreement, as its sole and exclusive remedies, and, in the event of a termination by the Village, the Village shall be relieved of any further obligations arising pursuant to this Agreement, and CarMax shall be relieved from its obligations hereunder.

The Village shall be considered in default of this Agreement if it shall fail to make complete and timely payments to CarMax on the terms provided herein or fail to comply with any other material term or condition of this Agreement. In such event, CarMax shall notify the Village of the default in writing, and the Village shall have a period of ninety (90) days thereafter to cure such default. The Village's failure to cure the default shall relieve CarMax of its obligations under this Agreement, but CarMax shall not be deemed thereby to have waived its rights to seek remedies at law or in equity, including, but not limited to, damages and specific performance provided that the Village shall not be liable for any consequential damages.

This Paragraph shall not apply for issues related to *force majeure* or other circumstances beyond the reasonable control of CarMax or the Village, provided that CarMax or the Village have taken reasonable actions and made commercially reasonable, good faith efforts to otherwise comply with the deadlines set forth herein.

16. Destruction of Improvement: In the event that the Project improvements on the Property shall be destroyed by an act of God, natural causes or catastrophe, prior to the full payout of the Sales Tax Rebate pursuant to the terms herein, then the obligation of the Village to share Sales Tax Revenue with CarMax shall be extended for a period of time equal to the lesser of the following:

A. The interval commencing on the date of the destruction of the improvements and ending on the date a new certificate or occupancy for the rebuilt improvement is issued; or

B. Twelve (12) months.

17. Entire Agreement: This instrument contains the entire agreement between the parties with respect to the transaction contemplated in this Agreement.

18. Severability: If any provision of this Agreement is held invalid by a court of competent jurisdiction, after exhaustion of all appeals or periods for such, or in the event such a court shall determine that the Village does not have the power to perform any such provision, after exhaustion of all appeals or periods for such, such provision shall be deemed to be excised herefrom, and the invalidity thereof shall not affect any of the other provisions contained herein, and such judgment or decree shall relieve the Village from performance under such invalid provision of this Agreement; provided, however, if the judgment or decree relieves the Village of any of its monetary obligations under Section 6 of this Agreement, then this Agreement shall terminate.

19. Amendment: This Agreement may not be amended, altered or revoked at any time, in whole or in part, unless such changes are agreed to in writing and signed by all of the parties to this Agreement.

20. Binding On: This Agreement shall be binding on the parties, and their respective successors, assigns, heirs and legal representatives.

21. Section and Other Headings: Section or other headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

22. Authorization to Execute: The officer of CarMax who has executed this Agreement warrants that he has been lawfully authorized by the Board of Directors of CarMax to execute this Agreement on its behalf. The President and Clerk of the Village hereby warrant that they have been lawfully authorized by the Village Board of Algonquin to execute this Agreement. CarMax and the Village shall deliver, upon request, to each other at the respective time such entities cause their authorized agents to affix their signatures hereto, copies of all articles of incorporation, by-laws, resolutions, ordinances or other documents required to legally evidence the authority to so execute this Agreement on behalf of the respective parties.

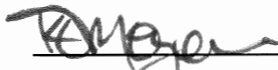
23. Counterparts: This Agreement may be executed in multiple counterparts, all of which shall be considered one (1) and the same agreement. Copies of the executed counterparts transmitted by electronic transmission shall be considered original executed counterparts.

24. Surplus Property: For the avoidance of doubt, this Agreement does not include any sales activity that might be conducted on the Surplus Property, unless CarMax expands the Project to the Surplus Property and the Village has received sales tax revenue from the Illinois Department of Revenue for CarMax sales on that Surplus Property.


[SIGNATURE PAGE FOLLOWS]

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


CARMAX AUTO SUPERSTORES, INC.,
a Virginia corporation

By: 
K. Douglass Moyers
Vice President, Real Estate TM

WITNESS for CarMax:

By: 
John M. Stuckey, II its VP, Deputy GC and
Assistant Secretary

VILLAGE OF ALGONQUIN,
an Illinois Home Rule municipal corporation

By: 
John Schmitt, President

ATTEST:

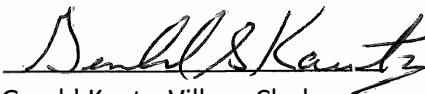
By: 
Gerald Kautz, Village Clerk



Exhibit A

Legal Description of the Property

The Westerly 1000 feet (as measured along the North line of the Northwest Quarter of Section 32) of that part of the Northwest Quarter of Section 32, being described as follows: Beginning at the Northwest Corner of said Section 32 and running thence North 88 degrees and 28 minutes East along said Section line 2,432 feet; thence South 4 degrees 22 minutes East, 715.4 feet to a stake; thence South 88 degrees and 29 minutes West, 2,483 feet to the West Line of said Section 32; thence North along the Section line, 710 feet to the Place of Beginning, all in Township 43 North, Range 8 East of the Third Principal Meridian, in McHenry County, Illinois.

Except the following: Part of the Northwest Quarter of Section 32, Township 43 North, Range 8 East of the Third Principal Meridian, described as follows: Commencing at the Northwest Corner of Section 32, Township 43 North, Range 8, thence Easterly along the North Line of said Section a distance of 23.9 feet to a point on the Easterly right-of-way of Randall Road, also being the Place of Beginning; thence Southerly along said Easterly right of way a distance of 70 feet, thence Easterly, parallel with the North line of said Northwest Quarter a distance of 100.00 feet; thence continuing Easterly along a curve to the left having a radius of 335.0 feet and being tangent to the last described course a distance of 111.67 feet; thence continuing Easterly along a curve to the right having a radius of 265.00 feet and being tangent to the last described curve a distance of 88.34 feet to a point 35.00 feet South of the North line of the Northwest Quarter of Section 32; thence Easterly parallel with said North line to a point on the East line of the Northwest Quarter of Section 32, Township 43 North, Range 8; thence Northerly along said East line a distance of 35.04 feet to the North Line of the Northwest Quarter of Section 32; thence Westerly along said North line a distance of 2406.99 feet to the place of beginning, in McHenry County, Illinois.

Also excepting therefrom the following described parcel:

That part of the Northwest Quarter of Section 32, Township 43 North, Range 8 East of the Third Principal Meridian, in McHenry County, Illinois, bearings and distances are based on the Illinois Coordinate System, NAD 83(2011) East Zone, with a combination factor of 0.9999373735, described as follows: Beginning at the northwest corner of the Northwest Quarter of said Section 32; thence on an Illinois Coordinate System NAD 83(2011) East Zone bearing of South 89 degrees 47 minutes 34 seconds East along the north line of the Northwest Quarter of said Section 32, a distance of 23.41 feet to a point of intersection with the Northerly extension of the east right of way line of Randall Road recorded May 20, 1971 as document number 543017; thence South 0 degrees 00 minutes 21 seconds West along the Northerly extension of the said east right of way line of Randall Road, a distance of 70.00 feet to the south right of way line of Huntington Drive

recorded July 23, 1990 as document number 90R026911; thence South 89 degrees 47 minutes 34 seconds East along the said south right of way line of Huntington Drive, a distance of 99.99 feet to a point of curvature on said south right of way line; thence easterly 114.98 feet (111.67 feet, recorded) along the southerly right of way line of said Huntington Drive on a curve to the left having a radius of 334.98 feet, the chord of said curve bears North 80 degrees 22 minutes 26 seconds East, 114.42 feet to a point of reverse curvature on said southerly right of way line; thence easterly 90.96 feet (88.34 feet, recorded) along the said southerly right of way line of Huntington Drive on a curve to the right having a radius of 264.98 feet, the chord of said curve bears North 80 degrees 22 minutes 26 seconds East, 90.51 feet to a point of tangency on the said south right of way line of Huntington Drive; thence South 89 degrees 47 minutes 34 seconds East along the said south right of way line of Huntington Drive, a distance of 319.64 feet; thence South 81 degrees 12 minutes 30 seconds West, a distance of 225.11 feet; thence South 8 degrees 47 minutes 30 seconds East, a distance of 5.00 feet; thence South 81 degrees 12 minutes 30 seconds West, a distance of 128.86 feet; thence South 89 degrees 38 minutes 36 seconds West, a distance of 172.42 feet; thence South 64 degrees 03 minutes 37 seconds West, a distance of 69.23 feet; thence southerly 582.56 feet along a curve to the right having a radius of 17334.52 feet, the chord of said curve bears South 0 degrees 56 minutes 37 seconds West, 582.53 feet to the south line of the grantor according to warranty deed recorded March 9, 1910 as document number 15359; thence North 89 degrees 35 minutes 06 seconds West along the south line of the grantor according to said warranty deed, a distance of 77.27 feet to the west line of the Northwest Quarter of said Section 32; thence North 2 degrees 03 minutes 28 seconds East along the west line of the Northwest Quarter of said Section 32, a distance of 710.08 feet (710 feet, recorded) to the point of beginning. Said parcel containing 1.559 acres, more or less, of which 0.571 acre, more or less, was previously dedicated or used for highway purposes.



VILLAGE OF ALGONQUIN
COMMUNITY DEVELOPMENT DEPARTMENT

– M E M O R A N D U M –

DATE: August 6, 2020

TO: Committee of the Whole

FROM: Russell Farnum, AICP, Community Development Director

SUBJECT: *Consideration of Special Event Permit; Rotary Harvest Market, September 19*

The Rotary Club of Algonquin has requested approval of the Algonquin Harvest Market for Saturday, September 19, from 9 am to 4 pm. The event is proposed for downtown on Main Street.

The proposal is to create a “Farmers Market” setting for the day, including closure of Main Street from Washington to Madison, and closure of Madison Street from Main to Harrison. Harrison Street will be highly impacted by construction, so the detour will route Main Street via Washington, Jefferson and Railroad Streets.

The ten-by-ten vendor booths will be set up on the closed portions of Main Street and Washington Street, located a minimum of six feet apart and staggered across the street from each other, providing for plenty of social distancing.

One request by Rotary is that the Village allow pedestrians to carry open alcohol on Main Street and within the event. This will allow local licensed bars and restaurants to offer a signature drink that patrons can buy, and then stroll around Main Street and through the market. Staff has been working on “rules” to allow such a request, that could include (but are not limited to):

1. Open alcohol would only be allowed during the hours of the event, 9 am to 4 pm;
2. Only pedestrians of legal drinking age would be allowed to carry or consume a drink;
3. The drinks must be in a distinctive cup that ties the alcohol service to the Harvest Market event;
4. Alcohol could only be carried or consumed on the sidewalk, an approved on-street seating area, or within the Harvest Market vendor areas; etc.

Staff is still working on appropriate language and other rules that would address any concerns with a “trial run” of allowing open liquor on Main Street. Committee input or direction on appropriate rules would be welcome. Otherwise concurrence to move this forward for Board approval is recommended.



Village of Algonquin
PUBLIC EVENT APPLICATION

A. Application Information (Groups, Organizations, etc.)

B. Sponsoring Organization: Rotary Club of Algonquin

Address: PO Box 111

City, State, Zip: Algonquin, IL 60102

Phone: [REDACTED]

2. Name of Contact Person: Peter Van Dorpe

Address: [REDACTED]

City, State, Zip: [REDACTED]

Daytime Ph: [REDACTED]

Evening Ph: [REDACTED]

C. Application Information (Individual Applicant)

1. Full Name: _____

2. Home Address: _____

City, State, Zip: _____

3. Home Ph: _____ Daytime Ph.: _____

D. Special Event Information:

1. Date(s) of Event: Sept. 19, 2020

2. Time(s) of Event: 9 am - 4 pm

3. Duration of Event: one day

4. Location of Event: Historic downtown algonquin

5. Name of Event: Algonquin Harvest Market

6. Maximum Number of Attendees/Participants at a Given Time: TBD (outdoor event)

7. Describe the Nature of the Public Event:

The Rotary Club of Algonquin hosts an annual Harvest Market in order to bring the community, local businesses, area farmers, and area craft merchants together for a community event designed to raise money for the Rotary Club to disperse

8. Describe Provided Security, including who is providing the security, hours, and a detailed security plan:

The event has not historically required any additional security, due to its size.

9. Describe Parking or Traffic Control, including the location of extra parking and the # of spaces allocated, and how overflow parking will be handled:

The Rotary Club is working with the Village to arrange for street closures and to locate parking, near to, downtown and to arrange for shuttle services to the event.

D. Affidavit of Applicant:

I, the undersigned applicant, or authorized agent of the above noted organization, swear or affirm that the matters stated in the foregoing application are true and correct upon my personal knowledge and information for the purpose of requesting the Village of Algonquin to issue the permit herein applied for, that I am qualified and eligible to obtain the permit applied for and agree to pay all fees, to meet all requirements of the Algonquin Municipal Code, and any additional regulations, conditions, or restrictions set forth in the permit and to comply with the laws of the Village of Algonquin, the State of Illinois, and the United States of America in the conduct of the Public Event described herein. In addition, Applicant certifies, by signing the application, that, pursuant to 430 ILCS 85/2-20, no child sex offenders or persons convicted of a felony in the past five years or convicted of any offense under Article 9 (Homicide) of the Illinois Criminal Code are employed by the carnival operator, and that no carnival employees are fugitives from Illinois or any other state's law enforcement agencies. I (or the above named organization) further agree(s) to hold harmless and indemnify the Village, its officials, employees and successors and assigns, for any and all liability, damages, suits, claims and demands for damages at law or in equity it incurs as a result and arising either directly or indirectly out of the public event noted above including but not limited to damages and attorney's fees.

Pete Van Dorpe
Signature of Applicant

7-10-20
Date

FOR INTERNAL USE ONLY:

Copy of Application Sent to: Village Manager, Police Department, Public Works, Fire District

D. Special Event Information:

1. Date(s) of Event: Sept. 19, 2020

2. Time(s) of Event: 9 am - 4 pm

3. Duration of Event: one day

4. Location of Event: Historic downtown Algonquin

5. Name of Event: Algonquin Harvest Market

6. Maximum Number of Attendees/Participants at a Given Time: TBD (outdoor event)

7. Describe the Nature of the Public Event:

The Rotary Club of Algonquin hosts an annual Harvest Market in order to bring the community, local businesses, area farmers, and area craft merchants together for a community event designed to 1) raise

8. Describe Provided Security, including who is providing the security, hours, and a detail:

The event has not historically required any additional security, due to its size.

9. Describe Parking or Traffic Control, including the location of extra parking and the # of and how overflow parking will be handled:

The Rotary Club is working with the Village to arrange for street closures and to locate parking, near to, downtown and to arrange for shuttle services to the event.

D. Affidavit of Applicant:

I, the undersigned applicant or authorized agent of the above noted organization, hereby


Harvest Festival Detour Map



N
REVISION: 7/14/2020

Harvest Festival Map 2



-  6' Indicator
-  10' X 10' Tent
-  Potential Vendor Area
-  Street Closure

N
0 25 50 Feet

REVISION: 7/14/2020



VILLAGE OF ALGONQUIN MEMORANDUM

To: *Tim Schloneger, Village Manager*

From: *Susan Skillman, Comptroller*

Date: *July 24, 2020*

Re: *Budget Amendment – Fiscal Year Ending April 30, 2020*

Village department heads submitted requests to increase their budget for Fiscal Year Ending April 30, 2020, that requires approval by the Village Board. Budget Ordinance No. 2019–O–11 created spending authority for Fiscal Year Ending April 30, 2020. Illinois statutes allow the Village Board to delete, add to, or change the budget by a vote of two-thirds of the corporate authorities then holding office.

Exhibit A summarizes the budget revisions to the various line items made during fiscal year ending April 30, 2020. Spending for these revisions has caused the original fund budgets to be exceeded. Budget amendments for these increases to budgeted expenditures are justified under Illinois statutes as follows: budget increases for expenditures may be made due to the use of Fund Balance (cash reserves) that existed at the beginning of the fiscal year. The preliminary change in fund balance (Expenditures over Revenues) in the General Fund indicates a decrease of \$734,837 at April 30, 2020.

The amendment requires the two-thirds approval of the Village Board. A draft budget amendment ordinance with Exhibit A is also attached. The changes, which are shown on Exhibit A, are explained as follows:

General Fund: In Public Works – General Services, there was an increase of \$14,112 in park upgrades. Additional funds were required in FY 2020 for the Snapper’s Field Tennis Court improvements as it was a carryover from FY 2019. The offset for this increase was from fund balance in the general fund. In Multi-departmental, there was an increase of \$142,500 in transfer to the Park Fund as the IMET liquidating trust reimbursement received in FY 2020 was transferred from the General Fund to Park Fund.

Motor Fuel Tax Fund: The expenditure budget for maintenance-curb & sidewalk increased \$200,000 in the Motor Fuel Tax (MFT) Fund as additional sidewalk repairs were made over the budgeted amount. The offset for this increase is the restricted fund balance in MFT cash reserves.

Swimming Pool Fund: The expenditure budget for infrastructure maintenance improvement increased \$55,000 in the Swimming Pool Fund for the pool filter replacement. The offset for this increase was a budgeted transfer from the General Fund.

Park Improvement Fund: The expenditure budget for capital improvements increased \$130,000 relating to the Creek's Crossing Park Improvements. The offset for this increase is in cash reserves in the beginning fund balance as this project was a carryover from FY 2019. There was an increase in revenues due to a transfer from the General Fund for the IMET liquidating trust reimbursement.

Water & Sewer Operating Fund: The expenditure budget for engineering/design services increased \$22,000 in the Water & Sewer Operating Fund for the Capacity, Management, Operation & Maintenance (CMOM) plan. The offset for this increase is in cash reserves in the beginning fund balance.

Water & Sewer Improvement Fund: Various capital expenditures increased a total of \$1,694,700 relating to the IEPA loan projects for Downtown Utilities Stages 2, Downtown Utilities Stage 3 (Sewer), and the WWTP Stage 6B. The offset for this increase is the reimbursement proceeds from the IEPA loan.

An increase for engineering/design services of \$3,500 relates to the Downtown Utilities Stage 3 (Watermain), which is currently not part of the IEPA loan. The offset for this increase is in cash reserves in the beginning fund balance.

Development Fund: The expenditure budget for snow removal increased \$70,000 due to additional funds needed for cul-de-sac snowplowing. The offset for this increase was from fund balance in the development fund.

Recommendation: Forward the draft ordinance with Exhibit A to the Village Board for consideration at the Committee of the Whole Board Meeting to amend the budget for Fiscal Year Ending April 30, 2020.

ORDINANCE NO. 2020-O-

AN ORDINANCE AMENDING THE VILLAGE OF ALGONQUIN ANNUAL BUDGET FOR FISCAL YEAR 2019-2020

WHEREAS, the Village of Algonquin, McHenry and Kane counties, 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 as granted in the Constitution of the State of Illinois.

WHEREAS, the President and Board of Trustees of the Village of Algonquin, McHenry and Kane counties, Illinois, have adopted the budget form of financing by passing Ordinance 92-0-82, "An Ordinance Authorizing the Budget Process for Fiscal Years Beginning with the 1993-94 Fiscal Year and Amending the Algonquin Municipal Code," and subsequently passed Ordinance 2019-O-11 "An Ordinance Approving the Village of Algonquin Annual Budget for Fiscal Year 2019–2020"; and

WHEREAS, 65 ILCS 5/8-2-9.6 provides that by a vote of two-thirds of the corporate authorities then holding office, the annual budget "may be revised by deleting, adding to, changing or creating sub-classes within object classes and object classes themselves;" and

WHEREAS, since the passage of Ordinance 2019-O-11 the President and Board of Trustees have found it necessary to amend Ordinance 2019-O-11.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Algonquin, McHenry and Kane Counties, Illinois, as follows:

SECTION 1: That Ordinance 2019-O-11, "An Ordinance Approving the Village of Algonquin Annual Budget for Fiscal Year 2019–2020," shall be amended as depicted in Exhibit A, attached hereto and made a part hereof.

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 upon its passage, approval and publication in pamphlet form (which publication is hereby authorized) as provided by law.

VOTING AYE:

VOTING NAY:

ABSTAIN:

ABSENT:

APPROVED:

John C. Schmitt, Village President

ATTEST: _____
Gerald S. Kautz, Village Clerk

Passed:

Approved:

PUBLISHED IN PAMPHLET FORM:

Village of Algonquin
Budget Amendments for the Year Ending 4/30/2020
Fund Balance Offset

Exhibit A
As of 4/30/20

General Fund

<u>Account #</u>	<u>Description</u>	<u>Original Budget</u>	<u>Revised Budget</u>	<u>Increase/ (Decrease)</u>
Expenditures:				
01500300 43360	Park Upgrades	\$ -	\$ 14,112	\$ 14,112
01900500 48006	Transfer to Park Fund	\$ -	\$ 142,500	\$ 142,500
		\$ -	\$ 156,612	\$ 156,612

Motor Fuel Tax Fund

<u>Account #</u>	<u>Description</u>	<u>Original Budget</u>	<u>Revised Budget</u>	<u>Increase/ (Decrease)</u>
Expenditures:				
03900300 44427	Maint - Curb & Sidewalk	\$ 240,000	\$ 440,000	\$ 200,000
		\$ 240,000	\$ 440,000	\$ 200,000

Swimming Pool Fund

<u>Account #</u>	<u>Description</u>	<u>Original Budget</u>	<u>Revised Budget</u>	<u>Increase/ (Decrease)</u>
Expenditures:				
05900300 43370	Infrastructure Maint Improvement	\$ -	\$ 55,000	\$ 55,000
		\$ -	\$ 55,000	\$ 55,000

Park Improvement Fund

<u>Account #</u>	<u>Description</u>	<u>Original Budget</u>	<u>Revised Budget</u>	<u>Increase/ (Decrease)</u>
Expenditures:				
06900300 45593 P1714	Capital Improvements	\$ 60,000	\$ 190,000	\$ 130,000
		\$ 60,000	\$ 190,000	\$ 130,000
06900300 38001	Transfer from General Fund	\$ -	\$ 142,500	\$ 142,500
		\$ -	\$ 142,500	\$ 142,500

Water & Sewer Operating Fund

<u>Account #</u>	<u>Description</u>	<u>Original Budget</u>	<u>Revised Budget</u>	<u>Increase/ (Decrease)</u>
Expenditures:				
07800400 42232	Engineering/Design Services	\$ 4,000	\$ 26,000	\$ 22,000
		\$ 4,000	\$ 26,000	\$ 22,000

Water & Sewer Improvement Fund

<u>Account #</u>	<u>Description</u>	<u>Original Budget</u>	<u>Revised Budget</u>	<u>Increase/ (Decrease)</u>
Expenditures:				
12900400 42232 W1753	Engineering/Design Services	\$ -	\$ 150,000	\$ 150,000
12900400 42232 W1942	Engineering/Design Services	\$ -	\$ 28,000	\$ 28,000
12900400 42232 W1952	Engineering/Design Services	\$ -	\$ 3,500	\$ 3,500
12900400 45526 W1755	Wastewater Collection	\$ 547,500	\$ 947,500	\$ 400,000
12900400 45526 W1943	Wastewater Collection	\$ -	\$ 274,000	\$ 274,000
12900400 45565 W1754	Water Main	\$ 547,500	\$ 947,500	\$ 400,000
12900400 45570 W1844	Wastewater Treatment Plant	\$ -	\$ 442,700	\$ 442,700
		\$ 1,095,000	\$ 2,793,200	\$ 1,698,200

Development Fund

<u>Account #</u>	<u>Description</u>	<u>Original Budget</u>	<u>Revised Budget</u>	<u>Increase/ (Decrease)</u>
Expenditures:				
16230300 42264	Snow Removal	\$ 60,000	\$ 130,000	\$ 70,000
		\$ 60,000	\$ 130,000	\$ 70,000

Total - All Funds:

Revenues	\$ 142,500
Expenditures	\$ 2,331,812

Recap of Revisions:

<u>Fund:</u>	<u>Revenues</u>	<u>Expenditures</u>
	<u>Increase/(Decrease)</u>	
General	\$ -	\$ 156,612
Motor Fuel Tax	\$ -	\$ 200,000
Swimming Pool	\$ -	\$ 55,000
Park Improvement	\$ 142,500	\$ 130,000
Water & Sewer Operating	\$ -	\$ 22,000
Water & Sewer Improvement	\$ -	\$ 1,698,200
Development	\$ -	\$ 70,000
Total	\$ 142,500	\$ 2,331,812



VILLAGE OF ALGONQUIN
GENERAL SERVICES ADMINISTRATION

– M E M O R A N D U M –

DATE: 8/5/2020

TO: Tim Schloneger, Village Manager

FROM: *Matthew Bajor, Management Analyst*

CC: Michael Kumbera, Assistant Village Manager; Robert Mitchard,
Public Works Director

SUBJECT: An Ordinance Amending Chapter 6A, Water and Sewer
Department, of the Algonquin Municipal Code

As we near the completion of the water meter replacement program, staff will begin the process of mailing letters to those customers with meters that are required to be exchanged. These letters include excerpts from the Algonquin Municipal Code that provide for service disconnection in order to properly exchange the meter.

Accordingly, water and sewer operations staff is recommending the removal of text in Chapter 6A for obsolete meter-reading technologies that the Village no longer utilizes prior to distributing letters to customers. A draft ordinance is attached to this memo.

It is recommended that the Board consider and approve Ordinance Amending Chapter 6A, Water and Sewer Department, of the Algonquin Municipal Code.

ORDINANCE NO. 2020 - 0 - XX

An Ordinance Amending Chapter 6A, Water and Sewer Department, of the Algonquin Municipal Code

WHEREAS, the Village of Algonquin, McHenry and Kane Counties, 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 as granted in the Constitution of the State of Illinois.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the VILLAGE OF ALGONQUIN, McHenry and Kane Counties, Illinois, as follows:

SECTION1: Section 6A.17-F of the Algonquin Municipal Code shall be amended as follows:

F. Service Termination: In the event a customer refuses to install or maintain equipment required by the Village, and the installation of all the required equipment is feasible and attainable as determined by the Director, the Village may shut off water and/or sewer service to the building. Fourteen days before disconnection, the Director will send the property owner notice, by certified mail, return receipt requested, that service will be discontinued and the building will be red-tagged as "unfit for human occupancy." Service will be restored after the required equipment is installed and/or maintained, to the satisfaction of the Director, and the Village's cost of disconnection and reconnection are paid by the customer. Under certain circumstances, such as no reasonable installation access from the meter to ~~the telephone line~~ its wiring and/or reading equipment and at the discretion of the Director, the Village may waive the installation requirement.

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 August ~~XX~~, 2020, approval and publication in pamphlet form (which publication is hereby authorized) as provided by law.

Voting Aye:

Voting Nay:

Abstain:

Absent:

APPROVED:

(SEAL)

Village President John C. Schmitt

ATTEST: _____
Village Clerk Gerald S. Kautz

By: _____
Deputy Village Clerk, Michelle Weber

Passed: _____

Approved: _____

Published: _____

DRAFT

LAW OFFICES
ZUKOWSKI, ROGERS, FLOOD & McARDLE
50 VIRGINIA STREET
CRYSTAL LAKE, ILLINOIS 60014

KELLY A. CAHILL
kcahill@zrfmlaw.com

(815) 459-2050
Facsimile (815) 459-9057
www.zrfmlaw.com

MEMORANDUM

To: Acting Village President and Board of Trustees

From: Kelly A. Cahill *KAC*

Cc: Tim Schloneger

Date: August 4, 2020

RE: Referendum for the Appointment of the Village Clerk

Tim asked me to look into the issue of whether the Village Clerk's position can be changed from an elected office to an appointed office. Many towns have gone this route as the clerk's position is really one that is administrative rather than a policy making position. The Village has an elected clerk as a "default" position under Illinois state law which provides for the election of the president, trustees and a clerk. (65 ILCS 5/3.1-15-5). However, as a home rule municipality, the Village has the power to change the manner of selection of officers by referendum (Illinois Constitution, Article VII (f)). If the Board decides to go that route, the attached resolution would authorize a binding public question for the November 3, 2020 General Election on the question of having the Clerk be appointed rather than elected. In order to have the question put before the voters at the upcoming general election, the Board of Trustees must pass the resolution on or before August 17, 2020 to have the question certified to the McHenry and Kane County election authorities in a timely manner.

If you wish to place such a referendum question on the upcoming election ballot, the attached resolution would be appropriate for that purpose.

Kelly A. Cahill, Village Attorney
Attachment

Z:\AA\AlgonquinVillageof\Memo.Village Clerk Referendum.doc

RESOLUTION NO. 2020-__

A Resolution Authorizing a Binding Public Question on the November 3, 2020, General Election Ballot on the Question of Appointing the Algonquin Village Clerk

WHEREAS, the Village of Algonquin, McHenry and Kane Counties, 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 Resolution constitutes an exercise of the Village’s home rule powers and functions as granted in the Constitution of the State of Illinois; and

WHEREAS, the position of Village Clerk of the Village of Algonquin is currently an elected position; and

WHEREAS, among the powers and functions of a home rule municipality, the position of clerk can be changed from elected to appointed if approved by the voters, as authorized by Article VII, Section 6 of the Illinois Constitution of 1970 that provides in relevant part that “(f)...A home rule municipality shall have the power to provide for its officers, their manner of selection and terms of office only as approved by referendum or as otherwise authorized by law....”; and

WHEREAS, in *Clarke v. Village of Arlington Heights*, 57 Ill. 2d 50 (1974), the Illinois Supreme Court upheld the ability of a home rule unit of government to convert from an elected City Clerk to an appointed City Clerk where such action was undertaken with the approval of a City-wide referendum pursuant to the Illinois Constitution provisions for home rule municipal units of government; and

WHEREAS, pursuant to 10 ILCS 5/28-7, the Village Board may, by resolution, initiate any referendum that is required by the Illinois Constitution of 1970 with respect to the actions of the home rule community; and

WHEREAS, the Village Board finds and determines that, pursuant to 10 ILCS 5/28-7, the Village of Algonquin, Illinois has not initiated a referendum regarding the Village Clerk position within the past twenty-three (23) months; and

WHEREAS, the Village Board finds that all conditions prerequisite to the inclusion of such a referendum question on the ballot have been satisfied by the actions authorized and directed in this resolution; and

WHEREAS, the Village Board finds that a referendum question regarding the appointment of the Village Clerk should appear on the November 3, 2020 ballot; and

WHEREAS, the Village Board has concluded that it is in the best interests of the Village and for the sound administration of government in an increasingly complex and regulated environment that the Clerk position should be an appointed one rather than an elected one.

NOW, THEREFORE, BE IT RESOLVED by the President and Board of Trustees of the VILLAGE OF ALGONQUIN, McHenry and Kane Counties, Illinois, as follows:

SECTION 1: That the following binding referendum shall be placed on the November 3, 2020, general election ballot:

Shall the Clerk of the Village of Algonquin be appointed by the Village President, with the advice and consent of the Village Board, rather than be elected?	YES
	NO

SECTION 2: Pursuant to 10 ILCS 5/28-5, the Village Clerk is hereby directed to certify this public question to the election authorities of Kane and McHenry Counties in a timely manner, not less than 68 days before the November 3, 2020 election (which date is Thursday, August 27, 2020) and to take such other actions as shall be necessary to ensure this public question is submitted to the voters of the Village of Algonquin for the November 3, 2020 election.

SECTION 3: In the event this referendum is approved by the voters of the Village of Algonquin, the Village Board shall take such action as is necessary to revise the Village code to provide for the appointment of the Village Clerk by the Village President, with the advice and consent of the Village Board, and shall include such other details as are necessary to establish the term of the appointed Village Clerk which term should coincide with the term of the Village President.

SECTION 4: If any section, paragraph, subdivision, clause, sentence or provision of this Resolution 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 5: This Resolution shall be in full force and effect upon its passage, approval and publication in pamphlet form (which publication is hereby authorized).

Aye:
Nay:
Absent:
Abstain:

APPROVED: August 11, 2020

Acting Village President Debby Sosine

(SEAL)

ATTEST: _____
Village Clerk Gerald S. Kautz

Passed: _____
Approved: _____
Published: _____

Z:\A\AlgonquinVillageof\Resolutions\Village Clerk Referendum.docx

Prepared by:

Kelly Cahill, Village Attorney
Zukowski, Rogers, Flood & McArdle
50 Virginia Street
Crystal Lake, Illinois 60014

CERTIFICATION

I, GERALD S. KAUTZ, do hereby certify that I am the duly elected and qualified Clerk of the Village of Algonquin, McHenry and Kane Counties, Illinois, and that as such Clerk, I am the keeper of the ordinances, records, corporate seal and proceedings of the President and Board of Trustees of said Village.

I do hereby further certify that at a regular meeting of the President and Board of Trustees of the Village of Algonquin, held on the _____ day of _____, 2020, the foregoing Resolution entitled *A Resolution Authorizing a Binding Public Question on the November 3, 2020, General Election Ballot on the Question of Appointing the Algonquin Village Clerk*, was duly passed and approved by the President and Board of Trustees of the Village of Algonquin.

I do further certify that the original, of which the attached is a true and correct copy, is entrusted to me as the Clerk of said Village for safekeeping, and that I am the lawful custodian and keeper of the same.

IN WITNESS WHEREOF, I have affixed my name as Clerk and caused the seal of said Village to be affixed hereto this _____ day of _____, 2020.

Gerald S. Kautz, Village Clerk
Village of Algonquin,
McHenry and Kane Counties,
Illinois

(VILLAGE SEAL)



Village of Algonquin

Police Department



-MEMORANDUM-

DATE: August 4th, 2020
TO: Tim Schloneger, Village Manager
FROM: John Bucci, Chief of Police
SUBJECT: McHenry County Sheriff SWAT Team Mutual Aid Agreement

Attached please find the Mutual Aid Agreement for McHenry County Sheriff's SWAT team.

The SWAT team agreement commits the Police Department for a four-year term to provide law enforcement services at events and operations when requested by participating agencies. The Police Department has asked for assistance from the SWAT team in the past as support for a local protest and have provided officers for other circumstances throughout the county.

I respectfully request the Committee of the Whole consider this request and forward them to the Village Board for approval and signature.

MUTUAL AID AGREEMENT
FOR THE
MCHENRY COUNTY SHERIFF S.W.A.T. TEAM

This Agreement is made and entered into this ____ day of ____, 2020, by and between the COUNTY OF MCHENRY, a body politic and corporate of the State of Illinois (hereinafter referred to as the "COUNTY"), and the undersigned units of local government (hereinafter referred to as the "PARTNER AGENCIES").

WHEREAS, the COUNTY and the PARTNER AGENCIES are authorized by the terms and provisions of 5 ILCS 220/5 et. seq., to enter into intergovernmental and mutual aid agreements, ventures and undertakings to perform jointly any governmental purposes or undertaking any of them could do singularly; and

WHEREAS, it is desired that the PARTNER AGENCIES become members of the McHenry County S.W.A.T. unit for the purpose of creating a S.W.A.T. team to support the McHenry County Sheriff's Department and other local law enforcement jurisdictions in providing a tactical response to critical incidents in McHenry County.

NOW THEREFORE, in consideration of the foregoing and the covenants contained herein, the parties hereby agree as follows:

1. Purpose

The purpose of this Mutual Aid Agreement is to create an inter-departmental S.W.A.T. Team for McHenry County which will allow for the following:

- a. Comprehensive training resources to members of the team
- b. Allow officers selected from the parties hereto to deploy and function as a team member during a critical incident
- c. Allow team members to effectuate arrests and otherwise exercise all lawful police powers in jurisdictions other than their own

2. Obligations of the Parties

The COUNTY's obligations and responsibilities shall include the following

- a. Monthly instruction and training

- b. Use of MCSO equipment
- c. Use of outdoor range and training facilities
- d. Coordination of S.W.A.T. activities including selection and review of members, team formation, equipment and uniform ordering, and communication
- e. Development of a command and control structure

The obligations of PARTNER AGENCIES shall include:

- a. Nomination of officers to MCSO for evaluation and selection with a three years commitment for each officer nominated
- b. Coverage of all wages, benefits, and insurance of participating officers employed by their department
- c. Commitment to allow its selected officers to participate in monthly training
- d. Funding for individual equipment purchases and training (estimated expenses attached hereto as Exhibit 1)
- e. Authority for its officers to use their department issued equipment including rifles for any S.W.A.T activities

3. Relationship of the Parties

As a member of S.W.A.T., the SHERIFF shall deputize any officer selected from the PARTNER AGENCY and each officer shall act as a deputy to the SHERIFF until notified otherwise by the COUNTY or the SHERIFF. PARTNER AGENCY police officers acting under this Agreement shall continue to be covered by their employing agency, _____, for the purposes of worker's compensation, unemployment compensation, disability benefits, and other employee benefits and civil liability, and shall be considered while so acting to be in the ordinary course of their employment.

Any officer that is employed by the PARTNER AGENCY and acting under this Agreement shall be considered an employee of the PARTNER AGENCY and shall not be considered an employee of the COUNTY regardless of the supervision or control of the officer's actions while acting as a member of the McHenry County Sheriff's S.W.A.T.. At no point shall the COUNTY be responsible for payment of worker's compensation, unemployment compensation, disability or death benefits, or any other employee benefits to any employee of the PARTNER AGENCY acting under this Agreement.

The PARTNER AGENCY acknowledges and accepts that the

SHERIFF may from time to time conduct random drug screening on PARTNER AGENCY officers operating under the scope of this Agreement as a part of the normal course of completing the objectives of this Agreement. In the event a PARTNER AGENCY officer screens positive for the presence of illegal drugs or narcotics, the SHERIFF reserves the right to immediately expel the PARTNER AGENCY officer from the S.W.A.T..

1. Selection and Removal Process

Each PARTNER AGENCY agrees to the selection and removal process attached to this agreement as Exhibit 2. The MCSO reserves the right to make changes to the attached selection and removal standards at any time without notice to each PARTNER AGENCY.

2. Indemnification

The PARTNER AGENCIES shall indemnify, hold harmless and defend the COUNTY and the SHERIFF, their officers, deputies and employees from and against any and all liability, loss, costs, damages, expenses, claims or actions, including, but not limited to, incidental and consequential damages, and expenses, including, but not limited to attorney's fees which the COUNTY and the SHERIFF, their officers, deputies or employees may hereafter sustain, incur, or be required to pay, arising out of the sole negligence of said PARTNER AGENCY, its officers, agents, or employees, in the execution, performance, or failure to adequately perform, its obligations pursuant to this Agreement.

The PARTNER AGENCIES shall indemnify the COUNTY and the SHERIFF from and against liability resulting from the willful or wanton acts or omissions of said PARTNER AGENCY, its officers, agents and employees, as determined by a court of law making a specific finding of fact, without limitations, in the providing of services as set forth in this Agreement.

The COUNTY shall indemnify, hold harmless and defend each PARTNER AGENCY, its officers, deputies and employees from and against any and all liability, loss, costs, damages, expenses, claims or actions, including, but not limited to incidental and consequential damages, and expenses including, but not limited to, attorney's fees which the PARTNER AGENCY, its officers, deputies or employees may hereafter sustain, incur, or be required to pay, arising out of the sole negligence of the COUNTY or the SHERIFF, its officers, agents, or employees, in the

execution, performance, or failure to adequately perform, its obligations pursuant to this Agreement.

The COUNTY shall indemnify each PARTNER AGENCY from and against liability resulting from the willful or wanton acts or omissions of the COUNTY or the SHERIFF, its employees and agents, as determined by a court of law making a specific finding of fact, without limitation, in the providing of services as set forth in this Agreement.

The indemnification provisions of this Agreement shall survive the termination of this Agreement.

5. Term and Termination

The term of this Agreement is for an initial 4 year period beginning the date of execution by each Party.

A PARTNER AGENCY may withdraw its officer(s) from the McHenry County S.W.A.T. Team upon thirty (30) days written notice of withdrawal to the COUNTY, the effect of which shall terminate its rights, obligations and privileges under this Agreement. The COUNTY may terminate this Agreement upon thirty (30) days written notice of termination to the PARTNER AGENCY.

The parties understand that any funds expended for training or joint equipment purchases shall not be refunded upon termination of this Agreement

6. Insurance

The PARTNER AGENCIES and the COUNTY shall maintain for the duration of this Agreement, and any extensions thereof, at their own expense, all law enforcement insurance required by law and insurance that includes "Occurrence" basis wording and is issued by a company or companies qualified to do business in the State of Illinois, which generally require that the company(ies) be assigned a Best's Rating of "A" or higher with a Best's financial size category of class XIV or higher, or by membership in a governmental self-insurance pool, in at least the following types and amounts:

- 1) Commercial General Liability in a broad form, to include, but not be limited to, coverage for the following where exposure exists: Bodily Injury and Property Damage, Premises/Operations, Independent contractors, Products/Completed operations, Personal Injury and

Contractual Liability; limits of liability not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate;

- 2) Business Auto Liability, to include, but not be limited to, Bodily Injury and Property Damage, including owned vehicles, hired and non-owned vehicles and employee non-ownership; limits of liability shall not be less than \$1,000,000 per occurrence, combined single limit for bodily injury liability and property damage liability; and
- 3) Workers Compensation Insurance to cover all employees, including independent contractors working in a law enforcement capacity, that meets statutory limits in compliance with applicable state and federal laws. The coverage must include Employer's Liability with minimum limits of \$100,000 for each incident.

In reference to the insurance coverage maintained by the PARTNER AGENCIES and the COUNTY, such policies shall not be canceled, limited in scope, or non-renewed until after thirty (30) days written notice has been given to the other party. Certificates of Insurance evidencing the above-required insurance shall be supplied to the other party within ten (10) days of approval of this agreement.

Each party shall have the other party named as Additional Insured on its Commercial General Liability and shall include such wording in its certificate of insurance.

7. **Non-Discrimination** No person shall illegally be excluded from employment rights or participation in, or be denied the benefits of, the program which is the subject of this Agreement on the basis of race, religion, color, sex, age, disability, or national origin, the classifications of "gender" and "sexual orientation."

8. **Entire Agreement**

It is understood and agreed that the entire Agreement of the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof as well as any previous Agreements presently in effect between the parties relating to the subject matter hereof. This Agreement may be amended by mutual consent of all of the parties, which shall be in writing and signed and executed with the same formality with which this instrument was executed.

9. Governing Law

The parties agree this Agreement has been executed and delivered in Illinois and that their relationship and any and all disputes, controversies or claims arising under this Agreement shall be governed by the laws of the State of Illinois, without regard to conflicts of laws principles. The parties further agree that the exclusive venue for all such disputes shall be the Circuit Court of the 22nd Judicial Circuit of McHenry County, Illinois, and the parties hereby consent to the personal jurisdiction thereof.

Each person signing this Agreement on behalf of one of the parties agrees, represents and warrants that he or she has been duly and validly authorized to execute this Agreement on behalf of their party.

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the dates written below.

County of McHenry

By: _____

William Prim
McHenry County Sheriff

Date: _____

PARTNER AGENCY

ATTEST:

By: _____

By: _____

It's: _____

Its: _____

Date: _____

Date: _____

Exhibit 1

S.W.A.T. Equipment and Training Purchase Requirements and Price Estimates

- Equipment provision
 - One-time funding for Tactical Vest, plates, side armor, accessories and uniforms
 - Approximately \$1,581.00 + \$160 for Uniform pants, U Coat and Tactical Combat Shirt
 - One-time funding for Tactical Helmet
 - Approximately \$685.00
 - One-time funding for Tactical Communications
 - Approximately \$500.00 - \$1,200.00
 - Funding for Basic SWAT School (if applicable)

NOTE: all prices are approximate. Prices and costs fluctuate and change regularly. The numbers used in this Exhibit are to provide a guide and structure for budgeting for one-time equipment purchases and annual training expenses.

Exhibit 2

S.W.A.T. Selection and Removal Process

SELECTION

- Sister agencies may nominate an officer(s) for consideration of assignment to the SWAT Team as long as they meet the following criteria:
 - Not on probation with an additional two (2) years of LE duties
 - Exceptions considered for prior military or LE Tactical experience
- Once an officer has been nominated for consideration they will participate in a selection process consisting of:
 - Pass/Fail rifle and Pistol skills test
 - Pass/Fail physical agility test
 - Decision making diagnostic
 - Interview Board

- All test and assessment will be Pass/Fail regardless of age or gender
- The Sheriff or designee shall appoint a qualified applicant to the team following review and recommendation by the SWAT Commander.
- Selection will be held on as needed basis

Physical Fitness Standards and Firearms Qualifications

Specific details of the test(s) are listed below and/or attached:

The **rifle qualification** is attached.

The **pistol qualification** is attached.

Pushups: Twenty-five in less than one minute (see attachment regarding pushups).

Sit-ups: Thirty-seven in less than one minute (see attachment regarding sit-ups).

“Tactical obstacle course”:

This course will involve completing an 880 yard course (2 laps around an Olympic track) consisting of three job-related tasks. At the 220 to 260 yard marks, the candidate must negotiate a 40-yard running weave consisting of nine cones placed five yards apart, with a lateral dispersion of five yards. Candidates must run to the left of the cones positioned on the inside of the track and to the right of the cones positioned to the outside of the track. At the 440 yard mark, candidates must stop and drag a supine “victim” ten yards. At the 660 yard mark, the candidate will renegotiate the running weave, this time dropping to the prone position (chest and hands in contact with the track) behind each of the nine alternately positioned cones before continuing to the finish line at the 880 yard mark. This course will be completed in four minutes forty-five seconds or less.

“Pursuit/Rescue climb” test:

This test involves completing a minimum of two pull ups while wearing a supplied ballistic vest and helmet. The candidates chin must go completely over the bar without swinging the body.

REMOVAL

Once selected and appointed to the SWAT team, all operational team members regardless of rank or position, must maintain acceptable standards of performance as specified in this agreement. Failure to meet the minimum acceptable standards will result in the team member being placed on a temporary, non-operational status for 30 days. Failure to meet the minimum acceptable standards within 60 days will result in the immediate removal from the team.

Being placed in a temporary non-operational status on two (2) or more occasions will result in a status review by the SWAT Commander and/or the Sheriff. Inability to participate in standard testing due to an undocumented injury will result in a status review by the SWAT Commander and/or the Sheriff.

A team member may voluntarily withdraw from the team at any time, for any reason. A team member may be removed from the team, without cause, when deemed necessary for the good of the team following a recommendation by the designated Team Leaders and Team Commander subject to approval by the Sheriff and/or designee.

AR-15/M-16 QUALIFICATION COURSE OF FIRE

TOTAL ROUNDS / SCORE: 30 (.223/ 5.56 mm) SCORE 80 % (24 HITS OR BETTER)
TARGET: B-27 SILLHOUETTE / SCORE OF 8 RING OR BETTER ONLY
OR 8 1/2 " X 14" SHEET OF PAPER
STARTING POSITION: BEGIN ALL STAGES OF FIRE, STANDING, RIFLE AT LOW READY,
SAFETY ON.

STAGE #1: STANDING FREESTYLE, DISTANCE 25 YARDS, **10 ROUNDS IN MAGAZINE.**

- On the command to fire, the shooter fires on round within 5 seconds and returns to the low ready.
- Repeat 5 times (5 rounds).
- The next five rounds are fired continuously within 15 seconds (5 rounds).
- The weapon is cleared and made safe.
- On command all shooter will move to the 50 yard line.

STAGE #2: STANDING TO KNEELING, DISTANCE OF 50 YARDS, **10 ROUNDS IN MAGAZINE.**

- Shooter begins standing.

- On command moves to the kneeling position and fires 5 rounds in 15 seconds then safely recovers to standing.
- On command shooter moves to the prone position and fires 5 rounds in 25 seconds and then safely recovers to standing.
- The weapon is cleared and made safe.
- On command shooter moves to the 75 yard line.

STAGE #3: STANDING TO PRONE, DISTANCE IS 75 YARDS, **10 ROUNDS IN MAGAZINE.**

- Shooter begins in standing position.
- On command, shooter moves to prone and fires 10 rounds in 30 seconds.

Course #1 – #9 are from the five yard line. Course #10 is from the 15 yard line.

Course #1: 1 round 1 target from the high ready: 1 second

Course #2: 1 round 1 target from the holster: 1.7 seconds

Course #3: 2 rounds 1 target from the high ready: 1.5 seconds

Course #4: 6 shots on 1 target from the high ready: 3 seconds

Course #5: 2 rounds on 2 targets from the high ready: 3 seconds

Course #6: 4 rounds: 2 from strong hand, 2 from weak hand, 1 target from the high ready: 5 seconds

Course #7: Start w/empty chamber, click, tap, rack, bang from high ready: 3 seconds

Course #8: 4 rounds: from the high ready fire 2 shots, reload and fire two shots: 5 seconds

Course #9: 1 dry pull from rifle, 1 round from pistol: 5 seconds

Course #10: 1 round starting from standing holstered to kneeling: 4.25 seconds

PT Test & Instructions:

Pushups:

Twenty-five in less than one minute.

- In one-minute or less you must complete 25 push-ups
- Hands placed on ground slightly wider than shoulder width
- Start in the up position, back straight, knees off the ground, elbows locked
- Lower your body until your chest touches the ground
- Return to the start position
- You may rest in the start position only
- A rep will not count unless the above instructions are followed

Sit-ups:

Thirty-seven in less than one minute.

- Start position is lying on your back, shoulder blades on the ground, knees bent, feet flat
- Arms and hands must be flat against the chest throughout the entire repetition
- A partner will hold the feet down
- Move to the up position where the elbows must contact the knees
- Return to the start position
- You may rest in the up positions only
- A rep will not count unless the above instructions are followed

“Tactical obstacle course”:

This course will involve completing an 880 yard course (2 laps around an Olympic track) consisting of three job-related tasks.

- At the 220 to 260 yard marks, the candidate must negotiate a 40-yard running weave consisting of nine cones placed five yards apart, with a lateral dispersion of five yards. Candidates must run to the left of the cones positioned on the inside of the track and to the right of the cones positioned to the outside of the track.
- At the 440 yard mark, candidates must stop and drag a supine “victim” ten yards.
- At the 660 yard mark, the candidate will renegotiate the running weave, this time dropping to the prone position (chest and hands in contact with the track) behind each of the nine alternately positioned cones before continuing to the finish line at the 880 yard mark.

This course will be completed in four minutes forty-five seconds or less.

“Pursuit/Rescue climb” test:

This test involves completing a minimum of two pull ups while wearing a supplied ballistic vest and helmet.

- Starting in the hanging position with no bend in the elbows and hands facing away from the body.
- The candidate’s chin must go completely over the bar.

“Assault dash” test:

This course involves starting from the prone position, wearing body armor and carrying an unloaded rifle, run forty yards. This test will be completed in less than eight seconds.