

CITY OF MORRISON COUNCIL WORK SESSION

City Hall, 200 West Main Street, Morrison, Illinois

January 25, 2010 ♦ 7 p.m.

AGENDA

- I. CALL TO ORDER
- II. ROLL CALL
- III. PLEDGE OF ALLEGIANCE
- IV. PRESENTATIONS
 - 1. Land Development & Annexation Process Report
 - a. Kurt Froehlich, Development & Redevelopment Agreements (pg 1-12)
 - b. Ralph Tompkins – Development Basics (pg 13-19)
- V. COUNCIL WORK SESSION – ITEMS FOR DISCUSSION
 - 1. Morrison Sports Complex Field Reservation/Allocation & Use Policy (pg 20-28)
 - 2. Request for Proposals for Sports Complex Concessions (pg 29-41)
 - 3. Sports Complex Mower & Gator Purchase (pg 42)
 - 4. Sports Complex Field Names (pg 43)
 - 5. Draft Policy for Records Management (pg 44-47)
 - 6. Ad-Hoc Committee for Review of RFPs for Banking & Audit Services (pg 48-56)
 - 7. Local Government Prompt Payment Act (50 ILCS 505) (pg 57-58)
 - 8. Executive Session
 - a. Personnel 5 ILCS 120/2(c)(1)
 - b. Collective Bargaining 5 ILCS 120/2(c)(2)
 - c. Appointment or Removal of Public Officers 5 ILCS 120/2(c)(3)
 - d. Deliberations of Quasi-Adjudicative Bodies 5 ILCS 120/2(c)(4)
 - e. Purchase or Lease of Real Estate 5 ILCS 120/2(c)(5)
 - f. Sale or Lease of Real Estate 5 ILCS 120/2(c)(6)
 - g. Litigation 5 ILCS 120/2(c)(11)
- VI. OTHER ITEMS FOR CONSIDERATION
- VII. ADJOURNMENT

**PRACTICAL CONSIDERATIONS IN NEGOTIATING AND DRAFTING
DEVELOPMENT AND REDEVELOPMENT AGREEMENTS**

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Illinois, 1966**

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I. **Introduction.**

In most, if not all, economic and community development and redevelopment activities, which involve public/private ventures, the most sensitive point can be negotiating and drafting of the public/private agreement. ^{1/} The dynamics of the negotiation process related to this and the degree of public sector preparation and energy often is affected by whether the proposal is brought to the table by the developer's initiative rather than at a municipality's request for proposals. The project may seem vague, undefined, distant and speculative if developer initiated. In such cases there may be a tendency to relax and in many cases even except the developer's "form" agreement from another transaction. Examples of the extreme danger in accepting a form agreement from another transaction is the big difference in what would seem to be required public safeguards (i) between an agreement signed after there has been substantial developer performance instead of before and (ii) between an agreement where the developer controls the project site and where the public entity controls the project site (or must exercise eminent domain).

1. This analysis will focus on agreements of a type encountered in municipal projects in the context of general economic development and redevelopment, urban renewal, blight, conservation and rehabilitation.

An agreement may tie up the property for years, foreclosing effective negotiations with others. If there are to be any municipal protections, the point of agreement is the time. Development projects today are harder to come by, difficult to finance and more time consuming and expensive to start up. Developers seem at ease suggesting potential litigation even when negotiating the transaction. In addition, the initial developer may sell the project site and assign the agreement to a stranger to the negotiations, and for a considerable amount. A selection of development and redevelopment points follows.

A. **Over Promising.**

Most economic and community development and redevelopment legislation is written in a broad and expansive way. This suggests that many private expenses may be payable or that other possibly applicable laws (e.g., public bidding, prevailing wages, prior appropriations, disposition of property, etc.) may not apply. In the attempt to induce development and redevelopment activities, there is the temptation to agree to anything and everything. Underlying concerns in this area include state constitutional provisions related to "public purpose" and "lending of public credit," together with the uncertain application of a Dillon's Rule analysis of enabling legislation.

Perhaps these concerns are sufficiently addressed by an appropriately hedged severability provision or by a provision to the effect that the qualification of any expenditure will be made, or reserved to be made, at the time actually paid, with no assurances as to qualification (sometimes stated as a developer's risk). However, at some point someone has to sign off. 2/

B. **Getting Ahead of the Developer.**

A developer's financing, leasing, acquisitions and construction contracts (even some construction milestone met) should occur or be in place before the municipality issues bonds/notes (which often have call protection for up to 10 years) and certainly before substantial municipal expenditures are made. Especially in the area of tax increment finance, where the municipal pay back is from various taxes to be generated, a developer's failure to perform can be very costly. A suggested technique is that the developer itself buy the municipality's development revenue notes/bonds so that it assumes its own performance risks. A major concern is a municipality issuing general obligation bonds to finance land acquisition and infrastructure, completing this acquisition and work, and finding that the developer cannot or will not perform. This regrettably does happen. Described below under "T. Securing Developer Performance" is a problem with securing a transaction in such a way that allows tax-exempt financing to be used.

2. See *Village of Camp Point v. Continental Casualty Company*, 578 N.E. 2d 1373 (Ill.App. 1991), in the context of the village suing a prior village attorney for malpractice, defining a municipal attorney's duty to say "no" in some cases.

C. **Termination.**

Municipalities should insist on absolutely clear termination provisions. Preferably these should state that if certain events do not occur by certain milestone dates, the agreement is automatically terminated and that the usual notice/cure and period/default mechanisms in some cases do not apply. The major concern is that the agreement almost becomes a perpetual lien on the development area such that the municipality cannot, or only with great difficulty and at substantial expense, get rid of the developer in order to effectively work with another developer.

Similarly, municipalities should take care with specifying a so-called "designated developer". Once "designated," a non-performing developer can tie-up development for an uncertain time. Certainly no one can predict in any case what a "reasonable time" would be to safely go forward with another developer. In this situation, the only safe route may be to obtain a release from the prior developer, who then will be in a position to demand, or extort, a payment for this suddenly very valuable right or property. 3/

D. **Non-Callable Obligations.**

Subject to applicable law (for example, where competitive sales are not required), Often developers themselves can buy or arrange the purchase of a municipality's interim notes or bonds to seed a project. These interim obligations often have very high interest rates because the project may be still in a speculative stage. When the project is complete, and less speculative, the municipality likely will want to prepay these interim obligations with a final financing at a much lower interest cost. To be assured of doing this, the municipality must expressly provide that these interim obligations are prepayable at any time (usually at a price of par plus accrued interest). In this connection the reimbursement or payment obligations of a municipality under an agreement may in and of themselves constitute such an interim obligation and the right to prepay should be expressly reserved. The concern here is that the holder of an interim obligation may attempt to participate a high yielding interim obligation at a substantial profit or may demand a substantial premium to allow the municipality to prepay.

E. **Development Notes/Agreements.**

Noted in above in "D. Non-Callable Obligations" is that an agreement itself may constitute an interest bearing obligation -- perhaps not effectively negotiable or assignable, but nevertheless a financial obligation. To the extent authorized by applicable law, financial obligations under an agreement should be evidenced solely and only by a development bond or note, endorsed by the municipality from time to time as the qualifying costs are incurred. The concern here is that a developer can be claiming to incur costs for uncontrolled purposes and

3. *Charles River Park, Inc. v. Boston Redevelopment Authority*, 557 N.E.2d 20 (Mass. App.Ct. 1990) illustrates the complications in terminating a developer in the case of clear default with a likely well drafted agreement (1966 start, 1970 declaration of termination and related litigation and finally a 1990 conclusion), and finding that 14 years from 1971 to 1985 was a "reasonable time" by which the developer's rights lapsed.

amounts and for nonqualifying purposes and demand payment under the agreement. The issuance or endorsement of a draw on a development bond/note provides a municipal control point.

The determination of what is even to be paid may be uncertain. In this same connection, even though a developer has incurred qualifying costs, a provision might also be considered that interest ceases to accrue during certain agreed upon and specified periods of non-performance (e.g., failure to complete a certain milestone -- e.g., financing, contracts, leases, etc. -- by a certain date stops interest).

F. **Political Changes.**

The present governing body, and the municipal counsel, will not be there forever. In fact, the agreement to provide substantial financial assistance to a developer or project might even be the reason for the change. The agreement and related transaction later may undergo a severe and unfriendly public review. There may follow a publicly embarrassing airing of the "on-the edge" or slightly over-the-edge agreements and accommodations made to induce development. The procedural shortcuts and perhaps too liberal interpretations may be dramatized or then come out. 4/

G. **Prior Appropriations.**

Agreements often involve multi-year financial obligations by a municipality. Subject to applicable law, these types of agreements may require year-to-year appropriations. If this is the case, the municipal attorney's opinion, if any, related to the agreement should be so qualified. Also, the agreement itself should reflect this in order to avoid a misplaced reliance by a developer. In some cases the "special fund" exception avoids the need for a prior appropriation. 5/

H. **Bidding and Prevailing Wages.**

Although a "request-for-proposals" process may have been used to select a developer and to work out an agreement, the local public bidding and prevailing wage requirements may apply to some or all of the underlying work. For example, public bidding and the determination and payment of prevailing wages may apply where the agreement is for the developer to construct public streets, sewers and sidewalks; and later for the municipality to

4. See *Monge v. City of Pekin*, 614 N.E.2d 482 (Ill.App. 1993), where the outgoing council at 6:30 approved an agreement, adjourned at 6:55, and the new council at 7:03 tried to get out of the agreement; and *Village of Camp Point v. Continental Casualty Company*, 578 N.E. 2d 1373 (Ill.App. 1991), where the new corporate authorities sued a prior village attorney.

5. See *Kinzer v. City of Chicago*, 539 N.E.2d 1216 (Ill. 1989) and *Kinzer v. Fidelity and Deposit Company of Maryland*, 572 N.E.2d 115 (Ill.App. 1991).

issue redevelopment bonds or notes or otherwise reimburse a developer from tax increment or other revenues, if, as and when received. An additional concern here is that bidding and prevailing wage requirements may apply to the private as well as the public features of the overall project. 6/

I. **Eminent Domain/Condemnation.**

Economic and community development laws usually seem to be given a certain deference by courts. At least this appears to be the case when constitutional questions have been previously resolved. Often the initial test case was a somewhat easy one: clear blight in an obvious urban renewal type of setting. Later the harder cases come, where eminent domain is applied in a slightly or questionable conservation setting, the area's qualification is thin and possibly hypertechnical. Under these conditions, courts may be less willing to extend deference and may be reluctant to easily support condemnation. 7/

At a minimum there is delay for the project and substantial additional expense. The concerns here are: (i) the thinly qualifying area may not survive a hard look; (ii) an embarrassing technical error, possibly irremedial by then, may be pointed out; and (iii) municipal failure to deliver the project site on time with potentially large damages to the developer.

A Municipality should be extremely careful and concerned about any hard date with respect to delivery of a project site. To the extent possible, provisions in an agreement should be to the effect that a delivery date where there is to be condemnation, or any acquisition for that matter, is expressly not represented and is a developer's risk.

J. **Securing Developer Performance.**

Noted above under "B. Getting Ahead of the Developer" is that municipalities, as much as possible, should order events so that a developer is committing substantial funds to the overall project at a faster rate than and ahead of the municipality. Also noted below, under "M. Reimbursements," is that care must be taken in such cases. A delicate timing balance is necessary. Subject to applicable law and concerns which may affect the tax-exempt nature of obligations issued to finance the public side of the overall project activities, some security devices are as follows:

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6. See *Harris v. City of Cincinnati* 607 N.E.2d 15 (Ohio App. 1992) and *People ex rel. Bernadi v. Illini Community Hospital*, 516 N.E.2d 1320 (Ill.App. 1987).
 7. See *Village of Wheeling v. Exchange National Bank of Chicago*, 572 N.E.2d 966 (Ill.App., 1991), and *Carbondale Convention Center, Inc. v. City of Carbondale*, 614 N.E.2d 539 (Ill.App. 1993).

- (1) Developer incurring and paying all of its costs and expenses before any municipal costs are paid.
- (2) Developer purchasing interim development obligations.
- (3) Developer having loans (which may be immediately drawn upon), leases (subject to no unusual "outs") and bonded contracts for the private elements of the overall project.
- (4) Developer and/or related party guarantees.
- (5) Letters of credit and escrows to secure performance.
- (6) Do not approve or sign an agreement until it is essentially performed on the private side.
- (7) Binding effect opinions from the developer's counsel.

The Internal Revenue Service office of general counsel on August 28, 1992 issued a technical advice memorandum (TAM 9250005), which was released to the public on December 11, 1992. ^{8/} Under Section 6110(j)(3) of the Internal Revenue Code of 1986 (the "Code") such a memorandum and ruling may not be used or cited as precedent and affect only the particular taxpayer and transaction which it addresses. Nevertheless, in an area where there is little other guidance, such pronouncements provide some indication of the position of the Internal Revenue Service. Also, in this particular matter it is likely that the city involved did not have the opportunity, and definitely no right in a matter concerning a private taxpayer, to participate in the various exchanges between the Internal Revenue Service and the company.

As presented in TAM 9250005, a city used tax increment financing in order to provide certain financial incentives for a company to make major improvements to an industrial facility. The area involved that industrial facility and certain neighboring residential parcels. The plan contemplated that substantially all the residential parcels would be acquired and conveyed to the company.

Under the tax increment financing plan, part of the tax increment would be used to make improvements that would directly benefit the company. Specifically, the city was to issue a tax-exempt revenue bond (payable solely from the increased property taxes) to the company to finance certain site improvements on the company's property: soil correction preliminary to installing new machinery and construction of new buildings.

Under the related redevelopment contract, the city agreed to issue the revenue bond on a tax-exempt basis and a taxable bond, payable from the tax increment. The company agreed (1) to construct certain minimum improvements to its industrial facility, (2) to expend enough money on these minimum improvements to result in a minimum assessed market value for property tax purposes, as estimated to generate a tax increment sufficient to provide for payment of the revenue bond and the other bonds, (3) not to apply for any deferral of its property taxes on its property within the area under state law while the bonds are outstanding, (4) to enter into a further agreement to maintain a minimum assessed market value to cover debt service, and (5) to maintain casualty insurance on the minimum improvements in an amount sufficient to maintain the agreed minimum assessed market value.

8. Technical Advice Memorandum 9250005, December 11, 1992.

TAM 9250005 determined that the revenue bond met the **private use test** of section 141(b)(1) of the Code because the proceeds were to be used for improvements to property owned by the company. In addition, the revenue bond is secured solely by, and payable solely from, tax increment revenues generated by the tax increment area. Although the literal wording of section 141(b)(2) of the Code indicates that most real property taxes should be treated as private payments, because they are "payments . . . in respect of property . . . used or to be used for a private business use," the intent of Congress as reflected in the legislative history to the Tax Reform Act of 1986, however, is that, "**generally applicable taxes**" are not treated as payments for purposes of section 141(b)(2).

The company contended that the tax increment is a **generally applicable tax** because it is merely a component of real property taxes assessed against the company using the same tax rate that is applied to all other property owners of the same classification. TAM 9250005 concluded that: "Although a generally applicable tax rate is an essential element of a generally applicable tax, the determination of whether a tax is generally applicable for purposes of section 141(b)(2) of the Code does not depend solely on tax rate. In order for a tax to be generally applicable, and to be eligible for the special exception to section 141(b)(2), the manner of determination and collection of the tax must also be generally applicable...In this instance, [the company's] special contractual agreements with [c]ity affected the generally applicable manner of determining and collecting real property taxes assessed against [the company's] property within the district. The agreements to raise the assessed market value of the property, to insure the property, and to not defer the payment of the property taxes were a plan to generate enough additional property tax from [the company's] property alone to pay the debt service on the [r]evenue [b]ond. This device to pay the debt service on the [r]evenue [b]ond indirectly from the property was really not a generally applicable tax on [the company] for the use of proceeds from the [r]evenue [b]ond under section 141 of the Code. Therefore, these special contractual agreements established a nexus between the tax increment and private business use, causing the tax increment payments to be payments in respect of property used for a private business use." Thus the Internal Revenue Service concluded that the revenue bond was not a tax-exempt obligation.

In development and redevelopment agreements where a municipality anticipates tax-exempt obligations to finance certain features of the overall public/private project certain considerations and concerns are suggested:

- (1) Whenever anything in an agreement directly or indirectly secures or improves the municipality's position in a transaction, there is a strong possibility that the security interest or payment test is violated or there is a private loan under the Code.
- (2) Almost all such transactions involve more than 10% private business use under the Code (use is a broad concept that includes management agreements).
- (3) Agreements to rebuild, and related insurance, may be questionable as private security devices.

- (4) Special agreements to timely pay or to not contest taxes and to maintain a certain value or assessment level are questionable as security devices.

From the municipal perspective, unfortunately any term that provides financial security and comfort may adversely affect the tax-exempt status of bonds or notes financing the project elements.

A somewhat detailed analysis of TAM 9250005 is presented in "Tax Increment Bonds - The IRS Muddies the Water." ^{9/} The authors view the Internal Revenue Service position as "seriously flawed." Notwithstanding this analysis, the Internal Revenue Service has the overwhelming power to make certain rules as it moves along, in many cases even though flawed.

K. **Open Meetings/FOIA.**

Although final approval may require action in a public forum (and in some cases public bidding and request-for-proposals processes may apply), most municipal officials and almost all, if not in fact all, developers do not want public awareness or scrutiny of negotiations for agreements. Developers are especially sensitive to the potential for public access to their financial statements (often their reason for using a shell local development corporation with no assets) and marketing information. ^{10/} The concerns include that open meetings laws may apply to sensitive negotiations and that agreement drafts and proposals will become public. A new concern is that a private board of directors may have to publicly meet and have documents subject to freedom of information laws. ^{11/}

L. **Privatization and Change in Use.**

Agreements may provide for private payments related to and the conveyance to or use by private entities of previously tax-exempt-bond-financed facilities. This so-called "privatization," however done, of public facilities may affect the tax-exempt status of those bonds. Effective March 8, 1993, Revenue Procedure 93-17 includes a "safe harbor" for such transactions, summarized very generally as follows: (1) at the time of issue the qualified use was reasonably expected for the bond term; (2) there was qualified use for at least 5 years; (3) transactions are arm's length and fair market value is paid; (4) there is no abuse to avoid basic tax-exempt bond rules; and (5) remedial actions (i.e., as applicable, hearings and notices related to private activity bonds, etc.), including prepayment or an escrow of funds for the bonds, application of moneys to qualifying facilities, etc. In addition, Section 1301(e) of the Tax Reform Act of 1986 provides:

9. Belisle and Seed, *Tax Notes* (December 21, 1992).

10. See *Carbondale Convention, Center, Inc. v. City of Carbondale*, 614 N.E.2d 539 (Ill.App. 1993).

11. See *State ex rel. Toledo Blade Co. v. University of Toledo Foundation*, 602 N.E.2d 1159 (Ohio 1992).

MANAGEMENT CONTRACTS. -- The Secretary of the Treasury or his delegate shall modify the Secretary's advance ruling guidelines relating to when use of property pursuant to a management contract is not considered a trade or business use by a private person for purposes of section 141(a) of the Internal Revenue Code of 1986 to provide that use pursuant to a management contract generally shall not be treated as trade or business use as long as --

(1) the term of such contract (including renewal options) does not exceed 5 years,

(2) the exempt owner has the option to cancel such contract at the end of any 3-year period.

(3) the manager under the contract is not compensated (in whole or in part) on the basis of a share of net profits, and

(4) at least 50 percent of the annual compensation of the manager under such contract is based on a periodic fixed fee.

Effective March 12, 1993, Revenue Procedure 93-19 provides a complex implementation of Section 1301(e).

M. **Reimbursements.**

Agreements that provide for the municipality to reimburse a developer for costs advanced suggest a number of concerns. Perhaps foremost among them relates to qualification of costs incurred or paid prior to the effective date of the agreement. Tied to this is a related question that may apply in the context of many redevelopment efforts as to whether or not the financial assistance in such cases meets the so-called "but for" requirement (i.e., can it then be said that development would have occurred without such assistance) which may apply to redevelopment activities. Care has to be taken that the developer not get too far ahead in the process, however desirable this may be for a variety of other reasons, including as outlined above under "B. Getting Ahead of the Developer" and "J. Securing Developer Performance." A delicate balance of objectives may have to be made.

In addition, there are federal tax law concerns that affect reimbursements. The Income Tax Regulations detail complex requirements that apply to reimbursements that are later to be tax-exempt bond financed. ^{12/} These requirements, very generally summarized, include: (i) a declaration of official intent (with exceptions for certain preliminary expenses and emergencies, intent to reimburse generally to be formally declared by the issuer, with reasonably specific item or fund descriptions) within 60 days of expenses paid; (ii) reimbursement within the later of 18 months of the date paid or the property is placed in service; and (iii) for a capital expenditure.

N. **Agreements to Agree.**

A so-called "agreement to agree" sounds a little harmless. Similarly the so-called "designated developer," as described above under "B. Termination," with reference to an agreement to be entered into, sounds a little harmless. In Illinois in the context of an

"inducement" for an industrial development bond this seems to be the result. 13/ However, the possibility of extensive direct out of pocket expenses in favor of a developer is also possible. 14/ At a minimum, recording of such an agreement or filing of litigation with respect to one can tie up the ability of effective negotiations with another developer. Even the agreement to agree should be carefully done -- mainly with an absolutely clear termination point if a written agreement is not reached, without complex notices, cure periods and other procedures.

O. **Professional Liability.**

Proposed agreements are generally circulated among the main participants and their counsel. Even though no opinion may be given by a municipal attorney, there may be potential professional liability in the event someone's idea of the objective the program does not work out. 15/ However, where a municipal attorney structures the transactions and renders approving opinions, liability more likely can result.

Among other things, opinions might be qualified, when applicable, as to: (1) prior appropriations; (2) qualification for blight or conservation of an area (obtain certificates from and state reliance on planner); (3) legality of certain expenditures; (4) availability of certain remedies; (5) any requirement for indemnification by the municipality; (6) bidding; and (7) prevailing wages.

P. **Developer Switching.**

Often a "recognized" developer makes a presentation or proposal under its "recognized" name, but then presents an agreement over the name of a shell corporation or other entity (sometimes a land trust in the few states that recognize them). The practical effect of this is a non-recourse agreement from the developer's side, with full recourse, to the extent there may be any, on the municipal side. Possible solutions, for example, are multiple parties on the developer side, appropriate guarantee arrangements, or no execution until there is substantial performance.

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12. Treas. Reg. Section 1.150-2.
 13. *Marshall Field & Co. v. Village of South Barrington*, 415 N.E.2d 1277 (Ill.App., 1981), holding that despite inducement action a governing body may change its mind about issuing industrial development bonds.
 14. See *Goodstein Construction Corp. v. City of New York*, 604 N.E.2d 1356 (N.Y.Ct.Appels, 1992).
 15. See *Village of Camp Point v. Continental Casualty Company*, 578 N.E.2d 1363 (Ill.App. 1991), which contains the remarkable requirement of a municipal attorney's duty to say "no" even if the governing body would accept the risk.

However, where a developer is subject to a lot of litigation, this is not altogether negative. Also, the risk in the particular project may justify this, in which case the protections and non-recourse protections should perhaps work both ways.

Q. **CERCLA and Conduit Acquisitions.**

Often municipalities agree to acquire properties for conveyance to a developer. State law or federal tax law may be a basis for this momentary (or longer) parking of title prior to conveyance to a developer. Other reasons may include that the developer has not proceeded far enough so that it qualifies under the agreement to take title. State laws may require advertising and bidding prior to disposition or fair market value appraisals to support applicable law requirements. In this gap period the municipality may become a "potentially responsible party" under CERCLA. Agreements in some cases should have the environmental representations and indemnities which now are found in most lender documents. Arranging direct title transfer to the developer may be preferred if the municipality is otherwise protected from developer nonperformance and if allowed under applicable law.

A related concern about so-called conduit acquisitions is the extent, if any, pursuant to which a municipality may be subject (or a title company may raise an exception) to special disposition procedures (e.g., approvals, publications, appraisals, notices, hearings, bidding, etc.) to convey a property. 16/

R. **Force Majeur Clauses.**

Force majeure, unavoidable delay provisions, and the related extensions for deadlines and milestones, look "boiler plate," but can have hidden and unexpected consequences. First, all of the events should be analyzed carefully so that, for example, financing failures do not create an open-ended and on-going force majeure (i.e., expressly exclude certain events by way of example). Second, within "x" days of an event giving rise to a force majeure or delay claim, the claim should be made in writing, and otherwise is waived. In this way, for example, all of the real or later conveniently recalled "wet" days are not aggregated and strung together toward the end to surprisingly and substantially extend the performance period.

S. **Related Licenses, Permits, Etc.**

An often overlooked feature of developments is the need for supplemental permits and in some cases the specification of who is to get them while a property may be in temporary

16. See *City of Carbondale ex rel Ham v. Eckert*, 395 N.E.2d 607 (Ill.App. 1979) holding that under home rule the city could negotiate rather than bid the sale of an urban renewal property.

municipal ownership. Liquor licenses sometimes are not thought of until a developer tries to complete financing and lending diligence questions are asked. Also, in larger development areas, streets and alleys may have to be vacated. Waivers of permit and license fees may pose problems under applicable law, and "free" water or sewer service may have similar problems, as well as constituting violations of typical revenue bond covenants.

T. **Remedies.**

Expressly provide for any remedies. In their absence, whether there are any at all is unclear. Even the right to terminate should be spelled out. Many agreements seem to assume there is some kind of equitable right to terminate for nonperformance. Developers understandably try to limit municipal remedies to termination of their "rights", and with complex procedures and cure periods. Municipalities should limit developer remedies against them to specific performance. Mandamus or mandatory injunction to compel a private entity to construct a building seems very unlikely. 17/

Complicating and in many cases making many typical remedies and security devices unavailable, are the private use and private payment and security tests in connection with tax-exempt financing. This is described above under "J. Securing Developer Performance" related to TAM 9250005, which renders most municipal remedies illusory.

CONCLUSION

Above are twenty selected general areas of concern in the negotiating and drafting of development and redevelopment agreements. These are without even really getting at the essence of the transactions. The so-called boiler plate and structure of the agreement can be critical.

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17. See *Goodstein Construction Corp. v. City of New York*, 604 N.E.2d 1356 (N.Y.Ct.App. 1992) concerning money damages and *City of Chicago v. Michigan Beach Housing Cooperative*, 609 N.E.2d 877 (Ill.App. 1993) concerning a problem with a municipal subordinated lien position and specification of collateral for UCC purposes.

December 28, 2009

Tim:

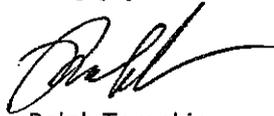
In follow-up to our recent conversation I'm sending you enclosed a sample of the one of the presentations I have done on Development Basics. This one was done as a combined presentation at the request of the Villages of Franklin Grove and Ashton. The storm water portion of this one probably should be greatly shorten but was important for this one.

I have also done this for a DeKalb County seminar presented by the Regional Plan Committee and for Kishwaukee College in conjunction with the University of Illinois extension services for all towns and villages in Northwestern Illinois.

Each one was somewhat different because of the audience, time allowed and how many presenters were doing it. Some of them were done as a team and some I did the entire presentation alone. *The legal part is just touched on if I do it alone. I recommend to the audience that they get good legal advice from an attorney who really knows development. I just point out the importance of it, not HOW to do it.*

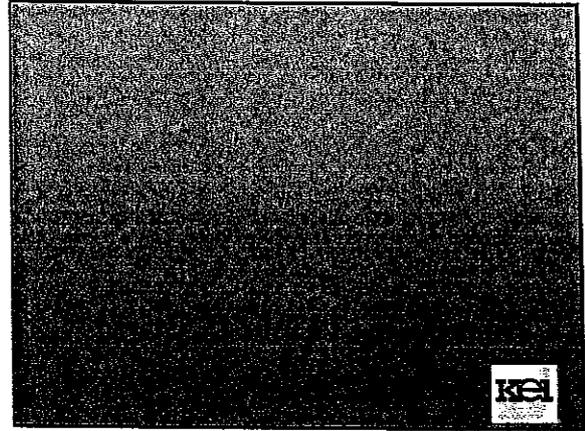
I would be happy to do something for you if you would like. Just let me know if you are interested.

Happy New Year!



Ralph Tompkins

RECEIVED
JAN 04 2010
CITY OF MORRIS



LAND DEVELOPMENT PROCESS

Application

- ◆ Staff discusses the application process.
- ◆ Applicant receives a Land Development Application including a predetermined dollar amount to establish an escrow account.

Application Review

- ◆ Is application is complete -verifying escrow account established
- ◆ Is zoning & land use permitted for the development
- ◆ Distribute application and plans to the various Departments, i.e., Engineering, Public Works, Planning, Building, and Legal.
- ◆ Schedule Development Review Committee Meeting.

What is a

"Development Review Committee"

and how it works

A Development Review Committee is:

- ◆ **A group working together to review, assess, and identify conditions of a development plan.**
- ◆ **Each member has a particular interest in assessing the plan, leading them to define certain conditions and recommend specific actions.**

A Development Review Committee:

- ◆ **Promotes open and meaningful exchange of ideas.**
- ◆ **Draws from the experience and expertise of each member.**
- ◆ **Creates opportunity to merge ideas, knowledge, and information.**

Benefits of a Development Review Committee:

- ◆ **Addresses complex planning issues.**
- ◆ **Demonstrates commitment to due process, policy, and goals.**
- ◆ **Strengthen the credibility of planning decisions.**
- ◆ **Incorporates sustainable development principles and "best practice"**

Conclusion:

- ◆ **Development planning seeks to influence the location, type, amount, and timing of future growth. It deals with private investment in infrastructure and community facilities**
- ◆ **The planning process translates the community's vision into a physical pattern of neighborhoods, commercial and industrial areas, road and public facilities and the conservation of natural areas.**

A legal perspective

Kelly A. Cahill
Zukowski, Rogers, Flood & McArdle
50 Virginia Street
Crystal Lake, IL 60014
(815) 459-2050

Development Committee

Streamline Process

Staff Consensus = Fairness to Developers

Organized presentation
to Village Board/
City Council



Problem: What if Village Has No Staff So? Hire Retained Consultants

- Attorney
- Engineer
- Planner
- Architect
- Surveyor
- Traffic Expert
- Drainage/Wetlands Expert
- Inspector
- Any Other Consultant



Retained Consultants

- Village may hire and developer should pay
- Sign Retained Personnel Agreement
- Establish Escrow Account (work stops if depleted and not replenished)
- Sample Ordinance Requiring

Development Committee Procedures

- Developer submits petition
- Distribute it to the various departments for review
 - Community Development / Planning
 - Engineering
 - Public Works
 - Building Department
 - Legal Staff
 - Any other department who will have input



Development Committee Procedures

- Have a staff meeting with all departments to discuss the petition and issues that need to be addressed by developer
- Try to get a consensus of all departments with a checklist of what you want the developer to address
- Once there is a consensus call a meeting with the developer to discuss changes
- Have developer revise plan and resubmit to staff for review (may need another staff meeting)




Development Committee Procedures

- Once developer has addressed all of staff's concerns, schedule petition on Planning/Zoning meeting agenda
- Prepare staff report for Village's Planning, Zoning and Village Board summarizing development and whether staff recommends approval

RELY ON STAFF

Goal: Development Should Pay for Itself

Means?

- Public Improvements
 - roads
 - sewer
 - undergrounding of overhead utilities
 - well sites
 - sewer plant expansions
- Impact Fees
 - school
 - park
- Transition Fees (annexations only)





How Do You Get Development To Pay For Itself?

1. Ordinances
2. Annexation Agreements
3. Use of Planned Unit Developments



Ordinances

Review ordinances to make sure you are requiring everything you can legally require:

- establish high standards for public improvements
- up to date building codes
- sign ordinances
- school and park land donations or impact fees in lieu thereof

Annexation Agreements

Annexation Agreement = Contract

Result?
You can get more from the developer than if it is merely a subdivision of property

Fair?
Yes!

Developer makes \$ and leaves town

Municipality left with:
more residents
more traffic
increase police and other municipal services
water/sewer consumption
kids in the schools




Sample Annexation Fee Structure

- Review fees – reimbursement of professional fees
- Consultant escrow
- Annexation fee – i.e., a fee of \$500 per acre for commercial or industrial and \$1,000 per acre for residential
- Platting fee - \$1,000 per acre plus \$75 per person for residential based upon a population formula for the total number of dwelling units to be built



Sample Annexation Fee Structure

- Cul de sac fee - \$6,000 for each platted cul de sac
- Municipal administration and public safety building fee - \$400 per dwelling unit
- Off site and over sizing utility fee of \$4,500 per gross acre
- Wetland preservation fee - \$250 per residential unit



Sample Annexation Fee Structure (cont.)

- Transition Fee
 - School District \$3,000 per unit
 - Village \$2,000 per unit
 - Fire Protection District \$185 per unit
 - Library District \$85 per unit
- Water and Sewer Tap On Fee
 - Water Tap On
 - 1 and 2 bedrooms \$5,650 per dwelling unit
 - 3 and 4 bedrooms \$6,000 per dwelling unit
 - Sewer Tap On
 - 1 and 2 bedrooms \$4,480 per dwelling unit
 - 3 and 4 bedrooms \$5,000 per dwelling unit



Sample Annexation Fee Structure (cont.)

- Recapture Fee (if any)
- Building permit and certificate of occupancy fees
- Fire District review fee - \$30 per residential unit and on a square footage basis for commercial \$0.10 per square foot minimum fee of \$100
- Public Art fee
- Other fees imposed by county, if any



Sample Annexation Fee Structure (cont.)

- Park and School land donations or impact fees in lieu thereof. Donation is based upon population formula (For example, parks can require 1 acre of land per 100 ultimate population)
 - Cash in lieu of land is based upon valuation of land. Use real estate appraiser to determine fair market value of 1 acre of land that is already platted and improved with utilities NOT just raw farm land value

Land Donations (Park/Open Space/School)

- High dry and usable don't want a swamp that is unusable
- Unencumbered by any easements or any liens including taxes
- Require title report regarding proof of ownership



Other Provisions of Annexation Agreement

- Require public improvements to be built
- Requiring the commercial be developed prior to any building permit being issued for residential
- Phasing of development and only allowing a certain number of building permits to be issued each year



Planned Unit Developments

- It is a special use
- Can allow variances without showing hardship
- Variances lead to more creative development (i.e., cluster with more open space)
- In/exchange:
 - Can impose conditions
 - Architecture
 - Color schemes
 - Materials (i.e., brick and cedar siding)
 - Phasing of development
 - Commercial prior to residential
 - Signage
 - More open space

Definition of Planned Unit Development

May need to revise ordinances so that more development will fall within definition of planned unit development

Example: A planned development is a tract of land containing two or more principal buildings or which is more than two acres in size, which is developed as a unit under single ownership or control and which may not completely conform to all of the regulations of the zoning district in which it is located. Any condominium project of any size, any townhouse project of any size, or any multi-family project containing eight units or more, whether in one building or more than one building, shall be considered a planned development. Any residential development containing eight units or more shall be considered a planned development. Also, a parcel of land planned for development as a single lot or tract rather than as a group of individual lots, with greater flexibility than is possible under traditional zoning regulations, which require side yards, setbacks, and height limitations and prohibit mixing land uses. The greater flexibility in locating buildings and in combining different land uses often makes it possible to achieve certain economies in construction, as well as the preservation of open space and the inclusion of significant amenities.

Protecting Your Borders

Some Communities:

Annex vast amounts of undeveloped farmland without a development plan or annexation agreement

Risks:

Now owner has rights

Cannot require additional fees

If owner meets your ordinance requirements they now have absolute right to develop



Remember Goal: Development should pay for itself

Protecting Your Borders (cont.)

Recommended Approach:

- Boundary agreements with neighbors
- Pre-Annexation Agreements

Thank you for your attention.

Questions?

**Morrison Sports Complex Bishop Road
Field Reservation/Allocation
And Use Policy**

Dated December 10, 2009

**City Of Morrison Illinois
200 West Main Street
Morrison, Illinois 61270**

**Telephone (815)535-1105
(815)772-4291**

DRAFT

Table of Contents

- **Statement of Purpose**
- **Reservation Procedures**
- **Fees**
- **Rules/Guidelines of Use**
- **Field Reservation Request Form/Release Waiver**
- **Contact Information – Director of Sports Complex Jim DuBois**
- **Phone Numbers 815-535-1105 or 815-772-4291**

DRAFT

Statement of Purpose

The Purpose of the Morrison Sports Complex Field Reservation/Allocation and Use Policy is to provide use and enjoyment of the Morrison Sports Complex for the Morrison residents. It is the goal to provide the use of the facility for non-profit recreational purposes. This policy serves to create a standardized approach to space allocation and fee assessments. It also serves to insure that allocation of facilities is fair and equitable.

Reservation Procedures

Contact Information – Phone Numbers 815-535-1105 or 815-772-4291

- Parties interested in reserving the use of a diamond, group of diamonds, or football field must complete a Field Reservation Request Form. A \$50 non-refundable deposit must accompany Request Form. Deposit will be returned **only** if the complex cannot accommodate request. This form must be turned into the Morrison Sports Complex or Morrison City Hall during regular working hours or appointment. (Monday-Friday 8:00am-4:00pm). Contact Number 815-535-1105
- Requests will be classified and handled on a availability basis with the following priorities:
 - Class A:** Programs and activities of the City of Morrison will receive priority use of any and all facilities of the Sports Complex.
 - Class B:** Programs and activities sponsored by the Morrison School District, Morrison-based, non-profit youth athletics organizations i.e. Little League and Junior Tackle.
 - Class C:** This class will include all other organizations and groups not included above, i.e. travel organizations, for profit groups, church groups, service clubs, and adult athletic teams.
- A completed reservation request form must be received during the application time frame set below or at least 6 weeks prior to requested date. Dates for receiving reservations requests are on a calendar year basis. All applications will be handled on a first come first serve basis. For consideration to be given within your user classification, your request must be received within your date range provided below:
 - For Spring/Summer Use: (March 1-Aug. 15)**
 - Class A October 1-February 1
 - Class B November 1- March 1
 - Class C December 1- April 1
 - For Fall Use (August 16- November 15)**
 - Class A April 1- April 15
 - Class B April 16- April 30
 - Class C May 1
- The Morrison Sports Complex Director:**
 - Will approve or deny all reservation requests.
 - Collect all fees and necessary paperwork prior to facility use.

- Failure to pay fees or submit required paperwork would result in disqualification of request.
- The City Of Morrison reserves the right to cancel reservations.

Reservation Fees

The following fees will be assessed upon approval of the Reservation Request.
Contact Information – Phone Numbers 815-535-1105 or 815-772-4291

Description of Usage:	Class	A	B	C
200'-280' Fields				
Single Field Usage, no prep, 2 hour Minimum		N/C	N/C	\$10/hour
Single Field Single game prep.		N/C	Neg.	\$40
Single Field D.H. game prep.		N/C	Neg.	\$50
Press Box usage for single or D.H. events		N/C	Neg.	\$30
Assignment of officials		+10%	+10%	+10%
		of official's fee total paid		
Daily Fee per field, game prep.		N/C	Neg.	\$120/field
Football Field, game prep.		N/C	Neg.	\$150
High School Baseball Field Single Game prep.		N/C	Neg.	\$50
High School Baseball Field D.H, prep.		N/C	Neg.	\$60
High School Baseball Field Per Day, prep.		N/C	Neg.	\$150
Lights 15 min = 1 hour		Neg.	Neg.	\$20/hour

N/C = No Rental
 Neg. = Negotiated contract

Facility Preparation

In regards to facility preparation included in the rental agreement,
The Morrison Sports Complex will, at no additional charge;

- Mow ball fields and football field as needed.
- Provide bases, pitchers plates, and home plates on each field rented.
- Prior to event drag and line all rented ball fields. Additional field prep will incur charges.
- Mark grass fields as needed.
- Provide 1 facility supervisor at each event.

Maintenance Fees

Contact Information – Phone Numbers 815-535-1105 or 815-772-4291

The following additional fees will be assessed for any custodial, maintenance, or grounds work that is required outside of regular working hours; i.e. weekends and or evenings. These fees will be itemized and billed to the reserving organization once the duration of the facility reservation is completed.

Description

Additional field dragging and chalking
Field Drying Agents
Labor to dry fields during event

Fee

\$30 per field completed
Market Price Minimum of \$7/bag
\$20/hour per person

Miscellaneous Fees

(Damages to Facilities)

Any out of ordinary damages incurred will be itemized and a bill will be sent to the reserving organization once the duration of the facility reservation is completed. Labor for damage repair will be charged at a fee of \$50/hr per person.

Any additional fees billed to the reserving organization that are unpaid will result in legal actions to collect fees and will disqualify the reserving organization from any future facility reservations.

Inclement Weather/Refund Policy

The City of Morrison or the Morrison Sports Complex reserves the right to determine the playability of the fields during inclement weather. If a field is determined to be unplayable before the reservation begins, the affected party may reschedule the activity or receive a full refund. The organization's contact person will be notified of any decisions to cancel play.

In the event of inclement weather where an activity is cancelled during play, no refund or rescheduling will be awarded. The Morrison Sports Complex will do as much as possible to get the activity completed minus jeopardizing safety or damage to the complex.

Cancellations on the part of the renter must be made no later than forty-eight (48) hours prior to the event. Cancellations must be made during normal business hours (8am-5pm). Refund of field rental minus the \$50 dollar deposit will be made.

City of Morrison Sports Complex

Rules and Guidelines

Contact Information – Phone Numbers 815-535-1105 or 815-772-4291

1. The applicant, his /her organization and its members are bound by policy of the permit, its term and conditions, and regulations and ordinances pertaining to the use of the City of Morrison Sports Complex.
2. The City of Morrison does not assume any liability for property lost or stolen on the City premises, or for personal injuries sustained on the premises during facility reservation, and the reserving organization agrees to hold the City harmless for all claims, suits, judgments or damages arising out of such property loss or personal injury.
3. A certificate of Insurance will be required before final reservation approval is granted. This Certificate should name the City of Morrison as co-insured, and should have minimum limits of \$1,000,000 Individual and \$1,000,000 Aggregate for Personal Injury.
4. No Liquor shall be brought or consumed upon premises or be in the possession by any member of the party unless approved by the facility director and or the city management. It is agreed that violation of this provision shall result in immediate revocation of all rights hereunder and forfeiture of all fees.
5. The reserving organization will be responsible for and will pay any damage, to the City of Morrison, property arising out of the use of the said facility pursuant to this agreement.
6. The City of Morrison reserves the right to have a designated employee visit for the purpose of supervision.
7. Requests for light usage must be made at the time of field reservation.
8. Once the reservation is approved a signed copy will be issued. Have this with you during your event for evidence of agreement.
9. All groups will be responsible for normal pick up of facilities at end of their event. i.e. pick up of litter around dugouts, concession area and parking lots.

City of Morrison Sports Complex Rules and Guidelines

Contact Information – Phone Numbers 815-535-1105 or 815-772-4291

10. All parking must be in designated parking lots or legal city streets. **NO ONE will be allowed to drive vehicles out of parking lots and into sports complex unless Permission has been granted by the City of Morrison.**
11. All groups must not play/practice in rain soaked areas of the sports complex. Failure to support and enforce this policy will result in revocation of reservation.
12. Cancellation of event due to field conditions will be determined by the Morrison Sports Complex Director or his/her appointee.
13. **No STAKED tents are allowed on Sports Complex property except for designated areas. Tents may be used but NO STAKES.**
14. Signature below acknowledges that these rules have been read and will be adhered to by the permit holder.
15. Contact Numbers 815-535-1105 or 815-772-4291

Group Name

Group Representative (Print)

Group Representative Signature

Date

Morrison SCDR initials.

Morrison Sports Complex Field Reservation/Allocation Request

(A non refundable \$50 Deposit Must accompany Request)

Contact Information – Phone Numbers 815-535-1105 or 815-772-4291

Name of Applicant _____

Name of Organization _____

Address _____

City _____ State _____ Zip _____

Contact _____ PH.(H) _____ (W) _____ (C) _____

Contact _____ PH.(H) _____ (W) _____ (C) _____

of Fields/Facility requested _____

Date(s) _____ Hours _____

Purpose _____

Special Arrangements (minimum of 5 working days notice needed) _____

*I (we) assume full responsibility for any damages to City equipment and/or property that occur as a result of the requested use. Furthermore, I(We) understand that the City of Morrison and its staff will not be held liable for any injury or damage which may occur to me, my guests, and or members of the above-named organization and our property during our requested use of the facility. I also agree that while our organization uses the above listed facility, we will not discriminate on the basis of disability. **All applicants must provide a Certificate of Insurance, naming the City of Morrison, its agents, servants and employees as additional insured, evidencing the following:***

Certificate of General Liability Insurance with the minimum limits of \$1,000,000 Individual and \$1,000,000 Aggregate for Personal Injury Date Received _____

Signed: _____ Date _____

Approved: _____ Date _____

Category A B C
Fees: Deposit \$ _____ Date PD _____ Fee Due \$ _____ Date PD _____ Initials _____

CITY OF MORRISON, ILLINOIS

CONCESSION SERVICES FOR 315 BISHOP ROAD
MORRISON SPORTS COMPLEX

REQUEST FOR PROPOSALS

ISSUED

February 8th, 2010

PROPOSALS DUE

February 22nd, 11:00 A.M.

TABLE OF CONTENTS

1. INSTRUCTIONS TO PROPOSERS

- Overview
- Proposal Requirements
- General Provisions
 - i. Operations
 - ii. Build-Out Specifications
 - iii. Responsibility and References
 - iv. Length of Contract
 - v. Fee
 - vi. Insurance Requirements
 - vii. Indemnification
- Evaluation of Proposals
- Proposal Submittal Checklist

2. REQUIRED PROPOSAL SUBMISSION DOCUMENTS

- Criminal Code Certification
- Sexual Harassment Policy
- Equal Employment Opportunity
- Tax Certification
- References
- Insurance Requirements

The City of Morrison is accepting proposals based upon the following information pertaining to the procurement of goods and services. All parties interested in submitting proposals must adhere to specifications and/or scope of work and services as hereafter outlined in order to receive consideration by the City Of Morrison.

City of Morrison
CONCESSION SERVICES
For
Morrison Sports Complex
315 Bishop Rd Morrison, IL.

OVERVIEW

The City of Morrison, Illinois invites interested parties to submit proposals for the provision of concession services at the Morrison Sports Complex 315 Bishop Rd.. Proposals must include a list of services, equipment, and goods to be provided in accordance with the following requirements.

PROPOSAL REQUIREMENTS

Concessionaire shall furnish and maintain, at its own cost and expense, in good, usable condition, a sufficient amount of equipment and supplies in order to carry out the activities and operation of its concession services and shall maintain such equipment in a clean, orderly and inviting condition satisfactory to the City. Concessionaire shall be required to execute the Sports Complex Concession License Agreement. At all times during the Sports Complex Concession License Agreement term, Concessionaire shall maintain the concession area including the area directly around the outside of concession windows and all personal property located therein in a clean, neat, orderly, and safe condition, including all fixtures for customer's convenience, and including without limitation, collection and proper disposition of trash in receptacles.

GENERAL PROVISIONS

Operations

The Concessionaire shall operate the concession stand during all official game activities possibly seven evenings or days a week from Mid March until early November, holidays included. Concessionaire may request additional hours..

Concessionaire shall have available for sale, at a minimum, the following items: non-alcoholic beverage items, snacks, candies, and fast food. Proposals must include a list of items to be sold. If alcohol is requested concessionaire will have to submit a written formal request and plan to the City of Morrison. It would only be considered for adult nights only.

Concessionaire's provision of beverages shall be consistently high in quality and shall at all times be sanitary, orderly and sufficient to meet public demand. Whiteside County Health Department standards must be met.

Concessionaire shall abide by the laws of the United States, State of Illinois, and all applicable City codes, ordinances and regulations.

Concessionaire agrees to comply and to cause its employees to comply fully with the Federal Equal Employment Opportunities Act and the Illinois Human Rights Act, Americans with Disabilities Act and all applicable rules and regulations promulgated thereunder and all amendments made thereto, and Concessionaire represents, certifies and agrees that no person shall be denied or refused service or other full or equal use of Concessionaire's services, or denied employment opportunity by Concessionaire on the basis of race, creed, color, religion, sex, national origin or ancestry, age, disability unrelated to ability, marital status, or unfavorable discharge from military service.

Concessionaire shall make all necessary applications for a federal employer identification number, state sales tax number and a payroll tax number, and file all tax returns as required by law.

Concessionaire shall maintain itself in good standing to do business under the laws of the State of Illinois and shall sign applicable certifications required by the City of Morrison with regard to said standing.

Concessionaire shall employ and train, at vendor's own cost and expense, a sufficient number of qualified personnel, and agrees that the services provided by such personnel to the public shall be provided in a courteous, businesslike and efficient manner.

Build-Out Specifications

The current concession facility on Bishop Road is unimproved. The structure and size of the concession facility will not be modified. Please provide detailed information about the layout of the desired concession facility. Please specify equipment to be used.

The City shall provide the initial build-out of the concession facility, basic utilities including electricity, hot and cold running water, counter tops and sinks and access to restrooms for operation of the concession facility. Any alteration of existing systems or plumbing sought by Concessionaire shall be undertaken by Concessionaire only after Concessionaire receives the express prior written consent of the City and shall be undertaken at the sole expense of Concessionaire and shall be the sole responsibility of Concessionaire. All improvements to plumbing and/or electrical systems shall become the property of the City upon expiration of this Agreement.

The City shall provide trash receptacles and the cost of refuse hauling service for the concession facility shall be the responsibility of the City.

Concessionaire shall be responsible for the provision of any long distance telephone charges and associated costs for the concession facility.

Responsibility and References

Please include a description of related experiences and at least three references with telephone numbers who will be able to verify your Concessionaire credentials.

The contract, if awarded, may not be transferred or assigned by the Concessionaire.

Length of Contract

The term of the Morrison Sports Complex Concession License Agreement herein granted shall be three (3) year commencing on the date of contract signing, with the option to renew the contract for two (2) additional one-year terms, unless either party, at its sole option, shall have given the other party at least thirty (30) days prior written notice of its intent not to extend the Sports Complex Concession License Agreement.

Fee

The fee due and to be paid by Concessionaire to the City of Morrison shall be 10% of gross sales ("Fee"). Gross sales shall be the cash register amount of all sales made, with no off-set for ingredients or items purchased or costs of operation or construction of the concession facility.

Insurance Requirements

Concessionaire shall produce and maintain for the term of the Sports Complex Concession License Agreement, and any renewals or extensions thereof, the various insurance coverage requirements as stated on the enclosed Insurance Requirements Certification. Proposing concessionaires are required to sign said Insurance Requirements Certification as part of their proposal; by signing said Certification, Concessionaire is confirming its knowledge and acceptance of all City of Morrison Sports Complex insurance requirements. Certified copies of policies evidencing required insurance coverage and all certificates of insurance in connection therewith shall be furnished to the City at its request prior to operating the concession facility. All such policies shall name the City as an additional insured and shall provide that the policy may not be terminated or canceled without at least thirty (30) days advance written notice to the City, or, except upon prior written approval of the City, materially changed.

Indemnification

The Concessionaire shall indemnify and hold the City of Morrison, its trustees, officers, agents and employees harmless from all liability, claims, liens, losses, or causes of action for property damage, personal injury or death, or other damages, judgments, costs, damages and expenses of whatsoever kind including reasonable attorneys' fees and costs, which may in any way be suffered by the City or any of its trustees, officers, agents or employees, or which may accrue against or be charged to or recovered from the City or its trustees, officers, agents or employees by reasons of or in consequence of the Concession granted, as aforesaid, or which arise out of or are founded upon the activities or operations of Concessionaire; or for on account of any act or omission by Concessionaire or by any employee, agent, or representative of Concessionaire's in or about the concession. Concessionaire shall defend all such claims in the name of the City and shall pay for all reasonable attorney's fees and expenses of the City incurred as a result thereof.

EVALUATION OF PROPOSALS

The City of Morrison will evaluate proposals based on cost, vendor's qualifications, and additional factors deemed relevant. The City of Morrison retains the right to refuse any and all proposals.

QUESTIONS REGARDING THIS REQUEST FOR PROPOSAL SHOULD BE DIRECTED TO:

Jim DuBois, City of Morrison Sports Complex Director
City of Morrison
200 West Main St.

**Morrison, Illinois 61270
(815) 772-4291
PROPOSAL SUBMITTAL CHECKLIST**

In order to be considered a responsive proposal, the proposer must submit all of the following items:

- Sealed Proposal Envelope - **Addressed to the City of Morrison Attn: Sports Complex Director**, 200 West Main St. Morrison, Illinois, 61270 and labeled: **Concession Services for Sports Complex** in the lower left hand corner.
- Proposal - Proposer must submit two (2) complete, signed, sealed and attested copies of the proposal. Proposer shall have provided all requested information, and submitted all appropriate forms, certificates and affidavits and addendum acknowledgements in each copy in order to be considered responsive by noon on February 22nd 2010.
- All forms completed from Section 2:
 - Criminal Code Certification
 - Sexual Harassment Policy
 - Equal Employment Opportunity
 - Tax Certification
 - References
 - Insurance Requirements

DRAFT

CRIMINAL CODE CERTIFICATION

AS REQUIRED BY:
STATE OF ILLINOIS CRIMINAL CODE OF 1961
PURSUANT TO PA 85-1295

Ch. 720, Article 5, Sec. 33E-11, 2002 Ill. Compiled Statutes,

I, the individual whose signature appears below on this proposal/contract for

hereby certify that the proposing party/contracting party is not barred from proposing on the contract as a result of a violation of either Section 33E-3 or Section 33E-4 of ch. 720, Article 5, 2002, Ill. Compiled Stat, as amended.

DRAFT

Proposer/Contractor:

Signed: _____

Title: _____

Dated: _____

Attest: _____

SEXUAL HARASSMENT POLICY

Please be advised that pursuant to Public Act 87-1257, effective July 1, 1993, 775 ILCS 5/2-105 (A) has been amended to provide that every party to a public contract must:

"Have written sexual harassment policies that shall include, at a minimum, the following information: (I) the illegality of sexual harassment; (II) the definition of sexual harassment under State law; (III) a description of sexual harassment, utilizing examples; (IV) the vendor's internal complaint process including penalties; (V) the legal recourse, investigative and complaint process available through the Department (of Human Rights) and the Commission (Human Rights Commission); (VI) directions on how to contact the Department and Commission; and (VII) protection against retaliation as provided by Section 6-101 of the Act. (Illinois Human Rights Act). (emphasis added)

Pursuant to 775 ILCS 5/1-103 (M) (2002), a "public contract" includes

...every contract to which the State, any of its political subdivisions or any municipal corporation is a party."

_____, having submitted a proposal for _____ (Name of Contractor) for _____ (General Description of Work Proposed on) to the City of Morrison, hereby certifies that said contractor has a written sexual harassment policy in place in full compliance with 775 ILCS 5/2-105 (A) (4).

By _____
Authorized Agent of Contractor

Subscribed and sworn to before
me this _____ day of _____, 201_____

Notary Public

EQUAL EMPLOYMENT OPPORTUNITY

Section I. This EQUAL EMPLOYMENT OPPORTUNITY CLAUSE is required by the Illinois Human Rights Act and the Rules and Regulations of the Illinois Department of Human Rights published at 44 Illinois Administrative Code Section 750, et seq.

Section II. In the event of the Contractor's noncompliance with any provision of this Equal Employment Opportunity Clause, the Illinois Human Right Act, or the Rules and Regulations for Public Contracts of the Department of Human Rights (hereinafter referred to as the Department) the Contractor may be declared non-responsible and therefore ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and this agreement may be canceled or avoided in whole or in part, and such other sanctions or penalties may be imposed or remedies involved as provided by statute or regulation.

During the performance of this Agreement, the Contractor agrees:

- A.** That it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin or ancestry; and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.
- B.** That, if it hires additional employees in order to perform this Agreement, or any portion hereof, it will determine the availability (in accordance with the Department's Rules and Regulations for Public Contracts) of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.
- C.** That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, marital status, national origin or ancestry, age, or physical or mental handicap unrelated to ability, or an unfavorable discharge from military service.
- D.** That it will send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the Vendor's obligations under the Illinois Human Rights Act and Department's Rules and Regulations for Public Contract.
- E.** That it will submit reports as required by the Department's Rules and Regulations for Public Contracts, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Illinois Human Rights Act and Department's Rules and Regulations for Public Contracts.

F. That it will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and Department for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and Department's Rules and Regulations for Public Contracts.

G. That it will include verbatim or by reference the provisions of this Equal Employment Opportunity Clause in every subcontract it awards under which any portion of this Agreement obligations are undertaken or assumed, so that such provisions will be binding upon such subcontractor. In the same manner as the other provisions of this Agreement, the Vendor will be liable for compliance with applicable provisions of this clause by such subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply therewith. In addition, the Vendor will not utilize any subcontractor declared by the Illinois Human Rights Department to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

Section III. For the purposes of subsection G of Section II, "subcontract" means any agreement, arrangement or understanding, written or otherwise, between the Vendor and any person under which any portion of the Vendor's obligations under one or more public contracts is performed, undertaken or assumed; the term "subcontract", however, shall not include any agreement, arrangement or understanding in which the parties stand in the relationship of an employer and an employee, or between a Vendor or other organization and its customers.

ACKNOWLEDGED AND AGREED TO:

BY: _____

ATTEST: _____

DATE: _____

TAX CERTIFICATION

I, _____, having been first duly sworn
depose and state as follows:

I, _____, am the duly
authorized

agent for _____, which
has

submitted a proposal to the City of Morrison for

_____ and I hereby certify
(Name of Project)

that _____ is not

delinquent in the payment of any tax administered by the Illinois
Department of Revenue, or if it is:

- a. it is contesting its liability for the tax or the amount of tax in accordance
with procedures established by the appropriate Revenue Act; or
- b. it has entered into an agreement with the Department of Revenue for
payment of all taxes due and is currently in compliance with that
agreement.

By: _____

Title: _____

Subscribed and Sworn to
Before me this _____
Day of _____, 201__

REFERENCES

(Please type)

ORGANIZATION _____

ADDRESS _____

CITY, STATE, ZIP _____

PHONE NUMBER _____

CONTACT PERSON _____

DATE OF PROJECT _____

ORGANIZATION _____

ADDRESS _____

CITY, STATE, ZIP _____

PHONE NUMBER _____

CONTACT PERSON _____

DATE OF PROJECT _____

ORGANIZATION _____

ADDRESS _____

CITY, STATE, ZIP _____

PHONE NUMBER _____

CONTACT PERSON _____

DATE OF PROJECT _____

Proposer's Name & Title: _____

Signature and Date: _____

INSURANCE REQUIREMENTS

Please submit a policy Specimen Certificate of Insurance showing proposer's current coverage's

WORKERS COMPENSATION & EMPLOYER LIABILITY

\$500,000 – Each Accident, \$500,000 – Policy Limit

\$500,000 – Each Employee

Waiver of Subrogation in favor of the Village of Orland Park

AUTOMOBILE LIABILITY

\$1,000,000 – Combined Single Limit

GENERAL LIABILITY (occurrence basis)

\$1,000,000 – Each Occurrence

\$2,000,000 – General Aggregate Limit

\$1,000,000 – Personal & Advertising Injury

\$2,000,000 – Products/Completed Operations Aggregate

Waiver of Subrogation in favor of the Village of Orland Park

EXCESS LIABILITY (Umbrella-Follow Form Policy)

\$2,000,000 – Each Occurrence

\$2,000,000 – Aggregate

EXCESS MUST COVER: General Liability, Automobile Liability, Workers Compensation

Any insurance policies providing the coverages required of the Contractor shall be **specifically endorsed** to identify "The City of Morrison, and their respective officers, trustees, directors, employees and agents as **Additional Insureds on a primary/non-contributory basis with respect to all claims arising out of operations by or on behalf of the named insured.**" If the named insureds have other applicable insurance coverage, that coverage shall be deemed to be on an excess or contingent basis. The policies shall also contain a "Waiver of Subrogation in favor of the Additional Insureds in regards to General Liability and Workers Compensation coverage's." The certificate of insurance shall also state this information on its face. Certificates of insurance must state that the insurer shall provide the Village with thirty (30) days prior written notice of any change in, or cancellation of required insurance policies. The words "endeavor to" and "but failure to do so shall impose no obligation or liability of any kind upon the insurer, its agents or representatives" must be stricken from all Certificates of Insurance submitted to the Village. Any insurance company providing coverage must hold an A VII rating according to Best's Key Rating Guide. Permitting the contractor, or any subcontractor, to proceed with any work prior to our receipt of the foregoing certificate and endorsement however, shall not be a waiver of the contractor's obligation to provide all of the above insurance.

The proposer agrees that if they are the selected contractor, within ten days after the date of notice of the award of the contract and prior to the commencement of any work, you will furnish evidence of Insurance coverage providing for at minimum the coverages and limits described above directly to the City of Morrison, Jim DuBois, Contract Administrator, 200 West Main St., Morrison, Illinois 61270. Failure to provide this evidence in the time frame specified and prior to beginning of work may result in the termination of the City's relationship with the selected proposer and the proposal will be awarded to the next highest rated proposer or result in creation of a new request for proposals.

ACCEPTED & AGREED THIS _____ DAY OF _____, 201__

Signature

Authorized to execute agreements for:

Printed Name & Title

Name of Company

Morrison Sports Complex Mower & Gator Recommendation

Item Description	Supplier	Model	Cost	Comments	Purchase Date
1 4WD John Deere Gator/lw plow&cab	Wilco	HPX 4x4	\$14,183.00	use year round	
2 2WD Gator John Deere	Wilco		8500.00 est	summer use only	
3 4WD John Deere 62" Mower/bagger	Wilco	X728	\$13,527.00	Mow inside fences	
4 4WD John Deere 62" Mower/bagger/plow/broom/snow blower	Wilco	X728	\$18,867.00	Year round use. Dependability? Chains will need to be used on wheels possible trail damage	
5 2WD John Deere 62" 1yr old 2WD John Deere New	Wilco Wilco	X728 X728	\$8300 \$8590	No govt discount Govt. discount included.	
6 Older used mowers			\$5000 est	dependability and availability? Possible good option for secondary mower	
7 14 Cubic Bagger	Wico		\$1585	Needed add on to 2WD mowers	

Above you will find prices for some equipment needed for the Sports Complex. I talked to 2 John Deere dealerships. Wilco from Sterling and J.W. Turf from Hampshire. There pricing was all about the same. The new pieces get a government discount of between 8%-24% depending on piece of equipment. I recommend purchasing line 1, line 5 new mower and line 7. Total cost for above not to exceed \$25,000.

If the used 2 Wheel drive mower is preferred we would only have a 3 yr warranty vs a 4yr with a new mower and no govt. discount. With the govt. discount a new mower is only approx. \$300 more.

This Gator would be used year round including plowing walking trail. Gator could be purchased by loan with 36months @4.9%.

New mower could be purchased by loan with 36months @5.9%.

The mower would mainly be used to mow inside the field fences. I would use the existing City large mowers to mow outside of fences.

There are lease to own options. At time of getting quotes interest rate was around 9.65%. We would make one payment per year for 5 years at end of lease have option to buy.

Field Naming Results

Name Suggested	Date received	Comments	Presenter
Margo Pruis (softball)	1/6/2010	Local sports figure and professional	Jack&Colleen Rillie & Gary Pruis
Andy Reimer Field (Football)	1/5/2010	Instumental in getting Jr. Tackle to where it is today	Matt Tichler
Chad Farrell	1/5/2010	Family always supported sports and recreation	Beth Payne
Pork Barrel Park	12/15/2009		
Boondoggle Park	12/15/2009		Ted McKee
The Edge-Morr sports complex			Ted McKee
Freedom Fields			Pat Gibbs
The Stang (Football)		In honor of 20009 State Football Champions	Pat Gibbs
Scott Vance Field	1/6/2010	08=09 team and well respected role model	Sean Jarvis
Dick "Dickey" Rick	1/8/2010	Old sportsman of Morrison and Supporter	Lavern Keith
No Names	1/14/2010	Keep it simple. Create controversy	Pat Gibbs

MORRISON POLICE DEPARTMENT

GENERAL ORDER

GENERAL ORDER NO. G-008	DATE ISSUED: February 9, 2010	DATE EFFECTIVE: February 9, 2010
SUBJECT: General Policies Records Management	APPROVED: Chief Brian R. Melton Signature:	
<input checked="" type="checkbox"/> RESCINDS: Any relevant section of the General and Standard Operating Policies dated January 1, 2001. <input type="checkbox"/> AMENDS: <input checked="" type="checkbox"/> NEW GENERAL ORDER		
LEGAL REFERENCE:		
CALEA REFERENCE:		

PURPOSE

The purpose of this General Order is to establish policies and procedures for the receipt and documentation of all public complaints, calls for police service, other police activities, interdepartmental operations, and the initiation, completion, and administrative processing of all records of the Morrison Police Department.

POLICY

It shall be the policy of the Morrison Police Department to administer and maintain a police records system which efficiently, effectively, and accurately records and documents complaints, calls for police service, crimes to persons and/or property, criminal arrest activity and other activities of the police department.

In furtherance of this policy, the Morrison Police Department shall also collect, maintain, and disseminate records and information in a timely manner and in accordance with applicable laws and ordinances which provides a functional database for the investigation of crimes, planning of selective enforcement, preventative patrol, and information for decisions regarding staffing levels, services, and the use of other resources.

I. Records Management – General Requirements

- A. Case Report records shall be initiated and reported by the use of a consecutively numbered format starting with the current year followed by a sequential number (i.e., 09-0001).
- B. All reports and documents shall be maintained infinitely.
- C. The last two full years beyond the current year, shall be maintained for immediate access.
- D. All records shall be entered into the Police Department's designated computer software programs for Records Management.

II. Incident Reporting Requirements

- A. Incidents of the following categories are required to be reported and documented by the use of a Computer Aided Dispatch (CAD) Log and/or activity detailed on a Daily Activity Report (DAR).
1. Citizen report of crime; alleged or actual.
 2. Citizen report of ordinance violation; alleged or actual.
 3. Citizen complaint against another person, business, organization, etc.
 4. Citizen requests for service when:
 - a. A Morrison Police Officer is assigned to investigate.
 - b. A Morrison Police Officer is assigned to take action later.
 5. Criminal, non-criminal and service incidents which are officer initiated.
 6. Incidents resulting in arrest; criminal and non-criminal (i.e., ordinance, petty offenses, etc.)
 7. Any reported incident in which it is determined, after investigation, to have occurred in another jurisdiction and is referred to the appropriate agency or authority.
 8. Any reported incident in which there is a victim(s).
 9. At minimum, Whiteside County Sheriff's Communications Center personnel will be requested to initiate a CAD Log for all of the above type of incidents. The CAD Log will identify involved persons and actions taken by the Officer assigned to the incident, regardless of how the incident/call was initiated.
- B. Incidents of the following categories are required to generate a Case Report (with narrative) in addition to a CAD Log and/or DAR.
1. Citizen report of crime; alleged or actual.
 2. Citizen report of ordinance violation; alleged or actual
 3. Citizen requests for service when a Morrison Police Officer is assigned to investigate.
 4. Criminal and non-criminal offenses that are officer initiated.
 5. Incidents resulting in arrest; criminal and non-criminal (i.e., ordinance, petty offenses, etc.).
 6. Any reported incident in which it is determined, after investigation, to have occurred in another jurisdiction and is referred to the appropriate agency or authority.
 7. Any reported incident in which there is a victim(s).
- C. Traffic Stops
1. When an officer conducts a traffic stop for any reason, such traffic stop shall be appropriately documented in the following manner;
 - a. CAD Log,
 - b. Daily Activity Report,
 - c. STOP CARD – Illinois Department of Transportation's Traffic Stop Data Sheet, and
 - d. Any Case Report, Traffic Complaint Form, etc. necessary pursuant to the actions of the officer regarding the purpose of such traffic stop.

D. Daily Activity Report (DAR)

1. Officers shall complete and submit a DAR for each day/shift worked.
2. The DAR shall be completed providing all relevant information and details of the officer's activity during that day/shift.
3. All activity must be documented, at minimum, on the DAR.
4. All fields must be completed.
5. The DAR shall be signed by the Officer completing such report.

E. Animal Complaints

1. All animal complaints/incidents shall generate at minimum, a CAD Log and DAR entry providing as much detail as possible.
2. All animal bite incidents shall also generate the Animal Bite Fax Report provided by the Whiteside County Health Department - Animal Control.

F. Response to Resistance - Use of Force

1. Any time there is a response to resistance (use of force), the officer shall not only complete a Case Report, but the officer shall also complete a Response to Resistance Report (RRR form). Also refer to G-005: Response to Resistance.

G. When Report/Documentation Not Required

1. Breaks
2. Training
3. **Every other activity of an on-duty Morrison Police Officer shall require at least the minimum documentation of a CAD Log and/or "Description/Detail of Activity" entry on the officer's DAR.**

H. Additional Information Requirements

1. The full and complete name, sex, race, and DOB of all victims, witnesses, suspects, complainants, etc. shall be included on all forms. It is only necessary to indicate the sex, race, and DOB the first time the name appears in a narrative report. This applies to each separate report.
2. All property listed in a report as lost, stolen, recovered, destroyed, etc., shall include;
 - a. Type of property and description
 - b. Brand
 - c. Model
 - d. Serial Number and/or owner applied numbers
 - e. An estimated value (or actual value if known).

III. Report Submission

A. All reports shall be submitted in a timely manner.

1. All reports shall be submitted and up-to-date before an officer's regular days off.

a. Cases that are pending and/or require further investigation shall be kept up-to-date.

2. All records including but not limited to case reports, citations, warnings, gas receipts, expenditure receipts, etc. shall be submitted with the associating DAR.

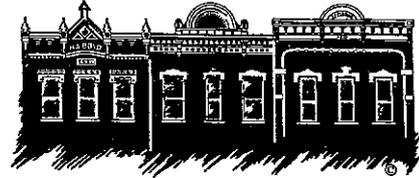
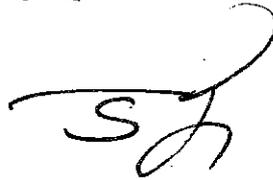
3. When it is necessary for an officer to complete and submit a report (or form) using handwriting, the officer must print in a manner that is clear and legible.

END OF GENERAL ORDER

DRAFT

CITY OF MORRISON

200 West Main Street
Morrison, Illinois 61270-2400
Phone 815 / 772-7657
Fax 815 / 772-4291
morrisonil.org



Office of
Tim D. Long • City Administrator

The Morrison City Council provides visionary leadership that offers creative solutions to the challenges of an ever-changing environment.

**TO: ROGER DREY, MAYOR
MEMBERS OF THE CITY COUNCIL
DEPARTMENT HEADS, STAFF**

RE: BANKING AND AUDIT SERVICES REQUEST FOR PROPOSALS

Thursday, January 21, 2010

Council Discussion

Following are excerpts from RFP's for banking and audit services as examples of what we will look for from local banks for bank services such as checking, operating clearing accounts, electronic payments, and wire fund transfers. Both documents are from larger communities and are reflect a higher level of complexity than we deal with. Working with Sikich, LLC, Aurora, we will develop RFP's tailored to Morrison's specific needs and goals.

The point of discussing this in working session is to raise our awareness of the subjects and solicit your input, gather your questions that will help us prepare the RFP's. We also hope to garner the interest of 1 or 2 Council members as part of an ad-hoc group to work with the process and determining final recommendations for the City Council at the March 8 meeting.

Please review these documents and bring comments, questions and suggestions to the working session!

PROPOSAL BANKING SERVICES

delivered to: Stan W. Helgerson
Finance Director
Village of Carol Stream
500 N. Gary Avenue
Carol Stream, IL 60188-1899

1. **Response:** Each proposer shall submit only one proposal. An electronic version of the RFP will be e-mailed to all of the prospective bidders after the mandatory pre-proposal conference. The proposal should be submitted on a CD Rom. Exhibit A shall be completed in Microsoft Excel and the Exhibits A-1 thru F in Microsoft Word. Supporting material may be submitted; however, the decision in selecting the most responsive proposer will be based on the standard forms provided.

2. Questions and Additional Information: Requests for clarification or additional information should be emailed to _____. Responses to requests will be furnished to all potential proposers. Cutoff date to receive request in writing will be January 17, 2008. Requests received after January 17, 2008, will not be answered.

3. Schedule: The following schedule will be adhered to:

- | | | |
|------------------|---|---|
| January 3, 2008 | - | Distribution of Request for Proposals |
| January 10, 2008 | - | Mandatory pre-proposal conference at 9:30 a.m. in the Village Board Room. |
| February 1, 2008 | - | <u>Proposals must be in the possession of the Village by 10:00 a.m. this date. No exceptions!</u> |
| March 3, 2008 | - | Recommendation of award to the Village Board |
| May 1, 2008 | - | Implementation date for this banking contract |

The Village intends to adhere to the proposed schedule, however, it is expressly understood that your proposal will be valid for a period of ninety (90) days after February 1, 2008.

5. Bank Qualifications: For a proposal to this RFP to be considered and evaluated, a bank must:

- Be insured by the Federal Deposit Insurance Corporation (FDIC).
- Be eligible to be a depository of Village funds with a full service branch in or near the Village of Carol Stream. All responding banks must complete Exhibit A.
- Be an on-line cash and securities member of the Federal Reserve.
- Be able to provide 110% of collateralization of all Village deposits with collateral in compliance with the Village's Investment Policy.
- Provide a copy of a recent investment rating report provided by a nationally recognized rating agency.
- Have the capacity of providing all "Required Services" internally. The Village prefers that the responding bank provide services without the use of joint ventures, consortiums or contract service providers because of control issues. The Village will determine the acceptability of any arrangements with the objective of the RFP being the "total solution".
- Maintain a financial institution bond, Form 24 or equivalent, with a limit of not less than \$3,000,000, banker's professional liability in the amount of \$2,000,000 per occurrence/annual aggregate and valuable paper coverage.

6. Selection Criteria: The following criteria will be used to evaluate the responses and to select the winning proposer:

- a. Complete response to all required response items on the standard forms provided;
- b. Ability to meet current and projected service requirements over the term of the banking agreement (any past experiences with the bank will be taken into consideration);
- c. Ability to provide numerous electronic banking services;
- d. Best earnings credit rate (ECR) on required compensating balance;
- e. Best rate of interest paid on accounts;
- f. Best availability schedule for deposit items; and;
- g. Aggregate banking service cost, per identified activity and corresponding compensating balance.

When the Village has tentatively selected the successful proposer, a conference may be requested to formulate plans in greater detail, to clarify any unclear items, and to otherwise complete negotiations prior to the formal award. At any time during the conference(s), the Village may choose to modify the choice of a selected proposer, if there is just cause and the Village determines that such a change would be in the best interest of the Village.

7. Terms and Conditions:

- a. The Village reserves the right to reject any or all proposals, to waive any irregularities or informalities in any proposal or in the proposal procedures, and to accept or reject any item or combination of items. The award will be to the proposer whose proposal complies with all the requirements set forth in this RFP, and whose proposal in the opinion of the Village, is the best proposal taking into consideration all aspects of the proposer's response, including the total net cost to the Village. Exceptions to any specification must be placed on Exhibit B and will be costed in the final analysis of the proposal. Exception costs will be added or subtracted from the submitted proposal to arrive at a net cost to the Village. **Failure to include an exception on Exhibit B will render the exception as invalid and the proposer will be treated as being in compliance with the specification, regardless of intent.**
- b. In the event that the proposer to whom the services are awarded does not execute a contract (Exhibit F) within thirty (30) calendar days after the award of the bid, the Village may give notice to such proposer of intent to award the contract to the next most qualified proposer or to call for new proposals and may proceed to act accordingly. The Village assumes no cost by the proposers in preparation of this proposal.
- c. The standard proposal form indicates an estimate of the number of transactions for the year. This number is the Village's best estimate of the average volume and the Village in no way guarantees these as minimum or maximum volumes.
- d. Proposers shall thoroughly examine and be familiar with these specifications. The failure or omission of any proposer to receive or examine this document shall in no way relieve any proposer of obligations with respect to this proposal or the subsequent contract.

**VILLAGE OF MOUNT PROSPECT
REQUEST FOR PROPOSAL
AUDITING SERVICES**

I. INTRODUCTION

General Information

The Village of Mount Prospect and the Mount Prospect Public Library (a component unit) are soliciting proposals from qualified firms of certified public accountants to audit their financial statements for the fiscal year ending December 31, 2000, with the option of auditing their financial statements for the three subsequent fiscal years.

II. Background Information

Included with this request for proposal is various sections of the Village of Mount Prospect's 2000 Annual Budget. This documentation provides general information about the Village and its finances.

III. Fund Structure

The Village of Mount Prospect uses the following fund types and account groups in its Comprehensive Annual Financial Report (CAFR):

Governmental Fund Types

General Fund

Special Revenue Funds

Refuse Disposal Fund
Local Law Enforcement Block Grant Fund
Motor Fuel Tax Fund

Community Development Block Grant Fund

Debt Service Funds – Fourteen (14) Issues

Capital Projects Funds
Capital Improvements Fund
Police and Fire Building Construction Fund
Capital Improvement Construction Fund
Downtown Redevelopment Tax Increment Financing Fund
Street Improvement Construction Fund
Flood Control Construction Fund

Fund Structure Continued

Proprietary Fund Types

Enterprise Funds

Water and Sewer Fund
Parking System Fund

Internal Service Funds

Computer Replacement Fund
Vehicle Replacement Fund
Vehicle Maintenance Fund
Risk Management Fund

Account Groups

General Fixed Asset Account Group

General Long-Term Debt Account Group

Mount Prospect Public Library

The Mount Prospect Public Library issues an Annual Financial Report, utilizing the following funds and account groups:

General Fund
Gift Fund (Special Revenue)
Building and Equipment Fund (Capital Projects)
Library Trust Fund

General Fixed Assets Account Group
General Long-Term Debt Account Group

D. Pension Plans

The Village of Mount Prospect participates in the following pension plans:

1. Police Pension Fund
2. Firefighter's Pension Fund
3. Illinois Municipal Retirement Fund

Actuarial services for the Police and Firefighters' Pension Funds are provided by Timothy Sharpe.

Component Units

The Village of Mount Prospect is defined, for financial reporting purposes, in conformity with the Governmental Accounting Standards Board's Codification of Governmental Accounting and Financial Reporting Standards, Section 2100. The only component unit reflected in the Village's CAFR, is the Mount Prospect Library. The Library is discretely presented in the Village's CAFR.

Budgetary Basis of Accounting

The Village of Mount Prospect prepares its budgets on a basis consistent with generally accepted accounting principles.

GASB Statement 34

The Village of Mount Prospect intends on fully complying with the accounting and reporting standards set forth in GASB Statement 34. The Village will not be implementing the requirements of GASB 34 early. The first CAFR to reflect GASB Statement 34 will be for the fiscal year ending December 31, 2003.

J. Other

The Village of Mount Prospect will send its CAFR to the Government Finance Officers Association of the United States and Canada for review in their Certificate of Achievement for Excellence in Financial Reporting program. The Village strongly endorses the program and has been awarded the Certificate for the past sixteen years. It is the intent of the Village of Mount Prospect to continue its participation in the program.

II. NATURE OF SERVICES REQUIRED

A. Scope of Work to be Performed

The Village of Mount Prospect's CAFR includes all funds, account groups, departments, agencies, boards, commissions, and other organizations over which the Village officials exercise oversight responsibility.

The Village of Mount Prospect desires the auditor to express an opinion on the fair presentation of its general-purpose financial statements in conformity with generally accepted accounting principles. The Village of Mount Prospect also desires the auditor to express an opinion on the fair presentation of its combining, individual fund, and account group financial statements in conformity with generally accepted accounting principles. The auditor is not required to audit the supplemental data contained in the CAFR. However, the auditor is to provide an "in-relation-to"

opinion on the supplemental schedules based on the auditing procedures applied during the audit of the general purpose financial statements and the combining, individual fund, and account group financial statements. If an unqualified opinion cannot be expressed, the independent auditor shall bring such matter to the attention of the Village before finalization of the CAFR to determine whether or not the problems leading to such qualification can be resolved. The auditor is not required to audit the introductory and statistical section of the report.

The auditor will be asked to prepare the Library's Annual Financial Report and express an opinion on the fair presentation of the combined financial statements of the Mount Prospect Public Library's Annual Financial Report (AFR).

The auditor is responsible for expressing an opinion on management's assertion that the Village of Mount Prospect, Illinois complied with the requirements of subsection (q) of Section 11-74.4-3 of the Illinois Tax Increment Redevelopment Allocation Act (Illinois Public Act 85-1142).

The auditor is responsible for issuing a single Audit Report if required. The auditor is not required to audit the schedule of expenditures of federal awards. However, the auditor is to provide an "in-relation-to" report on that schedule based on the auditing procedures applied during the audit of the financial statements.

B. Auditing Standards to be Followed

To meet the requirements of this request for proposal, the audit shall be performed in accordance with generally accepted auditing standards (GAAS), the pronouncements of the Governmental Accounting Standards Board of the Financial Accounting Foundation (GASB), the requirements of the American Institute of Certified Public Accountants (AICPA) "Audit of State and Local Government Units," the U.S. General Accounting Office's Government Auditing Standards, and the provisions of the Single Audit Act of 1984 (as amended in 1996) and the provisions of U.S. Office of Management and Budget (OMB) Circular A-133, Audits of State and Local Governments.

C. Reports to be Issued

The independent auditor shall prepare and reproduce the following reports:

1. Sixty (60) copies of the opinion on the Comprehensive Annual Financial Report,
2. Twenty (20) copies of the Annual Financial Report of the Mount Prospect Public Library,
3. Five (5) copies of the Single Audit Report,
4. Five (5) copies of the opinion on management's assertion that the Village of Mount Prospect, Illinois, complied with the requirements of subsection (q) of Section 11-74.4-3 of the Illinois Tax Increment Redevelopment Allocation Act (Illinois Public Act 85-1142).
5. Ten (10) copies of the auditors' management letter.

D. Internal Controls

During the course of the examination of the Village's Financial Statements the auditor may find weaknesses in internal controls. The auditor shall communicate any reportable conditions found during the audit. A reportable condition shall be defined as a significant deficiency in the design or operation of the internal control structure, which could adversely affect the organization's

ability to record, process, summarize and report financial data consistent with the assertions of management in the financial statements.

Nonreportable conditions discovered by the auditors shall be reported in a separate letter to management, which shall be referred to as the Management Letter. The independent auditor shall bring such matters to the attention of the Village before issuance of the report for discussion.

Irregularities and illegal acts. Auditors shall be required to make an immediate, written report of all irregularities and illegal acts or indications of illegal acts of which they become aware to the following parties:

Michael E. Janonis, Village Manager
Douglas R. Ellsworth, Finance Director

E. Reporting to the Board of Trustees

To assist the Board in overseeing the financial reporting and disclosure process, for which management is responsible, Statement on Auditing Standards No. 61 requires auditors to ensure that certain matters are communicated to the Board. The following are the matters to be communicated:

1. The auditor's responsibility under generally accepted auditing standards
2. Significant accounting policies
3. Management judgments and accounting estimates
4. Significant audit adjustments
5. Other information in documents containing audited financial statements
6. Disagreements with management
7. Management consultation with other accountants
8. Major issues discussed with management prior to retention
9. Difficulties encountered in performing the audit

1. Firm Qualifications and Experience

The proposer should state the size of the firm, the size of the firm's governmental audit staff, the location of the office from which the work on this engagement is to be performed and the number and nature of the professional staff to be employed in this engagement.

If the proposer is a joint venture or consortium, the qualifications of each firm comprising the joint venture or consortium should be separately identified and the firm that is to serve as the principal auditor should be noted, if applicable.

The firm is also required to submit a copy of the report on its most recent external quality control review, with a statement whether that quality control review included a review of specific government engagements.

The firm shall also provide information on the results of any federal or state desk reviews or field reviews of its audits during the past three (3) years. In addition, the firm shall

provide information on the circumstances and status of any disciplinary action taken or pending against the firm during the past three (3) years with state regulatory bodies or professional organizations.

2. Partner, Supervisory and Staff Qualifications and Experience

Identify the principal supervisory and management staff, including engagement partners, managers, other supervisors and specialists, who would be assigned to the engagement. Indicate whether each such person is registered or licensed to practice as a certified public accountant in Illinois. Provide information on the government auditing experience of each person, including information on relevant continuing professional education for the past three (3) years and membership in professional organizations relevant to the performance of this audit. Indicate how the quality of staff over the term of the agreement will be assured.

Engagement partners, managers, other supervisory staff and specialists may be changed if those personnel leave the firm, are promoted or are assigned to another office. These personnel may also be changed for other reasons with the express prior written permission of the Village of Mount Prospect. However, in either case, the Village of Mount Prospect retains the right to approve or reject replacements.

Consultants and firm specialists mentioned in response to this request for proposal can only be changed with the express prior written permission of the Village of Mount Prospect, which retains the right to approve or reject replacements.

Other audit personnel may be changed at the discretion of the proposer provided that replacements have substantially the same or better qualifications or experience.

3. Fees

Please use Attachment 1 for the fee schedule. In addition, provide as much information as possible for the estimated hours your firm expects to complete this engagement and your rates for any additional services.

4. Similar Engagements With Other Government Entities

For the firm's office that will be assigned responsibility for the audit, list the most significant engagements (maximum – 5) performed in the last five years that are similar to the engagement described in this request for proposal. These engagements should be ranked on the basis of total staff hours. Indicate the scope of work, date, engagement partners, total hours, and the name and telephone number of the principal client contact.

5. Specific Audit Approach

The proposal should set forth a work plan, including an explanation of the audit methodology to be followed. Proposers will be required to provide the following information on their audit approach:

- a. Proposed timing of the engagement,
- b. Level of staff and number of hours to be assigned to each proposed segment of the engagement,
- c. Sample size and the extent to which statistical sampling is to be used in the engagement,

- d. Extent of use of EDP software in the engagement,
- e. Type and extent of analytical procedures to be used in the engagement,
- f. Approach to be taken to gain and document an understanding of the Village of Mount Prospect's internal control structure,
- g. Approach to be taken in determining laws and regulations that will be subject to audit test work.

6. Identification of Anticipated Potential Audit Problems

The proposal should identify and describe any anticipated potential audit problems, the firm's approach to resolving these problems and any special assistance that will be requested from the Village of Mount Prospect.

III. EVALUATION PROCEDURES

Proposals will be evaluated by the Finance Department to determine which proposal best meets the requirements of the Village. Evaluation factors include, but are not limited to technical expertise, qualifications, references, experience of the firm (and audit team), success in securing and maintaining the Certificate of Achievement in Excellence in Financial Reporting for their clients, as well as the fee.

After all proposals are evaluated, the Finance Department will conduct interviews with a select number of firms whose proposals best meets the requirements of the Village.

During the evaluation process, the Finance Department reserves the right, where it may serve the Village of Mount Prospect's best interest, to request additional information or clarifications from proposers, or to allow corrections of errors or omissions.

The Village of Mount Prospect reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether that proposal is selected. Submission of a proposal indicates acceptance by the firm of the conditions contained in this request for proposal, unless clearly and specifically noted in the proposal submitted and confirmed in the contract between the Village of Mount Prospect and the firm selected.

It is anticipated the selection of a firm will be completed by no later than November 21, 2000.

CITY OF MORRISON

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Office of
Tim D. Long • City Administrator

The Morrison City Council provides visionary leadership that offers creative solutions to the challenges of an ever-changing environment.

**TO: ROGER DREY, MAYOR
MEMBERS OF THE CITY COUNCIL
DEPARTMENT HEADS, STAFF**

RE: LOCAL GOVERNMENT PROMPT PAYMENT ACT

Thursday, January 21, 2010

Council Discussion

With the Council using the second meeting of the month solely as a working session, many routine bills end up being held beyond 30 days, which creates a lot of calls to City Hall for accounts due and payable and causes misunderstandings with vendors. The Local Government Prompt Payment Act reads so as to provide the authority for this type of routine bill to be paid upon receipt, holding only those billings for capital and construction projects for approval by Council before releasing payment.

This practice is done in other cities in the area, and the Council action regarding payments is then "Approval of Bills, Paid and Payable". I recommend that we implement this statutory authority to get our payments made in a timely fashion and to reduce the AP calls.

A relevant portion of the statute follows. The entire statute can be viewed at:
<http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=725&ChapAct=50%26nbsp%3BILCS%26nbsp%3B505%2F&ChapterID=11&ChapterName=LOCAL+GOVERNMENT&ActName=Local+Government+Prompt+Payment+Act%2E>

(50 ILCS 505/1) (from Ch. 85, par. 5601)

Sec. 1. This Act shall be known and may be cited as the "Local Government Prompt Payment Act".
(Source: P.A. 84-731.)

(50 ILCS 505/2) (from Ch. 85, par. 5602)

Sec. 2. This Act shall apply to every county, township, municipality, municipal corporation, school district, school board, forest preserve district, park district, fire protection district, sanitary district and all other local governmental units. It shall not apply to the State or any office, officer, department, division, bureau, board, commission, university or similar agency of the State, except as provided in Section 7.
(Source: P.A. 85-1159.)

(50 ILCS 505/3) (from Ch. 85, par. 5603)

Sec. 3. The appropriate local governmental official or agency receiving goods or services must approve or disapprove a bill from a vendor or contractor for goods or services furnished the local governmental agency within 30 days after the receipt of such bill or within 30 days after the date on which the goods or services were received, whichever is later. If one or more items on a construction related bill or invoice are disapproved, but not the entire bill or invoice, then the portion that is not disapproved shall be paid. When safety or quality assurance testing of goods by the local governmental agency is necessary before the approval or disapproval of a bill and such testing cannot be completed within 30 days after receipt of the goods, approval or disapproval of the bill must be made immediately upon completion of the testing or within 60 days after receipt of the goods, whichever occurs first. Written notice shall be mailed to the vendor or contractor immediately if a bill is disapproved.
(Source: P.A. 94-972, eff. 7-1-07.)

(50 ILCS 505/4) (from Ch. 85, par. 5604)

Sec. 4. Any bill approved for payment pursuant to Section 3 shall be paid within 30 days after the date of approval. If payment is not made within such 30 day period, an interest penalty of 1% of any amount approved and unpaid shall be added for each month or fraction thereof after the expiration of such 30 day period, until final payment is made.
(Source: P.A. 84-731.)