

Legistar #090150
DISTRICT #6

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

Resolution or Ordinance (Blue) _____
Waiver of First Requested
Recommendations of Boards, Commissions & Committees (Green) _____
Other Business (Pink) _____

X

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: David A. Hulseberg, Village Manager

DATE: March 25, 2009 (B of T) Date: April 2, 2009

TITLE: Engineering Design Services Contract for ComEd Claim

SUBMITTED BY: David P. Gorman, P.E., Assistant Director of Public Works *CP*

BACKGROUND/POLICY IMPLICATIONS:

A time and material design engineering contract to assist the Village with a claim filed with ComEd for irreparable damage to a sanitary sewer on the 500 South block of Main Street.

Fiscal Impact/Funding Source:

\$32,337 / Water Sewer Capital Reserve
HTE Proj: 0918 PW Proj: SAN-09-04
HTE Acct: 7901.809500

Review (as necessary):

Village Attorney X _____ Date _____
Finance Director X _____ Date _____
Village Manager X *David P. Gorman* _____ Date *3/25/09*

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda Distribution.



Memorandum

To: David A. Hulseberg, Village Manager
Through: Carl S. Goldsmith, Director of Public Works *CS*
David P. Gorman, PE, Asst. Dir. of Public Works *DPG*
Date: March 25, 2009
Subject: Contract No. SAN-09-04, Engineering Design Services for ComEd Claim

Attached is a contract with Baxter & Woodman for the engineering design services for the Village's claim against ComEd for irreparable damage to the sanitary sewer on the 500 South Block of Main Street. Proposals were solicited from all five companies on the FY 2008-2010 Design Engineering Short List. Baxter & Woodman was selected by a review team as the most qualified for this project.

In September of 2008, ComEd installed four utility poles through the Village's sanitary sewer, thus rendering it ineffective and placing 13 homes at risk of flooding due to backups. Due to constraints in the right-of-way, the Village constructed a 690'-long replacement sewer under the roadway at a cost of \$321,516. The Village has rejected ComEd's initial settlement offer of \$40,000.

The scope of services and fee were negotiated and agreed to by both parties. The not-to-exceed fee for this contract is \$32,337. The scope includes the following:

1. Prepare an as-built utility and topographic survey of the sanitary sewer and all other utilities in the right-of-way,
2. Perform an alternatives analysis to review the options available to the Village and evaluate the chosen course of action,
3. Assist the Village in meetings in effort to reach a settlement, and
4. Provide expert testimony in court, if necessary.

As the contract is based upon the scope of services, the Village could end the work effort at the conclusion of each task. It is staff's goal to obtain a reasonable settlement offer from ComEd. However, in the event that litigation becomes necessary, the contract authorizes up to 50 hours of Baxter & Woodman's president for that purpose.

Please present this contract to the President and Board of Trustees for their review and approval at their regular meeting on April 2, 2009. If approved, please have two signed copies returned to Public Works for further processing. Signed copies from Baxter & Woodman will be provided to you prior to the meeting.



RESOLUTION
R _____
09

A RESOLUTION AUTHORIZING SIGNATURE OF
PRESIDENT AND CLERK ON AN AGREEMENT

WHEREAS, the Corporate Authorities of the Village of Lombard have received an Agreement between the Village of Lombard, and Baxter & Woodman, Inc. regarding Engineering Design Services for a ComEd Claim as attached hereto as Contract No. SAN-09-04 and marked Exhibit "A"; and

WHEREAS, the Corporate Authorities deem it to be in the best interest of the Village of Lombard to approve such agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS as follows:

SECTION 1: That the Village President be and hereby is authorized to sign on behalf of the Village of Lombard said agreement as attached hereto.

SECTION 2: That the Village Clerk be and hereby is authorized to attest said agreement as attached hereto.

Adopted this 2nd day of April, 2009.

Ayes;

Nays:

Absent:

Approved this 2nd day of April, 2009.

ATTEST:

William J. Mueller
Village President

Brigitte O'Brien
Village Clerk

APPROVAL AS TO FORM:

Thomas P. Bayer
Village Attorney

EXHIBIT A

**VILLAGE OF LOMBARD
CONTRACT DOCUMENT NUMBER SAN-09-04
ENGINEERING DESIGN SERVICES FOR COM ED CLAIM**

This agreement is made this 2nd day of April, 2009, between and shall be binding upon the VILLAGE of Lombard, an Illinois municipal Corporation hereinafter referred to as the "VILLAGE" and Baxter & Woodman, Inc. hereinafter referred to as the "ENGINEER" and its successors.

Witnessed, that in consideration of the mutual promises of the parties delineated in the contract documents, the ENGINEER agrees to perform the services and the VILLAGE agrees to pay for the following services as set forth in the contract documents:

- A time and material contract to assist the Village with a claim filed with ComEd for irreparable damage to a sanitary sewer on the 500 South Block of Main Street. The scope of services includes:
1. Prepare an as-built utility and topographic survey of the sanitary sewer and all other utilities in the right-of-way,
 2. Perform an alternatives analysis to review the options available to the Village and evaluate the chosen course of action,
 3. Assist the Village in meetings in effort to reach a settlement, and
 4. Provide expert testimony in court, if necessary.

1. This contract shall embrace and include all of the applicable contract documents listed below as if attached hereto or repeated herein:

- a. VILLAGE'S letter requesting Engineering Design Services Proposals for ComEd Claim Dated February 13, 2009
- b. VILLAGE'S Request for Qualifications for Short-List for Engineering Services Dated January 11, 2008
- c. ENGINEER'S Statement of Qualifications Dated January 25, 2008
- d. ENGINEER'S Proposal Dated February 27, 2009
- e. ENGINEER'S Work Effort and Fee submittal Dated March 25, 2009
- f. Minutes of Scope & Fee Negotiation Meeting and associated revised Scope of Work, Work Effort and Fee Dated March 24, 2009
- g. Required Certificates and Signatures and Certificate of Insurance

2. The VILLAGE agrees to pay, and the ENGINEER agrees to accept as full payment for the services which are the subject matter of this contract in accordance with the General Provisions.

3. This Contract represents the entire agreement between the parties and may not be modified without the written approval of both parties.

IN WITNESS WHEREOF, the Village of Lombard, Illinois by William J. Mueller, Village President, and the ENGINEER have hereunto set their hands this 2nd day of April, 2009.

If an individual or partnership, all individual names of each partner shall be signed or if a corporation, an officer duly authorized shall sign here:

Baxter & Woodman, Inc.
Company Name

Accepted this _____ day of _____, 2009.

Individual or Partnership _____ Corporation _____

By _____

Position/Title _____

By _____

Position/Title _____

THE VILLAGE OF LOMBARD, ILLINOIS

Accepted this 2nd day of April, 2009.

William J. Mueller, Village President

Attest:

Brigitte O'Brien, Village Clerk

**VILLAGE OF LOMBARD
ENGINEER'S CERTIFICATION**

_____, having been first duly sworn depose and states as follows:
(Officer or Owner of Company)

_____, having submitted a proposal for:
(Name of Company)

CONTRACT DOCUMENT NUMBER SAN-09-04, ENGINEERING DESIGN SERVICES FOR
COMED CLAIM to the Village of Lombard, hereby certifies that said ENGINEER:

1. has a written sexual harassment policy in place in full compliance with 775 ILCS 5/2-105(A) (4).
2. 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 approve 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.
3. is in full compliance with the Federal Highway Administration Rules on Controlled Substances and Alcohol Use and Testing, 49 CFR Parts 40 and 382 and that _____ (Name of employe/driver or "all employe drivers") is/are currently participating in a drug and alcohol testing program pursuant to the aforementioned rules.

By: _____
Officer or Owner of Company named above

Subscribed and sworn before me
this _____ day of _____, 2009.

Notary Public