

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

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

**TO:** PRESIDENT AND BOARD OF TRUSTEES

**FROM:** David A. Hulseberg, Village Manager

**DATE:** October 2, 2009 (COW) (B of T) **Date:** October 15, 2009

**TITLE:** Olde Towne – East, Phase III (Charlotte, Grove & Garfield)  
Resident Engineering Contract  
Amendment #2

**SUBMITTED BY:** David A. Dratnol, P.E., Village Engineer *llp*

**BACKGROUND/POLICY IMPLICATIONS:**

This is the second amendment to the Resident Engineering contract, generated principally from the contractor exceeding the number of contract calendar days. The second amendment is for \$28,595.00, for a total of \$77,573.00 in additional engineering costs. The contractor will be assessed liquidated damages in the amount of \$66,746.56 to account for the extra time spent by the consultant in performing inspections of the work done after the contract completion date.

**FISCAL IMPACT/FUNDING SOURCE:**

Total Amended Contract Amount: \$351,403.00 (\$210,093.95 Capital Project Fund & \$141,309.05 Water/Sewer Fund)  
Amendment Amount: \$28,595.00 (\$18,764.48 Capital Project Fund & \$9,830.52 Water/Sewer Fund)  
SPS Project Number: 0704  
Account: 7110.809425 (Liability Account from PO 060247 in the amount of \$66,746.56)  
PW Project Number: ST-07-04  
P.O. #: 059962

Review (as necessary):  
Village Attorney X \_\_\_\_\_ Date \_\_\_\_\_  
Finance Director X \_\_\_\_\_ Date \_\_\_\_\_  
Village Manager X \_\_\_\_\_ Date \_\_\_\_\_

**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 Goldsmith, Director of Public Works  
 From: David A. Dratnol, P.E., Village Engineer  
 Date: October 2, 2009  
 Subject: Olde Towne – East, Phase 3  
 Resident Engineering – Contract Amendment #2

Attached please find a "Resolution Authorizing Amendment of a Professional Services Contract" and an "Agreement to Amend a Contract" for the Olde Towne – East, Phase 3 project. The project area includes: Charlotte Street (Grove to Windsor), Grove Street (Charlotte to Garfield) & Garfield Street (St Charles to Windsor). The Village requires the Resident Engineer to be on-site whenever the contractor is working on the job. The original contract with the Resident Engineering firm was based on the construction contract duration provided for in the Contract Documents. For this job, the total original contract time was one hundred eighty five (185) calendar days for substantial completion plus fifteen (15) days to complete punch list items. This amendment addresses compensation to the Resident Engineering firm due to delays by the contractor in completing the work.

A fourteen (14) day time extension was granted to Brother's Asphalt Paving, Inc. (general contractor for the project), by Change Order #2. Even with this time extension (a total contract duration of 200 calendar days), the contractor did not complete the work on time. As of September 14, 2009 all work was finally completed and accepted. This is three hundred and thirty two (332) days beyond the original completion date and three hundred and seventeen (317) days beyond the extended date. Additional work effort above and beyond the time allocated in the first amendment to the Resident Engineering contract was used by the consultant. This supplementary time was not included in the previous Resident Engineering contract amendment, necessitating the current amendment (Amendment #2).

Please refer to the attached memo from Baxter & Woodman, which explains in detail the man-hours corresponding to the additional time spent on the project. The work effort details the calculation of man-hours related to the previous and current amendment. Liquidated damages will be assessed to Brother's Asphalt Paving Inc. in the amount corresponding to the inspection and administration time associated with the delay in completing the project. *Liquidated damages in the amount of \$66,746.56 will be deducted from the Brother's Asphalt Paving Inc. final pay estimate. The liquidated damages reduce the out-of-pocket costs for the Village for this and the previous amendment.* Consultant billings for the two amendments (\$48,978.00 + \$28,595.00 = \$77,573.00) not related to Brothers Asphalt exceeding the contract time, will total \$10,826.44.

## Summary of Resident Engineering Contract

Original Contract	\$273,830.00
Amendment #1	\$48,978.00
Amendment #2	\$28,595.00
<b>Total Revised Contract Amount</b>	<b>\$351,403.00</b>

Please place this item on the Board of Trustees agenda for the meeting scheduled on October 15, 2009, and request approval of the contract amendment in the amount of \$28,595.00. This amendment increases the contract to a not-to-exceed amount of \$351,403.00. The Village's obligation to the Resident Engineering contract less liquidated damages is \$284,656.44. If approved, please return all paperwork to Engineering for further processing.

DD/rgs

c: File: ST-07-04

H:PW/PW-ENG/PROJECTS/FY2007/ST-07-04/Phase 3/RE

**RESOLUTION**  
**R \_\_\_\_\_ 10**

**A RESOLUTION AUTHORIZING**  
**AMENDMENT OF A PROFESSIONAL**  
**SERVICES CONTRACT**

**WHEREAS**, the Board of Trustees of the Village of Lombard on March 20, 2008 adopted a resolution authorizing signature of President and Clerk on an agreement between the Village of Lombard and Baxter & Woodman, Inc.; which was amended on November 6, 2008; and

**WHEREAS**, an amendment to said contract is required to legally bind the parties; and

**WHEREAS**, Illinois law exempts professional engineering contracts from the requirements of Illinois Compiled Statutes, Chapter 720, Section 5/33E-9 regarding preparation of change orders.

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 President and Village Clerk are hereby directed and authorized to execute an amendment to the contract with Baxter & Woodman, Inc., substantially in the form and manner of Exhibit "A" attached hereto and made a part hereof.

Adopted this the 15<sup>th</sup> day of October 2009.

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

Approved this the 15<sup>th</sup> day of October 2009.

**ATTEST:**

\_\_\_\_\_  
**William J. Mueller**  
**Village President**

\_\_\_\_\_  
**Brigitte O'Brien**  
**Village Clerk**

**APPROVAL AS TO FORM:**

\_\_\_\_\_  
**Thomas P. Bayer**  
**Village Attorney**

**AGREEMENT TO AMEND A CONTRACT**

**THIS AGREEMENT** made and entered into this the 15<sup>th</sup> day of October 2009, by and between the Village of Lombard (the "VILLAGE") and Baxter & Woodman, Inc. (the "CONSULTANT").

**WHEREAS**, on March 20, 2008 the VILLAGE and CONSULTANT executed a contract, which was amended on November 6, 2008 regarding certain engineering services relative to the Olde Towne – East, Phase 3 project; and

**WHEREAS**, the VILLAGE and CONSULTANT have agreed to increase the amount of work to be performed by the CONSULTANT together with a resultant increase in the limit which the contract sum may not exceed;

**NOW, THEREFORE**, for and in consideration of the foregoing and various covenants in said agreement and the mutual covenants herein contained, it is agreed by and between the parties as follows:

**SECTION 1:** The aforementioned contract shall be amended as provided for in the CONSULTANT'S September 18, 2009 letter.

**SECTION 2:** The aforementioned contract shall be amended to show a contract sum not to exceed \$351,403.00

**SECTION 3:** All other terms, covenants and conditions of said contract heretofore executed which are not amended or deleted herein shall remain in full force and effect.

**IN WITNESS WHEREOF**, the VILLAGE and CONSULTANT have caused this document to be signed by duly authorized officers who have set their hands and seals the day and year set forth above.

**VILLAGE OF LOMBARD**

By: \_\_\_\_\_  
Village President

ATTEST:

By: \_\_\_\_\_  
Village Clerk

and Baxter & Woodman, Inc.

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

ATTEST:

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



September 18, 2009

Ray Schwab  
Project Manager  
Village of Lombard  
1051 S. Hammerschmidt Avenue  
Lombard, Illinois 60148-3926

***Subject: Village of Lombard – Olde Towne East-Phase 3 Resident Engineering***

Dear Mr. Schwab:

The Village approved amendment #1 on November 6, 2008 increasing Baxter & Woodman's original "Not to Exceed" fee to \$322,808.00 (\$273,830.00 + \$48,978.00) The amendment was processed to compensate Baxter & Woodman for Resident Engineering related charges incurred during the fourteen day (14) extension period and any extra engineering costs related to Brothers Asphalt working beyond the extended completion date.

When the amendment was prepared, it was assuming the Contractor would have the project completed in 2008. The majority of the Project Close Out and Record Drawing and some of the Construction Administration tasks were done in 2009. The fee amount determined for Amendment #1 was estimated using 2008 hourly rates. In 2009 the Employees hourly rates were increased approximately 3.5%.

The Resident Engineer and Project Manager for Baxter & Woodman also used the task Project Closeout and Record Drawings to determine the final documentation of contract quantities and extra work, meeting with Brothers Asphalt multiple times in 2009 to discuss this, preparation of two partial payments requested by the Village, and developing and verifying in the field that the punchlist work was completed.

Baxter & Woodman exceed the hours allotted in the original contract (86) for GPS/GIS Processing. This was the GPS/GIS beta test program for the Village. When the fee was estimated for this project both Baxter and Woodman and the Village needed to determine how the data structure and data configuration would need to be assembled so it could be implemented directly into the Villages GIS System. During the project we meet several times with the staff and modified the data and identifiers. This extra work effort helped create a data collection procedure and data point identifiers that could be efficiently used by the Village for this project and future projects. In addition, some of this time was also used to help generate the record drawings. Baxter & Woodman has used 216.25 hours for this task.

300 Park Boulevard  
Suite 355  
Itasca, IL 60143  
Phone: 630.773.1870  
Fax 630.773.3150

As requested, please find a breakdown of man-hours and costs associated with the completion of the project. To summarize once again, the Village extended the original construction contract time by fourteen (14) calendar days in Change Order #2. The Contractor, Brothers Asphalt was to be substantially completed with their work by October 17, 2008. Final completion was to be by November 1, 2008.



Substantial completion finally occurred September 3, 2009. Final completion occurred on September 14, 2009.

The following is a summary of construction engineering related costs incurred by Baxter & Woodman beyond the authorized extended dates of October 17, 2008 and November 1, 2008 respectively, which is the basis for liquated damages that can be assessed to Brothers Asphalt.

**Construction Administration**

This task was for meeting with the Contractor before and after the construction work was substantially completed along with time used to administer paperwork associated with payouts, change orders, scheduling, and time and material billings.

Year 2008- 69 hours @ \$9,756.35 Labor Costs  
\$86.00 Direct Costs

Year 2009- 29.75hours @ \$3,399.48 Labor Costs  
\$ 34.00 Direct Costs

Project Total for Construction Administration= **\$13,275.83**

**Field Observation and Documentation-**

This task involved the Resident Engineer observing and documenting the Contractors work. Other work included documentation of final quantities of work, determining extra work, preparing partial payments, and identifying work that needed to be redone before final acceptance.

Year 2008- 305.5 hrs @ \$33,112.24 Labor Costs  
\$573.19 Direct Costs

Total for Field Observation and Documentation= **\$33,685.43**

**Project Closeout and Record Drawings-**

In 2009, Rich Himebaugh's (Resident Engineer for the project) charged this account. This was for time used in the spring and summer months associated with field observation and documentation. The account also includes additional time needed to the process of the record drawings.

Project Closeout cost were 158.75 hours @ **\$19,785.30**  
Record Drawings- 27.5 hours @ \$2,691.97 (not included as Liquidated Damages)

**Total for Cost Attributable to Brothers exceeding the contract time**  
**(\$13,275.83 + \$33,685.43 + \$19,785.30) \$66,746.56**

300 Park Boulevard

Suite 355

Itasca, IL 60143

Phone: 630.773.1870

Fax 630.773.3150

info@baxterwoodman.com



**SUMMARY**

According to Baxter & Woodman Records to date, we have provided \$347,403.89 (\$341,220.35 Labor + \$6,183.54 Direct Costs) of services for this project. We anticipate an additional 40 man hours of project closeout time to complete this project (roughly \$4,000.00).

We respectfully request a second amendment (see attached Exhibit B) be processed in the amount of **\$28,595**. The proposed Not to Exceed contract amount would be  $(\$273,830 + \$ 48,978 + 28,595) = \mathbf{\$351,403}$

<b>Total Cost to Complete Engineering Services</b>	<b>\$351,403.00</b>
<b>Total Current Contract Amount (including amendment #1)</b>	<b><u>\$322,808.00</u></b>
<b>Difference</b>	<b><u>\$28,595.00</u></b>

The following is a breakdown of time for Amendment #2 (277 total man-hours)

**151** man-hours of Project Closeout and Record Drawing Time as previously described. 111 man- hours that have been used this year to date and 40 man-hours are to be used to complete the project in the near future.

**126** man-hours of GIS/GPS processing has already been used as previously described. This task has been completed and the work has been submitted to the Village.

The additional amount of time is required for us to complete our construction engineering services for this project and to compensate us for the work done previously.

If you have any questions or concerns please contact me.

Very truly yours,

BAXTER & WOODMAN, INC.  
CONSULTING ENGINEERS



Mark L. Dachsteiner, PE  
Project Manager

300 Park Boulevard

Suite 355

Itasca, IL 60143

Phone: 630.773.1870

Fax 630.773.3150

info@baxterwoodman.com

CC- John Ambrose PE, Baxter & Woodman, Inc

VILLAGE OF LOMBARD, ILLINOIS  
 OLDE TOWNE EAST- PHASE III  
 EXHIBIT B-Amendment #2  
 CONSTRUCTION ENGINEERING

Route: Olde Towne East Phase III  
 Local Agency: VILLAGE OF LOMBARD, ILLINOIS  
 (Municipality/Township/County)

\*Firm's approved rates on file with IDOT's  
 Bureau of Accounting and Auditing:  
 Overhead Rate (OH) 15.7%  
 Multiplier 2.88  
 Calendar Days per contract 185

Using 2009 hourly Rates

Cost Estimate of Consultant's Services in Dollars

Tasks	Employee Classification	Man-Hours	Payroll Rate	% of Hours task	Total Cost	In-House Direct Costs (IHDC)	Total cost by task	% Cost per task	Total Cost w/Mult
ADMINISTRATION & MEETINGS	PRINCIPAL	0	\$66.00	0.00%	\$0.00				\$0.00
	P. MANAGER	0	\$50.50	0.00%	\$0.00			0.00%	\$0.00
	SECRETARY	0	\$23.26	0.00%	\$0.00				\$0.00
OBSERVATION/DOCUMENTATION	RES ENGR.	0	\$38.93	0.00%	\$0.00				\$0.00
	ASST. RESIDENT	0	\$28.89	0.00%	\$0.00	\$		0.00%	\$0.00
CONSTRUCTION STAKEOUT	SURVEYOR	0	\$25.00	0.00%	\$0.00				\$0.00
	SURVEYOR	0	\$25.00	0.00%	\$0.00				\$0.00
SHOP DRAWING REVIEW	SR. ENGR	0	\$47.00	0.00%	\$0.00			0.00%	\$0.00
PROJ CLOSEOUT & REC DRAW	RES ENGR.	100	\$39.00	36.10%	\$3,900.00	\$8.00	\$18,657.44	39.31%	\$11,240.00
	P. MANAGER	51	\$50.50	18.41%	\$2,575.50				\$7,417.44
GIS/GPS PROCESSING & ADMIN	GIS/GPS PM	30	\$46.47	10.83%	\$1,394.10			14.04%	\$4,015.01
	GIS/GPS CAD	96	\$21.42	34.66%	\$2,056.32		\$9,937.21	20.71%	\$5,922.20
<b>TOTALS</b>		<b>277</b>		<b>100.00%</b>	<b>\$ 9,926</b>	<b>\$ 8</b>	<b>\$ 28,595</b>	<b>74.06%</b>	<b>\$ 28,595</b>

In-House Direct Costs:  
 VEHICLE EXPENSES - TRAVEL, 947 MI @ \$0.585/MILE =

GIS/GPS Equip rental \$0.00

Personnel & Hours	% of Hours
Principal	0.00%
Project Manager	0.00%
Secretary	0.00%
Resident Engineer	36.10%
Asst. Resident Engineer	0.00%
Surveyor	0.00%
CAD	18.41%
GIS/GPS PM	10.83%
GIS/GPS CAD	34.66%
SR Engt	0.00%
Total	100.00%

Project Multiplier

Overhead (see exhibit A) = 1.57  
 Direct Labor = 1.00  
 Profits @ 12% = 0.308  
 Multiplier = 2.878

Our approved IDOT overhead rate is 1.57. We propose to use a multiplier of 2.88 for this project