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DISTRICT ALL

**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:** William T. Lichter, Village Manager

**DATE:** January 7, 2004 (COW) (B of T) **Date:** 1/15/04

**TITLE:** FY 2004 Dust Control Program  
Change Order No. 3 - FINAL

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

**BACKGROUND/POLICY IMPLICATIONS:**

See attached memo

**FISCAL IMPACT/FUNDING SOURCE:**

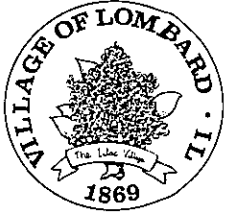
\$54,000.00 DECREASE / StrMntFnd  
TOTAL CONTRACT: \$5,250.00  
PW Proj: M 04-01  
P.O. No.: 47146  
H.T.E Num: 5541

Review (as necessary):

Village Attorney X \_\_\_\_\_ Date \_\_\_\_\_  
Finance Director X *DA Dratnol* \_\_\_\_\_ Date 1/7/04  
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.





## InterOffice Memo

**To:** William T. Lichter, Village Manager  
**From:** David A. Dratnol, P.E., Village Engineer *DA*  
**Date:** January 7, 2004  
**Subject:** The FY 2004 Dust Control Program,  
Change Order No. 3 - FINAL

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Attached please find Change Order No. 3 for this project. It represents the final balancing of quantities after the termination with Boecker Road Maintenance, Inc. (reference Legistar Item 3794).

This item will be reviewed by the Public Works Committee on January 13, 2004

Please present this change order to the President and Board of Trustees for their review and approval at their regular meeting on January 15, 2004. If approved, please have one signed copy returned to Engineering for further processing.

c: File: M 04-01



**R E S O L U T I O N**  
**R \_\_\_\_\_ 04**

**A RESOLUTION AUTHORIZING A CHANGE ORDER**  
**INVOLVING AN INCREASE IN THE DOLLAR AMOUNT OF**  
**THE CONTRACT OF \$10,000 OR MORE**

**WHEREAS**, pursuant to Illinois Compiled Statutes, Chapter 720, Section 5/33E-9, units of local government are required to make specific findings prior to authorizing any change order relative to a contract which would increase or decrease the dollar amount of the contract by \$10,000 or more, or would extend or shorten the time in which the contract is to be completed by thirty days or more; and

**WHEREAS**, staff has presented and recommended the proposed Change Order No. 3 to the contract between the Village of Lombard and Boecker Road Maintenance, Inc.. regarding The FY 2004 Dust Control Project, as attached hereto as Exhibit "A" and made part hereof, to the Corporate Authorities of the Village of Lombard; and

**WHEREAS**, said change order attached hereto as Exhibit "A" would decrease the dollar amount of the contract by \$54,000.00

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 after reviewing the explanation of staff as to the necessity of and reasons for the change order attached hereto as Exhibit "A", the President and Board of Trustees find as follows:

- A. That the circumstances which necessitated said change order were not reasonably foreseeable at the time the contract was entered into.
- B. That the basis of the change order was not within the contemplation of the contract when the contract was signed.
- C. That it is in the best interests of the Village of Lombard to approve the change order in its proposed form.
- D. That to the extent that it may have been necessary to go to bid relative to the work contemplated by said change order, bidding is hereby specifically waived as to the change order work.

**SECTION 2:** That having made the findings set forth in Section 1 above, the President and Board of Trustees hereby approve the change order attached hereto as Exhibit "A", and direct and authorize the Village President and Village Clerk to execute said change order on behalf of the Village.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

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

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

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

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

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

ATTEST:

\_\_\_\_\_  
**Barbara Johnson**  
**Deputy Village Clerk**

APPROVAL AS TO FORM:

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

# VILLAGE OF LOMBARD CHANGE ORDER

PROJECT NAME: FY 2003 Dust Control Program PROJECT NO.: M-04-01

LOCATION: Various CHANGE ORDER: #3 - Final Balancing

CONTRACTOR: Boecker Road Maintenance, Inc. DATE: 12/16/2003

DESCRIPTION OF CHANGE ORDER: Final Balancing for the Retainage on this project.

ORIGINAL CONTRACT AMOUNT:	[1]	<u>\$37,500.00</u>
TOTAL OF PREVIOUS AUTHORIZED CHANGE ORDERS:	[2]	<u>\$21,750.00</u>
CURRENT CONTRACT AMOUNT: ([1]+[2])	[3]	<u>\$59,250.00</u>
PROPOSED CHANGE ORDER: (PENDING APPROVAL)	[4]	<u>(\$54,000.00)</u>
PROPOSED REVISED CONTRACT AMOUNT: (PENDING APPROVAL) ([3]+[4])	[5]	<u>\$5,250.00</u>

NET OF ALL CHANGE ORDERS: (PENDING APPROVAL) ([2]+[4]) (\$32,250.00)

TIME EXTENSION OR REDUCTION: 365 Calendar Days

TOTAL CONTRACT TIME: (PENDING APPROVAL) 730 Calendar Days

BUDGET ESTIMATE: \$72,500.00

ENGINEER'S ESTIMATE: \$72,500.00

**RECOMMENDED FOR ACCEPTANCE :**

Resident Engineer	Date	Approved By:	Director of Finance	Date
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Contractor	Date	Approved By:	Village Manager	Date
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<i>David A. Decker</i> 1/7/04	Date	Approved By:	Village President	Date
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Director of Public Works	Date	Attest:	Village Clerk	Date
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Accountant Date

**It is understood that as part of this change order that the Contractor agrees that all bonds, permits, insurance and guarantees are hereby extended to incorporate this Change Order.**

NO	ITEM	CURRENT QUAN	UNIT LOAD	UNIT PRICE	REVISED QUAN	DIFFERENCE	AMOUNT
1	DUST CONTROL, COHEREX	39.5	LOAD	\$1,500.00	3.5	(36.0)	(\$54,000.00)
<b>TOTAL</b>							(\$54,000.00)



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**VILLAGE OF LOMBARD**  
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\_\_\_\_ Recommendations of Boards, Commissions & Committees (Green)  
\_\_\_\_ Other Business (Pink)

**TO:** PRESIDENT AND BOARD OF TRUSTEES

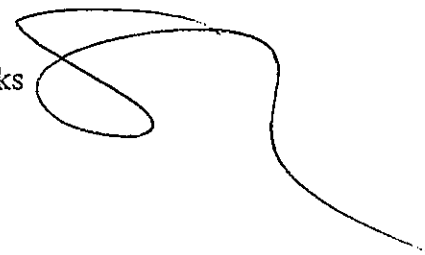
**FROM:** Len Flood, Acting Village Manager

**DATE:** December 10, 2003 (COW) (B of T) Date: December 17, 2003

**TITLE:** Termination of the Dust Control Contract with Boecker Road Maintenance

**SUBMITTED BY:** Stan Rickard, Director of Public Works

*OK*  
*18*



**BACKGROUND/POLICY IMPLICATIONS:**

**FISCAL IMPACT/FUNDING SOURCE:**

HTE Project: 5511  
PW Project: M-03-01  
P.O. #: 047146

Review (as necessary):

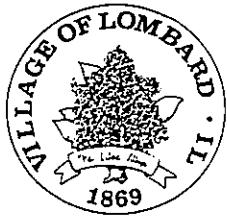
Village Attorney X \_\_\_\_\_ Date \_\_\_\_\_

Finance Director X *M* \_\_\_\_\_ Date \_\_\_\_\_

*Wing* Village Manager X *Len Flood* \_\_\_\_\_ Date *12/10/03*

**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.





## InterOffice Memo

**To:** Len Flood, Acting Village Manager  
**From:** Stan Rickard, Director of Public Works  
**Date:** December 10, 2003  
**Subject:** Termination of the Dust Control Contract  
with Boecker Road Maintenance

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Attached is a letter from Boecker Road Maintenance (Mr. Roger Suhar) requesting the Boecker Road Maintenance be released from its contract. Also attached is a letter from Village Attorney Ms. Janet Petsche.

Boecker Road maintenance has performed the Dust Control contract for the Village for several years. Over the last year, the company transferred the actual work over to CAM LLC. During the majority of construction season (June to October), CAM performed all requested dust control.

Considering that a new dust control contract will be bid this spring and that dust control will in all likely hood not be necessary until late May or early June (at the earliest) the Engineering Division recommends termination of the contract with Boecker Road Maintenance and the release of the contract bond.

Please present this contract to the President and Board of Trustees for their review and approval at their regular meeting on December 18, 2003. If approved, the Engineering Division will send over the Termination and Release of Bond form once it has received an approved original copy.

CC: File: M-03-01/M-02-03



STATE OF ILLINOIS     )  
  )  
COUNTY OF DUPAGE    )

CLERK'S CERTIFICATE

I, the undersigned, the duly qualified and acting Clerk of the Village of Lombard, DuPage County, Illinois, and the keeper of the records thereof, do hereby certify that attached hereto is a true and correct copy of Resolution No. \_\_\_\_\_ being a Resolution entitled:

**A RESOLUTION AUTHORIZING  
EXECUTION OF AN AGREEMENT TO TERMINATION OF BOECKER ROAD  
MAINTENANCE, INC. CONTRACT AND RELEASE OF BONDS OF THE  
VILLAGE OF LOMBARD, DUPAGE COUNTY, ILLINOIS**

which Resolution was duly adopted at a regular meeting of said Village at which a quorum of the Board of Trustees was present and which was held in compliance with the Illinois Open Meetings Act on the 18th day of December, 2003.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Barbara Johnson  
Acting Village Clerk, Village of Lombard

(SEAL)



DEC-18-2023 11:17

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION AUTHORIZING  
EXECUTION OF AN AGREEMENT TO TERMINATION OF BOECKER ROAD  
MAINTENANCE, INC. CONTRACT AND RELEASE OF BONDS OF THE  
VILLAGE OF LOMBARD, DUPAGE COUNTY, ILLINOIS**

WHEREAS, the Village of Lombard, DuPage County, Illinois entered into a Contract with Boecker Road Maintenance, Inc. (hereinafter referred to as "Boecker") dated April 17, 2003 for dust control on the Village's roads; and,

WHEREAS, Boecker provided the Village with all required bonds pertaining to the work of said contract; and,

WHEREAS, Boecker subcontracted the performance of said contract to Cam, LLC (hereinafter referred to as "Cam") which has provided a proposal to the Village that will allow the continuation of the dust control service by Cam without interruption should service be needed prior to the expiration date of Boecker's contract; and

WHEREAS, Boecker will no longer pursue the business of dust control and wishes to terminate its contract with the Village and secure release of its bonds because the need for dust control services during the winter months prior to the expiration date of Boecker's contract is not contemplated by Boecker.

**NOW THEREFORE, Be It Resolved** by the Village President and the Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

**Section 1:** That the Termination of Contract and Release of Bonds provided by Boecker (hereinafter referred to as the "Agreement") attached hereto as Exhibit "A" and made a part hereof is approved and the Village President and the Village Clerk of the Village are hereby authorized and directed to execute said Agreement on behalf of the Village and take such other action as may be

necessary to effectuate the terms of said Agreement

Section 2: That this Resolution shall be in full force and effect from and after its adoption and approval as required by law.

**ADOPTED** this 18th day of December, 2003, pursuant to an roll call vote as follows:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

APPROVED by me this \_\_\_\_ day of \_\_\_\_\_, 2003.

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

ATTEST:

\_\_\_\_\_  
Barbara Johnson  
Acting Village Clerk

#125396



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ROGER T. SUHAR  
ATTORNEY AT LAW  
190 EAST FIFTH AVENUE SUITE 25  
NAPERVILLE, ILLINOIS 60563  
630.848.1800

November 14, 2003  
(Re-mailed & re-faxed on 11/13/03)

Klein, Thorpe and Jenkins, Ltd.  
Attorneys at Law  
20 North Wacker Drive  
Chicago, IL 60606-2903

Attn: Ms. Janet N. Petsche

Re: Village of Lombard  
Boecker Road Maintenance, Inc.  
Dust Control Contract (M-04-01 FY 2004)

Dear Ms. Petsche:

I am contacting you on behalf of my client, Boecker Road Maintenance, Inc.

It is my understanding that the above-referenced Dust Control Contract will end on 04/30/04 and that, in the past, the Village of Lombard has not required any dust control work to be done until sometime into the month of May.

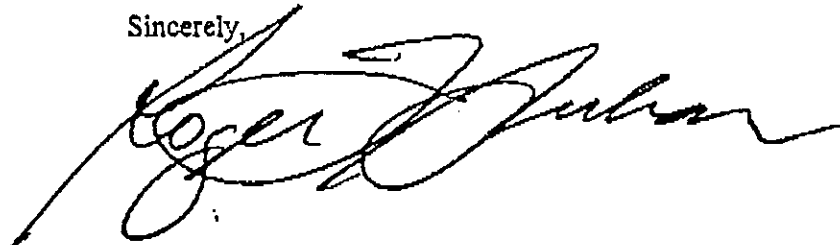
Boecker Road Maintenance, Inc. (Boecker RM) would like to close the books on its business at the end of this year. To do that Boecker RM would need the Village of Lombard to cancel the remainder of its current dust control contract with Boecker RM and to release its bonds for this contract.

Because dust control services have not usually been requested by the Village until May there appears to be no disadvantage to the Village to cancel this contract and release the contract bonds now.

Please let me know if the Village of Lombard will cancel the remainder of the term of the current Dust Control Contract that it has with Boecker Road Management, Inc. and release bonds pertaining to this contract. Enclosed is a draft of the Termination of Contract and Release of Bonds form that we propose to use.

Thank you for your cooperation in this matter.

Sincerely,



Roger T. Suhar



Re: Village of Lombard  
Boecker Road Maintenance, Inc.  
Dust Control Project: Contract (M-04-01 FY 2004)

**TERMINATION OF CONTRACT  
AND RELEASE OF BONDS**

The Undersigned, with requisite approval and authority of the Village of Lombard, Illinois does/do hereby cancel the remainder of the above-referenced Dust Control Contract between Boecker Road Maintenance, Inc. and the Village of Lombard.

Boecker Road Maintenance, Inc. and its principals are hereby released from any and all performance and liability under the terms and conditions of the above-referenced dust control contract

The Village of Lombard also releases any and all Performance and Payment Bonds of Boecker Road Maintenance, Inc. and/or its principals, related to this contract and agrees to promptly return the bonds to Boecker Road Maintenance, Inc.

DATED: \_\_\_\_\_, 2003

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(Title)  
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(Title)  
\_\_\_\_\_  
(Title)

BoeckerRM.Release-VOL

**DRAFT**



LAW OFFICES  
KLEIN, THORPE AND JENKINS, LTD.

SUITE 1660

20 NORTH WACKER DRIVE  
CHICAGO, ILLINOIS 60606-2903

TELEPHONE (312) 984-6400  
FACSIMILE (312) 984-6444  
FACSIMILE (312) 606-7077

ORLAND PARK OFFICE  
15010 S. RAVINIA AVE., SUITE 17  
ORLAND PARK, IL 60462-3162  
TELEPHONE (708) 349-3883  
FACSIMILE (708) 349-1506

PATRICK A. LUCANSKY  
LANCE C. MALINA  
MICHAEL A. MARRS  
THOMAS M. MELODY  
JANET N. PETSCH  
DONALD E. RENNER, III  
SCOTT F. UHLER  
GEORGE A. WAGNER  
DENNIS G. WALSH  
JAMES G. WARGO  
BRUCE A. ZOLNA

OF COUNSEL  
JAMES A. RHODES  
RICHARD T. WIMMER

REINDA Y. ALLISON  
TERRENCE M. BARNICKL  
JAMES P. BARTLEY  
THOMAS P. BAYER  
JENNIFER C. CHAVEZ  
GERARD E. DEMPSEY  
MICHAEL J. DUGGAN  
JAMES V. FEROLO  
SUZANNE M. FITCH  
E. KENNETH FRIKER  
ROBERT R. HALL, JR.  
KATHLEEN T. HENN  
EVERETTE M. HILL, JR.  
MICHAEL T. JURUSIK  
JACOB H. KARACA

WRITER'S DIRECT DIAL

(312) 984-6434

WRITER'S E-MAIL

[jnpetsche@ktjinet.com](mailto:jnpetsche@ktjinet.com)

November 25, 2003

Via Facsimile: (630) 620-5982  
David Dratmol, Village Engineer  
Village of Lombard  
255 East Wilson  
Lombard, Illinois 60148

Re: Contract with Boecker Road Maintenance, Inc. (M-04-01)

Dear Dave:

We recently received the enclosed letter from the attorney for the above-captioned company asking if the Village would consider terminating the company's contract with the Village for dust control and releasing the contract bond the Village holds in the amount of \$37,500.00. Some time ago we received notice that Boecker's contract was to be performed by subcontractor Cam, LLC. and, apparently, Cam has been fulfilling the terms of the contract.

The term of the contract is for 366 calendar days after the Village issued a Notice to Proceed. The Contract is dated April 17, 2003. The attorney suggests that the contract will terminate on April 30, 2004. We do not have knowledge of the date when a Notice to Proceed was issued but it is likely that the contract will terminate by May 1, 2004. The attorney also suggests that the Village would not require dust control services during the winter months from the current date until sometime in May.

There is no legal impediment to using the form furnished by Boecker's attorney which I'm sending to you herewith to terminate the contract and release the bond. The Village must only decide whether it wishes to hold Boecker to the original contract expiration date in order to have Boecker's dust control services available before that date or if it wishes to seek a new contract from another vendor to cover that eventuality.

#124622v1<iManage> -ltr-Boecker-terminate-Lombard

David Dratnol  
November 25, 2003  
Page 2

Please let me know you if you wish to have us prepare a Resolution for the Board of Trustees to adopt authorizing signature of the termination form.

Very truly yours,

A handwritten signature in black ink, appearing to read "Janet N. Petsche", written over a horizontal line.

Janet N. Petsche

encl.