

**COUNCIL PROCEEDINGS
PUBLISHED BY THE AUTHORITY OF THE CITY COUNCIL
OF BLOOMINGTON, ILLINOIS**

The Council convened in regular Session in the Council Chambers, City Hall Building, at 7:35 p.m., Monday, August 24, 2009.

The Meeting was opened by Pledging Allegiance to the Flag followed by Silent Prayer.

The Meeting was called to order by the Mayor who directed the City Clerk to call the roll and the following members answered present:

Aldermen: Judy Stearns, Bernie Anderson, David Sage, John Hanson, Jennifer McDade, Steven Purcell, Karen Schmidt, Jim Fruin and Mayor Stephen F. Stockton.

Alderman absent: Kevin Huette.

City Manager David Hales, City Clerk Tracey Covert, and Corporate Counsel Todd Greenburg were also present.

The following was presented:

David Hales, City Manager, introduced Timothy Ervin, newly appointed Director of Finance. Mr. Hales noted that the previous Director had resigned and the Assistant Director also retired. Upon the vacancies, Mr. Ervin directed his time and talents to improve the City's overall financial processes and revenue projections. Many recommendations have been made by Mr. Ervin.

Mr. Ervin commenced employment with the City in 1999. Initially he was employed as a Financial Analyst. He was promoted to Supervisor of Financial Services. He held a bachelor's degree in Management from the University of Illinois. He had continued his education. He was completing a Master's degree in Accountancy at Illinois State University.

Mr. Ervin was joined this evening by his wife and their three (3) children.

Tracey Covert, City Clerk, performed the Oath of Office.

The following was presented:

Presentation of Beautification Awards 2009. Stan Cain, Beautification Committee Chairman, addressed the Mayor and Council. He introduced the committee members who were present at the meeting. These awards were an annual program which recognizes residential and commercial properties throughout the City. The Committee reviewed one

hundred (100) nominations. This evening thirteen (13) residential and four (4) commercial properties will be recognized. Most of the recipients were present.

Residential awards (the following were present): Delores McClure, 1412 West Olive Street, (past recipient); Doug DeLong and Vicki Tinervin, 1016 East Grove Street, (former tool and dye building); Frank and Kathy Waterstraat, 1110 North Clinton Street; Kay Moss and Thomas Crumpler, 410 East Walnut Street, (historic home on Franklin Square); Robert and Karen Brooks, 5 Kenyon Court; Jeff and Anita Brock, 4 Country Club Place, (Anita present); Rick and Patti Penn, 402 Watford Drive; Natalie Wilson, 3421 Fountain Lake Drive, (completed work herself); Jo Morrison, 2818 Gill Street, (townhome); Tim and Maryse Hessing, 1 Bohrer Court, (newer home); Shane and Vicki Miller, 2005 Oakwood Drive; and Kim Guttschow and Mark Wilkins, 1808 Springfield Road, (award accepted on their behalf by Kim Guttschow's mother). Residential award (the following was not present): Rick and Susie Mrkacek, 21 Lavender Lane.

Commercial awards: (the following were present) West Bloomington Community Gardens, Mulberry and Roosevelt – accepted by Valarie Dumser; Hawthorne II Subdivision entrance, GE Road and Woodbine – accepted by Don Sutton, Vice President of Homeowner's Association; Miller Park – splashground and miniature golf area, award accepted by Bobby Moews, Superintendent - Parks; and Auto Wash, 1502 West Market Street – accepted by Clint and Diane Nord, owners. He encouraged all present to visit these properties.

The following was presented:

SUBJECT: Council Proceedings of August 28, 2006 and the Executive Session Minutes of August 10, 2009

RECOMMENDATION: That the reading of the minutes of the previous Council Proceedings of August 28, 2006 and the Executive Session Minutes of August 10, 2009 be dispensed with and the minutes approved as printed.

BACKGROUND: The Council Proceedings of August 28, 2006 and the Executive Session Minutes of August 10, 2009 have been reviewed and certified as correct and complete by the City Clerk.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Tracey Covert
City Clerk

David A. Hales
City Manager

Motion by Alderman Purcell, seconded by Alderman Schmidt that the reading of the minutes of the previous Council Meeting of August 28, 2006 and Executive Session Minutes of August 10, 2009 be dispensed with and the minutes approved as printed.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Bills and Payroll

RECOMMENDATION: That the bills and payroll be allowed and orders drawn on the Treasurer for the various amounts as funds are available.

BACKGROUND: The list of bills and payrolls will be furnished to you in on Friday, August 21, 2009 by posting via the City's web site. After examination, I will notify the Council of any items which may need to be addressed.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Barbara J. Adkins
Deputy City Manager

David A. Hales
City Manager

Motion by Alderman Purcell, seconded by Alderman Schmidt that the bills and payroll be allowed and orders drawn on the Treasurer for the various amounts as funds are available.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Payments from Various Municipal Departments

RECOMMENDATION: That the payments be approved.

BACKGROUND: All of the described payments are for planned and budgeted contracts previously approved by the City Council.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: As follows:

1. The third partial payment to Economic Development Council of Bloomington/Normal in the amount of \$6,666.66 on a contract amount of \$80,000 of which \$19,999.98 will have been paid to date for work certified as 25% complete for the McLean County Economic Development. Completion date – April 2010.
2. The first partial payment to Downtown Bloomington Association in the amount of \$37,235.43 on a contract amount of \$125,000 of which \$37,235.43 will have been paid to date for work certified as 30% complete for the Downtown Redevelopment Plan Partnership. Completion date – December 2009.
3. The first partial payment to Convention and Visitors Bureau in the amount of \$88,333.33 on a contract amount of \$530,000 of which \$88,333.33 will have been paid to date for work certified as 17% complete for the CVB Annual Funding Commitment. Completion date – June 2010.
4. The thirty-eighth partial payment to APACE Architects & Design in the amount of \$999.76 on a contract amount of \$349,800 of which \$336,126.26 (\$12,992.58 in reimburseables) will have been paid to date for work certified as 96% complete for the Design of Fire Station #5. Completion date – August 2009.

5. The sixth partial payment to Kirk C & D Recycling Inc. in the amount of \$46,550.17 on a contract amount of \$423,000 of which \$418,000 will have been paid to date for work certified as 99% complete for the Demolition of 408 E. Washington St. Completion date – June 2009.
6. The thirteenth partial payment to Testing Services Corporation in the amount of \$3,415.75 on a per ton and hour contract of which \$30,392.12 will have been paid to date for work certified as ongoing for the 2008-2009 Asphalt & Portland Concrete Plant Inspection and Laboratory Testing. Completion date – December 2009.
7. The ninth partial payment to Rowe Construction Co. in the amount of \$412,027.33 on a contract amount of \$3,476,726.41 of which \$2,162,661.97 will have been paid to date for work certified as 62% complete for the Lincoln Street – Bunn to Morrissey (MFT 92-00283-00-RP). Completion date – October 2009.
8. The first partial payment to Farnsworth Group, Inc. in the amount of \$34,717.25 (\$563.32 reimburseables) on a contract amount of \$108,600 of which \$34,717.25 will have been paid to date for work certified as 32% complete for the Kickapoo Restoration Project – Phase II. Completion date – May 2010.
9. The fourteenth partial payment to Clark Dietz in the amount of \$6,527.50 on a contract amount of \$50,000 of which \$36,187.27 will have been paid to date for work certified as 72% complete for the Water Mapping Services. Completion date – December 2009.
10. The nineteenth partial payment to Whittman Hydro Planning Associates, Inc. in the amount of \$73,445.93 on a contract amount of \$868,846 of which \$549,257.63 will have been paid to date for work certified as 63% complete for the Strategic Source Water Study. Completion date – September 2010.
11. The third partial payment to Farnsworth Group, Inc. in the amount of \$93 on a contract amount of \$90,000 of which \$585.25 will have been paid to date for work certified as 1% complete for the Design of Clustered Wastewater System at Lake Bloomington Reservoir. Completion date – January 2011.
12. The eighth partial payment to Clark Dietz, Inc. in the amount of \$4,940 on a contract amount of \$21,700 of which \$18,097.86 will have been paid to date for work certified as 83% complete for the Lincoln St. Bunn to Morrissey. Completion date – September 2009.
13. The eighteenth partial payment to Clark Dietz, Inc. in the amount of \$140 on a contract amount of \$60,000 of which \$54,346.17 will have been paid to date for work certified as 91% complete for the Observation/Inspection of Parkview Water Main Replacement Phase I. Completion date – January 2010.

14. The twentieth partial payment to Clark Dietz in the amount of \$150 on a contract amount of \$84,600 of which \$72,366.88 will have been paid to date for work certified as 86% complete for the Parmon Rd. Water Main Replacement. Completion date – December 2009.
15. The sixteenth partial payment to Village of Downs in the amount of \$18,344.15 on a contract amount of \$435,000 of which \$414,896.96 will have been paid to date for work certified as 95% complete for the Downs Sewerage Improvements Project. Completion date – October 2009.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Tracey Covert
City Clerk

David A. Hales
City Manager

Motion by Alderman Purcell, seconded by Alderman Schmidt that the payments be approved.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Audit of the Accounts for the Township Supervisor of General Assistance Fund and General Town Fund for the Month of July, 2009

RECOMMENDATION: That the audit of the bills and payrolls for the Township for the month of July, 2009 be made a matter of record.

BACKGROUND: Audit of the Accounts for the Township Supervisor of General Assistance Fund and General Town Fund for the month of July, 2009 were presented for Audit by the Township Supervisor.

The Audit of these accounts took place on Monday, August 24, 2009 at 6:30 p.m. in the Conference Room of Bloomington City Hall and should, at this time, be made a matter of record.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Tracey Covert
City Clerk

David A. Hales
City Manager

Motion by Alderman Purcell, seconded by Alderman Schmidt that the audit of the bills and payroll be made a matter of record.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Report

RECOMMENDATION: That the report be received and placed on file.

BACKGROUND: The following reports should be received and placed on file with the City Clerk:

1. Monthly Receipt & Expenditure Report, July 2009.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Tracey Covert
City Clerk

David A. Hales
City Manager

Motion by Alderman Purcell, seconded by Alderman Schmidt that the report be placed on file and made a matter of record.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Request to Pay Stark Excavating, Inc. for Emergency Repair of City Sewer in the 700 Block of E. Jefferson Street (Ward 4)

RECOMMENDATION: That the Payment be approved.

BACKGROUND: A large cave-in was discovered near the thirty-six inch (36") public sewer west of Clinton Street in the 700 Block of E. Jefferson Street. The sewer was constructed in 1881 of a single ring of bricks. City crews inspected the sewer with the camera truck and discovered a severely deteriorated connection between the thirty-six inch (36") sewer and a fifteen inch (15") sewer. A manhole did not exist at this connection point. As the need for the repairs was urgent to protect the public safety and due to the location of the sewer and the scope of the work, a contractor was retained to make the repair. Stark Excavating, Inc. performed an excavation at the subject location, removed the deteriorated connection, constructed a new manhole at the connection, backfilled the excavation and performed surface restorations. A time and materials bill for the work in the amount of \$23,727.03 has been submitted. Staff has reviewed the bill and finds it to be in order.

Staff respectfully recommends that Council approve a payment in the amount of \$23,727.03 to Stark Excavating, Inc. for the repair of the sewer with payment to be made with Storm Water Management Funds (X55100-70550).

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Adjacent property owners and residents.

FINANCIAL IMPACT: Payment for this work in the amount of \$23,727.03 will be paid with Storm Water Management Funds (X55100-70550).

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Jim Karch
Director of Public Works

David A. Hales
City Manager

Motion by Alderman Purcell, seconded by Alderman Schmidt that the payment be approved.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Waive the Formal Bidding Process and Purchase Lime, a Water Treatment Chemical, from Mississippi Lime, Inc. for Two (2) Years starting September 1, 2009

RECOMMENDATION: That the Formal Bidding Process be waived, Lime, a water treatment chemical, be purchased from Mississippi Lime, Inc. in the amount of \$143 per ton for Fiscal Year (FY) 2009/10 and \$150 per ton in FY 2010/11, the Purchasing Agent be authorized to issue a Purchase Order for same, and the Resolution adopted.

BACKGROUND: Each year, competitive bids are requested for annual water treatment chemical needs. In 2007, a supplier with the lowest bid price for lime was chosen. When the product was delivered and used, it did not meet the City's specification and the material caused operational water treatment problems. Other suppliers have been used in past years with similar results. This has generally led to serious equipment problems, extensive clean-up efforts, water quality degradation, and overall higher water treatment costs.

With the problems that arose in 2007, staff requested permission from Council to negotiate a lime price from Mississippi Lime, Inc., the supplier that had been used successfully for years. The request was approved by Council on March 24, 2008. Since the competitors, through actual use, have been shown to be unable to meet the specifications and the product from Mississippi

Lime, Inc. had been successfully used for years, staff respectfully requests permission to purchase this chemical from Mississippi Lime, Inc. in FY 2009/10 for the quoted price of \$143/ton and \$150/ton in FY 2010/11. The FY 2009/10 price is the same as the City negotiated in 2008.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: The annual expense for lime has been budgeted for in account 5010-50130-70590 (Water, Purification Division, Chemicals Account).

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Craig M. Cummings
Director of Water

David A. Hales
City Manager

RESOLUTION NO. 2009 - 41

**A RESOLUTION WAIVING THE FORMAL BIDDING PROCESS AND
AUTHORIZING THE PURCHASE OF LIME, A WATER TREATMENT CHEMICAL,
FROM MISSISSIPPI LIME, INC. AT A PURCHASE PRICE OF \$143 PER TON FOR FY
2009/10 AND \$150 PER TON IN FY 2010/11**

Be It Resolved by the City Council of the City of Bloomington, Illinois,

1. That the bidding process be waived and the Purchasing Agent be authorized to Purchase Lime, a Water Treatment Chemical, from Mississippi Lime, Inc. at a Purchase Price of \$143 per ton for FY 2009/10 and \$150 per ton in FY 2010/11.

ADOPTED this 24th day of August, 2009.

APPROVED this 25th day of August, 2009.

APPROVED:

Stephen F. Stockton, Mayor

ATTEST:

Tracey Covert, City Clerk

Alderman Purcell questioned if other companies supplied lime in order to encourage a bidding process. Craig Cummings, Director of Water, responded affirmatively. There were two to three (2 - 3) major suppliers. The City had experience with all of them and found Mississippi Lime, Inc. to be the best in quality. The lime of all three (3) companies had been laboratory tested. Mississippi Lime, Inc. was chosen because it produced lime that met the City's specifications. The rate charged for the lime was comparable across the state. He added that the City was not paying above the market price.

Motion by Alderman Purcell, seconded by Alderman Schmidt that the Formal Bidding Process be waived, Lime, a water treatment chemical, be purchased from Mississippi Lime, Inc., in the amount of \$143 per ton for Fiscal Year (FY) 2009/10 and \$150 per ton in FY 2010/11, the Purchasing Agent authorized to issue a Purchase Order for same, and the Resolution adopted.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Analysis of Bids and Approval of Contract for Kickapoo Creek Restoration - Phase II

RECOMMENDATION: That the Bid for Kickapoo Creek Restoration – Phase II from Stark Excavating, Inc., be approved in an amount not to exceed \$1,318,948 and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: This project consists of grading, creek restoration work, wetland construction and other related site work at the future Kickapoo Park adjacent to the Grove Subdivision. This project is the second of three (3) construction phases to restore Kickapoo Creek to a more natural configuration in the vicinity of the Grove Subdivision. The first phase was substantially complete in June 2009. A total of four (4) bids were received and opened at 2:00 P.M. on August 11, 2009, in the City Hall Main Conference Room.

	Base Bid	Additive Alternate A	Total Base Bid + Alt. A
Stark Excavating Inc.*	\$1,096,291.90	\$240,859.35	\$1,337,151.25
Beyers Construction	\$1,162,644.92	\$247,486.96	\$1,410,131.89
Otto Baum Co. Inc.	\$1,638,075.90	\$394,936.09	\$2,033,011.99
Rowe Construction Co.	\$1,948,919.91	\$442,790.54	\$2,391,710.45

*Low Bid

Engineer's Estimate	\$1,245,792.50	\$263,428.50	\$1,509,221.00
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COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: The Grove on Kickapoo Creek LLC, Illinois Department of Natural Resources, and Illinois Environmental Protection Agency.

FINANCIAL IMPACT: The total City funds budgeted for this project are \$500,000 in Storm Water Depreciation Funds (SWDF-X55200-72550). The remaining balance (\$818,948) will be funded with a grant from the IEPA (Park Dedication Funds – X14110-79990). The as-bid cost of the project exceeds the total funds budgeted. However, staff will work with the Farnsworth Group and the contractor to accomplish minor design changes that hold the total project cost to the budgeted amount.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed and concurred with:

Recommended by:

Jim Karch
Director of Public Works

John Kennedy
Director of Parks, Recreation,
& Cultural Arts

David A. Hales
City Manager

(CONTRACT ON FILE IN CLERK'S OFFICE)

Motion by Alderman Purcell, seconded by Alderman Schmidt that the bid for Kickapoo Creek Restoration – Phase II from Stark Excavating, Inc. be approved in an amount not to exceed \$1,318,948, and the Mayor and City Clerk be authorized to execute the necessary documents.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Renewal of Request for Proposals (RFP) Award for Beverage Service for Events Held at the Bloomington Center for the Performing Arts (BCPA)

RECOMMENDATION: That the contract with Six Strings, the preferred beverage vendor for the Bloomington Center for the Performing Arts (BCPA), be extended for an additional year.

BACKGROUND: RFP's for food and beverage service for the BCPA were solicited in August 2008. The terms of the RFP provided for an annual renewal for up to three (3) years. This is the first year for this RFP to be renewed. A review of the first year performance was held and the BCPA staff has been pleased with the service level, record keeping and income received from this vendor. Staff respectfully recommends renewal.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: The BCPA receives fifteen percent (15%) of total gross sales from this vendor.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

John Kennedy
Director of Parks, Recreation & Cultural Arts

David A. Hales
City Manager

Alderman Schmidt stated she had received several questions regarding the 2008 Request for Proposal (RFP). She questioned how the Council should handle questions and what future action on this RFP would be. David, Hales, City Manager, responded that in 2008 sixteen (16) RFP's were provided. Of those only one (1) vendor, Six Strings, responded. Six Strings was given a one (1) year contract with the possibility of three (3) one year renewals.

Alderman Schmidt questioned if the Council had checked service appropriateness for all vendors. Mr. Hales offered to report back to the Council.

Motion by Alderman Purcell, seconded by Alderman Schmidt that the contract with Six Strings, the preferred beverage vendor for the BCPA, be extended for an additional year.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Renewal of a Contract with Starnet Technologies, Inc. for Preventive Maintenance and Support Service for the Supervisory Control and Data Acquisition (SCADA) System

RECOMMENDATION: That the Contract with Starnet Technologies, Inc., for the Preventative Maintenance and Support Service of the SCADA System be renewed in an amount not to exceed \$19,411 per year, and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: The Water Department's SCADA system is over ten (10) years old and is in need of increasing maintenance. Currently, the department utilizes the SCADA system's integrator, Starnet Technologies, Inc., on an as-needed basis, to provide maintenance above which staff is able to provide. Staff has purchased this service for several years and finds it to be more cost-effective than purchasing support time on an emergency basis.

Starnet Technologies, Inc., at staff's request, has submitted a proposal for their preventive maintenance services to provide fifteen (15) one (1) day preventative maintenance visits and twenty (20) hours of telephone support for \$19,411 per year. Staff has reviewed this proposal and finds it to be in order.

Staff respectfully recommends that Council approve the renewal of a contract for preventative maintenance of the Water Department's SCADA System at a cost not to exceed \$19,411 per year, and that the Mayor and City Clerk be authorized to execute the necessary documents.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: This service has been budgeted for in the FY 2009/10. Payment for the service would be made equally from funds in the Water Department, Purification Division, Operations and Maintenance accounts, Other Professional and Technical Services, account number 5010 - 50130 - 70220, and Water Department, Transmission and Distribution Division, Operations and Maintenance accounts, Other Professional and Technical Services, account number 5010 - 50120 - 70220. These accounts are budgeted at \$20,000 and \$75,000, respectively.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed for legal sufficiency:

Craig M. Cummings
Director of Water

J. Todd Greenburg
Corporation Counsel

Recommended by:

David A. Hales
City Manager

SCADA PREVENTIVE MAINTENANCE AND SUPPORT SERVICE AGREEMENT BLOOMINGTON, ILLINOIS WATER SCADA SYSTEM

The following is the scope of preventive maintenance and system support to be performed by Starnet Technologies, Inc. for the City of Bloomington Water SCADA system. These additional hours will be added to your existing agreement.

HARDWARE SUPPORT

Starnet Technologies will provide availability of 24-hour emergency on-site service for the control systems. Parts that fail will be repaired or replaced as expeditiously as possible so as to minimize any down time. Our response time goal will be 8 hours. It is the customer's responsibility to stock spare parts for critical or long lead-time items.

We will keep current a set of drawings, schematics, and manuals for the control systems at our office. Any changes we make will be recorded in this set. Initial copies of drawings and manuals are to be provided to us by the customer.

Parts provided by Starnet will be invoiced to the customer at cost plus 15%.

Labor provided by Starnet Technologies will be our standard rates minus 15%. Labor that would be at the 1.5 multiplier normally will be provided at 1.0 times our standard rates under this agreement. Labor that would be at the 2.0 multiplier normally will be provided at 1.5 times our standard rates under this agreement. See the attached rate schedule.

TELEPHONE SUPPORT

Up to (20) hours per year of telephone support is included in this agreement. Additional telephone support time will be invoiced.

PREVENTIVE MAINTENANCE

This agreement includes (15) 1-day trips for preventive maintenance, calibration, testing and training. These eight hour trips are intended to be on a non-emergency basis, but may be used at your discretion. Each trip includes mileage and travel expenses.

SOFTWARE SUPPORT

We will maintain an off-site backup of your system's software and configuration. During each preventive maintenance trip, we will make a backup of your system software for our off-site backup as the most current copy. This will provide you the added protection necessary as part of your disaster planning.

Total Service Agreement Price \$19,411.00

This agreement is for a term beginning on the date we receive your signed copy of this agreement as authorization, and ending on the same date of the following year. The agreement is automatically renewed for the next year by the parties at the stated amount plus CPI unless either party provides the other 30 days written notice to cancel the agreement or propose a change in the conditions.

BLOOMINGTON, ILLINOIS

STARNET TECHNOLOGIES, INC.

By: Stephen F. Stockton
By Karen Schmidt

By:

Date: September 3, 2009

Date:

Alderman Purcell questioned the services provided under this agreement. Craig Cummings, Director of Water, responded that combinations of services were provided. The reason for the service contract was the ten percent (10%) labor cost discount. Service agreements provide the contractor with the opportunity to plan future appointments. He added that within the past two (2) years, the twenty (20) allowed visits had been used. The Supervisory Control and Data Acquisition (SCADA) system was aging. In 2010, a needs assessment would be completed to determine equipment replacement.

Alderman Purcell questioned services provided by SCADA. Mr. Cummings confirmed services were provided at the water treatment plant and pump stations within the City. He added that several senior employees had taken early retirement. The City has become reliant upon Starnet for their support and knowledge.

Motion by Alderman Purcell, seconded by Alderman Schmidt that the Contract with Starnet Technologies for Preventative Maintenance and Support Service for the SCADA System be renewed in an amount not to exceed \$19,411 per year, and the Mayor and City Clerk be authorized to execute the necessary documents.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Permission to Extend Granular Activated Carbon (GAC) Lease Agreement with Calgon Carbon Inc, for the Purification Plant

RECOMMENDATION: That the lease extension with Calgon Carbon Inc., for GAC in the amount of \$19,285 per month for a period of thirty-six (36) consecutive months be approved, the Purchasing Agent be authorized to issue a Purchase Order for same, and the Resolution be adopted.

BACKGROUND: The Water Department has utilized Calgon Carbon Inc. for the leasing of Calgon Filtrasorb 300 GAC since 1990. Extensive bench scale tests indicated that it was the best GAC for the City's source waters (water from the Lake Bloomington and Evergreen Lake reservoirs). Each water source is unique in the constituents that can be found in them.

The treatment objective of using a particular GAC determines the best GAC for the particular application. In the case of the City, removal of taste and odor compounds is the highest priority followed by organic compound removal. Calgon Filtrasorb 300 GAC has demonstrated that it is the best taste and odor adsorbing carbon for the City's source waters.

Prior to 1990, the City water supply was plagued by annual taste and odor occurrences of varying intensity. Since 1990, the vast majority of the time the City's water supply is free from objectionable tastes and odors for the majority of customers.

The GAC acts like a sponge and absorbs organic compounds from the water. Once the GAC is saturated, it must be replaced. Since this is a process, that in the City's experience takes several years, approximately one third (1/3) of the total filters at the Water Treatment Plant have the GAC replaced annually. Thus the figure of 5,532 cubic feet indicates the GAC that will be replaced each year, representing the amount of GAC required to fill three (3) of the filters in the newer portion of the plant and four (4) of the filters in the older portion of the Plant.

Staff respectfully recommends that Council approve the extension of the lease with Calgon Carbon Inc. for the Calgon Filtrasorb 300 Granular Activated Carbon with 5,532 cubic feet being replaced each year at a cost of \$19,285 per month for a period of thirty-six (36) consecutive months, and Purchasing Agent be authorized to issue a Purchase Order for same, and the Resolution be adopted.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Water treatment chemicals have a budget of \$550,000 for FY 2009/10 budget. This amount included lease payments for GAC. Payment would be made from the Water Department, Purification Division, Operations and Maintenance accounts, Water

Chemicals account (account number 5010 - 50130 – 71720). The monthly lease rate may be adjusted annually.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed as to legal sufficiency:

Craig M. Cummings
Director of Water

J. Todd Greenburg
Corporation Counsel

Recommended by:

David A. Hales
City Manager

RESOLUTION NO. 2009 - 42

**A RESOLUTION AUTHORIZING A CHANGE ORDER IN THE
AMOUNT OF \$19,285 PER MONTH FOR A PERIOD OF THIRTY-SIX (36)
CONSECUTIVE MONTHS IN THE LEASE AGREEMENT BETWEEN THE CITY
OF BLOOMINGTON AND CALGON CARBON INC. FOR GRANULAR ACTIVATED
CARBON (GAC)**

WHEREAS, the City of Bloomington has previously entered into a lease agreement with Calgon Carbon Inc, for Granular Activated Carbon (GAC); and

WHEREAS, for the reasons set forth in a staff report dated August 24, 2009 it was necessary to absorb organic compounds from source water; and

WHEREAS, it is the finding of the City Council that the decision to perform the work described in the August 24, 2009 memo was in the best interest of the citizens of the City of Bloomington.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON, ILLINOIS:

That a change order in the amount of \$19,285 per month in the contract between the City of Bloomington and Calgon Carbon Inc. for Granular Activated Carbon (GAC) be approved.

ADOPTED this 24th day of August, 2009.

APPROVED this 25th day of August, 2009.

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

**CALGON CARBON CORPORATION
POTABLE WATER SERVICE AGREEMENT
2009 AMENDMENT**

THIS AMENDMENT made and agreed upon as of the 1st day of August 2009, by and between Calgon Carbon Corporation (Calgon Carbon) and the City of Bloomington, IL. Calgon Carbon hereby agrees to provide our Filtrasorb 300 brand of granular activated carbon (GAC) to the City of Bloomington, IL water treatment facility for use in its Eighteen (18) gravity water treatment filtration units. Each year of this contract, Calgon will supply the GAC for four (4) of the older filter units and three (3) of the new filter units. The old filter units each contain 690 cubic feet of GAC, while the new filter units contain 924 cubic feet. Each year a total of 5,532 cubic feet will be supplied on a backwashed and drained density basis. The purpose of the GAC is to control undesirable taste and odors, pesticides, and to assist in removal of turbidity from the city water supply on the following terms and conditions:

A. PAYMENTS

1. The City of Bloomington, IL will pay Calgon Carbon a base fee of \$19,285.00 per month for 36 consecutive months, commencing the month the first delivery takes place.
2. The City of Bloomington, IL shall remit payment in full to Calgon Carbon for each Calgon Carbon invoice within (30) days from date of invoice.

B. DURATION OF AGREEMENT

1. This agreement will be in effect for 36 months from the date hereof. After 36 consecutive months, the City of Bloomington, IL has the option to extend the use of the GAC under an Extended Use Option. The Extended Use Option will be 50% of the base fee described in Section A. Payments. Warranties will not apply to Extended Use.

C. PRIOR AGREEMENTS

1. This agreement supersedes any prior agreement either written or oral between the City of Bloomington, IL and Calgon Carbon. Payments under prior agreements shall be terminated upon execution of this agreement by both parties. The entire agreement is contained herein, and there are no promises or representations affecting this agreement, and any terms and conditions appearing in any purchase order, or similar documents

issued or accepted in connection with the services unless here stated and to be rendered hereunder shall be null and void.

The parties have mutually agreed to these terms and conditions as of the date designated above.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed as of the date written below:

CITY OF BLOOMINGTON, IL

CALGON CARBON CORPORATION

Stephen F. Stockton
Mayor

August 25, 2009

EXHIBIT I
RESPONSIBILITIES OF CALGON CARBON

1. Calgon Carbon will manufacture and deliver the necessary Filtrasorb 300 activated carbon to fill each of the Eighteen (18) gravity water filters at the City of Bloomington, IL Water Filtration Plant. The 12 older filters will contain 690 cubic feet each, while the 6 newer filters will contain 924 cubic feet each of Filtrasorb 300. The old filters measure 435 ft² with 19” of GAC. The new filters measure 462 ft² with 24” of GAC. Under the terms of this agreement, 5,532 cubic feet of Filtrasorb 300 will be supplied each year on a backwashed and drained density basis. Refer to Exhibit III - Carbon Filter Schedule, for specific information.
2. GAC deliveries to begin the week of October 5th, 2009.
3. Calgon Carbon will retain ownership of the Filtrasorb 300 activated carbon and will return the spent carbon to one of our reactivation facilities. Calgon Carbon will assure the City of Bloomington, IL that the spent carbon will be disposed of in a safe and responsible manner including reactivation if the carbon meets Calgon Carbon’s spent activated carbon acceptance criteria listed in Exhibit IV. Calgon Carbon will notify the City of Bloomington, IL in writing of the final disposition of the spent carbon referenced herein.
4. Calgon Carbon will provide appropriate backwash curves and proper backwash procedures as needed.
5. Calgon Carbon will analyze a representative sample of the Filtrasorb 300 activated carbon on a semi-annual basis for iodine number, ash, apparent density, and mesh size.
6. If during the first year of this agreement additional supplies of Filtrasorb 300 activated carbon are requested by the City of Bloomington, IL, Calgon Carbon will supply that

volume at a price of \$41.83 per cubic foot delivered to the City of Bloomington, IL Water Treatment facility. If additional volumes are required in years following the first contract year, the base price of \$41.83 per cubic foot will be adjusted as indicated in the Fee Adjustment section of this agreement.

EXHIBIT II
RESPONSIBILITIES OF THE CITY OF BLOOMINGTON, IL

1. The City of Bloomington, IL will perform the exchanges of the GAC and is responsible for the off-loading and loading of all trailers.
2. The City of Bloomington, IL will provide the necessary water, electricity, and suitable drainage to accomplish the transfer of the virgin and spent Filtrasorb 300 activated carbon.
3. If a spill occurs into the source water supply for the City of Bloomington, IL, then the City of Bloomington, IL will notify Calgon Carbon of the occurrence and the type of chemicals spilled, if known by the City of Bloomington, IL.

If it is then determined by the City of Bloomington, IL that the activated carbon was contaminated by the spill, the City of Bloomington, IL can then request Calgon Carbon to supply replacement activated carbon. Calgon Carbon will take the spent activated carbon back for thermal reactivation subject to spent carbon acceptance and supply additional virgin Filtrasorb 300. Filtrasorb 300 is priced in Exhibit I, RESPONSIBILITIES OF CALGON CARBON. Should the City of Bloomington, IL declare the spent activated carbon hazardous, the City of Bloomington, IL then agrees to reimburse Calgon Carbon for the additional cost of transporting a hazardous material.

4. If during the life of the agreement the activated carbon becomes fouled by inorganic precipitates, such as calcium carbonate or iron oxide, the City of Bloomington, IL shall have the option to clean the activated carbon or request Calgon Carbon to exchange the fouled activated carbon. The cost of cleaning the activated carbon will be the responsibility of the City of Bloomington, IL and the cost of replacement activated carbon will be covered by Exhibit I, RESPONSIBILITIES OF CALGON CARBON.
5. The City of Bloomington, IL will provide clear access to the site for delivery and spent carbon removal.
6. The City of Bloomington, IL will provide all plant modifications, pre and post treatments and sterilization of the filter beds as may be required.

EXHIBIT III
CARBON DELIVERY SCHEDULE

Year	Month	Volume Delivered (cubic ft)
2009	October	5,532
2010	October	5,532
2011	October	5,532

EXHIBIT IV
CRITERIA FOR RETURN FOR REACTIVATION OF
NON-RCRA SPENT GRANULAR ACTIVATED CARBON (GAC)

The following ACCEPTANCE CRITERIA must be met for return for reactivation:

<u>Characteristic/Property</u>	<u>Limits of Acceptability</u>
Size	Greater than or equal to 12x40 mesh
pH Range	Greater than 2.0 and less than 12.5
Ignitable (per RTM-10)	Not acceptable
Dioxins (by testing, court decree or definition)	Not acceptable
Polychlorinated Biphenyls (PCBs)	Not acceptable
1, 2-Dibromo-3-chloropropane (DBCP)	Not acceptable
Radioactivity	Not to exceed Background Level
Sodium	Maximum of 0.1 wt. %
Halogenated/Aromatic Volatiles (SW 846 - Methods 8010/8020)	Maximum of 2000 ug/g (Blue Lake plant only)

Note 1: Spent Granular Activated Carbon to be returned for reactivation shall be free of any foreign debris (rock, wood, metal, etc.) or extraneous impurities, free of oil and grease, easily wetted by water, and free flowing.

Note 2: Acceptance for reactivation of spent carbon which has not been supplied by Calgon Carbon Corporation must be investigated on a case-by-case basis.

EXHIBIT V
GENERAL TERMS AND CONDITIONS

1. **ASSIGNMENT:** This Agreement is between CALGON CARBON and Subscriber, and any assignment of this Agreement, by either party, except to successors in interest, shall require the prior written consent of the other party, which consent shall not be unreasonably withheld.

2. **FORCE MAJEURE:** Neither Subscriber or CALGON CARBON, except as may otherwise be provided hereafter, shall be liable to the other party for failure to perform any of its obligations due to Act of God, accident, fire, flood, riot, war, sabotage, explosion, strike, labor disturbance, national defense requirements, governmental law, ordinance, rule, or regulation, whether valid or invalid, extraordinary failure of equipment or apparatus, inability to obtain electricity or other type of energy, raw material, labor, equipment or transportation, or any similar or different contingency beyond the party's reasonable control which would make performance impractical whether or not the contingency is of the same class as those enumerated above. The party invoking force majeure shall provide the other party with prompt written notification and shall advise the other party of its estimate as to when the force majeure condition will end. If CALGON CARBON invokes force majeure related to part or all of the services provided hereunder, no fees related to the areas covered by the force majeure claim shall be payable so long as the force majeure condition continues. If Subscriber invokes force majeure, only those fees associated with the on-site equipment will be payable during the period of force majeure. The period for performance shall be extended by the duration of any Force Majeure period, except that if such Force Majeure shall continue for a period greater than one-hundred (120) days, the party seeking performance may cancel its obligations hereunder.

3. **CONTINGENCIES:** CALGON CARBON is responsible under this Agreement for the safe handling, transportation, and reactivation of spent carbon, generated by Subscriber in the application covered by this Agreement, in compliance with all laws, regulations, and orders, for both parties' protection. Therefore, if the loading of contaminants on the carbon exceeds safe limits for handling or reactivation as established by governmental law, regulation, or order related to regulated substances, or limits imposed independently by CALGON CARBON to be protective of its personnel, equipment, or reputation, then CALGON CARBON shall advise Subscriber that it cannot remove the spent carbon for reactivation as is and the parties shall work together to take corrective action. Potential corrective solutions may include: limiting the amount of contaminants on each load of carbon, special handling of the carbon at the site or reactivation center, employing alternate transportation options, or arranging for spent carbon disposal. Costs incurred for such corrective actions are not covered by the fees provided herein, and they shall be to the account of Subscriber, once the corrective action plan is agreed to by Subscriber.

4. **FEE ADJUSTMENT:** The base fee as outlined in Section A. of the Agreement (PAYMENTS) shall remain constant for the first twelve months of the Agreement.

After the initial twelve months and for additional carbon supplies as outlined in Exhibit I, **RESPONSIBILITIES OF CALGON CARBON**, the following fee adjustment will apply:

The fees covered by this Agreement will be adjusted by the combined average of the following two Producer Price Indices, as published by the US Department of Labor:

(A) The year to year total percentage change in the Producer Price Index of Other Petroleum and Coal Products Manufacturing (PCU32419-32419), and

(B) The year to year total percentage change in the Producer Price Index of Basic Organic Chemicals (WPU0614).

5. WARRANTY: CALGON CARBON warrants that under normal conditions, Filtrasorb 300 activated carbon will perform the function of adsorption of dissolved organics which contribute to taste and odors during the life of the warranty. For purposes of warranty, effective organics taste and odor adsorption is defined as that reduction of absorbable dissolved odors such that the threshold odor number of the carbon filtered water as measured by the procedure defined in "Standard Methods for Examination of Water and Wastewater," 16th Edition, shall not persistently exceed two (2) in the carbon filtered plant effluent for five (5) consecutive days with the treatment plant in normal operation at the time during the first 12 months. This warranty will begin on the date of installation and shall continue for 12 months thereafter. This warranty is contingent on the following.

- A. If the concentration of organics in the raw water supply source should greatly exceed general background levels, as in the case of an accidental industrial discharge, chemical spill, or other adversity, it may be necessary for the City of Bloomington, IL to initiate emergency procedures such as a complete bypass of contaminated water during the course of abnormal conditions. If emergency measures are not taken immediately to prevent the activated carbon from being exposed to excessive levels of organic contaminants, and CALGON CARBON is not immediately notified of such an emergency, the warranty will be voided.
- B. Normal treatment of the water prior to carbon filtration will continue to be practiced. This includes suitable disinfection, coagulation, and clarification of the raw water and stabilization of clarified water before filtration.
- C. Average and maximum filtration rates will not exceed 1.1 gpm/ft³.
- D. The activated carbon will be installed and maintained by the Subscriber in the filters with the exception of a possible loss of up to one (1) inch of activated carbon bed depth per year attrition losses. If the losses should exceed one (1) inch of bed depth in any filter during any one (1) year operation, the excess activated carbon loss will be immediately replaced with Filtrasorb 300 activated carbon at owner's expense or the warranty for that filter shall be null and void. For any reason other than the sole negligence of CALGON CARBON, all labor transportation, and other expense involved in replacing such activated carbon will be for the account of the City of Bloomington, IL.
- E. The water plant filters will be maintained in good operating condition and in accordance with accepted practice. If the activated carbon fails to perform due to encrustation by inorganic precipitates such as calcium carbonate, excessive biological growths, etc., this shall not be considered to be a breach of the warranty and the City of Bloomington, IL

will bear the expense of cleaning the activated carbon to restore performance, in accordance with procedures provided by CALGON CARBON.

F. SHOULD THE ACTIVATED CARBON DURING THE WARRANTY PERIOD FAIL TO PERFORM UNDER EITHER OF THE ABOVE WARRANTY CRITERIA, CALGON CARBON, AS ITS SOLE OBLIGATION, SHALL HAVE THE OPTION TO EITHER REACTIVATE OR REPLACE ALL OR PART OF THE ACTIVATED CARBON TO RESTORE ITS CAPABILITY TO MEET THE WARRANTY. REPLACEMENT, LABOR, HANDLING EQUIPMENT, REGENERATION AND SHIPPING COSTS IN THIS CASE WOULD BE FOR THE ACCOUNT OF CALGON CARBON.

6. INDEMNIFICATION: Each party during the term of this Agreement to the extent of its negligence and to the extent provided for in this Agreement will indemnify and save the other party harmless at all times against any liability on account of any and all claims, damages, law suits, litigation, expenses, counsel fees, and compensation arising out of property damages or injuries, (including death), arising out of its performance under this Agreement. Subscriber will reimburse CALGON CARBON for damages to the adsorption system site, to CALGON CARBON's other equipment on the adsorption site, including the CALGON CARBON bulk delivery trailer, or to the activated carbon caused by the negligence of Subscriber, its employees, representatives, or agents. In the case of repeated acts of negligence, CALGON CARBON shall have the additional right to terminate this Agreement.

7. LIMITATION OF LIABILITY: NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, THE LIABILITY OF CALGON CARBON UNDER THE PROPOSAL AND THESE TERMS AND CONDITIONS (WHETHER BY REASON OF BREACH OF CONTRACT, TORT, INDEMNIFICATION, OR OTHERWISE, BUT EXCLUDING LIABILITY OF CALGON CARBON FOR BREACH OF WARRANTY (THE SOLE REMEDY FOR WHICH SHALL BE AS PROVIDED UNDER SECTION 6 (ABOVE)) SHALL NOT EXCEED AN AMOUNT EQUAL TO THE TOTAL PURCHASE PRICE THERETOFORE PAID BY SUBSCRIBER TO CALGON CARBON WITH RESPECT TO THE PRODUCT(S) AND/OR ON-SITE SERVICES GIVING RISE TO SUCH LIABILITY. IN NO EVENT SHALL CALGON CARBON BE LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY OR PUNITIVE DAMAGES (INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF USE OF FACILITIES OR EQUIPMENT, LOSS OF REVENUE, LOSS OF DATA, LOSS OF PROFITS OR LOSS OF GOODWILL), REGARDLESS OF WHETHER CALGON CARBON HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. ALL CLAIMS OF WHATSOEVER NATURE SHALL BE DEEMED WAIVED UNLESS MADE IN WRITING WITHIN NINETY (90) DAYS OF THE OCCURRENCE GIVING RISE TO THE CLAIM. MOREOVER, ANY FAILURE OF SUBSCRIBER TO NOTIFY CALGONCARBON OF UNSATISFACTORY OPERATION OR ANY IMPROPER OR UNAUTHORIZED INSTALLATION, MAINTENANCE, USE, REPAIR, ADJUSTMENT, OR ATTEMPTS TO OPERATE THE SYSTEM OUTSIDE THE DESIGN LIMITS SHALL RELIEVE CALGON CARBON OF ANY FURTHER RESPONSIBILITIES HEREUNDER.

8. **TAXES, PERMITS, TARIFFS AND LICENSES:** The fees provided for in this Agreement to be paid by Subscriber to CALGON CARBON do not include any taxes, licenses, government tariffs or other assessments. Subscriber agrees to pay any sales and use taxes upon or measured by CALGON CARBON's services provided hereunder and for all applicable licenses, property taxes, personal property taxes and other taxes, fees, or assessments imposed on the adsorption system and the adsorption system site or upon the installation and operation of the adsorption system and will prepare and submit all documents, plans, and schedules which may be required by governmental agencies with the reasonable assistance of CALGON CARBON where necessary. Subscriber shall provide CALGON CARBON with a direct pay permit for sales tax, an affidavit of sales tax exemption, or an affidavit that equipment, products, and services are exempt from sales tax, or CALGON CARBON has the right to invoice Subscriber for said taxes on each invoice.

9. **VIDEOTAPING:** From time to time certain Subscribers desire to videotape the activities of CALGON CARBON representatives during presentations, conductance of training, or other on-site activities. If Subscriber desires to videotape such activities, a separate videotaping agreement shall be executed, in the interest of protecting both parties from any liabilities which may potentially result from such videotaping.

10. **SHORTAGE, LOSS, DAMAGES and NON-CONFORMITY:** It is Subscriber's responsibility to notify the freight carrier of any shortages, losses, or damage. This notification must be noted on the Bill of Lading at time of delivery. Claims will be disallowed if not reported within fifteen (15) calendar days of receipt of the respective Products and the responsibility for repairs/replacement will be on Subscriber. Without expanding the limited warranties set forth in Section 6, Subscriber shall have (i) thirty (30) days after delivery to its destination of use to inspect and test Systems for any apparent non-conformity, (ii) fifteen (15) days after delivery to its destination of use to inspect and test any Carbon provided hereunder for any apparent non-conformity, and (iii) fifteen (15) days after the performance of any On-Site Services to inspect and test such On-Site Services for any apparent non-conformity. Failure to so inspect and test, or to give notice to CALGON CARBON of any claim during the respective periods above, shall constitute an irrevocable acceptance of the Products and/or On-Site Services, and a waiver of any defect or warranty claim that could have been discovered by inspecting and testing. Subscriber shall have the right to reject, refuse acceptance and revoke acceptance of any non-conforming Products or On-Site Services during the respective periods.

11. **CONFIDENTIALITY:** Other than in the performance of the terms of the Proposal and these Terms and Conditions, neither party or its agents, employees, or subcontractors shall use or disclose to any person or entity any confidential information (identified as such by the disclosing party) of the other party (whether written, oral, electronic or other form) that is obtained or otherwise prepared or discovered either in the performance of its obligations hereunder, through access to the other party's assets, property, systems of whatever kind, or while on the other party's premises. Subscriber agrees that all pricing, discounts, design drawings and technical information that CALGON CARBON provides to Subscriber are the confidential and proprietary information of CALGON CARBON, whether or not otherwise identified as such. Each party warrants and represents that each employee, agent or subcontractor who performs work in

connection herewith has been informed of the obligations contained herein and has agreed to be bound by them.

The obligations under this Section continue perpetually and survive the termination or expiration of any underlying agreement between the parties. The provisions of this article relating to use and disclosure shall not apply to any information that is (i) rightfully known by a party prior to its disclosure; (ii) rightfully obtained by a party from any third party; (iii) becomes available to the public without restrictions; or (iv) disclosed by a party with the prior written approval of the other party.

12. MISCELLANEOUS: (a) Subscriber may not delegate any duties nor assign any rights or claims hereunder without CALGON CARBON'S prior written consent, and any such attempted delegation or assignment shall be void. (b) In the event of any legal proceeding between CALGON CARBON and Subscriber relating to the Proposal or these Terms and Conditions, neither party may claim the right to a trial by jury, and both parties waive any right they may have under applicable law or otherwise to a trial by jury. (c) In the event that any one or more provisions contained herein shall be held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall remain in full force and effect, unless the revision materially changes the bargain. (d) CALGON CARBON'S failure to enforce, or CALGON CARBON'S waiver of a breach of, any provision contained herein shall not constitute a waiver of any other breach or of such provision. (e) CALGON CARBON reserves the right to correct clerical, arithmetical, or stenographic errors or omissions in the Proposal, quotations, order acknowledgments, invoices or other documents. (f) Any notice or communication required or permitted hereunder shall be in writing and shall be deemed received when personally delivered or three (3) business days after being sent by certified mail, postage prepaid, to a party at the address specified herein or in the Proposal, or at such other address as either party may from time to time designate to the other. (g) Subscriber agrees that it will not use CALGON CARBON'S name(s), logo(s) or mark(s) in any public communication or press release, or for any other marketing or promotional purpose, without Seller's prior written consent.

13. ENTIRE AGREEMENT: The Proposal and these Terms and Conditions and any attachments referenced in the Proposal, constitute, with respect to the subject matter hereof, the complete and exclusive statement of the contract between CALGON CARBON and Subscriber. No waiver, consent, modification, amendment or change of the terms contained herein shall be binding unless made in writing and signed by CALGON CARBON and Subscriber. CALGON CARBON'S failure to object to terms contained in any subsequent communication from Subscriber (whether in a purchase order or other communication) will not be a waiver or modification of the terms set forth herein.

14. APPLICABLE LAW: This Agreement shall be governed by the laws of the state of Illinois

Motion by Alderman Purcell, seconded by Alderman Schmidt that the lease extension with Calgon Carbon Inc., for GAC in the amount of \$19,285 per month for a period of thirty-six (36) consecutive months be approved, the Purchasing Agent authorized to issue a Purchase Order for same, and the Resolution be adopted.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Change Order to the Agreement with William Masters, Inc. for a Transformer Replacement

RECOMMENDATION: That the Change Order be approved.

BACKGROUND: Council approved this project on October 13, 2008. Staff originally planned to have the transformer replaced on a weekday and the project was bid as such. However, as the actual plant shutdown was being planned, staff determined that it would best to err on the side of caution and requested that the contractor install the new transformer on a Saturday when water demand is typically lower. The water plant could be out of service for a longer period of time if needed, relying on water stored in the various water storage tanks in the system.

While the transformer was being changed, the water plant had to be taken off of line power from Ameren-IP and was switched to power generated at the plant by the emergency generators. This is always a tenuous procedure that is reserved only for actual emergencies or planned electrical outages.

Staff, in consultation with the contractor and the design engineers for the electrical transformer replacement project directed the contractor to change the installation date of a new transformer to a Saturday resulting in overtime that was not anticipated in their bid. Staff directed this change and therefore respectfully recommends Council approval.

The project bid was for \$103,800. Therefore, this change order represents a change of less than 1.2% of the overall contract value.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: This Change Order will have little impact on the Water Department's overall budget. This Change Order will require the payment of an additional \$1,230 from the Water Department depreciation fund, X50200-72540. The fund has a positive balance.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

Craig M. Cummings
Director of Water

David A. Hales
City Manager

Motion by Alderman Purcell, seconded by Alderman Schmidt that the Change Order be approved.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Intergovernmental Agreement between the Town of Normal, the County of McLean, the McLean County Soil and Water Conservation District and the City for the Funding of a Soil Conservationist

RECOMMENDATION: That the Intergovernmental Agreement be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: Staff respectfully requests that Council authorize entering into a three (3) year Intergovernmental Agreement between the Town of Normal, the County of McLean, the McLean County Soil and Water Conservation District, and the City for the funding of a soil conservationist through the McLean County Soil and Water Conservation District. This cooperative effort would entail a commitment from the City's Water Fund in the amount of \$40,000 in year one and \$70,000 for years two and three.

The soil conservationist position discussed in the Intergovernmental Agreement has been 100% funded by the City's Water Department for about fifteen (15) years. The most recent funding in FY 2008/09 was for the amount of \$78,000. Funding for the position was eliminated from the FY 2009/10 Water Department budget due to budget concerns.

In addition to numerous other tasks, this position has been indispensable in acting as the City's liaison with producers; in its drinking water reservoirs watersheds; providing for grant writing to garner state, federal, and private foundation grant dollars; providing presentations to producers; providing presentations to various scientific groups; handling payments to producers in the watersheds; assisting in the writing of the City's watershed plans for both reservoirs, and assisting in writing the Source Water Assessment for the reservoirs.

To date, the City has garnered over \$500,000 in competitive cash grants from the Sand County Foundation, a private foundation that funds watershed programs. The City's watershed programs have received praise from the State of Illinois for our watershed protection efforts of which this soil conservationist position is a critical piece of that program. The completion of the Source Water Assessment and the Total Maximum Daily Load process are part of the Illinois Environmental Protection Agency's (IEPA) approach to reducing pollutants in the City's drinking water reservoirs. Once the implementation plan for reducing pollutants in the reservoirs has been determined, grant dollars from the state and federal government may be available for implementation efforts. A critical component to garnering grant dollars is the commitment to the implementation plan by the governmental entities and citizens in the watersheds of the reservoirs.

Staff respectfully requests that Council authorize an Intergovernmental Agreement between the Town of Normal, the County of McLean, the McLean County Soil and Water Conservation District, and the City for the funding of a soil conservationist through the McLean County Soil and Water Conservation District.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: The City's commitment to this Intergovernmental Agreement in year one (1) in the amount of \$40,000 is not budgeted. The Water Department currently has ample funding in its reserves to fund this commitment. Years two and three (2 and 3) would be requested during the budget process for those years. The funding would come from the Water Fund, Purification Division, Other Professional and Technical Services account (#5010 – 50130 - 70220).

Respectfully submitted for Council consideration.

Prepared by:

Craig M. Cummings
Director of Water

Reviewed as to legal sufficiency:

J. Todd Greenburg
Corporation Counsel

Recommended by:

David A. Hales
City Manager

AGREEMENT

This agreement is entered into as of this 1st day of October 2009, by and between the City of Bloomington, Town of Normal and County of McLean (hereinafter referred to as the "City", "Town" and "County") and the McLean County Soil and Water Conservation District (hereinafter referred to as the "District").

A. Purpose of This Agreement:

The purpose of this agreement is to establish a framework for the continuing administration and implementation of McLean County Watersheds Management Program, hereafter referred to as the "Program" prepared by the District, to include 1) maintenance and improvement of Lake Bloomington and Evergreen Lake water quality through implementation of watershed management plans; 2) the performance of a watershed conservation education program for the City, Town and County; 3) assistance to the City, Town and County in obtaining grant funding for watershed management projects; and 4) the development and implementation of additional watershed plans.

B. Period of Agreement:

The period of this agreement commences October 1, 2009 and ends October 1, 2012.

C. Payment:

The City, Town and County shall pay the District the following amounts for services described in paragraph 2 and Appendix A:

- a. The first year of the agreement (2009) Payments of \$40,000 shall be made by the City, \$10,000 by the Town and \$10,000 by the County by the first (1st) week of October, pending the receipt of invoices from the District by the 20th day of the preceding month.
- b. The second (2nd) year of the agreement (2010), payments of \$70,000 shall be made by the City, \$10,000 by the Town and \$10,000 by the County by the first (1st) week of October, pending the receipt of invoices from the District by the 20th day of the preceding month.
- c. The third (3rd) year of the agreement (2011), payments of \$70,000 shall be made by the City, \$10,000 by the Town and \$10,000 by the County by the first (1st) week of October, pending the receipt of invoices from the District by the 20th day of the preceding month.

D. Description of Services:

The District shall:

- a. Provide watershed management and watershed conservation educational services to the City; Town and County as outlined in Appendix A.
- b. Provide annual status reports of the implementation of the Watershed Plans to Bloomington, Normal and the McLean County Board Land Use Committee.

- c. Prepare five year updates to McLean County Watershed Management Plan as required.

E. Indemnification and Hold Harmless:

The District shall save and hold the City, Town and County, (including its officials, agents and employees) free and harmless from all liability, public or private, penalties, contractual or otherwise, losses, damages, costs, attorney's fees, expenses, causes of action, claims and judgments, resulting from claimed injury, damage, loss or loss of use to for any person, including natural persons and any other legal entity or property of any kind (including, but not limited to choices in action) arising out of or in any way connected with the performance under this agreement, for any costs, expenses, judgments, and attorney's fee paid or incurred or paid for on behalf of the City, Town and/or County, and/or its agents and employees, by insurance provided by the aforementioned government bodies.

F. Additional Agreements:

This agreement may be modified by mutual consent of the parties hereto and agreed to in writing and does not preclude separate agreements between the District and individual units of government for additional services.

Stephen F. Stockton
City of Bloomington

August 25, 2009

Christopher Koos
Town of Normal

September 11, 2009

Matt Sorenson
County of McLean

September 15, 2009

Mike Kelly
McLean County Soil and Water Conservation District

September 16, 2009

APPENDIX A

The District shall provide the following services to the City, Town and County:

- Promote agriculture practices in the Lake Bloomington and Evergreen Lake watersheds via SWCD newsletter and news releases.
- Work with producers in the Lake Bloomington and Evergreen Lake watersheds to continue nutrient management.

- Promote Best Management Practices (BMP) such as waterways, filter strips, contour strips, nutrient management, no-till/strip-till, grade stabilization structures and stream bank stabilization, through available programs such as CRP and EQIP to producers in the Lake Bloomington and Evergreen Lake watersheds.
- Act as a liaison between Sand County Foundation, The Nature Conservancy, Association of Illinois Soil & Water Conservation Districts, Illinois Environmental Protection Agency, Natural Resource Conservation Service, U of I Extension and other community conservation groups.
- Help implement the County's storm water management plan in accordance with the U.S. Environmental Protection Agency's NPDES Phase II program regulations by providing public education/outreach on the following topics: Illicit Discharge Detection/Elimination, Construction Site Runoff Control, Post Construction Runoff Control and Pollution Prevention/Good Housekeeping.
- Serve as a technical resource for landowners/contractors on methods to achieve compliance with Phase II ordinances.
- Coordinate the development of a program to encourage and help facilitate the adoption of erosion & sediment control and stream buffer ordinances in small communities within the watersheds within the county.
- Coordinate and manage urban implementation strategies of the Evergreen Lake and Lake Bloomington Watershed Plans and in particular the contributing areas of Six Mile Creek and Money Creek immediately downstream of the Town of Normal by developing and managing a program for stream water quality monitoring, sampling and data management including the preparation of estimates for installation and operation of proposed sampling stations and coordination of contracts, payments, data collection and retention and the distribution of information to all interested agencies.

Motion by Alderman Purcell, seconded by Alderman Schmidt that the Intergovernmental Agreement be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Contract for the Purchase of Right of Way for Hamilton Road (Timberlake to Main) from Archland Property, II LP

RECOMMENDATION: That the Contract with Archland Property II LP for right of way and temporary easements in the amount of \$8,925 be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: The City has a long range plan to construct an east/west arterial road (Fox Creek/Hamilton Road) to connect the residential developments on the southwest side of the City to the State Farm Corporate South campus. Work on the road has been progressing. Construction started at the east end of the bridge over Interstate 74 on what was then called Cabintown Road, and the road now goes from there across Veteran's Parkway to Morris Avenue and on as far east as Timberlake. The next section, planned for construction next spring, will run from Timberlake to the east side of Main Street. The final stage will start at the intersection of Hamilton Road and Bunn Street, go across the Norfolk Southern railroad tracks and connect to an existing section of Hamilton Road just east of the tracks.

The City needs to acquire right of way and easements to build the next stretch of the road. Staff began contacting property owners several years ago and most of the land has been acquired. There are a few parcels that remain. One of the missing pieces will be taken from the McDonalds on the southeast corner of Main Street and Hamilton Road. The land is owned by Archland Property II LP. The City needs to acquire .24 acres for right of way at the corner to construct a turning lane and sidewalk, and also needs temporary easement containing .095 acres for maneuvering space during construction. The business will lose one (1) parking space as a result of the take.

Archland has agreed to convey these property interests to the City for a total of \$8,925 broken down as follows: \$4,550 for the land and \$1,875 for the easement and \$2,500 for damages due to the loss of the parking space. Staff prepared a contract for the purchase and respectfully recommends Council approval.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Angela Clark, representative of Archland Property II LP.

FINANCIAL IMPACT: \$8,925 will be paid from X20300-72530 (MFT-Street Construction and Improvements).

Respectfully submitted for Council consideration.

Prepared by:

J. Todd Greenburg
Corporation Counsel

Recommended by:

David A. Hales
City Manager

CONTRACT FOR SALE OF REAL ESTATE

THIS IS INTENDED TO BE A LEGAL DOCUMENT. AN ATTORNEY AT LAW SHOULD BE CONSULTED PRIOR TO THE EXECUTION OF THIS DOCUMENT.

THIS CONTRACT ("Contract") is entered into between Archland Property II LP, a Delaware limited partnership, hereinafter referred to as Seller, and the City of Bloomington, a Municipal Corporation, hereinafter referred to as Buyer, who agrees as follows:

1. DESCRIPTION, PRICE and PAYMENT: Seller agrees to sell the following described real estate (the "Right of Way"), subject to matters generally excepted by title insurance companies in their title policies issued in the State of Illinois; special taxes or special assessments, if any, for improvements not yet completed; installments not due at the date of this Contract of any special tax or special assessment for improvements previously completed, if any; general real estate taxes, if any, for the year in which closing occurs; covenants, conditions, agreements, reservations and restrictions of records; zoning and building laws or ordinances, private, public and utility easements and roads and highways, whether or not of record; all matters which a current, accurate survey of the Right of Way would disclose; the terms, reservations and conditions of this sale; and grant a temporary easement across the following described real estate for the purpose of constructing public improvements as shown on plans for Proposed Federal Aid Highway City of Bloomington, Illinois City Section 93-00295-03-PV Hamilton Road F.A.U. Rte. 6371 and U.S. Route 51 (Main Street) F.A.U. Rte. 730 on file in the Engineering Department at the City of Bloomington, hereafter referred to as the Project:

A. Right of Way:

Part of Lot 9 of the Third Addition in the Southgate Commercial Plaza Subdivision, McLean County, Illinois, recorded as Document Number 97-14827; described as follows with bearings being used referring to a local assumed datum: Beginning at the Northwest corner of the above described Lot 9 of the third Addition in the Southgate commercial Plaza Subdivision; thence along the Northerly line of said Lot 9, North 76 degrees 15 minutes 12 seconds East 74.58 feet; thence South 64 degrees 18 minutes 49 seconds West 19.52 feet; thence South 57 degrees 30 minutes 57 seconds West 29.26 feet; thence along a curve to the left having a radius of 24.00 feet, an arc length of 15.11 feet, a chord bearing of South 39 degrees 28 minutes 34 seconds West and a chord length of 14.86 feet; thence South 21 degrees 26 minutes 11 seconds West 29.48 feet, to the Westerly line of aforesaid Lot 9; thence along said Westerly line, North 12 degrees 21 minutes 56 seconds West 46.44 feet, to the Point of Beginning, containing 0.024 of an acre, or 1040 square feet, more or less.

B. Temporary Easement:

That part of Lot 9 of the Third Addition in the Southgate Commercial Plaza Subdivision; McLean County, Illinois, recorded as Document Number 97-14827; described as follows with bearings being used referring to a local assumed datum: Commencing at the northwest corner of the above described Lot 9 of the Third Addition in the Southgate Commercial Plaza; thence along the northerly line of said Lot 9, North 76°-15'-12" East 74.58 feet, to the Point of

Beginning; thence continuing along said northerly line, North 76°-15'-12" East 5.00 feet; thence South 13°-47'-52" East 6.95 feet; thence South 60°-15'-24" West 36.40 feet; thence South 34°34'03" West 15.13 feet; thence South 12°-43'-01" East 70.00 feet; thence South 77°-16'-59" West 30.00 feet; thence South 12°-43'-01" East 238.56 feet, to the southerly line of aforesaid Lot 9; thence along said southerly line, South 76°-14'-56" West 5.83 feet, to the southwest corner of said Lot 9; thence along the westerly line of said Lot 9, North 12°-21'-56" West 288.67 feet; thence North 21°-26'-11" East 29.48 feet; thence along a curve to the right having a radius of 24.00 feet an arc length of 15.11 feet, a chord bearing of North 39°-28'-34" East and a chord length of 14.86 feet; thence North 57°-30'-57" East 29.26 feet; thence North 64°-18'-49" East 19.52 feet, to the Point of Beginning, containing 0.095 of an acre, or 4134 square feet, more or less.

~~with improvements, commonly known as~~ located thereon, to Buyer, who agrees to pay the following amounts therefore: \$4,550.00 for the right of way, \$1,875.00 for the temporary easement and \$2,500.00 as damages to Seller's remaining property by reason of the take. Payment to be made on or before the 20th day of April, 2010, and on receipt of deed and grant of easement.

2. EVIDENCE OF TITLE: (Intentionally deleted)

3. DEED AND POSSESSION: Seller will cause fee simple title to said real estate to be conveyed to Buyer, or to such party as Buyer may direct, by Quit Claim Deed, execute a grant of Temporary Easement in the form attached hereto as Exhibit A and shall deliver possession to Buyer upon payment being made as herein provided, on or before the 20th day of April, 2010. Seller shall pay all owners' association(s) dues and/or assessments, if any, and water, sewer, and public utility service charges incurred for improvements on the Right of Way up to the time when possession passes to Buyer.

4. RISK OF LOSS: This Contract is subject to the State of Illinois Uniform Vendor and Purchaser Risk Act (765 ILCS 65/1), which provides, in general, that the Seller shall bear the risk of loss until transfer of possession or receipt of deed, whichever occurs first.

5. TAXES AND RECORDING FEES: Seller shall pay all general real estate taxes assessed for 2009 and Buyer shall pay all such taxes for 2010 and subsequent years as to that part of Seller's property being conveyed. This provision shall survive closing and delivery of deeds. The cost of recording the documents called for in this Contract shall be paid for by Buyer

6. ENCUMBRANCES:

A. Mortgage and Assignment of Lease shall be released as to the Right of Way within ninety days of the date when deed is delivered. Seller's obligation to obtain the mortgage release shall continue until the release is obtained and recorded.

B. Easements and building or use restrictions of record, and zoning and building ordinances, if any, shall not be considered as rendering title unmerchantable or

unacceptable, provided same are not violated by the existing improvements or the use thereof

7. PERSONAL PROPERTY: None.
8. FINANCING: (Intentionally omitted)
9. WOOD DESTROYING INSECT PROVISION: (Intentionally omitted)
10. EQUIPMENT & INSPECTIONS: (Intentionally omitted)
11. LEAD-BASED PAINT AND/OR LEAD-BASED PAINT HAZARDS:
(Intentionally omitted)
12. SELLER'S WARRANTIES: (Intentionally omitted)
13. ADDITIONAL PROVISIONS:
 - A. Buyer shall assume any assumption or transfer fees incurred as a result of Buyer assuming, or taking subject to, Seller's existing mortgage, and both Seller and Buyer agree to comply with the requirements of the Real Estate Settlement Procedures Act;
 - B. Words importing the masculine gender include the feminine, words importing the singular number include the plural, and words importing the plural number include the singular;
 - C. The covenants and agreements herein contained shall extend to and be obligatory upon the heirs, executors, administrators, and assigns of the respective parties;
 - D. The parties acknowledge that the State of Illinois has enacted the Smoke Detector Act (425 ILCS 60/1, et seq.), and the Carbon Monoxide Alarm Detector Act (430 ILCS 135/1, et seq.).
 - E. Time is of the essence of this Contract.
 - F. Any deadline in this Contract which falls on a Saturday, Sunday or legally recognized State of Illinois or federal holiday shall be extended to the next business day.
 - G. Section or paragraph headings, or lack thereof, that may be used in various places throughout this Contract are intended for convenience only and shall not be taken into consideration in any construction or interpretation of this Contract or any of its provisions. To the extent there is deemed to be any conflict between the headings and/or numbers, and the text of this Contract, the text shall control.
 - H. Seller shall provide reasonable access to Buyer and Buyer's representative(s) for purposes of inspection(s) and appraisal(s). Buyer covenants to indemnify, defend and

hold Seller harmless against any and all losses, claims, damages, liabilities, costs (including reasonable attorney's fees and court costs), and causes of action including, without limitation, those arising from mechanics liens, injuries to persons or damage to property, including the Right of Way, suffered or incurred by Seller directly or indirectly, as a result of, the entry onto the Right of Way by Buyer, Buyer's agents, contractors, employees, and licensees.

- I. Buyer shall maintain access to the business located on Seller's remaining property at all times during construction.
- J. Buyer will relocate the existing lighting unit currently located on the right of way parcel to a location on Seller's property shown on the construction plans attached hereto and incorporated herein by reference.
- K. Seller will lose one parking space in the parking lot on Seller's remaining property as currently laid out with the existing improvements after the conveyance of the right of way property. Buyer agrees that Seller may keep the parking lot lay out as it is with the existing improvements and will not be required to restripe the lot to add new spaces.
- L. Buyer will remove piping, spray heads and controllers from the underground sprinkler system located within existing right of way and from the right of way parcel being conveyed to Seller. Buyer will cap existing pipes that are cut will to prevent leakage, but Buyer will not reconnect pipes, install new spray heads or controllers or make any other repairs that may be required to make the system work after removing sections from the right of way.

The provisions of this Article 13 shall survive closing and delivery of the deed.

14. ESCROWEE: (Intentionally omitted)

15. NOTICES, ETC.: Title commitments, communications and any notices required to be given pursuant to this Contract shall be delivered to the party's attorney. Any notice shall be given in writing in one of the following ways: (i) by U.S. certified mail, with postage prepaid, addressed to the attorney at the address set forth on the first page hereof; or (ii) by express delivery to the party or attorney at the address set forth on the first page hereof, with charges prepaid. Such notice shall be deemed given on the date when deposited with the express delivery company (with charges prepaid), or on the date deposited in the U.S. Mail, with postage prepaid.

16. PREPARATION AND APPROVAL: This Contract was prepared by Todd Greenburg, Buyer's attorney, and approved by Seller and/or Seller's attorney.

17. SETTLEMENT: Closing shall be held in McLean County at the office of Buyer's closing agent, unless the parties agree otherwise.

18. SELLER'S DISCLOSURE: (Intentionally omitted).

19. ATTORNEY'S FEES AND EXPENSES: Should Seller or Buyer bring any action against the other with respect to this Contract, the party that does not prevail upon the action, as determined by the court, shall be liable to the other party for any reasonable attorney's fees, costs, and expenses (including expenses of litigation) incurred by such other party and as determined by the court. This provision shall survive closing and delivery of deeds.

20. DEFAULT: In the event either party should breach this Contract, the other party may pursue any and all remedies provided.

21. ENTIRE AGREEMENT: This Contract represents the entire agreement of the parties. No covenants, agreements, representations or warranties of any kind have been made by any party or agent of a party to this Contract, except as specifically set forth herein. The parties expressly acknowledge that, in executing this Contract, they have not relied on any prior or contemporaneous oral or written representations, statements or agreements, except as expressly set forth herein. Any modifications of the terms of this Contract must be in writing and signed by both parties, in the absence of which the terms of this Contract shall govern.

22. FORM OF AGREEMENT: (Intentionally omitted)

23. MORTGAGE INFORMATION AUTHORIZATION: (Intentionally omitted)

THIS IS INTENDED TO BE A LEGAL DOCUMENT. AN ATTORNEY AT LAW SHOULD BE CONSULTED PRIOR TO THE EXECUTION OF THIS DOCUMENT.

IN WITNESS WHEREOF, the parties to these presents have hereunto set their hands and seals to several counterparts of this Contract, of equal effect.

SELLER: Archland Property II, LP,
Delaware limited partnership

BUYER: City of Bloomington, a
Illinois a municipal corporation

By: David M. Ledy
Its: Secretary

By: Stephen F. Stockton
Its: Mayor

ATTEST:

ATTEST:

By: Jack Genende
Its: Vice President

By: Tracey Covert
Its: City Clerk

Date: April 13, 2010

Date: April 21, 2010

This contract will be deemed effective as of the last date signed.

ACKNOWLEDGMENT – ARCHLAND
(Attestation required)

STATE OF NEW YORK)
) SS:
COUNTY OF NEW YORK)

I, Rosann D. Marquez, a Notary Public in and for the county and state set forth above, CERTIFY that David M. Ledy as Secretary and Jack Genende as Vice President of Archland Property II, LP, a Delaware limited partnership, who are personally known to me to se the same persons whose names are subscribed to the foregoing instrument as such authorized parties, appeared before me this day in person and acknowledged that they signed, sealed and delivered this instrument as their free and voluntary act as such authorized parties and as the free and voluntary act of the partnership for the uses and purposes described in this instrument.

Given under my hand and notarial seal, 13th day of April, 2010.

Rosann D. Maquez
Notary Public

My commission expires 07/06/13
Notary Public – State of New York
No. 01MA6208601
Qualified in New York County

ACKNOWLEDGMENT - CORPORATE

STATE OF ILLINOIS)
) SS
COUNTY OF MCLEAN)

I, Janice L. Scherff, a Notary Public in and for the county and state set forth above, CERTIFY that Stephen F. Stockton, as Mayor and Tracey Covert, as City Clerk of City of Bloomington, a corporation, who are personally known to me td be the persons whose names are subscribed to the foregoing instrument as such authorized parties, appeared before me this day in person and acknowledged that they signed, sealed and delivered this instrument as their free and voluntary act as such authorized parties and as the free and voluntary act of the company/corporation for the uses and purposes described in this instrument.

Given under my hand and notarial seal, this 21st day of April, 2010.

Janice L. Scherff
Notary Public

My commission expires 03/07/11
Notary Public – State of Illinois

(EXHIBIT A TEMPORARY EASEMENT AND QUIT CLAIM DEED ON FILE IN CLERK’S OFFICE)

Motion by Alderman Purcell, seconded by Alderman Schmidt that the Contract with Archland Property II LP in the amount of \$8,925 be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Contract for the Purchase of Right of Way for Hamilton Road (Timberlake to Main) from Bromenn Healthcare

RECOMMENDATION: That the contract with Bromenn Healthcare for right of way and temporary easements in the amount of \$11,204 be approved, and the Mayor and City Clerk authorized to execute the necessary documents.

BACKGROUND: The City has a long range plan to construct an east/west arterial street (Fox Creek/Hamilton Road) to expedite travel from the residential developments on the southwest side of the City to the State Farm Corporate South campus. Work on the road has been progressing. Construction started at the east end of the bridge over Interstate 74 on what was then called Cabintown Road, and the road now goes from there across Veteran's Parkway to Morris Avenue and on as far east as Timberlake. The next section, planned for construction next spring, will run from Timberlake to the east side of Main Street. The final stage will start at the intersection of Hamilton Road and Bunn Street, go across the Norfolk Southern railroad tracks and connect to an existing section of Hamilton Road just east of the tracks.

The City needs to acquire right of way and easements to build the next stretch of the road. Staff began contacting property owners several years ago and most of the land has been acquired. There are a few parcels that remain. One of the missing pieces will be taken from a vacant lot on the northeast corner of Main Street and Hamilton Road owned by Bromenn Healthcare. The City needs to acquire .03 acres for right of way at the corner to construct a turning lane and sidewalk, and also needs temporary easement containing .04 acres for maneuvering space during construction.

Bromenn has agreed to convey these property interests to the City for a total of \$11,204 broken down as follows: \$10,454 for the land and \$750 for the easement. Staff prepared a contract for the purchase and respectfully recommends Council approval.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Sonja Reece, representative of Bromenn Healthcare.

FINANCIAL IMPACT: \$11,204 will be paid from X20300-72530 (MFT-Street Construction and Improvements.)

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

J. Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

CONTRACT FOR SALE OF REAL ESTATE

THIS IS INTENDED TO BE A LEGAL DOCUMENT. AN ATTORNEY AT LAW SHOULD BE CONSULTED PRIOR TO THE EXECUTION OF THIS DOCUMENT.

THIS CONTRACT is entered into between BroMenn Healthcare Hospitals, an Illinois not for profit corporation, hereinafter referred to as Seller, and the City of Bloomington, a Municipal Corporation, hereinafter referred to as Buyer, who agrees as follows:

1. DESCRIPTION, PRICE and PAYMENT: Seller agrees to sell the following described real estate and grant a temporary easement across the following described real estate for the purpose of constructing public improvements as shown on plans for Proposed Federal Aid Highway City of Bloomington, Illinois City Section 93-00295-03-PV Hamilton Road F.A.U. Rte. 6371 and U.S. Route 51 (Main Street) F.A.U. Rte. 730 on file in the Engineering Department at the City of Bloomington, hereafter referred to as the Project:

A. Right of Way:

Part of Lot 1 in Southgate Commercial Plaza Subdivision, McLean County, Illinois, recorded as Document Number 90-12443; described as follows with bearings being used referring to a local assumed datum: Commencing at the southeast corner of the above described Lot 1; thence along the southerly line of said Lot 1, South 76°-15'-12" West 215.41 feet, to the Point of Beginning; thence continuing along said southerly line of Lot 1, South 76°-15'-12" West 79.25 feet; thence along the southwesterly line of said Lot 1, North 68°-07'-21" West 25.65 feet; thence along the westerly line of said Lot 1, North 12°-43'-01" West 25.50 feet; thence continuing along said westerly line of Lot 1, being a curve to the right having a radius of 3762.72 feet, an arc length of 31.61 feet, a chord bearing of North 12°-28'-35" West and a chord length of 31.61 feet; thence North 77°-45'-52" East 10.00 feet; thence along a curve to the left having a radius of 3752.72 feet, an arc length of 31.53 feet, a chord bearing of South 12°-28'-35" East and a chord length of 31.53 feet; thence South 12°-43'-01 second East 10.10 feet; thence along a curve to the left having a radius of 35.42 feet, an arc length of 43.84 feet, a chord bearing of South 68°-20'-09"

East and a chord length of 41.10 feet; thence North 76°-12'-08" East 35.28 feet; thence South 86°-53'-13" East 22.00 feet, to the Point of Beginning, containing 0.030 of an acre, or 1289 square feet, more or less.

B. Temporary Easement:

That part of Lot 1 in Southgate Commercial Plaza Subdivision, McLean County, Illinois, recorded as Document Number 90-12443; described as follows with bearings being used referring to a local assumed datum: Commencing at the southeast corner of the above described Lot 1; thence along the southerly line of said Lot 1, South 76-15'-12" West 208.60 feet, to the Point of Beginning; thence North 13°-47'-52" West 17.07 feet; thence South 76°-12'-08" West 65.00 feet; thence North 59°-10'-07" West 32.91 feet; thence North 12°-28'-35" West 31.46 feet; thence South 77°-45'-52" West 8.00 feet; thence along a curve to the left having a radius of 3752.72 feet, 31.53 feet along said curve, said curve having a chord direction of South 12°-28'-35" East and a chord length of 31.53 feet; thence South 12°-43'-01" East 10.10 feet; thence along a curve to the left having a radius of 35.42 feet, 43.84 feet along said curve, said curve having a chord direction of South 68°-20'-09" East and a chord length of 41.10 feet; thence North 76°-12'-08" East 35.28 feet; thence South 86°-53'-13" East 22.00 feet, to the southerly line of the aforescribed Lot 1; thence along said southerly line, North 76°-15'-12" East 6.81 feet, to the Point of Beginning, containing 0.038 of an acre, or 1639 square feet, more or less.

~~with improvements, commonly known as located thereon, to Buyer, who agrees to pay the following amounts therefore: \$10,454.00 for the right of way and \$750.00 for the temporary easement. in the manner following: \$ (inclusive of earnest money) upon the execution of this Contract and the remainder by cashier's check, certified funds or the equivalent Payment to be made on or before the 21st day of September, 2009, and on receipt of deed and grant of easement.~~

2. EVIDENCE OF TITLE: Not less than fourteen (14) days prior to closing, Buyer shall obtain written commitment from a title insurance company duly authorized to do business in Illinois, showing title to said premises subject only to matters to which this sale is subject by the terms hereof and to the customary exceptions contained in owners policies issued by such company. If written commitment discloses defects in title other than matters to which this sale is subject by the terms hereof and the customary exceptions in such policies, then Seller shall have until date for delivery of deed to correct such defects. Owners title policy, in amount of the purchase price for said premises, will be paid for by Seller and issued to Buyer after delivery of deed.

3. DEED AND POSSESSION: Seller will cause fee simple title to said real estate to be conveyed to Buyer, or to such party as Buyer may direct, by Warranty Deed (or Trustee's Deed or Executor's Deed, where applicable), execute a grant of Temporary Easement in the form attached hereto as Exhibit A and shall deliver possession to Buyer upon payment being made as herein provided, on or before the 21st day of September, 2009. Seller shall pay all owners' association(s) dues and/or assessments, and water, sewer, and public utility service charges incurred for improvements on said real estate up to the time when possession passes to Buyer.

4. RISK OF LOSS: This Contract is subject to the State of Illinois Uniform Vendor and Purchaser Risk Act (765 ILCS 65/1), which provides, in general, that the Seller shall bear the risk of loss until transfer of possession or receipt of deed, whichever occurs first.

5. TAXES: Seller shall pay all general real estate taxes assessed for 2009 and Buyer shall pay all such taxes for 2010 and subsequent years as to that part of Seller's property being conveyed. This provision shall survive closing and delivery of deeds.

6. ENCUMBRANCES:

- A. Mortgage and Assignment of Lease shall be ~~satisfied out of the purchase price~~ and released as to the property being conveyed within ninety days of the date when deed is delivered. Seller's obligation to obtain the mortgage release shall continue until the release is obtained and recorded.
- B. Easements and building or use restrictions of record, and zoning and building ordinances, if any, shall not be considered as rendering title unmerchantable or unacceptable, provided same are not violated by the existing improvements or the use thereof.

7. PERSONAL PROPERTY: None.

8. FINANCING: N/A

9. WOOD DESTROYING INSECT PROVISION: N/A

10. EQUIPMENT & INSPECTIONS: N/A

11. LEAD-BASED PAINT AND/OR LEAD-BASED PAINT HAZARDS: N/A

12. SELLER'S WARRANTIES: N/A

13. ADDITIONAL PROVISIONS:

- A. Buyer shall assume any assumption or transfer fees incurred as a result of Buyer assuming, or taking subject to, Seller's existing mortgage, and both Seller and Buyer agree to comply with the requirements of the Real Estate Settlement Procedures Act;
- B. Words importing the masculine gender include the feminine, words importing the singular number include the plural, and words importing the plural number include the singular;
- C. The covenants and agreements herein contained shall extend to and be obligatory upon the heirs, executors, administrators, and assigns of the respective parties;

- D. The parties acknowledge that the State of Illinois has enacted the Smoke Detector Act (425 ILCS 60/1, et seq.), and the Carbon Monoxide Alarm Detector Act (430 ILCS 135/1, et seq.).
- E. Time is of the essence of this Contract.
- F. Any deadline in this Contract which falls on a Saturday, Sunday or legally recognized State of Illinois or federal holiday shall be extended to the next business day.
- G. Section or paragraph headings, or lack thereof, that may be used in various places throughout this Contract are intended for convenience only and shall not be taken into consideration in any construction or interpretation of this Contract or any of its provisions. To the extent there is deemed to be any conflict between the headings and/or numbers, and the text of this Contract, the text shall control.
- H. Seller shall provide reasonable access to Buyer and Buyer's representative(s) for purposes of inspection(s) and appraisal(s).
- I. This contract is contingent upon approval by the Bloomington City Council. Buyer will seek such approval by placing the contract on the agenda for the first regularly scheduled Council meeting following the date Seller executes the contract.

14. ESCROWEE: N/A

15. NOTICES, ETC.: Title commitments, communications and any notices required to be given pursuant to this Contract shall be delivered to the party's attorney or to the party if not represented by counsel. Any notice shall be given in writing in one of the following ways: (i) by personal delivery to the party or attorney; (ii) by U.S. mail, with postage prepaid, addressed to the party or attorney at the address set forth on the first page hereof; or (iii) by express delivery to the party or attorney at the address set forth on the first page hereof, with charges prepaid. Such notice shall be deemed given on the date when delivered personally, or on the date deposited with the express delivery company (with charges prepaid), or on the date deposited in the U.S. Mail, with postage prepaid.

16. PREPARATION AND APPROVAL: This Contract was prepared by Hannah R. Eisner, Buyer's attorney, and approved by Seller and/or Seller's attorney.

17. SETTLEMENT: Closing shall be held in McLean County at the office of Buyer's closing agent, unless the parties agree otherwise.

18. SELLER'S DISCLOSURE: The parties acknowledge that this Contract is not subject to the Illinois Residential Real Property Disclosure Act (765 ILCS 77/1, et seq.) and the Illinois Radon Awareness Act (420 ILCS 46/1, et seq.). Buyer acknowledges receipt of a completed Residential Real Property Disclosure Report, Illinois Disclosure of Information on Radon

Hazards and the IEMA pamphlet entitled "Radon Testing Guidelines for Real Estate Transactions" prior to the time this Contract was signed and said disclosures are incorporated herein by reference.

19. ATTORNEY'S FEES AND EXPENSES: Should Seller or Buyer bring any action against the other with respect to this Contract, the party that does not prevail upon the action, as determined by the court, shall be liable to the other party for any reasonable attorney's fees, costs, and expenses (including expenses of litigation) incurred by such other party and as determined by the court. This provision shall survive closing and delivery of deeds.

20. DEFAULT: In the event either party should breach this Contract, the other party may pursue any and all remedies provided.

21. ENTIRE AGREEMENT: This Contract represents the entire agreement of the parties. No covenants, agreements, representations or warranties of any kind have been made by any party or agent of a party to this Contract, except as specifically set forth herein. The parties expressly acknowledge that, in executing this Contract, they have not relied on any prior or contemporaneous oral or written representations, statements or agreements, except as expressly set forth herein. Any modifications of the terms of this Contract must be in writing and signed by both parties, in the absence of which the terms of this Contract shall govern.

22. FORM OF AGREEMENT: N/A

23. MORTGAGE INFORMATION AUTHORIZATION: N/A

THIS IS INTENDED TO BE A LEGAL DOCUMENT. AN ATTORNEY AT LAW SHOULD BE CONSULTED PRIOR TO THE EXECUTION OF THIS DOCUMENT.

IN WITNESS WHEREOF, the parties to these presents have hereunto set their hands and seals to several counterparts of this Contract, of equal effect.

DATE SIGNED BY SELLER: August 18, 2009.

BroMenn Healthcare Hospitals,
an Illinois not for profit corporation

Attest:

Steven Holman, Seller

DATE SIGNED BY BUYER: August 25, 2009.

City of Bloomington,
a Municipal Corporation

Attest:

Stephen F. Stockton, Buyer

Tracey Covert, Buyer

This Contract will be deemed effective as of the last date signed.

Motion by Alderman Purcell, seconded by Alderman Schmidt that the Contract with Bromenn Healthcare for right of way and temporary easements in the amount of \$11,204 be approved, and the Mayor and City Clerk be authorized to execute the necessary documents.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Intergovernmental Agreement between the City of Bloomington and the Town of the City of Bloomington for Operation of the John M. Scott Health Care Programs and Services

RECOMMENDATION: That the Intergovernmental Agreement be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: In 2002 and 2003, the City and the Town of the City of Bloomington Township entered into Intergovernmental Agreements that allowed for the day to day operations of the John M. Scott Health Care, (JMSHC), programs and services to be housed in the same building, thus allowing for clients to access both services at the same location.

In April 2009, Ruth Ann (Sikora) Fraker retired as the John M. Scott Director and Township Supervisor. At that time, staff worked with the incoming Township Supervisor Joe Gibson to review the current Intergovernmental Agreement to ensure that it meets the needs and vision of the City, the John M. Scott Trust and the Town of the City of Bloomington.

The Agreement reflects several conversations with Mr. Gibson, John Pratt, Township Attorney, Tom Herr, John M Scott Trust's attorney, and City staff.

At their regular meeting on August 12, 2009, the JMSHC Commission board members reviewed this agreement. They are recommending it to Council in their capacity as Trustees of the John M. Scott Estate. This item will appear on the Town of the City of Bloomington Township's September 26, 2009 meeting agenda.

The Agreement adds the following:

- Vans donated to or otherwise acquired by the John M. Scott Trust will continue to be titled under the name J.M. Scott and the City of Bloomington. Such vans will continue to be fueled at the gas pumps of the City of Bloomington and the expense for such fuel will be charged to the Township, to be reimbursed by the Scott Trust.
- The City will provide computer services; the Township will reimburse the City for such services.
- The City will provide mowing and snow removal to the Township lot; the Township will reimburse the City for such services.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: None. For Fiscal Year 2009 – 2010, dollars have been budgeted within the John M. Scott and Town of the City of Bloomington budgets.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed as to legal sufficiency:

Barbara J. Adkins
Deputy City Manager

J. Todd Greenburg
Corporation Counsel

Recommendation by:

David A. Hales
City Manager

**INTERGOVERNMENTAL AGREEMENT FOR OPERATION OF JOHN M. SCOTT
HEALTH CARE PROGRAMS AND SERVICES**

AGREEMENT MADE THIS 29th day of September, 2009, between the City of Bloomington, a municipal corporation of McLean County, Illinois as Trustee of the John M. Scott Health Care Trust (“City); and the Town of the City of Bloomington, a duly created political Township under the statues of the State of Illinois (“Township”)

WITNESSETH:

RECITALS

1. PURPOSE OF THE JOHN M. SCOTT TRUST.

Under the Estate of John M. Scott, deceased.....:

A provision was made for the benefit of local residents for health care that included certain provisions for the establishment of the health care facility and conferred upon the City of Bloomington certain obligations in the establishment of such program. The guidelines, limitations and provision of such obligations were finally established incase No. 81 CH 135. In accordance with the Declaration of Trust, the City accepted its responsibilities as trustee of the John M. Scott. Health Care Trust and, in furtherance of its role as trustee, operates the John M. Scott Health Resource Center programs and services.

2. AUTHORITY OF TOWNSHIP SUPERVISOR; SIMILARIRT OF FUNCTIONS.

The Township, particularly the Township Supervisor, is by Sec. 70-50 of the township code, (60 ILCS 1/70-60) charged with the duty to administer the general assistance program in the Township as provided in Articles VI, XI, and XII of the Illinois Public Aid Code. Both City, under the Declaration of Trust and the Township under the Township Code perform similar functions and provide assistance to many of the same people.

3. FINDINGS OF TRUSTEE.

It is the determination of the City that the programs and services provided for in the Trust can best be delivered by utilizing the personnel in the office of the Supervisor of the Township, which political body is coextensive geographically with the City.

4. PRIOR AGRREMENT FOR BUILDING.

The Township and the City have been previously entered into an intergovernmental agreement whereby the City will construct, at the Township's expense, a building on land owned by the City, and the City will convey the underlying real estate to the Township for use, as Township offices, and said building will also serve as the offices for the John M. Scott Health Care Programs and Services.

5. EFFICIENT USE OF OFFICE SPACE

The operation of the John M. Scott Trust Programs and Services in the same building as the Township offices will enable both agencies to make their services more conveniently available to their clients and to provide services more efficiently and at a lower cost through sharing of personnel, joint purchases and other techniques.

6. AUTHORITY FOR AGREEMENT.

- (a) Parties to this Agreement derive their authority to enter into intergovernmental agreements from Article 7, Section 10 of the Constitution of the State of Illinois, which authorizes units of local government to contract and otherwise associate among themselves any manner not prohibited by law. Both the City and the Township are units of local government within the meaning of Article 7, Section 10 and the terms of this Agreement are not prohibited or restricted by law.

- (b) Article VII of the Declaration of Trust empowers the City as Trustee to furnish services for the benefit of the trust and to be reimbursed for the cost thereof.
- (c) Article X, Sec. 1 paragraphs (g) and (h) of the Declaration of Trust, empower the City as Trustee:
 - g. To employ attorneys, auditors, accountants, depositories, proxies, and agents with or without the discretionary powers; and
 - h. To take all other actions necessary in the discretion of the trustee to accomplish the purpose of the trust provided that such action is authorized, expressly or implicitly, by the terms of the order or by the law.
- (d) Section 85-10(d) of the Township Code [60 ILCS 1/85-10(d)] authorizes the Township to “make all contracts necessary in the exercise of the Township’s powers.”

AGREEMENT

1. TRUSTEE APPROVAL

Health care program and services of the John M. Scott Trust subject to this Agreement will be as determined by the Trustee upon recommendation of the John M. Scott Health Care Commission, which serves as the advisory body to the operation of this program. Such programs and services shall be submitted to the Township Supervisor for implementation.

2. TRUST EXPENSES

It is the intent of this agreement that all costs and charges incurred by the Township in respect to the operations of the Trust programs and services shall be borne by the Trust account of the said John M. Scott Estate Trust.

3. TOWNSHIP TO DELIVER SERVICES

The City Council, acting as Trustee for the Estate and as the Board of Trustees of the City of Bloomington Township, hereby authorizes the Supervisor of the Township to operate and direct the programs and services, implement the guidelines, rules and regulations as may be adopted by the City, authorize the disbursement of funds or contractual services as provided herein.

4. ESTIMATE OF COSTS; BUDGET.

For the purpose of establishing an estimate of the personnel and other costs required, the Township Supervisor will prepare a budget for each Township fiscal year utilizing best estimates available as to the amount of time required by personnel and the actual costs of services, equipment, and other overhead expense of the office of general assistance to provide the services to be delivered on behalf of the Trustee. Such budget shall be approved by the governing body

for each governmental unit, which is to say the members of the Bloomington City Council in their capacity as City Council and as the Board of Trustees. It is contemplated that this budget shall be revised from time to time based upon the experience in actual operation of the program and delivery of services. Persons newly hired to perform services both for the City and Township shall be Township employees.

5. HEALTH CARE COMMISSION.

The John M. Scott Health Care Commission is hereby designated by the City to oversee and service in an advisory capacity to the Supervisor in the operation of the John M. Scott Health Care Trust programs and services which are the subject of this Agreement. The Commission, subject to approval of the City, shall establish guidelines for the disbursement of funds for the purpose of the Trust.

6. TRANSFER OF FUNDS.

The City to transfer funds in the amount consistent with the budget to an account to be used by the Township Supervisor, which shall be a separate account under the name of John M. Scott Trust Account. The Township Supervisor may draw orders upon this account, and the use of the account, shall be as near as possible to the method used in the disbursement of funds for general assistance. Use of funds from this account shall be in accordance with Trust guidelines. The status of said account or accounts that may be established shall be reported by Supervisor to the Township Board of Trustees once each month, together with other Township funds. Both the City and Township agree to follow such procedures as may be required by their respective auditors to assure proper controls on the funds advanced hereby.

7. MISCELLANEOUS EXPENSES

(a) Vans donated to or otherwise acquired by the John M. Scott Trust will continue to be title under the name of J. M. Scott and the City of Bloomington. Such vans will continue to be fueled at the gas pumps of the City of Bloomington and the expense for such fuel will be charged to the Township, to be reimbursed by the Scott Trust.

(b) The City will provide computer services, including, but not limited to, such services as desktop hardware support, desktop productivity application support, workgroup and personal printer support, network file storage space with enterprise backup, networking hardware support, e-mail services and internet connectivity with virus scanning; the Township will reimburse the City of Bloomington for such services.

(c) The City will provide mowing to the Township lot and snow removal services for the Township parking lot; the Township will reimburse the City of Bloomington for such mowing and snow removal services.

8. SUPERVISOR STATURTOR DUTIES NOT AFFECTED.

Nothing herein contained shall conflict with or be contrary to or limit the authority or obligations of the Supervisor of the Township and conduct of the Supervisor's duties and control of the general assistance fund of the Township.

9. TERMS

This agreement shall be for an indefinite duration, but either party may terminate it by giving sixty (60) days written notice to the other party. Said termination shall not automatically terminate the position of any persons hired under this Agreement. Prior to termination of the Agreement, the City and Township shall meet and confer as to said employee's status after the end of the Agreement.

Executed this day of August 25, 2009.

City of Bloomington, a municipal corporation

By: Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Town of the City of Bloomington, a governmental
Township of the State of Illinois

By: Joe Gibson
Supervisor

ATTEST:

Tracey Covert
Township Clerk

Motion by Alderman Purcell, seconded by Alderman Schmidt that the Intergovernmental Agreement be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Application of Bloomington Jaycees, requesting an Limited Liquor License, (LB), for the event called “Bruegala,” formerly known as “Beerfest/Septemberfest”, a charitable fundraiser to be held at the Interstate Center located at 2301 W. Market St. on Friday and Saturday, September 11 and 12, 2009 which would allow the sale of beer and wine by the glass for consumption on the premises

RECOMMENDATION: That an LB liquor license for the Bloomington Jaycees, for “Bruegala”, a charitable fundraiser to be held at the Interstate Center located at 2301 W. Market St. on Friday and Saturday, September 11 and 12, 2009 be approved contingent upon compliance with all applicable health and safety codes.

BACKGROUND: Commissioner Stockton opened the hearing. Ms. Swords, Jaycees’ member and Applicant Representative stated that she would serve as Chairperson for this year’s event. This would be her sixth year to be involved in this event. The Bloomington Jaycees wanted to continue to host this event on the first weekend after Labor Day. This year’s event coincidentally fell on the anniversary of the September 11th, attack on the World Trade Center. She understood that there would be other events taking place within the City. She noted that the time for Friday’s event was changed from 6:00 p.m. until 12:00 a.m. to 6:00 p.m. until 10:00 p.m. She stated that the only other change from previous years was the addition of food vendors. There would be a total of five (5) food vendors. There was the possibility that the barn area of the Interstate Center would be used depending on how much space the food vendors needed to set up their booths.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Not applicable.

Respectfully,

Reviewed and concur:

Stephen F. Stockton
Chairman of Liquor Commission

Randall D. McKinley
Police Chief

Motion by Alderman Purcell, seconded by Alderman Schmidt that an LB liquor license for the Bloomington Jaycees, for “Bruegala”, a charitable fundraiser to be held at the Interstate Center located at 2301 W. Market St. on Friday and Saturday, September 11

and 12, 2009 be approved contingent upon compliance with all applicable health and safety codes.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Fiscal Year 2009 Housekeeping Budget Amendment

RECOMMENDATION: That the Ordinance be passed.

BACKGROUND: The State of Illinois statutes require expenditures incurred within each individual fund not to exceed the appropriation amount set forth in the annual budget of an established fiscal period. It has been past practice in the following fiscal year that staff prepared an annual list of “housekeeping amendments.” These amendments reconcile the appropriation budget of each fund whose actual expenditures have exceeded the amount appropriated in the annual budget. Bear in mind, these amendments deal only with funds already expended in the prior fiscal year (FY 2009) and has no effect within the current fiscal period (FY 2010). The purpose of these amendments is to ensure the City is in compliance with the state statutes for Fiscal Year 2009, which is reviewed as part of the annual audit process.

The appropriated budget of these funds may be exceeded for several reasons such as but not limited to: 1.) prior year encumbrances paid out of the fiscal period in question; 2.) transfers to cover higher than planned expenses; 3.) purchases and/or projects (ex. grants) that were approved in mid year but not included within the appropriated budget; 4.) projects approved after the annual budget was approved; and 5.) costs incurred for unforeseen circumstances. Attached is documentation which summarizes and itemizes the proposed budgetary amendments. To comply with State statute, staff presents the budget amendments as part of the audit process. This presentation has occurred over the past several fiscal years

In the current Fiscal Year, it is staffs intention to strengthen the fiscal controls of the budgetary process by modifying the budget amendment process. Currently, the budgetary amendments are presented to Council in the following fiscal year on funds already disbursed by the municipality. Staff will present the majority of all budgetary amendments to Council in the same fiscal year rather than the proceeding fiscal period. Furthermore, as part of the Financial Impact section, a statement will be included which will disclose the need for a budget amendment if the applicable item is approved by the City Council.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed and concur:

Timothy L Ervin
Director of Finance

Barbara J Adkins
Deputy City Manager

Recommended by:

David A. Hales
City Manager

ORDINANCE NO. 2009 - 57

**AN ORDINANCE AMENDING THE BUDGET ORDINANCE
FOR THE FISCAL YEAR ENDING APRIL 30, 2009**

WHEREAS, on April 14, 2008 by Ordinance Number 2008 - 28, the City of Bloomington passed a Budget and Appropriation Ordinance for the Fiscal Year Ending April 30, 2009, which Ordinance was approved by Mayor Stephen F. Stockton on April 15, 2008; and

WHEREAS, a budget amendment is needed as detailed in Exhibit A;

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON, ILLINOIS:

Section One: Ordinance Number 2008 - 28 (the Budget and Appropriation Ordinance for the Fiscal Year Ending April 30, 2009) is further hereby amended by inserting the following amounts in the appropriate place in said Ordinances:

Section Two: Except as provided for herein, Ordinance Number 2008 - 28 shall remain in full force and effect, provided, that any budgeted or appropriated amounts which are changed by reason of the amendments made in Section One of this Ordinance shall be amended in Ordinance Number 2008 - 28.

See Exhibit A. Fiscal Year 2008 – 2009 Budget Amendment.

Section Three: This Ordinance shall be in full force and effect upon its passage and approval.

PASSED the 24th day of August, 2009.

APPROVED the 25th day of August, 2009.

APPROVED:

Stephen F. Stockton
Mayor

ATTEST:

Tracey Covert
City Clerk

Motion by Alderman Purcell, seconded by Alderman Schmidt that the Ordinance be passed.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Grant of Geothermal Easement by City to Community School District Unit #5

RECOMMENDATION: That the Easement be granted and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: Recently real estate deeds were executed by landowners owning property which will eventually become a City park and a school site for Unit 5. A geothermal easement for the benefit of Unit 5 for the installation of a geothermal HVAC system at the Cedar Ridge Elementary School was intended to be on the property which will become the City park. This was always the intent of the parties. The Easement will convey the geothermal field to Unit 5. This geothermal field was shown on the Final Plat of the Resubdivision Outlot 35 Cedar Ridge Subdivision.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Representatives of Community School District Unit #5.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Recommended by:

J. Todd Greenburg
Corporation Counsel

David A. Hales
City Manager

EASEMENT FOR GEOTHERMAL FIELD

THIS INDENTURE WITNESSETH, that the Grantor CITY OF BLOOMINGTON, ILLINOIS, a Municipal Corporation, of the City of Bloomington, County of McLean and State of Illinois for and in the consideration of the sum of Ten Dollars and no/100 (\$10.00) and other Good and Valuable Consideration in hand paid, GRANT(S) CONVEY(S) and QUITCLAIM(S) to Grantees COMMUNITY UNIT SCHOOL DISTRICT NO. 5, MCLEAN AND WOODFORD

COUNTIES, ILLINOIS, of the Town of Normal, County of McLean and State of Illinois, the following:

a permanent easement for geothermal field

in and over the following described real estate to-wit:

A part of Lot 2 in the Re-subdivision of Outlot 35 in Cedar Ridge Subdivision, Bloomington, McLean County, Illinois, per plat recorded May 1, 2009 as Document No. 2009-12864 in the McLean County Recorder's Office, more particularly described as follows: Beginning at a point on the North Line of said Lot 2 lying 10 feet west of the Northeast Corner thereof. From said Point of Beginning, thence west 317.59 feet along said North Line; thence south 57.74 feet along the West Line of said Lot 2 which forms an angle to the right of 90°-00'-00" with the last described course; thence east 317.59 feet along a line which forms an angle to the right of 90°-00'-00" with the last described course to a point lying 10 feet west of the East Line of said Lot 2; thence north 57.74 feet along a line which is parallel with said East Line and which forms an angle to the right of 90°-00'-00" with the last described course to the Point of Beginning, containing 18,338 square feet, more or less.

TAX I.D. # a part of 21-21-202-002

situated in the County of McLean and State of Illinois, for the following purposes:

to permit the construction, operation, maintenance, repair and replacement of a geothermal heating/cooling system, including wells, piping, conduits and above and below ground appurtenances, including rights of access for equipment and personnel

Grantor retains the right to use the surface of the property in which this easement exists for the planting of grass and installation of landscaping, but relinquishes the right to use the surface for permanent structural improvements, such as buildings, driveways, parking lots, sidewalks, which because of their weight, size or volume might impair the structural integrity of improvements in the easement or make maintenance, repair or replacement of improvements in the easement significantly more difficult and expensive.

Dated this 26th day of August, 2009.

City of Bloomington, Illinois, a
Municipal Corporation

By: Stephen F. Stockton
Mayor

SUBJECT: Lake Bloomington Lease Transfer Petition for Lot 4, Block 3 of Camp Kickapoo from Katherine Oncken to Katherine E. and Darryl J. Oncken

RECOMMENDATION: That the Lake Lease Transfer be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

BACKGROUND: Staff has reviewed the Lake Bloomington Lease Transfer Petition for Lot 4, Block 3 of Camp Kickapoo from Katherine Oncken to add her husband's name to the lease; Katherine E. and Darryl J. Oncken. This petition is in order and staff recommends that this transfer be approved. The sewage disposal system was inspected when Mrs. Oncken had the lease transferred to her name in February of 2007.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: This petition will have a neutral financial impact in that the lease uses the current formula, (\$0.40 per \$100 of Equalized Assessed Value) for determining the Lake Lease Fee. This lake lease income will be posted to Lake Lease revenue account 5010-50100-50110-57590.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed as to legal sufficiency:

Craig M. Cummings
Director of Water

J. Todd Greenburg
Corporation Counsel

Recommended by:

David A. Hales
City Manager

Motion by Alderman Purcell, seconded by Alderman Schmidt that the Lake Lease Transfer be approved and the Mayor and City Clerk be authorized to execute the necessary documents.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Suspension of Chapter 6 Section 26(d) to Allow Possession of Open Alcohol on Public Property for the B104 Corona Sun City Tailgate Party on September 17, 2009

RECOMMENDATION: That the Ordinance be passed.

BACKGROUND: BMI Concession, Radio Bloomington and City Beverage are sponsoring an outdoor event prior to the Kenny Chesney concert which will be held on Thursday, September 17, 2009 at the US Cellular Coliseum. The location of the event will include the Butler Parking Lot and the 300 west block of Front Street. Concert goers will be able to purchase beer and soda tickets. Food will also be available for purchase at the event. People who attend the event would be able to purchase a drink and move about freely within the designated event area. Beer would be sold by BMI Concession, an existing liquor license holder, through an extension of premise request for the event and only beer purchased from the event vendor could be consumed within the designated event area. Outdoor consumption would be allowed between 3:00 and 7:30 p.m.

The event organizers met with staff, including representatives from the police, legal, and administrative departments to review this plan. Given the nature of the event, the high degree of involvement by event staff, and anticipated attendance, all concerned believe this plan should work without problems.

Staff prepared an Ordinance suspending the code as needed for this event. Council will note that the Ordinance makes the suspension effective one (1) hour before the sales begin to allow the organizers time to set up for the event. Staff respectfully recommends that the Ordinance be passed.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:

Reviewed by and concurs:

Recommended by:

George Boyle
Asst. Corporation Counsel

Randall D. McKinley
Chief of Police

David A. Hales
City Manager

ORDINANCE NO. 2009 - 56

AN ORDINANCE SUSPENDING PORTIONS OF SECTION 26(d) OF CHAPTER 6 OF THE BLOOMINGTON CITY CODE TO ALLOW POSSESSION OF OPEN ALCOHOL ON PUBLIC PROPERTY DURING THE B104 CORONA SUN CITY TAILGATE PARTY IN DOWNTOWN BLOOMINGTON

WHEREAS, BMI Concession, Radio Bloomington and City Beverage will hold an outdoor event in downtown Bloomington on September 17, 2009; and

WHEREAS, BMI Concession, Radio Bloomington and City Beverage requested permission to allow sales and consumption of beer during the event on the 300 west block of Front Street and the Butler Parking Lot; and

WHEREAS, to allow possession of an open container of alcohol on a public street, Section 26(d) of Chapter 6 of the Bloomington City Code, which prohibits the possession of open containers of alcohol on public streets, must be suspended.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON, ILLINOIS;

Section 1: That Section 26(d) of Chapter 6 of the Bloomington City Code, 1960, as amended, is suspended on the following dates during the following hours: September 17, 2009 between 2:00 o'clock p.m. and 7:30 o'clock p.m. for the 300 west block of Front Street and the Butler Parking Lot. This suspension shall be effective only as to persons inside the designated area only and for alcohol purchased from the event vendor within the designated area. No alcohol may be taken out of licensed premises into the designated area, notwithstanding the fact that the premises are operated by the event vendor.

Section 2: Except for the dates, times and location set forth in Section 1 of this Ordinance, Section 26(d) of Chapter 6 of the Bloomington City Code, 1969, as amended, shall remain in full force and effect. Nothing in this ordinance shall be interpreted as repealing said Section 26(d).

Section 3: This Ordinance shall be effective on the date of its passage and approval.

Section 4: This Ordinance is adopted pursuant to the home rule authority granted the City of Bloomington by Article VII, Section 6 of the 1960 Illinois Constitution.

PASSED this 24th day of August, 2009.

APPROVED this 25th day of August, 2009.

APPROVED:

Stephen F. Stockton, Mayor

ATTEST:

Tracey Covert, City Clerk

Alderman Schmidt requested further discussion regarding this item. She expressed her confidence in the Central Illinois Arena Management (CIAM) to handle this event. She had received several phone calls from Downtown bar owners. They heard about the Corona Sun City Tailgate Party and questioned why they had not been able to host similar events in the past. Alderman Schmidt had answered inquiries by informing them this event had gone through the Liquor Commission and would appear on the Council's agenda. She requested clarity regarding the process for suspending City ordinance for an outdoor event.

Mayor Stockton stated that the event had not come before the Commission. He had met with City staff and discussed the event. They examined three (3) items: 1.) the request for street closings which was not a Council decision; 2.) the request to suspend the ordinance to allow for alcohol service on public property which required Council approval; and 3.) an extension of the premises or secondary liquor license. The initial request to close the street had been to accommodate vehicle parking. The event would require the use of the Butler lot from 3:00 p.m. to 7:30 p.m. He cited Zoo Do, WGLT Summer Concert, and Hot August Nights as examples of previous ordinance suspensions. He noted that during the past year fourteen (14) extensions of premises and fourteen (14) secondary licenses had been granted to several establishments throughout the City. He added that Elroy's had set a precedence with their Extreme football tailgating for which they were given a secondary license. Mayor Stockton expressed concern as this event was a new stratum for the US Cellular Coliseum (USCC). Kenney Chesney was one of the top five (5) entertainers in the nation. This event was a great opportunity. Mr. Chesney's next stop would be Indianapolis, IN to a sold out stadium which held tens of thousand. He expressed his desire for the City to handle the event well.

Alderman Schmidt's concern was not for the specific event. Liquor license holders needed to understand what needed to be done to submit a similar proposal.

Mayor Stockton restated that an extension of premises was generally granted on private property. The proposal needed the approval from the Police, PACE, and Legal Departments. An exception to this rule would be for use of a sidewalk. Sidewalk use was granted by the Commission. In addition, the Mayor was also contacted by the Downtown bar owners. They were concerned that this event was the beginning of a trend. The USCC would entertain people prior to events. This would draw the public away from Downtown establishments. This event was unusual and had been Mr. Chesney's preference.

Alderman Schmidt reiterated her interest for people to understand the process of petitioning for similar events.

Mayor Stockton added the event was not open to the general public but limited to a number of concert ticket holders. He had no intention of holding an event like this prior to all concerts. Barb Adkins, Deputy City Manager, stated the City was protective of Downtown street closings. Staff found it difficult to accommodate the twenty-three (23) semi trucks and fourteen (14) busses required for this size event. The number of accommodations required were not being taken lightly.

Alderman Schmidt restated that she was not concerned specifically with this event. She spoke on behalf of Downtown business owners to clarify the process.

Motion by Alderman Schmidt, seconded by Alderman Purcell to suspend the rules to allow someone to speak.

Motion Carried.

Jim Appio, CIAM's Director of Operations, was requested to address specific uses of Front Street and the Butler lot. He clarified that there would be twenty-six (26) trucks and eight (8) busses. This was the largest act ever seen at the USCC. The contract did not include the tailgate party. The entertainer liked to have a party atmosphere during his concerts. Corona was the event sponsor. The capacity for the site was 1,500 to 2,000 attendees. Numbers would be controlled by security. The event was scheduled to begin at 3:00 p.m. and end at 7:30 p.m. before the concert began. There were two (2) opening acts. Kenney Chesney would take the stage at 9:00 p.m. and play for two (2) hours.

Mayor Stockton questioned if a stage and entertainment would be provided during the tailgate party. Mr. Appio responded affirmatively. B104 radio would provide entertainment which included a band.

Alderman Purcell questioned the City's percent of sales for the event. Mr. Appio stated the percentage was the same.

Alderman Schmidt questioned security. Mr. Appio stated that there would be ten to fifteen (10 - 15) security personnel outside of the arena and police officers within. Randy McKinley, Assistant Police Chief, addressed the Council. There would be seven (7) officers and two (2) supervisors present, who would be at the overtime rate.

Alderman Fruin questioned Mr. Appio's comfort level with the timing of the sales of alcohol and consummation. Mr. Appio was comfortable with the situation.

Tyler Holloway, 2509 Kara Crossing, Downtown Bar Owners Association President and Fat Jack's owner addressed the Council on behalf of the Association. All of their concerns had been addressed. He thanked the Council for their time and consideration. Mayor Stockton encouraged the Bar Association and CIAM to work together to provide everyone with a win-win situation.

Alderman Purcell believed the Bar Association would generally only be impacted by summer events and would receive overflow business from winter events.

Dick Fasig, 610 E Douglas Street, Cultural District Neighborhood Association's President questioned if tax dollars would be spent on the clean up and police officer overtime pay from the event. Mayor Stockton responded tax dollars were used to subsidize the USCC. Davis Hales, City Manager, noted overtime pay for the police officers would be reimbursed. Assistant Chief McKinley added that the USCC would be invoiced at overtime rate. CIAM would be responsible for the Butler lot clean up.

Alderman Schmidt appreciated the opportunity to have clarity regarding this event.

Mayor Stockton again expressed the need for cooperation between the Bar Association and CIAM.

Motion by Alderman Schmidt, seconded by Alderman Purcell to return to Order.

Motion carried.

Motion by Alderman Schmidt, seconded by Alderman Purcell that the Ordinance be passed.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Schmidt, McDade, Anderson, Hanson, Sage, Fruin and Purcell.

Nays: None.

Motion carried.

The following was presented:

Presentation regarding Inflow and Infiltration by the Bloomington Normal Water Reclamation District.

David Hales, City Manager, introduced Bob Carter, Executive Director, and Randy Stein, Assistant Executive Director, Bloomington Normal Water Reclamation District (BNWRD) to make a presentation regarding Inflow and Infiltration. Mr. Hales stated there had been many discussions between the City and BNWRD staff concerning infiltration of rain water into the City's sanitary sewer collection system. He stated no action was required of the Council this evening. Mr. Carter and Mr. Stein presented a brief overview for the Council's consideration.

Mr. Carter reiterated the purpose of their presentation was to provide a brief overview and the consequences of the issue. If the issue is not addressed properly, it could

limit the City's growth east of Veterans Parkway. The Randolph (Southeast) Treatment Plant was designed for a twenty (20) year growth span and as a separate system for waste water. The plant cost \$55 million. The treatment plant had a set capacity for inflow. The Environmental Protection Agency (EPA) has an annual inspection that examines average flow rate. He was concerned that the overflow could place the facility in restricted status with the EPA. The result would be limited growth for the City's east side.

Mr. Stein supported Mr. Carter's statements with a PowerPoint presentation which included specific information. He explained inflow as storm related water and infiltration as leaking pipes from groundwater. The BNWRD East Side Interceptor (ESI) defined as a separate sanitary sewer was not to be combined with storm water. The ESI commenced at G.E. Valley Pump Station and terminated at Little Kickapoo Creek at the Randolph Waste Water Treatment Plant (RWWTP). The ESI serves 300 connections in Normal and 10,000 in the City. This treatment plant was the largest public works project in the area at a cost of \$55 million with a twenty (20) year growth capacity. It was not designed to handle emergency overflow, excess storage, or bypass capability. Any overflows would flood the plant and flow into adjacent wetlands and creek.

Flow monitoring was completed by computers at all treatment plants and pump stations. The design flow for the RWWTP is 7.5 million gallons per day (mgd) with maximum flow rate at 16.875 mgd. Toward the end of 2008, peak flow rates were at 17.3 mgd and 16.9 mgd. On September 14, 2008, overflow had to be rerouted which led to flows above design in other cross-town sewers. Flow monitoring results revealed the location of the largest problem was between Washington Street and Ireland Grove Road, east of Veterans Parkway. There was a history of storm water flow issues in the 1980's. Detention basins had helped with flooding at that time. Consequences of overflow issues included fines and/or litigation from the EPA, an estimated cost of \$551,000 per year for each mgd of excessive inflow/infiltration, and no further development allowed on the City's east side, east Normal and/or Downs. The cost of plant expansion would be \$10 million per one mgd capacity. Intervention was possible before the City was affected by the consequences.

Alderman Sage questioned how the situation had become this serious. Mr. Stein stated the RWWTP had been designed as a separate sewer system with good flow measurements. The problem had been higher amounts of rain fall which impacted the flow during the last two (2) years.

Alderman Schmidt questioned the average rainfall and the difference between the amounts of rainfall measured. Mr. Stein stated that the plant had been designed as a separate sewer system. Rain water should not be flowing through the plant. He noted two (2) issues: 1.) spikes in heavy rain and 2.) ground water leaking in. Mayor Stockton clarified that the plant had not been designed as a combined system but seemed to be functioning as one.

Alderman Purcell stated the issue was that groundwater was infiltrating the pipes which increase the flow.

Alderman McDade questioned the original design and if there had been a plan to deal with this particular issue. Mr. Stein stated the system east of Veterans Parkway had been contracted and designed to standards for sanitary sewers. They were able to quantify the issue by using good monitoring.

Alderman Hanson questioned the correct installation of the sewer and if there was a guarantee on future sewers to eliminate this issue. Mr. Hales added that the Council would be provided with additional information in the future. Jim Karch, Director of Public Works, addressed the Council. He reiterated how important the issue was. There were short and long term issues. The short term issue was additional spikes in inflow. There had been dialogue about the past problems with inflow spikes. Current discussion was focused on where the problem was located and the steps to correct the issue. Long term issues were groundwater and illegal connections. He stated correcting the issue would require funding. The issues were significant and long term. He noted that construction issues had been addressed and the level of inspection had also been increased.

Alderman Sage questioned problems caused by unauthorized connections to the system. Mr. Karch stated that was a possibility. In-house research would be completed to determine where the problem was located. Improper connections could be the main issue. He noted that despite the level of the groundwater the pipes should be tight. They had been designed to accommodate a specific amount of inflow.

Mr. Hales summarized the on going discussions concerning inflow and infiltration. Identifying the problem area quickly, installing additional inflow meters, and retaining a consultant to assist in identifying where the problem was located had been discussed. Recommendations would be made and brought to Council at a future meeting. There would be continued dialogue concerning the issue.

Mayor Stockton questioned the Ireland Grove Road sewer repair. He questioned when the Council would receive a report on the success of the repair. Mr. Karch stated BNWRD was monitoring same and a report would be completed as storms occurred.

Alderman Purcell restated the overall goal would be to reduce the amount of inflow.

The following was presented:

Presentation regarding Street Resurfacing Projects and Pot Hole Program

Jim Karch, Director of Public Works, presented on the status of street resurfacing projects and the pothole program. He provided a handout summarizing the amount spent on improvements. The General Resurfacing project with Rowe Construction would be completed by the end of the construction season. The street patching project would be completed in two (2) weeks. The Lincoln Street project had been a long term project and was seventy percent (70%) complete. Federal stimulus dollars had been spent in the City by Illinois Department of Transportation (IDOT). There were three (3) projects on the state's November 2009 bid on: 1.) Hamilton Road from Timberlake to Main; 2.) traffic

signalization at College Avenue and Hershey Road; and 3.) Ireland Grove Road from Veterans Parkway to Kickapoo Bridge. Construction would begin in the spring 2010. There were several emergency repair projects submitted in July 2009 listed on the handout. Over \$12 million will have been invested during FY 2009-2010 on street resurfacing. Funding came from federal and state budgets which could be attributed to past planning efforts.

Alderman Purcell questioned the time line for the Main Street project completion. Mr. Karch stated there was not a completion date at that time.

Mr. Karch continued with a presentation on the Pothole Program. The community had become engaged which resulted in over eight hundred (800) pothole requests. In the past temporary patching had been used for potholes. This program would be different. Rented equipment had been used to strip mill long areas of road. Hot patching with asphalt had been used as a permanent patch. Permanent patching for all potholes was the long term direction. Permanent patching took longer and was more expensive. It also lasted longer than temporary patching. The goal for the next year would be to recommend obtaining permanent patching equipment. All pothole requests had been addressed by July 15, 2009. There had been a combination of temporary and permanent patching due to available resources. The program was excellent and the crews worked hard to complete all requests. The next step would be to complete this work with different resources and equipment.

David Hales, City Manager, commented that this information was a lead in to what other department directors would do in the future. There had been discussion on what had been accomplished and what still needed to be done. He commended the crew's efforts in this project. Citizens wanted attention given to existing streets. There was a significant backlog. In-house staff and contractors would be used to address the backlog. Recommendations would be provided to Council in the future.

Alderman Fruin stated there had been a lot of press attention on the issue. He questioned the communication plan that would be used. Mr. Hales was scheduled to appear on WJBC. The City needed to do a better job of educating and informing the community. There were major projects that had begun years ago that still required attention.

Mr. Karch thanked the Council for their support. Mayor Stockton reiterated the importance of better communication. Aldermen McDade and Anderson were developing a citizen satisfaction survey.

The following was presented:

SUBJECT: Appeal of the Action of the Zoning Board of Appeals, (ZBA) Denying a Rear Yard Variation for the Property located at 601 Chelsea, Case Z-13-09

RECOMMENDATION: That action by the Zoning Board of Appeals be upheld and the Appeal denied.

BACKGROUND: The petitioners, Mr. William and Mrs. Melda Rademaker, proposed to add a sun room to their home at 601 Chelsea. The configuration of the proposed addition would bring the addition to within fifteen feet (15') of the rear property line. The minimum setback for the R-1B zoning district is thirty feet (30').

Applicable Code Section: Chapter 44, Section 4-5G - No obstructions shall be allowed in any yard required by this Code.

Type of variance	Request	Required	Variance Required
Rear Yard Setback	15'	30'	15'

Staff recommendation: Denial - by not meeting the findings of fact, the petitioners have failed to show a hardship exists.

1. That the property does not have physical characteristics that pose unreasonable challenges which make strict adherence to the Code difficult: there are no hardships with this request or location.
2. That the variance would not be the minimum action necessary to afford relief to the applicant: and the sunroom could be constructed with the same square footage, but thirteen feet (13') from the home instead of the requested thirty feet (30'). There are no minimum standards or requirements mandating a sunroom.
3. That the special condition and circumstances were created by any action of the applicant: this home was built by the applicants and in compliance with the zoning code.
4. That granting the variation request will give the applicant any special privilege that is denied to others by the Code: other homes in the area have been built to meet code. This lot is twenty feet 20' larger in width than nearby interior lots.
5. That granting the variation will be detrimental to the public welfare, alter the essential character of the neighborhood, and not unreasonably impair the use of development on adjoining properties: by allowing the sunroom to be constructed and encroach in the required rear yard precedence will be established for a relatively new subdivision.

Action:

Mr. William Rademaker presented his case for appeal, while Mrs. Rademaker distributed packets with more photos of the yard and project area. Mr. Rademaker commented on the staff suggestion of turning the proposed addition so it would have the same square footage but with less protrusion into the required rear yard. With the door and window arrangement this option

was not feasible in his opinion. It would cost more with the added framing of roofline and reduced natural light into the home's dining room.

Board members felt this option would best suit the yard and the neighborhood, and suggested that adding a skylight would help with the natural light lost by covering the existing window with new construction. Mr. Rademaker claimed the added expense would be a hardship.

Mr. Ireland questioned how the large tree in the pictures would be affected and how close the new addition would be from the tree. Mr. Rademaker replied the tree would still be ten (10) feet from the addition and would not cause a problem. He added that the neighbors generally approved of the addition and location. With his health (Rheumatoid Arthritis), he was hoping to keep the floor level the same as his home to make the transition for easier.

Mr. Snyder questioned the location of the exits from the addition for this room. Mr. Rademaker replied the proposed exterior door would be to the side and not straight into the remaining rear yard.

Mr. John Treager, the proposed builder was present to answer questions from the ZBA. He also was questioned regarding the addition of a skylight and the turning of the proposed addition. The added cost and the present location of the existing valleys in the roofline would make this a difficult transition. The appearance would change due to the needed change in roof pitch. There was also a brief discussion regarding the electrical service being located in the general area. This would also play a factor in actual location of the walls for the project.

Mrs. Rademaker claimed she did not understand the comment referring to the character of the neighborhood being affected. They have lived in this home for many years and have great pride in the home, yard and surrounding homes. Some of the homes seem to be as close as three feet (3') from their property lines, and questioned the concern for the fifteen feet (15') they were requesting.

No one was present to speak in opposition to this petition.

Ms. Kathryn McCaleb presented the staff report and noted that the petitioner desired to increase the size and use of their home. However, the petitioner had failed to achieve and/or answer the five (5) findings of fact. Turning the proposed addition would lessen the impact on the code requirement. The project would still require a variance. This home is located on a corner lot and is larger than the interior lots. Corner lots come with two (2) front yard setbacks thereby increasing the lot size allowing a greater possibility for more yard space in the rear and side yards.

The ZBA had no questions for staff.

Mr. Rademaker spoke in rebuttal of the staff report. There had been plenty of discussion regarding green space and how it would be affected. He noted that there would still be plenty of trees, shrubbery, and plantings left. He planned to plant even more once the project was complete.

The board voted on the issue and the petition failed in a vote of three (3) in favor and four (4) against. Since the failure to pass was less than five (5) votes, the petitioner could appeal to the City Council and was so informed by Chairperson Ireland.

By denying the petition, the Zoning Board of Appeals determined the petitioners did not demonstrate any hardship caused by an unusual or peculiar configurations or challenges making conformance with the code impractical. Staff respectfully recommends that Council uphold the action of the Zoning Board of Appeals, and that the appeal be denied.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: The public was notified by legal notice in the paper and direct mail as required by the Zoning Code.

FINANCIAL IMPACT: Not applicable.

Respectfully submitted for Council consideration.

Prepared by:	Reviewed for legal sufficiency by:	Recommended by:
Mark R. Huber Director, PACE	J. Todd Greenburg Corporation Council	David A. Hales City Manager

Mark Huber, Director - PACE, addressed the Council. This item had appeared before the Zoning Board of Appeals (ZBA). The petitioner had requested to add a sun room to his home. Staff had recommended denial. The preliminary minutes showed a split vote of 3 - 3. The staff recommendation was based on the Zoning Code and the Findings of Fact (FF). The intent of the code was to identify projects that do not meet the FF.

Todd Greenburg, Corporation Council, addressed how Council could address a ZBA appeal. There would be a review of the administration record. The Council would weigh the evidence presented to the ZBA. A two thirds vote, (six votes), of the Council was required to grant the variance.

Alderman Fruin was given the opportunity to comment on this item which was located in his ward. He reiterated that six (6) votes were needed and noted Alderman Huette's absence. He had not spoken to the petitioner but had read a packet presented by the same. In the past, staff and the ZBA's recommendations were to approve most requests. Details concerning this issue were provided to the Council. The petition had gone through the hearing process. He noted that some Council members had past experience with ZBA and Planning Commission situations. He had been unsure if the addition would be noticeable from the corner of the street. There had been no calls in opposition to the addition. Several letters of support had been provided by the neighbors. He did not foresee any harm being created as a result of granting the request. He did not believe a precedent would be set with future petitions. He recommended suspending the rules in order to allow Mr. William Rademaker, the petitioner, to address the Council. There had been past discussions on suspending the rules and allowing the audience to

comment. He desired a clearer philosophy regarding suspending the rules. He was inclined to support the petitioner. He questioned the Council's willingness to consider the petition. He believed Mr. Rademaker should be able to speak to the Council.

Mayor Stockton expressed support for Alderman Fruin's comments regarding the process of suspending the rules. He cited the need to support the ZBA's hearings for the sake of all volunteers and the time they invest. It was the Council's duty and obligation to keep with the standing on ZBA record and to make a decision possibly supporting the petitioner. It should not be a demeaning process for the ZBA but a balancing act.

Alderman Fruin requested the Council's comments prior to hearing from Mr. Rademaker.

Alderman McDade questioned a discrepancy in the material provided since the previous meeting. She noted the request in the petition was for twenty (20) feet with a seven (7) foot variance not a seventeen (17) foot variance noted in the record. She questioned if there had been a number mistake throughout the process. Mr. Huber stated the addition would be fifteen (15) feet from the property line. The required set back was thirty (30) feet making the variance fifteen (15) feet.

Alderman Schmidt stated the importance of the petitioner's attempt to improve his home and neighborhood. The petitioner had the support of the neighbors. She supported the petitioner.

Alderman Anderson questioned if supporting the petitioner would set precedence. Mr. Greenburg stated a legal precedence would not be set. There could be a discrimination issue in the future. The FF would be included in the record and all future petitioners would need to address those.

Alderman Anderson acknowledged the split vote and the staff involved. He supported the recommendation, abide by zoning code set in place.

Motion by Alderman Fruin, seconded by Alderman Sage to suspend the rules to allow someone to speak.

Motion carried.

William Rademaker, petitioner, 601 Chelsea, addressed the Council. He was not insensitive to the Council's insecurities concerning this issue as he served on the Illinois State Medical Licensing Board. He noted letters from neighbors representing people that had similar additions to their homes. The development was twenty-five (25) years old. His addition would not be unique in this neighborhood. His home was located on a corner lot. The reason for the addition was to accommodate his health. He noted three (3) reasons why granting his petition would not be setting a precedent. The addition would not impact the green space in the yard. He acknowledged the presence of his wife, Melda, and his contractor.

Mayor Stockton questioned the reason for not rotating the addition to the side of the house as suggested by the ZBA. Mr. Rademaker stated aesthetics would be impacted and the dining room windows would be covered. The ZBA had also suggested skylights. Adding skylights would not be a small endeavor and would add a significant amount to his overall costs.

Alderman Sage questioned if the addition would cover the existing concrete patio. He also acknowledged the staff's efforts. The 3-3 vote was significant. He believed the addition was not an unreasonable request. Mr. Rademaker affirmed the existing patio would be covered.

Mayor Stockton appreciated Mr. Rademaker's brief testimony.

Motion by Alderman McDade, seconded by Alderman Schmidt to return to order.

Motion carried.

Alderman Fruin questioned the two thirds vote and if six (6) votes were needed to grant variance. Mr. Greenburg affirmed that was correct and was controlled state statute.

Alderman Fruin requested a poll of the Council to determine if there were six (6) votes in support of the petitioner. Mayor Stockton cautioned against not micromanaging. A vote was required.

Alderman Anderson commented he was not comfortable with this process and would support the staff's original recommendation.

Motion by Alderman Fruin, seconded by Alderman Hanson that the variance be approved.

The Mayor directed the clerk to call the roll which resulted in the following:

Ayes: Aldermen Stearns, Schmidt, McDade, Hanson, Sage, and Fruin.

Nays: Aldermen Anderson and Purcell.

Motion carried.

Alderman Stearns noted that the Council had over turned the ZBA. She would like to honor and respect the City's boards and commissions and staff as they represent constituents. She expressed the importance of having a government by the people.

MAYOR'S DISCUSSION: Mayor Stockton announced that he would be out of the country on September 3 through September 13, 2009. He requested that Alderman Schmidt to act as signatory authority in his absence. He planned to attend the Council's meeting on September 14, 2009. There would be a Budget Work Session on August 31,

2009 at 5:30 p.m. This meeting would provide the Council with general information regarding the City's fiscal situation. A City Council Retreat would be held on Friday and Saturday, September 18 and 19, 2009.

Alderman Hanson requested the Council keep the evening of Friday, September 18th open. The retreat was scheduled for 8:00 a.m. to 5:00 p.m. on Friday, September 18, 2009 and 8:00 a.m. to 2:00 p.m. on Saturday, September 19, 2009.

CITY MANAGER'S DISCUSSION: David Hales, City Manager, informed the Council that the Annual Report with information from each department would be available by the end of that week. It would contain accomplishments, successes, goals, areas in need of improvement, etc. He also requested the Council prepare for the Council Retreat.

ALDERMEN'S DISCUSSION: Alderman Stearns appreciated the brick streets meeting. The City's brick streets were treasured by the community. She requested that staff continue to research how to handle improvements of these streets. The Council needed to rethink removing a third of the City's brick streets. She acknowledged the higher cost associated with repair of the brick over temporary asphalt patching. Brick was more durable and was worth the money spent.

Alderman Purcell had also attended the brick streets meeting and was concerned about repair cost. Brick streets were important but it was also important to stay within the budget. He thanked Jim Karch and the Public Works Department for the Pothole Program.

Alderman Fruin acknowledged the Council's previous discussion regarding suspension of rules. He suggested, out of respect for the staff, the first motion to be acted on be the one provided by staff. Mayor Stockton noted that the Council memorandums merely suggested a motion.

Alderman Sage addressed the Labor Day Parade. The Boys and Girls Club would be walking in the parade. He noted the Sheridan School Parade as a good time to celebrate school. He also was working on Miller Park Zoo metrics as previously discussed. He reported that attendance and revenue have increased.

Alderman McDade thanked the Police Department for their traffic enforcement in school zones. She had received positive feedback from residents concerning speed limit enforcement in school zones.

She also thanked staff and citizens that were still present. She acknowledged the late hour of the meeting. The communication that occurred was a positive reason for the lateness of the evening. She encouraged the Council to strive for improvement in that area. She stated the Council Retreat was a step in the right direction.

Motion by Alderman Anderson, seconded by Alderman Sage that the meeting be adjourned. Time: 10:42 p.m.

Motion carried.

**Tracey Covert
City Clerk**

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