

ORDINANCE 2019-130

AN ORDINANCE WAIVING THE COMPETITIVE BIDDING PROCESS AND AUTHORIZING A CONTRACT WITH ORGANIC SEDIMENT REMOVAL SYSTEMS, LLC TO REMOVE ORGANIC SEDIMENTS AT THE BASE OF 3 ARBORTHEATRE PONDS FOR AN AMOUNT NOT TO EXCEED \$41,000

WHEREAS, the Village of Vernon Hills, County of Lake, State of Illinois (*"the Village"*) is a duly organized and existing municipality and unit of local government created under the provisions of the laws of the State of Illinois, and is operating under the provisions of the Illinois Municipal Code; and

WHEREAS, the Village budgeted \$30,000 within budget account (0209081-550030) to provide sediment removal services for three (3) ponds at the Village's Arborettheatre; and

WHEREAS, staff received a total of three proposals for said work; and

US Aquavac- \$24,979
Organic Sediment Removal Services, LLC- \$40,190
Integrated Lakes Management- \$43,500

WHEREAS, upon checking references for the lowest bidder, US Aquavac, staff received negative feedback, and also a lack of effort from the vendor to provide a thorough estimate for said work; and

WHEREAS, staff recommends entering into a contract with the second lowest bidder, Organic Sediment Removal Services, LLC for an amount of \$40,190; and

WHEREAS, an additional \$810 above the base price of \$40,190 is available for any additional services if required; and

WHEREAS, during the site meetings with the contractors, it was determined that the sediment depth is substantially thicker than anticipated and therefore, a budget transfer is required; and

WHEREAS, the Arborettheatre account (0102081-520600) includes funds for landscape maintenance that can be utilized as items such as mulch are installed every other year; and

WHEREAS, consolidated purchases throughout the budget year of over \$25,000 require Board of Trustee approval.

NOW THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF VERNON HILLS, LAKE COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: EXECUTION OF AGREEMENT: The Village Manager is hereby authorized to execute all required documents with Organic Sediment Removal

Systems, LLC to provide organic sediment removal services at a price not to exceed \$41,000.

SECTION 2: AUTHORIZATION & RELEASE OF PAYMENT: The Finance Director is hereby authorized to do a budget transfer of \$11,000 from budget account (0102081-520600) to (0209081-550030); and to make payment to Organic Sediment Removal Systems, LLC in an amount not to exceed \$41,000.

SECTION 3: EFFECTIVE DATE: This Ordinance shall be in full force and effect from its passage and approval.

SECTION 4: ORDINANCE NUMBER: This Ordinance shall be known as Ordinance Number 2019-130.

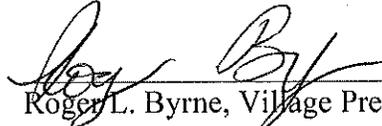
Dated the 3rd of September, 2019

Adopted by roll call votes as follows:

AYES: 7 – Oppenheim, Takaoka, Brown, Schultz, Marquardt, Koch, Byrne

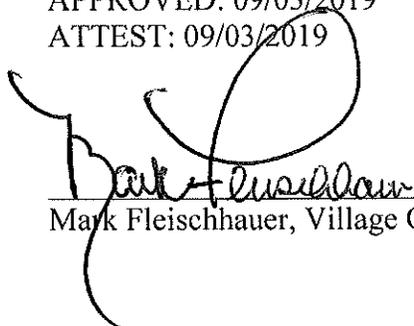
NAYS 0 - None

ABSENT AND NOT VOTING: 0 - None



Roger L. Byrne, Village President

PASSED: 09/03/2019
APPROVED: 09/03/2019
ATTEST: 09/03/2019



Mark Fleischhauer, Village Clerk





ORGANIC SEDIMENT REMOVAL SYSTEMS, LLC

"A Leader in Pond Restoration since 1991"

Richard Kohutko - Owner
N9397 7th Avenue South
Necedah, WI 54646
richncat@tds.net

Phone: 608-565-7105
Cell: 608-547-7753
Fax: 608-565-6434
<http://www.pondclean.com>

Michael Kohutko
michael@pondclean.com
Cell: 608-234-1996
FL: 561-328-3757

July 31, 2018

Revised 08/28/19

Josh Hansen
Vernon Hills Public Works
50 Memorial Drive
Vernon Hills, IL
847-732-3449

Project Location:

Same Address

Dear Josh,

We wish to thank you for considering OSR Systems for your pond-restoration project. We are the original founders of this type of system and have been removing sediments from ponds and other waterways for the past 28 years. Most of our equipment has been modified and patented exclusively for OSR Systems. I am confident we can be of valuable service in your efforts also. As you are aware, OSR Systems' charges are based on time and material to save our clients time and funds as well as work within their budgets. If elected, this process also allows projects to be completed in stages instead of all at once.

"SCOPE OF WORK"

- **Operations of OSR Systems**

OSR Systems concentrates in removing organic sediments from the deepest area of the pond first, unless stated otherwise. This is where the heaviest concentration of sediments exists and is causing the most **environmental** damage to the pond. If time is allowed, we will reach the original bottom and widen the area as close to the **bottom of the banks** as possible. If time is not available, we will remove as much sediment from the deepest area of the pond first, as this has proven to be more beneficial to the pond's ecology. Our hours are regulated by Insurance and OSHA. The hourly rate of time and material charges are reflected herein this proposal.

- **Exclusions.**

If silt containers are needed, OSR Systems is **not responsible** for preparation and grading of the discharge site or removal of sediments and restoration of the discharge site unless otherwise stated. Because we cover a vast geographic area, we have found it more economical for you to use your local landscapers or excavators whom some of you may be acquainted with in the immediate area for this work. If necessary, we will provide you with a comparison bid.

PROPOSAL

Pond 1 Center Pond, .38 Acres

Sediment Removal of 1.0 ft: From the Greater Bowl Area of .35 Acres, 560 Liquid Cubic Yards

- **Low Range, 1.0 feet, 560 liquid cubic yards**
- 16 Hours @ \$495hr.....\$ 7,920
- 1 silt container 90'cir X 100'at \$6,950 equals.....(If Open Discharge N/C).....\$ 6,950
- Mobilization and Equipment.....\$ 3,100
- Silt Container Preparation @ 30 ft x 100 ft \$1,500.....(In House).....\$ In House

- Low Range Total.....\$ 17,970**

PROPOSAL

Pond 2, South East Pond, .38 Acres

Sediment Removal of 1.0 ft: From the Greater Bowl Area of .35 Acres, 560 Liquid Cubic Yards

- **Low Range, 1.0 feet, 800 liquid cubic yards**
- 16 Hours @ \$495hr.....\$ 7,920
- 1 silt container 60'cir X 100'at \$3,950 equals.....(If Open Discharge N/C).....\$ Included
- Mobilization and Equipment.....\$ 3,100
- Silt Container Preparation @ 30 ft x 100 ft \$1,500.....(In House).....\$ In House

- Low Range Total.....\$ 11,020**



PROPOSAL

Pond 1, North West Pond, .20 Acres

Sediment Removal of 1.0 ft: From the Greater Bowl Area of .18 Acres, 288 Liquid Cubic Yards

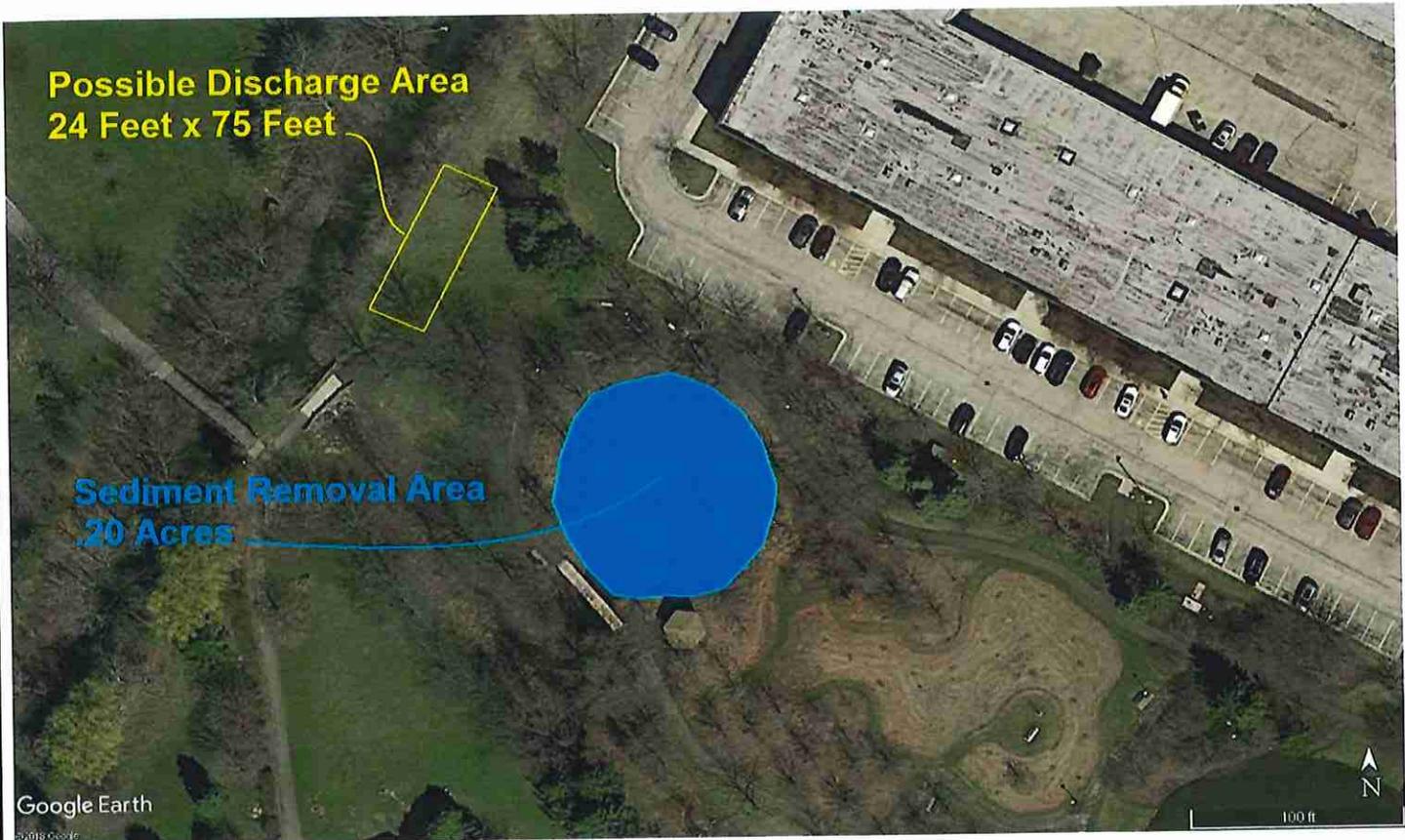
- **Low Range, 1.0 feet, 320 liquid cubic yards**
- 10 Hours @ \$495hr.....\$ 4,950
- 1 silt container 60' cir X 75' at \$3,750 equals.....(If Open Discharge N/C).....\$ 3,750
- Mobilization and Equipment.....\$ 2,500
- Silt Container Preparation @ 30 ft x 100 ft \$1,500.....(In House).....\$ In House

- Low Range Total.....\$ 11,200**

Option

If you would like to remove sediments from specific areas of the pond:

- Rate = **\$495** per hour; sediment removal of 40-60 liquid cubic yards per hour
You may choose a **minimum of eight hours** or higher.



Total for all Ponds 1, 2, and 3.....\$ 40,190.00

Discharge Site Options and Conditions

Above, marked in blue, is the proposed dredged area; marked in yellow is the proposed discharge site. OSR Systems removes 40-60 liquid cubic yards per hour. After drying, considering the shrink rate or compression ratio of 10 to 1, this is equivalent to 4-6 hard-dried cubic yards left over in the discharge area per hour of sediment removal. It may take 6-8 months for the material to hard dry in the container before removal.

As stated on page one of this proposal (unless open discharge), OSR Systems is **not responsible** for the preparation of the discharge site, which includes the mulched or graded area for the silt containers. Your local landscapers or excavators can prepare the discharge site more economically. As for the leftover sediments in the discharge area, they can be graded and seeded over on site or the material can be hauled off site after it has hard-dried. There may be as much as **300 cubic yards** in the discharge site to be hauled away; you will need to check with an excavation contractor in your area for the cost of this sediment removal after compression. OSR Systems is not responsible for any of these charges. The average cost in your area is **\$40.00 per cubic yard**.

As reflected in our information packet, the organic sediments (bio-mass) located in the center bowl areas of the ponds are causing the most environmental damage to the pond. Once this material is removed, your ponds should react very favorably. Strict EPA and Federal Laws prohibit any disruption of the bank area of ponds and other water ways. OSR Systems will taper the bottom of these banks, but will not disturb the upper bank area which is considered the shoreline. Exceptions are beach areas and pump stations. Large objects such as rocks, sticks, root-systems and heavy weeds cannot be pumped through this system. They will have to be removed by other means. All living aquatic plants must be dead and decomposing. Please keep your pond maintained.

For a more accurate proposal, you may have a sediment and viscosity (bathymetric) study performed to determine the actual sediment depth for around **\$675.00**. If you are hauling the material off site, you may need a chemical analysis report of the sediments which is around another **\$1,100**. (Depending upon your area and size of the body of water). Otherwise, the cost stated in this proposal is an average of sediment accumulation determined by 28 years of experience. There are factors which could affect the average accumulation of sediments in waterways and ponds such as, streams, flooding, culverts, heavy foliage, poor maintenance, discharge distance and elevation. Therefore, not all of the sediments may be removed in the hours stated in this proposal.

OSR Systems Requires a 40% deposit 2 weeks before the start of all projects, as well as this contract signed by the party responsible for payment.

If you have any questions or I can be of any further assistance, please call me at 608-547-7753.

Sincerely,

Rich Kohutko

Rich Kohutko

The undersigned reviewed, approves, and agrees with the above proposal and all of the terms/conditions included.

Signature: *Mark Fleischhauer*
Mark Fleischhauer, Village Manager

Date: *09/12/19*

ADDENDUM

This Addendum is in addition to the terms in the attached Agreement between Contractor and the Village of Vernon Hills and shall be deemed an integral part of said Agreement.. To the extent the terms in this Addendum conflict with the terms in the attached Agreement, the terms in this Addendum shall control.

1. Direction of Work. Contractor agrees that the Director of Public Works, or his designee, shall be Contractor's point of contact with the Village and all communications between Contractor and the Village shall be made through the Director of Public Works and/or his designee. The Director of Public Works or his designee will provide direction to Contractor to enable Contractor to perform the work but shall not be responsible for controlling Contractor's manner, means or methods of performing the work.
2. No Employment Relationship. Nothing in the Contractor's Agreement or this Addendum, or any exhibit, shall create an employee-employee relationship between Contractor or any individual and the Village.
3. Insurance. Contractor shall provide insurance at or above the minimum standards in the attached Exhibit A .
4. Payment. Contractor stipulates and agrees that the Village shall make payments pursuant to the Local Government Prompt Payment Act, 50 ILCS 505/1 et seq.
5. Right to Withhold Payment. Without prejudice to any other remedy or right the Village may have, the Village may withhold payment, either in whole or in part, based on: (1) Contractor's failure to perform; (2) claims by subContractors or others; (3) for damage caused by Contractor in the performance of its work; or (4) for work that is flawed or defective; or (5) based on Contractor's failure to comply with any terms of this Agreement or any Addendum or Exhibit.
6. No Liens. Contractor agrees that it shall not place a lien on any equipment or property of, or belonging to, the Village.
7. Contractor Certifications. Contractor agrees to execute the Certification attached as Exhibit B and certifies that each of the statements contained therein are true and correct.
8. Termination. Either party may terminate their Agreement at any time on 30 days written notice.

CONTRACTOR: Organic Sediment Removal Systems

By: <u>Richard Rabutko</u>	Title <u>Owner</u>
Name: <u>Richard Rabutko</u>	Date <u>10/21/19</u>

**EXHIBIT A
INSURANCE REQUIREMENTS**

CONTRACTOR AGREES TO MAINTAIN THE FOLLOWING:

Property Insurance:

Minimum Limits of Insurance

Contractor shall maintain limits no less than:

- Comprehensive General Liability: \$2,000,000 combined single limit per occurrence for bodily injury, personal injury, and property damage. Minimum General Aggregate shall be no less than \$5,000,000 per person per aggregate.
- Villages and Contractors Protective Liability: \$2,000,000 combined single limit per occurrence.
- Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
- Worker's Compensation and Employers' Liability: Worker's Compensation limits as required by the Labor Code of the State of Illinois and Employers' Liability limits of \$500,000 per accident.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by The Village. At the option of The Village, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects The Village, its officials, employees and volunteers; or Contractor shall procure a bond guaranteeing payment of losses and related investigation, claim administration and defense expenses.

Other Insurance Provisions

The policies are to contain, or be endorsed to contain the following provisions:

Commercial General Liability, The Villages and Contractors Protective Liability and Automobile Liability Coverage

- a. The Village, its officials, employees and volunteers are to be covered as Additional Insureds as respects: liability arising out of activities performed by or on behalf of Contractor and for materials, and equipment procured, owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limits on the scope of the protection afforded to The Village, its officials, employees or volunteers.
- b. Contractor's insurance coverage shall be primary insurance as respects the Village, its officials, employees and volunteers. Any insurance or self-insurance maintained by the Village, its officials, employees or volunteers shall be excess of Contractor's insurance and shall not contribute with it.

- c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Village, its officials, employees or volunteers.
- d. Coverage shall state that Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits or the insurer's liability.

Worker's Compensation and Employers' Liability Coverage

The insurer shall agree to waive all rights or subrogation against the Village, its officials, employees or volunteers for losses arising from work performed by Contractor for The Village.

All Coverages

Each insurance policy required by this clause shall be endorsed to state that the coverage shall not be suspended, voided; canceled, reduced in coverage or in limits except after thirty (30) day's prior written notice by certified mail, return receipt requested, has been given to The Village.

Acceptability of Insurers

The insurance carrier used by Contractor shall have a minimum insurance rating of A:VIT according to the AM Best insurance Rating Schedule and licensed to do business in the State of Illinois.

Certificates of Insurance

Contractor shall furnish The Village with certificates of insurance and copies of all policies of insurance naming The Village, its officials, agents, employees and volunteers as additional insureds, and with original endorsements affecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements may be on forms provided by the municipality and are to be received and approved by the municipality before any work commences. The Village reserves the right to request full certified copies of the insurance policies.

EXHIBIT B

CONTRACTOR CERTIFICATION

Contractor hereby certifies that Contractor, its shareholders holding more than five percent (5%) of the outstanding shares of Contractor, its officers and directors are:

- (A) not delinquent in the payment of taxes to the Illinois Department of Revenue in accordance with 651LCS 5/1 1-42,1-I;
- (B) not barred from contracting as a result of a violation of either Section 33E-3 (bid rigging) or Section 33E-4 (bid rotating) of the Criminal Code of 1961 (720 ILCS 5133E-3 and 5133E-4);
- (C) not in default, as defined in 5 ILCS 385/2, on an educational loan, as defined in 5 ILCS 385/1;
- (D) in compliance with the Veterans Preference Act (330 ILCS 55/0.01 et.seq.);
- (E) in compliance with the Equal Employment Opportunity Act and all other state and federal laws and regulations prohibiting unlawful discrimination and that during the performance of the Agreement, Contractor shall:
 1. not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service; and further that it will examine all job classifications to determine if minority persons or woman are underutilized and will take appropriate affirmative action to rectify any such underutilization;
 2. it hires additional employees in order to perform this Agreement or any portion hereof, it will determine the availability (in accordance with the Illinois Department of Human Right's Rules and Regulations) of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized;
 3. in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service;
 4. send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of Contractor's obligations under the Illinois Human Rights Act and the Department's Rules

and Regulations. If any such labor organization or representative fails or refuses to cooperate with Contractor in its efforts to comply with such Act and Rules and Regulations, Contractor will promptly notify the Illinois Department of Human Rights and Contractor will recruit employees from other sources when necessary to fulfill its obligations thereunder;

5. submit reports as required by the Illinois Department of Human Rights, Rules and Regulations, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Illinois Human rights Act and the Department's Rules and Regulations;
6. permit access to all relevant books, records, accounts, and work sites by personnel of the contracting agency and the Illinois Department of Human Rights for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and the Department's Rules and Regulations; and
7. not maintain or provide for its employees any segregated facilities at any of its establishments, and not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. As used in this section, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin because of habit, local custom, or otherwise;
8. in compliance with 775 ILCS 5/2-1.05(A)(4) by having in place and enforcing a written sexual harassment policy;
9. in agreement that in the event of non-compliance with the provisions of this certification relating to equal employment opportunity, the Illinois Human Rights Act or the Illinois Department of Human Rights, Rules and Regulations, Contractor may be declared ineligible for future contracts with The Village, and this Agreement may be canceled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation;
10. in compliance with 30 ILCS 580/1 et seq. (Drug Free Workplace Act) by providing a drug-free workplace by publishing a statement:
 - (a) notifying employees that the unlawful manufacture, or distribution, dispensation, possession, or use of a controlled substance, including cannabis, is prohibited in Contractor's workplace.

- (b) specifying the actions that will be taken against employees for violations of such prohibition.
- (c) notifying the employee that, as a condition of employment on such Agreement, the employee will:
 - i. abide by the terms of the statement; and
 - ii. notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction
 - iii. establish a drug-free awareness program to inform employees about:
 - (i) the dangers of drug abuse in the workplace;
 - (ii) Contractor's policy of maintaining a drug-free workplace;
 - (iii) any available drug counseling, rehabilitation, and employee assistance program; and
 - (vii.) the penalties that may be imposed upon employees for drug violations;
 - iv; make it a requirement to give a copy of the statement to each employee engaged in the performance of the Agreement, and to post the statement in a prominent place in the workplace;
- (d.) notifying the Village within ten (10) days after receiving notice from any employee or otherwise receiving actual notice of any conviction;
- (e) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted, as required by 30 ILCS 580/5;
- (f) assisting employees in selecting a course of action in the event drug counseling treatment and rehabilitation is required and indicated that a trained referral team is in place; and
- (g) making a good faith effort to continue to maintain a drug-free workplace through implementation of this section; and

11. not in violation of Village Ordinances by Contractor having given to any officer, employee, spouse of or immediate family member living with any officer or employee of The Village any gift except as otherwise permitted therein.
12. Is currently and will remain in compliance Employment of Illinois Workers on Public Works Act (30 ILCS 570/1 through 570/7):

(A) Whenever there is a period of excessive unemployment in Illinois, which is defined herein as any month immediately following two (2) consecutive calendar months during which the level of unemployment in the State of Illinois has exceeded five (5%) percent as measured by the United States Bureau of Labor Statistics in its monthly publication of employment and unemployment figures, Contractor and all Trade Contractors shall employ only Illinois laborers. "Illinois Laborers" means any person who has resided in Illinois for at least thirty (30) days and intends to become or remain an Illinois resident.

(B) Other laborers may be used when Illinois laborers as defined herein are not available, or are incapable of performing the particular type of work involved, if so certified by Contractor and approved by the Architect. Contractor may place no more than three (3) of its regularly employed non-resident executive and technical experts, who do not qualify as Illinois laborers, to do work encompassed by this Agreement during periods of excessive unemployment.

(C) This provision applies to all labor, whether skilled, semi-skilled, whether manual or non-manual.

IN WITNESS WHEREOF Contractor has hereunto set his/their hands and seals this 2 day of September 2019.

CONTRACTOR

Organic Sediment Removal System

By: Richard Kobutko

Name: Richard Kobutko

Title: Owner

VILLAGE OF VERNON HILLS

ORDINANCE NO. 2019-130

AN ORDINANCE WAIVING THE COMPETITIVE BIDDING PROCESS AND
AUTHORIZING A CONTRACT WITH ORGANIC SEDIMENT REMOVAL SYSTEMS, LLC
TO REMOVE ORGANIC SEDIMENTS AT THE BASE OF 3 ARBORTHEATRE PONDS
FOR AN AMOUNT NOT TO EXCEED \$41,000

THE 3rd DAY OF SEPTEMBER 2019

Published in pamphlet form by the Authority of the
President and Board of Trustees of the Village of
Vernon Hills, Lake County, Illinois, this
3rd Day of September 2019

AFFIDAVIT OF SERVICE

STATE OF ILLINOIS)
)
COUNTY OF LAKE)

I, MARK FLEISCHHAUER, BEING FIRST DULY APPOINTED, DEPOSES AND SAYS ON OATH THAT AS VILLAGE CLERK OF THE VILLAGE OF VERNON HILLS, HE DID CAUSE THE FOREGOING CERTIFICATE FOR ORDINANCE NO. 2019-130 - AN ORDINANCE WAIVING THE COMPETITIVE BIDDING PROCESS AND AUTHORIZING A CONTRACT WITH ORGANIC SEDIMENT REMOVAL SYSTEMS, LLC TO REMOVE ORGANIC SEDIMENTS AT THE BASE OF 3 ARBORTHEATRE PONDS FOR AN AMOUNT NOT TO EXCEED \$41,000 TO BE POSTED IN THE VILLAGE HALL AS REQUIRED BY LAW FROM SEPTEMBER 3 TO SEPTEMBER 17, 2019.



Mark Fleischhauer
Village Clerk

SUBSCRIBED AND SWORN TO BEFORE
THIS 3rd DAY OF SEPTEMBER 2019

Notary Public