



Village of Wilmette
1200 Wilmette Ave
Wilmette, IL 60091
purchase@wilmette.com

NOTICE: REQUEST FOR QUALIFICATIONS

DESCRIPTION: **PROFESSIONAL LEGAL SERVICES: HEARING OFFICER**

SOLICITATION #: **RFQUALIFICATIONS #17026**

REQUESTING: **Qualifications** COPIES: **3 (three) structured as stated**

PRE-SUBMITTAL MEETING: **None**

LAST DATE FOR QUESTIONS: **DECEMBER 27, 2017**

SEALED SUBMITTAL DUE: **JANUARY 2, 2018** PRIOR TO: **2:00PM**

PUBLICATION OF LIST OF SUBMITTALS: **JANUARY 2, 2018 END OF BUSINESS**

PREVAILING WAGE ACT (820 ILCS 130/1-12): not applicable

CONTACT: **Purchase@wilmette.com**

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- **DESCRIPTION OF SERVICES:** The Village of Wilmette is seeking proposals for the position of Administrative Hearing Officer. The Administrative Hearing Officer is appointed by the Village Manager and provides judicial decisions in matters including, but not limited to, traffic, business, land use, and building regulations within the Village of Wilmette.
 - **BOND REQUIREMENTS:** none
 - **TIMETABLE** (All dates are subject to change.)

○ Request for Qualifications published	December 4, 2017
○ Submittal Deadline	January 2, 2018
○ Interviews for Finalists	January 8-12, 2018
○ Appointment	January 19, 2018
○ Orientation, Training & Mock Hearings	February – March 2018
○ First Administrative Hearing	Wednesday, March 21, 2018 1:30pm
 - **THE VILLAGE OF WILMETTE'S WEBSITE,** [HTTP://WWW.WILMETTE.COM](http://www.wilmette.com) is the official source for all documents related to this solicitation. The Village is not responsible for documents distributed through any other means, nor responders who fail to check for updates.
 - **ALL QUESTIONS** regarding this solicitation are to be submitted to the Purchasing Manager via e-mail at steinj@wilmette.com prior to the time frame stated.

DESCRIPTION: PROFESSIONAL LEGAL SERVICES: HEARING OFFICER

SOLICITATION #: RFQUALIFICATIONS #17026

OVERVIEW

1. PURPOSE

The Village is in the process of finalizing an administrative adjudication system that will hear local code and non-moving traffic violations. Plans are to commence Administrative Hearings in March, 2018

Reference attached Exhibit 1: The Village of Wilmette's Ordinance 2017-O-77 adopting the Administrative Adjudication System

Hearings will be:

- held in the Wilmette Council Chambers of Wilmette Village Hall, 1200 Wilmette, Ave, Wilmette, Illinois, 60097.
- conducted at least one day per month, currently scheduled for the third Wednesday of each month. It is anticipated hearings will begin at 1:30 p.m. and conclude no later than 4:00 p.m.

The intent of this Request for Qualifications is to seek a qualified legal professional to serve as the Hearing Officer.

2. BACKGROUND

The anticipated different types of cases to be heard will include (but not be limited to):

- Building code violations
- Zoning code violations
- Licensing Violations
- Non-moving traffic offenses and non-reportable offenses
- Non-criminal misdemeanor ordinance violations

The goals of utilizing an Administrative Hearing officer will include (but not be limited to):

- Process violations more efficiently and cost effectively.
- Increase overall compliance and ensure compliance in a timely manner.
- Provide an objective third party to address special circumstances and impartially resolve disagreements.

3. SOLICITATION STRUCTURE

- Cover page/Notice inclusive of all date requirements
- Overview
- General Instructions Regarding the Request for Qualifications
- Structure for Submitting Qualifications
- Submittal Contact Sheet
- Certification of Compliance

4. EXHIBITS

- Exhibit 1: Ordinance 2017-O-77 adopting the Administrative Adjudication System
- Exhibit 2: Requirements

GENERAL INSTRUCTIONS REGARDING A REQUEST FOR QUALIFICATIONS

REQUEST FOR QUALIFICATIONS PROCESS

1. Documents:

- a. The Village of Wilmette's website, <https://www.wilmette.com/government/bids-rfps/> is the official source for all documents related to this solicitation. The Village is not responsible for documents distributed by any other source.
- b. All questions concerning this solicitation shall be submitted via e-mail to the attention of steinj@wilmette.com by the last date for questions as reflected on the cover page of this document. A written response in the form of a public amendment will be published on the Village's website.
- c. Any clarification, correction or change of these documents will be made by published amendment. Clarifications, corrections and changes to the solicitation documents made in any other manner will not be binding. All amendments will be published on the Village's website. It is up to the responder to check this site for the most current amendment.

RESPONSES

2. Responses must be on the forms provided and compiled in the order stated. Hard copy responses must be presented suitable for immediate scanning.
3. Delivery of a response is acceptance of the Village's Terms and Conditions and requirements.
4. All responses become the property of the village.
5. Timeframe And Consequences
 - a. Responses must be received before the designated time.
 - b. Responses received after the designated time will be returned to the sender without review. Responses received late that may be attributed to delays by overnight delivery services, or by delivery services trying to deliver when offices are closed, will be considered late and returned to the sender.
6. The village will not be held responsible for any costs incurred in preparing, submitting or handling any response.
7. Publication of Responders
 - a. A listing of responders will be published on the village website within 1 business day from the due date.

EVALUATION OF RESPONSES

8. Determining Responsiveness Of Response
 - a. Responsive Responses are inclusive of, but not restricted to: received prior to the due date and time, completed as stated in the solicitation documents, inclusive of all required documents, compliant to all requirements, able to meet timeframe, and accepting of all award document terms and conditions.
9. Waivers And Rejection Of Responses
 - a. The Village reserves the right to waive any informality, technical requirement, deficiency, or irregularity in the response. The Village may conduct interviews or negotiations to further clarify the response.
 - b. The Village reserves the right to reject any or all responses for any reason.
 - c. **FOIA:** If the Village rejects all responses and concurrently provides notice of its intent to reissue the request, the rejected responses remain exempt from FOIA requirements until such time as the Village awards or rejects the reissued solicitation.
10. Determining Responsibleness Of The Response
 - a. The Village reserves the right to evaluate the qualifications and determine:
 - i. the ability, capacity and skill of the responder
 - ii. whether the responder can perform the service promptly and within the time specified
 - iii. the character, integrity, reputation, judgment, experience and efficiency of the responder;
 - iv. the quality of performance of prior services as performed for the Village or other entities or businesses;
 - v. the sufficiency of financial resources and the ability of the responder to perform the service;
 - vi. the ability of the responder to provide future service
 - vii. the number and scope of exceptions
 - b. Responders may be required to provide references. The Village reserves the right to contact said references or other references that may be familiar with the respondent.

11. Confidential Information

- a. The village will make reasonable efforts to maintain the confidential nature of the submissions within the bounds of applicable Illinois and federal law.
- b. Responders may be required to provide other information which they consider proprietary and confidential, and if made known to the public, may affect their ability to compete in the marketplace. Said information will be subject to Illinois State FOIA requirements including the following exemptions:
 - i. (5 ILCS 140/7) (From Ch. 116, par. 207) Sec. 7.
 - ii. Exemptions. (1) The following shall be exempt from inspection and copying: (g) Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or commercial or financial information are furnished under a claim that they are proprietary, privileged or confidential, and that disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business and only insofar as the claim directly applies to the records requested.
- c. Responders considering this request to be proprietary and confidential should also submit a separate redacted response labeled as "REDACTED". Failure to do so may result in information becoming available to the public.

SELECTION PROCESS

12. The Village endeavors to review all responses in a fair and impartial manner focusing on the best needs of the village.
13. Finalists will be invited to interview with the Village Manager, the Corporation Counsel and Assistant Director of Administrative Services.

AWARD

14. The village reserves the right to
 - a. Review responses and choose to NOT enter into any agreement, nor take any course of action inferred.
 - b. Negotiate all parameters of this request including scope of work, time table, requirements, compensation, hidden costs, and fees associated with the intent of this request.
 - c. Award services if it is in the best interest of the village.
15. Payment Terms : Payment will be made per agreement which will likely be a monthly invoice.
16. Taxes
 - a. Prices shall not include any local, state or federal taxes.
 - b. The Village is exempt by law from paying sales tax on goods, from State and Village Retailer's Occupation Tax, State Service Occupation Tax, State Use Tax and Federal Excise Tax.
 - c. The Village's Sales Tax Exemption Number is E9998-1106-07.

REQUIREMENTS IF AWARDED THE WORK

17. The successful responder may be required to enter into a formal award agreement with the Village of Wilmette.

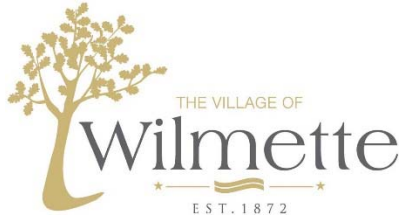
END OF GENERAL INSTRUCTIONS REGARDING A REQUEST FOR QUALIFICATIONS

STRUCTURE FOR SUBMITTING QUALIFICATIONS

DESCRIPTION: **PROFESSIONAL LEGAL SERVICES: HEARING OFFICER**
SOLICITATION #: **RFQUALIFICATIONS #17026**

In an envelope identified with the above reference description please provide:

- PAGE 1: SUBMITTAL CONTACT SHEET
- PAGE 2: QUALIFICATIONS PRESENTED AS LISTED UNDER
"REQUIRED SUBMISSIONS" IN EXHIBIT 2 (please reference #
of requirement)
- PAGE 3: ATTACH: CURRENT RESUME
- PAGE 4: REFERENCES
- PAGE 5: CERTIFICATION OF COMPLIANCE
- PAGE 6: THE HOURLY OR DAILY RATE PROPOSED TO PROVIDE
THESE SERVICES TO THE VILLAGE
- PAGE 7: CERTIFICATE OF INSURANCE
- PAGE 8: PROFESSIONAL LETTER OF AGREEMENT



Village of Wilmette
Purchasing Department
1200 Wilmette Ave
Wilmette, IL 60091

SUBMITTAL CONTACT SHEET (PAGE 1 OF SUBMITTAL)

DESCRIPTION: **PROFESSIONAL LEGAL SERVICES: HEARING OFFICER**
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COMPANY/FIRM NAME:

ADDRESS:

CITY/STATE/ZIP:

WEB PAGE:

CONTRACT AUTHORITY

TITLE

PHONE/CELL

E-MAIL

SERVICE CONTACT

SERVICE PHONE/CELL

SERVICE E-MAIL

ACCOUNTING CONTACT

ACCOUNTING PHONE

ACCOUNTING E-MAIL

BACKUP CONTACT

PHONE

E-MAIL

EMAIL ADDRESS FOR ELECTRONIC COMMUNICATIONS _____

CERTIFICATIONS OF COMPLIANCE

DESCRIPTION: **PROFESSIONAL LEGAL SERVICES: HEARING OFFICER**

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_____ (Name of Responder), having been duly sworn, depose and states as follows: Having submitted an offer for the above services, We hereby certify that: *(initial all that apply)*

SEXUAL HARASSMENT: We have a written sexual harassment policy in place in full compliance with 775 ILCS 5/2-105(A) (4).

PAYMENT OF TAXES: We are not delinquent in the payment of any tax administered by the Illinois Department of Revenue; or if we are, it: (a) is contesting its liability for the tax or the amount of tax in accordance with procedures established by the Approved Revenue Act; or (b) has entered into an agreement with the Department of Revenue for payment of all taxes due and is currently in compliance with that agreement.

DRUG-FREE WORKPLACE: We will comply with all requirements Pursuant to Chapter 30, Section 580/1 of the Illinois Compiled Statutes (30 ILCS 580/1) et. Seq. entitled "Drug Free Workplace Act"; we will provide a drug-free workplace by:

- 1) Publishing a statement:
 - a) Notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, including cannabis, is prohibited in the grantee's or 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 contract or grant, 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 5 days after such conviction.
- 2) Establishing a drug free awareness program to inform employees about:
 - a) the dangers of drug abuse in the workplace;
 - b) the grantee's or CONTRACTOR'S policy of maintaining drug free workplace;
 - c) any available drug counseling, rehabilitation, and employee assistance program; and
 - d) the penalties that may be imposed upon employees for drug violations.
- 3) Making it a requirement to give a copy of the statement required by subsection (a) to each employee engaged in the performance of the contract or grant and to post the statement in a prominent place in the workplace.
- 4) Notifying the contracting agency within 10 days after receiving notice under part (B) of paragraph (3) of subsection (a) from an employee or otherwise receiving actual notice of such conviction.
- 5) Imposing a sanction on, or requiring the satisfactory participation in a drug assistance or rehabilitation program by any employee who is so convicted, as required by Section 5 (30 ILCS 580/5) of the Act.
- 6) Assisting employees in selecting a course of action in the event drug counseling treatment and rehabilitation is required, and indicating that a trained referral team is in place.
- 7) Making a good faith effort to continue to maintain a drug free workplace through implementation of this Section.
- 8) Failure to abide by this certification shall subject the CONTRACTOR to the penalties provided in Section 6 (30 ILCS 580/6) of the Act.

Signed: _____

Title/Position: _____

Subscribed and sworn to before me this ____ day of ____, 2018

Notary Public:

REQUEST FOR BOARD ACTION

AGENDA ITEMS: 3.20, 3.21, & 3.24



Law and Administrative Services Departments

SUBJECT: Creation of a Village of Wilmette Administrative Adjudication System and Software Purchase

MEETING DATE: Ordinance Introduction – November 28, 2017
Ordinance Approval – December 12, 2017

FROM: [Jeffrey M. Stein](#), Corporation Counsel
[Peter A. Skiles](#), Director of Administrative Services
[John Prejzner](#), Assistant Director of Administrative Services

BUDGET IMPACT:

2017 Cost	\$42,765
Over/(Under Budget)	\$2,765

Recommended Motion

Move to introduce and subsequently adopt Ordinance No. 2017-O-77 creating a Village of Wilmette Administrative Adjudication system.

Move to approve a contract in the amount of \$28,765 with Tyler Technologies, Yarmouth, ME for Incode Municipal Court System software.

Move to approve a contract in the amount of \$21,300 with Tyler Technologies, Yarmouth, ME for Brazos eCtations software.

Introduction

The establishment of an Administrative Adjudication System (“System”) will allow the Village to hold hearings for certain vehicular and code violations at Village Hall (“Hearing”) as opposed to the Village’s current practice of sending citations to the Circuit Court of Cook County. The System will make it more convenient and efficient for Village staff, as well as Violators (defined below). Additionally, the System will recoup lost revenues to the Village, as the Village will no longer need to share fines and court costs with the Circuit Court of Cook County. It will also reduce the amount of out of pocket costs to the Violators who desire to have a Hearing. Finally, establishing the System will aid the Village’s goal of gaining compliance, especially in licensing, housing, and zoning matters.

The attached Ordinance and approval of the two contracts are the first steps needed to implement the System. It is projected that the System will be up and running in first quarter of 2018.

Background

The System will serve as a locally controlled alternative to the Circuit Court system for certain local violations that do not carry with them a penalty of imprisonment. The System will allow for the settlement or adjudication of municipal ordinance violations that are otherwise heard in the Circuit Court; except the System will not hear moving violations under the Illinois Vehicle Code (e.g. speeding, illegal U-turn) as that jurisdiction remains with the Circuit Court.

The process is initiated through an Authorized Village Employee (specifically listed in the attached Ordinance) issuing a Violation Notice against an individual or business for their alleged violation of a Village Code provision ("Violator"). In most circumstances the Violator has the option to plead guilty and pay the fine without having a Hearing. Doing so would avoid payment of the court costs and leave just the minimum fine amount to be paid. However, a violator will always have the right to have a Hearing and be entitled to due process. There are certain offenses that do not have the "prepay" option and require a Violator's appearance at a Hearing. These are for violations where there is a victim or complaining witness, compliance is necessary, greater public safety concern; or if the Violator is under the age of 21 regardless of the offense charged.

At a Hearing, the Hearing Officer acts as a judge and either enters pleas of liability or after a Hearing determines if the accused did violate an ordinance as alleged. No fine or other penalty (traffic school, restitution, community service, or abatement) can be entered against a party without the party's agreement, a finding of liability of the Violator after a Hearing, or upon a judgment entered after the Violator's failure to appear at a Hearing after two separate notices are issued (and a third notice is issued after the judgment is entered offering the Violator the ability to set aside such judgment and have a Hearing or plead liable presumably to a lower fine). Any Violator found liable is subject to the penalties described above, as well as a court cost (proposed at \$50; but can be reduced to \$25 for minors receiving community service and no fine as a penalty). All final determinations of liability or non-liability can be appealed to the Circuit Court.

A Hearing Officer will be an independent contractor that the Village will seek to engage after a Request for Proposal has been issued. The Village personnel needed to operate the System consists of:

1. Traffic Compliance Administrator/Code Enforcement Unit who will operate as the clerk and record keeper of the System (approximately 2 existing village employees);
2. Corporation Counsel who will act as the Village Prosecutor; and
3. One Police Officer to act as a bailiff.

Those Authorized Village Employees who issue Violation Notices are not required to appear at a Hearing. There may be times when the Village Prosecutor will need those individuals to testify, but it is not expected to be a regular necessity.

Hearings are proposed to take place at Village Hall in the Council Chambers, one day a month (at this time it is proposed to be the third Wednesday of the month at 1:30 p.m.).

WILMETTE'S CURRENT PRACTICE AND BENEFITS OF THE ADMINISTRATIVE ADJUDICATION SYSTEM

The Village currently prosecutes all local and traffic code violations at the Circuit Court of Cook County located in Skokie. As part of the process for non-housing/zoning related citations, the Circuit Court charges the Defendant a series of administrative fees and costs that often total over \$200 for each case heard. The Village receives only a fraction of certain Court costs that are collected by the Clerk of the Circuit Court. On top of those mandatory fees and costs, a judge may impose an additional fine, which only 44.5% is remitted to the Village or only \$30 of a fine collected for local ordinance fines. More often than not, no fine is imposed and just the court costs are required to be paid by the Violator.

While most of the cases in traffic court relate to violations for the movement of vehicles which will remain in the Circuit Court, every other code violation will be able to be heard as part of the System. Some examples of the most common types of cases projected to be heard as part of the System include:

- Property Maintenance violations (e.g. hoarder houses, dilapidated properties, accumulation of rubbish);
- Failure to obtain licensing for certain business activities or construction projects;
- Work performed without a permit;
- Possession of alcohol by a minor;
- Possession of cannabis;
- Animal control violations;
- Parking violations;
- Minor theft cases;
- Nuisances

The entire amount of all of those fines and costs imposed and collected will go to the Village if heard at a Hearing. The Village may still send any case it wants to the Circuit Court as opposed to the System, even if a System exists and is up and running at the Village.

In addition to lost revenue being recouped, as well as the decreased expense to the Violator, there will be a decreased amount of staff used to enforce its citations. The System will be set up to be able to proceed without the physical appearance of the Authorized Village Employee that witnessed and issued the Violation Notice. This is the opposite rule for cases sent to Circuit Court, where the Police Officers must appear on the first date of the citation or the citation will be dismissed immediately and non-sworn Village staff (e.g. Code Enforcement Officers) need to appear on the trial date for housing and zoning cases in Circuit Court.

Furthermore, there is a convenience to both staff and the Violators to have "court" located at Village Hall in a more relaxed setting than Circuit Court. While the Hearings will have rules on decorum and procedure, those rules are far more "user friendly" than the rigid procedures of Circuit Court. In addition, the location for Wilmette residents is far more convenient as well as the entry procedures in to the Village Hall.

Finally, the System will help aid the Village in its goal to ensure compliance with the Village's Code, especially licensing, housing, and zoning codes. Cases before the Circuit Court can take months, sometimes years for a variety of reasons. Litigation can be costly and time consuming for staff members. It is anticipated, based upon the Corporation Counsel's experience that most

licensing, housing, and zoning cases will be resolved at the second hearing date if not resolved on the first hearing date if compliance is already achieved.

FINE STRUCTURE

It has been discussed that the Village's fine structure is not uniform and is antiquated for certain existing violations.¹ This Ordinance creates a new fine structure, providing the Hearing Officer with a range to impose upon a Violator who is found liable. Most non-vehicle (animal control, licensing, housing, and zoning) related violations have a minimum fine of \$50 and a maximum of \$750 (this range mirrors the General Penalty section of the Village Code and is not necessarily an increase). Most vehicle related violations have a minimum fine of \$40 (a \$2 increase from the existing fines) and a maximum of \$250 (an increase of \$90 for multiple violations in a 12 month period). While there are specific violations that do carry a lower minimum than \$40 (e.g. illegal parking during snow events; "jaywalking"), this minimal increase to the minimum fine of the majority of vehicle related violations still do not end up costing a Violator nearly as much for a violation heard at Circuit Court.

COSTS

The Village has the authority to recoup all of its out of pocket costs associated with implementing and operating the System. To do so, this Ordinance requires a \$50 court cost to be paid in addition to any penalty imposed by the Hearing Officer. The cost may be reduced by half in the discretion of the Village Prosecutor for those minors that receive community service. The \$50 court cost is similar when compared to other municipalities. The amount of costs imposed by other municipalities ranges from \$0 to \$135, but most costs appear to be in the range of \$50 to \$75. As the goal of the court cost is to be revenue neutral and simply recoup the costs to implement and operate the System, this amount may need to be adjusted in the future after the System has been up and running for some time.

SOFTWARE AND HARDWARE

The Director of Administrative Services and the Assistant Director of Administrative Services researched systems and software programs specifically for the System and it was decided that the best way to proceed was to purchase the adjudication software and necessary hardware. Once installed, staff can begin to be trained on the software and finalize our process for administering the System.

Staff identified several needs of the software solution including: docket management, ticket citation (local ordinance, parking, and police), payment collection, required reporting capabilities. The main component of the software solution is docket management. This will allow staff to identify the violations to be heard on a docket, provide that information to the Hearing Officer, and after the hearing collect payment and track cases as they continue through the system.

In addition to these capabilities, it was important for staff to have the ability to issue electronic citations (preferably on mobile devices) across all departments and functions under one solution. Currently, the Police Department uses two separate electronic ticket solutions for

¹ It is anticipated that in the upcoming year, the Village Code will be updated in its entirety. At that time the existing fines that conflict with this Ordinance will be addressed. Furthermore, there will likely be recommended changes to certain regulatory aspects of our code (both additional regulations and deregulation).

moving violations and parking violations while other staff issue hand-written citations for local ordinance violations.

Staff identified three different vendors used for administrative adjudication docket management and e-ticketing. Proposals and demos of the software were requested. A summary of the costs for the three vendors is below:

Company	3-Year Cost
MSI	\$ 52,200
Tyler	\$ 59,305
Quicket	\$ 177,120

The proposals were evaluated over the course of three years as some companies provided a three-year cost while some provided monthly subscription costs, thus this allows for equal comparison between the three vendors. MSI was the lowest cost solution at \$52,200 over three years. However, their ticketing solution was not all inclusive as Police moving violations would still need to be issued on a separate solution. Additionally, new hardware needed for administrative adjudication was not included in the proposal and would need to be purchased separately at an estimated cost of \$1,365. Furthermore, their software was deemed to be not as advanced and easy to use as the other two vendors.

Based on cost, ease of use, and integration between all platforms, staff recommends approving contracts with Tyler Technologies for administrative adjudication and e-ticketing. While Tyler's product is two different software modules, they do integrate not only with each other, but also with the Village's Police computer aided dispatch and records management solution, New World. Additionally, Cook County has chosen Tyler's software solution as their new ticketing platform. This allows staff to send certain citations that cannot go to the Village's administrative adjudication system to go to the Cook County system seamlessly.

Budget Impact

The total cost for the Tyler solution is \$59,305 over three years. The upfront cost for the Incode administrative adjudication platform is up to \$28,765 (includes up to \$3,500 in travel expenses as incurred) and the cost for the Brazos e-ticketing solution is \$21,300 (includes up to \$3,800 in travel expenses as incurred). The total upfront cost of the two software solutions is \$42,765 (remaining \$7,300 for travel is expected to be spent in 2018). The 2017 budget (11051210-420020-20016) includes \$40,000 for administrative adjudication software. If approved, the account will be \$2,765 over budget. Ongoing annual recurring fees beginning after the first year of the program for both solutions are \$4,620. The 2018 budget (11071610-420320) also includes \$4,000 for an Administrative Hearing Officer.

Documents Attached

1. 2017-O-77 An Ordinance Creating Chapter 2-24 Administrative Adjudication

ORDINANCE NO. 2017-O-77

**AN ORDINANCE CREATING CHAPTER 2-24
ADMINISTRATIVE ADJUDICATION**

WHEREAS, the Village President and Board of Trustees (hereinafter collectively referred to as the “Village Board”) of the Village of Wilmette, Cook County, Illinois (hereinafter the “Village”), find that the Village is a home rule municipal corporation as provided in Article VII, Section 6 of the 1970 Constitution of the State of Illinois and, pursuant to said constitutional authority, may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals and welfare, including exercising the power to tax; and

WHEREAS, Section 5/1-2.1-1 *et. seq.*, of the Illinois Municipal Code, Section 11-208.3 of the Illinois Vehicle Code, and the Village of Wilmette’s Home Rule powers authorize the Village to enact a local court adjudication system to provide for the fair and efficient enforcement of violations of the Village Code and those regulations relating to the standing, parking and compliance of vehicle; and

WHEREAS, a fine may be imposed as part of a penalty for a violation of the Wilmette Village Code; and

WHEREAS, the Village finds that having an updated and consolidated fine structure for those violations that are heard at administrative adjudication is in the best interests of the health, safety and welfare of the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES of the Village of Wilmette, Cook County, Illinois, as follows:

SECTION 1: The foregoing findings and recitals, and each of them, are hereby adopted as Section 1 of this Ordinance and are incorporated by reference as if set forth verbatim herein.

SECTION 2: The Wilmette Village Code, 1993, as amended, is further amended in Chapter 2, by creating a new Section 2-24 “Village Administrative Adjudication” so that said Section 2-24 shall hereafter provide as follows:

2-24.1 Establishment of an Administrative Adjudication System

(a) Pursuant to Division 2.1 of the Illinois Municipal Code (65 ILCS 5/1-2.1-1, *et. seq.*), Section 11-208.3 of the Illinois Vehicle Code (625 ILCS 5/11-208.3) and the Village of Wilmette’s Home Rule authority, there is hereby created a system of administrative adjudication for charges of Wilmette Village Code, 1993 as amended (“Code”) violations of the Village of Wilmette and for the administrative adjudication of standing, parking and vehicle compliance citations (collectively referred to as the “Administrative Adjudication System”). The system authorizes a Hearing Officer to conduct adjudicatory hearings of cases instituted by various Village Departments (“Hearings”).

(b) The Village adopts Division 2.1 of the Illinois Municipal Code, (65 ILCS 5/1-2.1-1, *et. seq.*), and Section 11-208.3 of the Illinois Vehicle Code (625 ILCS 5/11-208.3) as it may be amended from time to time. In the event of a conflict between said statutes and this Chapter, this Chapter shall prevail.

(c) The adoption of this Chapter does not preclude the Village from using other lawful methods to enforce the provisions of the Code. In the construction and interpretation of this Chapter, the revocation of a license or permit shall not be considered as a recovery or penalty so as to bar any other penalty being enforced.

2-24.2 Purpose

The purpose of the Administrative Adjudication System is to provide a method for the fair and efficient enforcement of violations of the Code and for those violations relating to the standing, parking and compliance of vehicles.

2-24.3 Jurisdiction

(a) Those matters subject to the Administrative Adjudication System provided for by this Chapter are those charges of a violation of any ordinance or regulation of the Village of Wilmette (“Violation”), which shall include, but not limited to:

1. All provisions of the Code;
 2. The following model codes and regulations as adopted by the Village, or any like model code adopted by the Village at a future time:
 - A. International Property Maintenance Code;
 - B. International Building Code;
 - C. International Residential Code for One and Two Family Dwellings;
 - D. The Fire Prevention of Wilmette, which includes the International Fire Code and National Fire Protection Association codes; and
 - E. International Mechanical Code;
 - F. International Energy Conservation Code;
 - G. National Electrical Code;
 - H. Illinois Plumbing Code;
 - I. Elevator and Escalator Codes;
 - J. Illinois Accessibility Code; and
 3. The Illinois Vehicle Code, except any offense that is a traffic regulation governing the movement of vehicles or any reportable offense under Section 6-204 of the Illinois Vehicle Code.
- (b) The Administrative Adjudication System does not have jurisdiction over cases where the relief sought is a penalty of incarceration or a total fine in excess of \$50,000, excluding allowable costs. The \$50,000 limitation shall not apply to those cases brought to enforce the collection of any tax imposed and collected by the Village.
- (c) Each day that any violation of any provision of the Code or any ordinance shall continue, shall constitute a separate offense and be subject to a daily fine.

2-24.4 Penalties and Costs

- (a) General Penalty. All Defendants subsequently found liable of a Violation shall be subject to the following penalties, or combination thereof:
1. Fines;
 2. Restitution;

3. Deferred prosecution (including but not limited to a period of community service, and mandatory attendance at remedial counseling, treatment, or education); and
4. Corrective action

(b) Fines.

When a specific fine amount is provided for in Table 1 of Section 2.24.4 that conflicts with fine amounts imposed either by the General Penalty provision of the Code or a specific fine amount provided in other portions of the Code, the fine amounts in Table 1 of Section 2.24.4 shall apply. If there is no fine amount provided for in Table 1 of Section 2.24.4 for a Violation, then the specific fine amount in the other provisions of the Code shall apply, or if no specific fine amount in the Code is provided for then the fine amounts of the General Penalty shall apply.

(c) Late Penalty

1. Wherever in this Chapter a fine that is imposed is not paid in the timeframe required by this Chapter or by the deadline imposed by a Hearing Officer after a Hearing or settlement, there shall be a late penalty which shall be in addition to the original fine amount as follows:
 - A. For a Violation where the minimum fine is less than \$50, the minimum fine shall be increased by \$50.
 - B. For a Violation where the minimum fine is \$50 or greater, but less than \$100, the minimum fine shall be increased by \$100.
 - C. For a Violation where the minimum fine is \$100 or greater, the minimum fine shall be increased by \$200.
2. In the event that the fine, costs and late penalty amounts, as applicable, are not made within 30 days after the time required to make sure payment, collection of said fines, costs and late penalty may be referred to a private collection agency under contract with the Village. The collection agency's fees shall be added to the unpaid amounts and shall be collected by the collection agency.

(d) Costs

All Defendants subsequently found liable, or otherwise avail themselves of deferred prosecution, shall pay a \$50 Administrative Adjudication fee, in addition to any penalty imposed.

(e) Prepayment of Fines and Required Appearance

1. The following Defendants must appear before the Hearing Officer and may not pay the fine amount prior to such appearance:
 - A. Any Defendant under the age of 21 charged with a Violation must appear before the Hearing Officer in person and with a parent or legal guardian;
 - B. Any Defendant charged with a Violation where “Appearance Required” in Table 1 of Section 2-24.4 is marked “Yes”;
 - C. Any Defendant that has not settled, compromised and paid the fine amount listed in the “Settlement Amount Paid Prior to Hearing” in Table 1 of Section 2-24.4 at least 24 hours prior to the Hearing date provided on the Violation Notice;
 - D. Any Defendant charged with a Violation where a fine is not provided for in Table 1 of Section 2-24.4; and
 - E. Any Authorized Village Employee may require appearance of a Defendant by marking such requirement upon the Violation Notice;

2. Except for those Defendants not authorized from doing so pursuant to this Section and those non-residents charged with parking, standing and equipment Violations, any Violation listed in the “Settlement Amount Paid Prior to Hearing” in Table 1 of Section 2-24.4 may be settled by a Defendant, upon the submission of payment of the listed minimum fine paid 24 hours prior to the assigned Hearing date on the Violation Notice. Such pre-payment settlement shall not be subject to costs.

3. Table of Offenses and Fines:

TABLE 1 -- Section 2-24.4					
Code Section	Offense	Settlement Amount Paid Prior to Hearing Date	Minimum Fine on Hearing Date	Maximum Fine on Hearing Date	Appearance Required
Chapter 3 Air Pollution					
3-2	Air Pollution;		\$50	\$750	Yes

	Nuisance				
3-3	Open Burning	\$50		\$750	
Chapter 4 Animals					
4-1.3	Regulations of General Applicability				
(a)	Attract abandoned, stray, or wild animal, venomous insect, rodent, or other vermin	\$50 (first offense only)	\$50 (any offense thereafter)	\$750	Yes, for second and any subsequent offense
(b)	Placement of Food Outside	\$50 (first offense only)	\$50 (any offense thereafter)	\$750	Yes, for second and any subsequent offense
(c)	Notification of Stray	\$25		\$750	
(d)	Render aid	\$25		\$750	
(e)	Placement and burial of animals	\$50		\$750	
(f)	Duty to report bite		\$50	\$750	Yes
4-2.1	Maximum Number of Animals		\$50	\$750	Yes
4-2.2	Prohibited Animals		\$150 first offense \$300 second offense \$750 any offense thereafter	\$750	Yes
4-2.4	Feral Cats		\$75 first offense \$150 second offense \$300 third offense	\$750	Yes
4-3.1	Animal Neglect		\$50	\$750	Yes
4-3.2	Cruelty to Animals		\$75 (first and second offense)\$300 (any offense after the second	\$750	Yes

			offense)		
4-3.4	Promotion of Animal Fights		\$500	\$750	Yes
4-4	Control of Rabies	\$50		\$750	
4-4.2	Duties of Animal Owners	\$50		\$750	
4-5	Licensing of Dogs and Cats		\$75 (first offense) \$150 (second and any subsequent offense)	\$750	Yes
4-6	Nuisances	\$75 (first offense) \$100 (second and any subsequent offense)		\$750	
Chapter 5	Regulation of Commercial and Quasi-Commercial Activities				
5-2.1	General Business License		\$100	\$750	Yes
5-2.2	24 Hour License		\$100	\$750	Yes
5-2.3	Food Handler License		\$100	\$750	Yes
5-2.4	Gasoline service station license		\$100	\$750	Yes
5-2.5	Firearms dealers prohibited		\$100		Yes
5-2.6	Outdoor restaurant seating and cooking license		\$100	\$750	Yes
5-2.7	Massage Establishments		\$100	\$750	Yes
5-3	Newsrack Permit		\$100	\$750	Yes
5-4	Regulation of Certain Business Activities		\$100	\$750	Yes
5-5.1	Operating without a License or Permit		\$100	\$750	Yes
5-5.3	Penalty for		\$5000	\$5000	Yes

	Furnishing False Fee Information				
5-6	Police Alarm Systems	\$100		\$750	
5-7	Fire Alarm Systems	\$100		\$750	
5-8	Regulation of Film Production	\$150		\$1000	
5-10	Valet Parking Services	\$100		\$750	
Chapter 7	Refuse, Recycling and Yard Waste				
7-2	Refuse Storage Containers	\$50		\$750	
Chapter 9	Housing and Building Regulations		\$50	\$750	Yes
9-3.3	Building Permits		\$250	\$750	Yes
9-3.4	Regulation of Land-Disturbing Activities		\$250	\$750	Yes
9-3.8	Tree Removal Permits		\$250	\$1500	Yes
9-4.4	Site Development and Maintenance Requirements		\$75 for first offense, \$250 for each subsequent offense	\$1500	Yes
9-4.5	Tree Protection During Construction		\$150	\$750	Yes
9-6.1	Plumbing Code		\$200	\$750	Yes
9-11	Fences in Disrepair		\$100	\$750	Yes
9-15	Real Estate Transfer Tax		\$200	\$750	Yes
Chapter 10	Drug Paraphernalia		\$50	\$750	Yes
Chapter 11	Liquor Control				
11-3	License Required		\$100	\$1000	Yes
11-19(b)	False ID		\$100 first offense \$250 second or	\$250 first offense \$750 second or	Yes

			subsequent offense	subsequent offense	
11-25.2	Possession of alcohol by underage persons		\$100 first offense \$750 second offense	\$750	Yes
11-25.4	Parental Responsibility		\$100 first offense \$750 second offense	\$750	Yes
11-25.5	Owner or occupant responsibility		\$100 first offense \$750 second offense	\$750	Yes
11-30(g)	Kegs	\$100		\$1000	
Chapter 12 Miscellaneous Offenses					
12-1	Assault		\$50	\$750	Yes
12-2	Battery		\$50	\$750	Yes
12-3	Curfew	\$50		\$750	Yes
12-4	Disorderly Conduct		\$50	\$750	
12-5	Gambling Places		\$50	\$750	Yes
12-6	Impersonating an Officer of Employee		\$50	\$750	Yes
12-7	Indecent Conduct or Exposure		\$50	\$750	Yes
12-8	Interfering with Village Officers		\$50	\$750	Yes
12-9	Mechanical Amusement Devices		\$50	\$750	Yes
12-10	Obscene Literature		\$50	\$750	Yes
12-11	Picketing	\$50		\$750	
12-12	Prostitution	\$50		\$750	
12-13	Public Property Damage		\$50	\$750	Yes
12-13.2	Public Facilities	\$50		\$750	
12-14	Trespass		\$50	\$750	Yes
12-15	Weapons	\$50		\$750	
12-16.2	Park District Code	Fines as provided for in Section		\$750	

		12-16.2			
12-17	Vandalism		\$50	\$750	Yes
12-18	Possession of Marijuana	\$200		\$750	
12-19	Fireworks	\$50		\$750	
12-20	Theft		\$150	\$750	Yes
12-21	Theft of Mislaid Property		\$150	\$750	Yes
12-22	Theft of Service		\$150	\$750	Yes
12-23 (a) – (e)	Smoking Regulations	\$100		\$750	
12-23 (f) - (h)	Smoking Regulations		\$250 first violations \$500 second violations (within one year after the first violations) \$2500 subsequent violations (within one year after the first violation)	\$750 first violations \$750 second violations (within one year after the first violations) \$3000 subsequent violations (within one year after the first violation)	Yes
12-25	Owner/Occupant Responsibility		\$50	\$750	Yes
12-26	Air Rifles	\$50 first offense \$100 each subsequent offense		\$500	
Chapter 13 Motor Vehicles					
13-1.1	Illinois Vehicle Code – General	\$50		\$250	
13-2	Vehicle License Required		\$100	\$250	Yes
13-4.1	Unattended Motor Vehicles	\$50		\$250	
13-4.14	Clinging to Motor Vehicle	\$50		\$250	
13-4.15	Loud or		\$50	\$250	Yes

	Unnecessary Noise				
13-4.16	Vehicles Imitating Public Vehicles		\$50	\$250	Yes
13-4.17	Vehicles Emitting Gas or Smoke		\$50	\$250	Yes
13-4.18	Obstructing Fire Station Driveway	\$100		\$250	
13-5.5	Pedestrian Walk-or-Wait Signals	\$25		\$250	
13-5.7	Display of Unauthorized Signs, Signals or Markings	\$50		\$250	
13-5.8	Interference with Office Traffic-Control Devices or Railroad Signs	\$50		\$250	
13-6.3	To Use Right Half of Crosswalk	\$25		\$250	
13-6.4(a) and (b)	Crossing at Other than Crosswalks	\$25		\$250	
13-6.6	Walking Along or Standing on Roadways	\$25		\$250	
13-6.7	Hitchhiking	\$50		\$250	
13-7-8	False Reports	\$100		\$250	
13-7.9	Failure to Report	\$100		\$250	
13-8	General Parking Regulations				
13-8.1	Parking Left Wheel to Curb	\$40		\$200	
13-8.1(a)	Parking Angle / Failure to Heed	\$40		\$200	
13-8.2	Parking-Prohibited	\$40		\$200	
13-8.3	Parking in Alleys	\$40		\$200	
13-8.4	All-Night Parking	\$40		\$200	
13-8.5	Parking for Purpose of Sale, Etc	\$40		\$200	
13-8.6	Parking Adjacent to Schools	\$100		\$250	
13.8.8	Standing or Parking on One-Way Street	\$100		\$250	
13-8.9	Standing or Parking on One-Way Roadways	\$100		\$250	

13-8.10.1	Street Parking Prohibited - Snow Ban	\$30		\$250	
13-8.10.2	Street Parking Prohibited - Winter Precipitation	\$30		\$250	
13-8.12	Standing in Curb Loading Zone	\$40		\$250	
13-8.14	Restricted Use of Bus and Public Carrier Stand	\$100		\$250	
13-8.15	Parking of Trucks, Tractors, Buses, Etc	\$40		\$250	
13-8.16	Parking on Private Property	\$40		\$250	
13-8.18	Inoperable Motor Vehicles	\$100		\$250	
13-8.19.1	Parking - No Parking Anytime	\$40		\$250	
13-8.19.2	Parking - Prohibited During Certain Hours	\$40		\$250	
13-8.19.3	Parking - Posted Time Limit	\$40		\$250	
13-8.19.3.1.2	Parking - Village Center	\$40		\$250	
13-8.19.4	Stopping, Standing and Parking Prohibited During Certain Hours	\$40		\$250	
13-8.19.5	Parking - Prohibited 7A-6P Except Sunday	\$40		\$250	
13-8.20.4	Use of Slugs	\$40		\$250	
13-8.20.5	Tampering with Meters	\$40		\$250	
13-8.20.6	Maximum Parking Time	\$40		\$250	
13-8.20.7	Overtime Parking	\$40		\$250	
13-8.20.9	Parking Meters - Prohibited Acts Generally	\$40		\$250	
13-8.21..5	Residential Permit	\$40		\$250	

	Violation				
13-8.22	Parking - No Valid Permit in Village Lots / Streets	\$40		\$250	
13-8.23	Covering Parked Vehicles Prohibited	\$100		\$250	
13-9.2	Bicycle License Required	\$100		\$250	
13-9.7	Removing, Destroying, Mutilating Frame Numbers or License Decals	\$100		\$250	
13-9.9	Requirements of Rental Agencies	\$100		\$250	
13-9.11	Bicycle Riding Restrictions	\$100		\$250	
13-19.12.1	Skateboard & Roller Skate Prohibited Certain Areas	\$20		\$200	
13-10.1	Vehicle Equipment Violations	\$50		\$250	
13-10.2	When Lighted Lamps are Required	\$50		\$250	
13-10.4	Lamps on Other Vehicles and Equipment	\$50		\$250	
13-10.8	Special Restrictions on Lamps	\$50		\$250	
13-10.9	Special Lighting Equipment on School Buses	\$40		\$250	
13-10.10	Brakes	\$50		\$250	
13-10.11	Horns and Warning Devices	\$40		\$250	
13-10.12	Mufflers, Prevention of Noise	\$40		\$250	
13-10.13	Tires	\$40		\$250	
13-11.2	Obedience to Traffic Regulations	\$40		\$250	
13-14	Public Demonstration Permits		\$50	\$750	Yes
Chapter 14	Nuisances		\$50	\$750	Yes

Chapter 16	Public Ways				
16-9.2	Obstructing Streets	\$50		\$750	
16-9.2.1	Dumping Snow on Streets	\$50		\$750	
Chapter 17	Telecommunications	\$100		\$750	

2-24.5 Administrative Adjudication Composition

The Administrative Adjudication System shall provide for one or more Hearing Officers, a Code Hearing Unit, a Traffic Compliance Administrator and a Village Prosecutor all with the power, authority, and limitations as set forth in this Chapter.

(a) Hearing Officer

1. Appointment. The Village Manager shall appoint one or more qualified Hearing Officers (“Hearing Officer”) to perform the functions set forth in this section.
2. Independent Contractor. A Hearing Officer shall be contracted as an independent contractor of the Village and shall not be considered an employee of the Village. A Hearing Officer may be removed, with or without cause, by the Village Manager.
3. Qualifications. To qualify as a Hearing Officer, an individual must:
 - A. Be an attorney licensed to practice law in the State of Illinois for at least three years;
 - B. Be in good standing with the Illinois Supreme Court Attorney Registration and Disciplinary Commission;
 - C. Complete a formal training program approved by the Village Manager consisting of:
 1. Instruction on the rules of procedure for administrative hearings;
 2. Orientation to each subject area of the Code that will be adjudicated;
 3. Observation of hearings conducted by Illinois municipalities that have adopted the administrative hearing system; and

4. Participation in hypothetical hearings, including ruling on evidence and issuance of final orders.
4. Compensation. Authorization for compensation for a Hearing Officer shall be made by the President and Board of Trustees through the Village's annual budget process. Compensation shall be determined by the Village Manager within approved budget limitations.
5. Authority and Powers. A Hearing Officer shall have all powers necessary to conduct fair and impartial hearings including, but not limited to, the power to:
 - A. Hold conferences for the settlement or simplification of the issues;
 - B. Administer oaths and affirmations;
 - C. Hear testimony and accept evidence that is relevant to the allegation of a violation;
 - D. Issue subpoenas directing witnesses to appear and give relevant testimony at the hearing, upon the request of the parties or their representatives;
 - E. Preserve and authenticate the record of the hearing, including all exhibits and evidence introduced at the hearing;
 - F. Issue a determination, based on the evidence presented at the hearing, on whether a violation occurred or exists. The Hearing Officer's determination shall be in writing and shall include a written finding of fact, decision, and order, including the fine, penalty, or other action with which the defendant must comply;
 - G. Impose monetary fines consistent with this Chapter and applicable Code provisions, however, that in no event shall a Hearing Officer have the authority to:
 1. Impose a penalty of incarceration, or
 2. Impose a fine in excess of \$50,000;
 - H. Order a Defendant to obtain a compliance bond;
 - I. Require a Defendant to take corrective action to cure a violation;

- J. Assess costs as provided for in this Chapter, when the Defendant has been found liable, or availed themselves of a deferred prosecution as part of a settlement;
- K. Impose a term of community service in addition to or in lieu of any applicable fine and;
- L. Impose, if applicable, a late penalty pursuant to Chapter.

(b) Code Hearing Unit.

- 1. Appointment. The Village Manager shall establish a Code Hearing Unit (“Code Hearing Unit”) and appoint the necessary personnel to perform the functions set forth in this Chapter.
- 2. Authority. The Code Hearing Unit is authorized, empowered, and directed to:
 - A. Recommend rules and regulations reasonably required to manage the Administrative Adjudication System;
 - B. Adopt, distribute, and process all notices as may be required under this Chapter, or as may reasonably be required to carry out the purpose of this Chapter;
 - C. Collect payments made as a result of fines, costs, and/or penalties assessed after a final determination of liability;
 - D. Certify copies of final determinations of violations adjudicated pursuant to this Chapter, and any factual reports verifying the final determination of any liability that was issued in accordance with this Chapter or the laws of the State of Illinois, as from time to time amended; and
 - E. Keep accurate records of appearances and non-appearances at Hearings, pleas entered, fines, costs, and penalties assessed and paid.

(c) Traffic Compliance Administrator

- 1. The Village Manager shall appoint one or more Village Traffic Compliance Administrators (“Village Traffic Compliance Administrator”) who are authorized to:

- A. Operate and manage the system of administrative adjudication of vehicular standing, parking and compliance violations;
- B. Adopt, distribute and process standing, parking and compliance violation notices, collect money paid as fines and penalties for violations of standing, parking and compliance ordinances;
- C. Establish procedures necessary for the prompt, fair and efficient operation of the traffic administrative adjudication system;
- D. Certify copies of the final determinations of violations liability and factual reports, verifying that the final determination of violating liability was issued in accordance with this Chapter and 625 ILCS 5/11-208.3;
- E. Certify reports to the Secretary of State concerning initiation of suspension of driver's licenses in accordance with the provisions of this Chapter and 625 ILCS 5/6-306.5; and
- F. Promulgate rules and regulations pertaining to the Hearing process, the content of forms and procedures, and the daily operation of the administrative adjudication of standing, parking and compliance violations program.

(d) Village Prosecutor

- 1. The Corporation Counsel, or any assistant corporation counsel, or any other attorney duly appointed by the Village Manager shall act as the Village Prosecutor (“Village Prosecutor”) and may represent the Village at Hearings and in all matters related to Administrative Adjudication System.
- 2. The Village Prosecutor shall be authorized to prepare and prosecute all Violations before the Hearing Officer.
 - A. The Village Prosecutor, in the Village Prosecutor’s discretion may:
 - 1. enter into settlement agreements on behalf of the Village in matters before the Hearing Officer, including the discretion to reduce court costs by half for those Defendants participating in deferred prosecution;
 - 2. dismiss Violations and any other matter before the Hearing Officer;

3. seek all available legal remedies;
4. enforce judgments, and
5. perform any other function reasonably related to the Administrative Adjudication System.

2-24.6 Hearings

All Hearings shall be conducted by a Hearing Officer and shall be in accordance with the following rules and procedures:

- (a) A record of the Hearing shall be made by audio tape recording or other appropriate means.
- (b) Parties may be represented by counsel, present witnesses, and cross-examine opposing witnesses.
- (c) The Hearing Officer may grant continuances only upon a finding of good cause or upon the agreement of the Village and the Defendant.
- (d) All testimony shall be given under oath or affirmation.
- (e) Parties may request the Hearing Officer to issue, and the Hearing Officer shall have the authority to issue in the Hearing Officer's discretion, subpoenas to direct the attendance and testimony of relevant witnesses and produce relevant documents.
- (f) The formal and technical rules of evidence shall not apply. Evidence, including hearsay, may be admitted only if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.
- (g) The burden shall be upon the Village to prove by a preponderance of the evidence that the alleged violation occurred.
- (h) Each Hearing shall culminate in a determination of liability or non-liability by the Hearing Officer or a determination of liability based upon the failure of the Defendant to appear at the Hearing.
- (i) Representation at Hearings
 1. Village Representation: The case for the Village may be presented by the Village Prosecutor or a Village employee, other than any employee assigned to the Code Hearing Unit or the Traffic Compliance Administrator.
 2. Defendant Representation: The case for the Defendant may be presented by the Defendant. A Defendant may be represented by an attorney at the Defendant's expense. An attorney appearing at a Hearing on behalf of a

Defendant shall present the Hearing Officer with a signed appearance form stating, on oath or affirmation, that he or she has been authorized by the Defendant to represent the Defendant at the Hearing.

- (j) Hearing shall be held at least once a calendar month at a date, time and location as determined by the Village Manager.

2-24.7 Procedure for Violations

The following procedures shall apply to the issuance of a Violation Notice and the adjudication of Violations in the Administrative Adjudication System. A Violation Notice shall be the formal charging document alleging a Violation of the Code (“Violation Notice”) against a person or entity (“Defendant”).

- (a) All Violations, except those violations for parking, standing and vehicle compliance Violation Notices, to be adjudicated against the party alleged to have violated one or more code provisions by issuing and serving upon the alleged violator, owner, operator or any other interested party a Violation Notice shall be conducted in accordance with the following procedures:

1. A Violation Notice shall be issued by an Authorized Village Employee.
2. A Violation Notice issued pursuant to this Chapter shall contain the following information:
 - A. The name; Village position; and identification number, if applicable, of the Authorized Village Employee issuing the Violation Notice;
 - B. The name and address of the person or entity being charged with one or more Violations;
 - C. The name and address of the person to whom the Violation Notice is given if that person is not the individual being charged;
 - D. The section of the Code alleged to have been violated;
 - E. The date, time, and place of the alleged Violation(s);
 - F. A legally sufficient description of the activity or conduct alleged to constitute a Violation of each Code section set forth in the Violation Notice or a legally sufficient description of the facts giving rise to the allegations set forth in the Violation Notice;
 - G. The Authorized Village Employee issuing the Violation Notice shall certify the correctness of the information by signing his or her name (electronic or otherwise) to the Violation Notice to be issued;

which shall establish a prima facie case. In the case of a Violation Notice produced by a computerized device, the Authorize Village Employee may establish a prima facie case by signing a single certificate to be kept by the Traffic Compliance Administrator attesting to the correctness of all notices produced by the device while it was under his or her control; and

- H. A Violation Notice issued pursuant to this Subsection shall set forth (a) the date, time and place of the adjudicatory hearing to be held with respect to the violation(s) alleged in the Violation Notice and (b) the legal authority and jurisdiction under which the hearing will be held.
3. The original or a legible copy of the Violation Notice shall be filed with the Code Hearing Unit as soon as practicable. Upon receiving the original or legible copy of the Violation Notice, the Code Hearing Unit shall set the Hearing date and provide the Defendant notice of the date, time, and place of the Hearing in the manner set forth in this Chapter, unless the Violation Notice sets forth the date, time, and location of the Hearing and was served personally on the Defendant.
 4. If at the time set for Hearing, the Defendant, or an attorney representing the Defendant, fails to appear, the Hearing Officer may enter a default judgment of liability against the Defendant and impose fines and assess costs. A copy of the order of default shall be served in any manner permitted by this Chapter and applicable to the violation. A copy of the default judgment, which constitutes a final determination for purposes of judicial review and is subject to review under the Illinois Administrative Review Law, shall apprise the Defendant of the procedure for setting aside the default judgment and shall also apprise the Defendant of the availability of an appeal of the default judgment to the Circuit Court of Cook County.
 5. A Defendant against whom a default judgment has been entered may file a motion with the Code Enforcement Unit to set aside the default judgment and request a new Hearing. A motion to set aside a default judgment may be filed at any time if the Defendant alleges lack of subject matter or personal jurisdiction; in all other cases, the motion must be filed within 21 days of entry of the default judgment excepting Saturdays, Sundays, and holidays. A motion to set aside a default judgment shall set forth the reason(s) the Defendant failed to appear on the original hearing date. A Hearing Officer shall hear and rule on the motion. If the Hearing Officer grants the motion, a Hearing will be held immediately on the alleged Violation set forth in Violation Notice unless the Defendant requests another Hearing date and presents good cause for continuing the Hearing.

6. If any default judgment is set aside pursuant to this Chapter, the Hearing Officer shall have authority to enter an order extinguishing any lien which has been recorded for any debt due and owing the Village as a result of the vacated default judgment.

(b) All parking, standing and equipment Violations shall be commenced against the Defendant alleged to have violated one or more Code provisions by issuing and serving upon that party a Violation Notice and shall be conducted in accordance with the following procedures:

1. The Violation Notice shall be issued by an Authorized Village Employee and served as provided for in this Chapter.
2. Any Violation Notice issued pursuant to this Chapter shall contain the following information:
 - A. The date, time and location of the Violation;
 - B. The particular vehicular standing, parking or compliance regulation alleged to have been violated;
 - C. Vehicle make and state registration number;
 - D. The fine and any penalty which may be assessed for late payment;
 - E. The signature and identification number of the Authorized Village Employee (which may be made by signing a certificate kept by the Administrator attesting to the correctness of all notices produced by a computerized device while under his or her control) issuing the Violation Notice;
 - F. A section entitled "request for hearing" which shall explain how Hearing may be requested and shall state that a Hearing shall be held within not less than 30 days in accordance with this Chapter; and
 - G. A statement that payment of the indicated fine and any late penalty shall operate as a final disposition of the violation.
3. Service of the violation notice shall be made by the person issuing such notice by:
 - A. Affixing the original or a facsimile of the Violation Notice to an unlawfully standing or parked vehicle; or
 - B. Handing the notice to the registered owner, operator or lessee of the vehicle, if present.

4. The original or a facsimile of the Violation Notice shall be retained by the Traffic Compliance Administrator and kept as a record in the ordinary course of business.
5. Any Violation Notice issued, signed and served in accordance herewith, or a copy of the Violation Notice, or any recorded image, shall be prima facie correct and shall be prima facie evidence of the correctness of the facts shown on the notice.
6. Violation Notice or a copy or any recorded image shall be admissible in any subsequent administrative or legal proceeding.
7. Upon the failure of the Defendant to pay the fine, to request a Hearing or to contest the matter by mail, an additional notice shall be sent, and shall contain, but not be limited to, the following information:
 - A. The date and location of violation cited in the vehicular standing, parking, or compliance in the Violation Notice;
 - B. The particular standing, parking, or compliance regulation alleged to have been violated;
 - C. The vehicle make and state registration;
 - D. The fine and any penalty that may be assessed for late payment;
 - E. The date, time and place of the Hearing at which the alleged violation may be contested on its merits;
 - F. A statement that failure to either pay the fine and any applicable penalty or failure to appear at the Hearing on its merits on the date and at the time and place specified will result in a final determination of vehicle standing, parking, or compliance regulation for the cited vehicle violation in the amount of the fine and penalty indicated; and
 - G. A statement that upon the occurrence of a final determination of vehicular standing, parking, or compliance violation liability for the failure, and the exhaustion of, or the failure to exhaust, available administrative or judicial procedures for review, any unpaid fine or penalty will constitute a debt due and owing the Village.
8. Any additional notices shall be served by first-class mail, postage prepaid, to the address of the registered owner of the vehicle as recorded with the Secretary of State of Illinois (or applicable state), and, if any notice to that address is returned as undeliverable, to the last known address recorded in

a United States Post Office approved database, or if to the lessee of the cited vehicle at the time of the lease and, if any notice to that address is returned as undeliverable, to the last known address recorded in a United States Post Office database. Service of such notice shall be deemed complete as of the date of deposit in the United States mail.

9. A notice of final determination of vehicular standing, parking, or compliance violation liability shall be sent following an appearance by the Defendant and a determination of liability or the failure to appear by the Defendant at a Hearing and upon conclusion of any administrative and/or judicial review procedures, as is hereinafter set forth, and the notice shall contain, but not be limited to, the following information and warnings:
 - A. A statement that the unpaid fine and any penalty assessed is a debt due and owing the Village;
 - B. A warning that failure to pay the fine and any penalty due and owing the Village or failure to complete any required traffic education program within the time specified may result in the Village's filing a complaint in the Circuit Court to have the unpaid fine or penalty rendered a judgment in accordance with 625 Illinois Compiled Statutes 5/11-208.3(f), incorporated herein by reference; and
 - C. A warning that the failure to pay the fine and penalty or complete any required traffic education program may result in the suspension of the person's driver's license for failure to pay fines or penalties for 10 or more vehicular standing or parking violations under 625 Illinois Compiled Statutes 5/6-306.5.
10. A Defendant owing an unpaid fine or penalty for a vehicular standing, parking or compliance violation may file a motion to set aside such default judgment within 21 days after service by the Village of such an order. Such a petition shall be filed by sending it, together with any documentation in support thereof, to the Traffic Compliance Administrator, by certified mail, return receipt requested, or by personal delivery to the Traffic Compliance Administrator. The grounds for such motion shall be limited to (1) the person not having been the owner or lessee of the cited vehicle on the date the Violation Notice was issued; (2) the person having already paid the fine or penalty for the violation in question; or (3) excusable failure to appear at or request a new date for a hearing.
11. Nonresidents of the Village who have been served vehicular standing, parking, or compliance regulation Violation Notice, in accordance with this Chapter, may contest the Violation on its merits, as could a resident,

or may contest the validity without personally appearing at an Hearing by filing a notarized statement of facts specifying the grounds for challenging the Violation Notice which must be filed with the Traffic Compliance Administrator within 30 days of the date on the Violation Notice. The statement shall set forth any facts relevant to establishing a defense to the alleged violation. The request shall be deemed filed upon receipt by the Traffic Compliance Administrator. The acceptance of a "nonresident request for hearing" after the due date or with cause, is at the discretion of the Traffic Compliance Administrator, and may be accepted for Hearing consideration and decision. The Hearing Officer shall make an adjudication based upon the facts set forth in the notarized statement of facts filed by the nonresident as is contained in the Violation Notice. Notice of the determination of the Hearing Officer shall be served upon the nonresident by first class mail, postage prepaid, addressed to the nonresident at the address set forth in the statement of facts submitted. Service of the notice shall be complete on the date the notice is placed in the United States mail. All other provisions of this section shall apply equally to nonresidents of this Village.

2-24.8 – Violation Notice and Village Employees Authorized to issue Violation Notices:

- (a) The following Village employees (“collectively referred to as Authorized Village Employees) shall have the authority to issue a Violation Notice:
1. All full-time and part-time sworn police officers, community service officers, parking control assistants;
 2. Fire Chief, Deputy Fire Chief, Duty Chiefs, Fire Inspector;
 3. All full-time and part-time Code Enforcement Officers, Building Inspectors, Plan Reviewer, Zoning Administrator;
 4. Finance Director, Director of Administrative Services; the Deputy Director of Finance;
 5. Water Department Meter Shop Supervisor; Water Department Technician;
 6. Director of Engineering and Public Works, Village Engineer, Assistant Village Engineer, Deputy Public Works Director, Village Forester, Engineering Technician; and
 7. Any other Village employees specifically authorized by the Village Manager.

- (b) Any Authorized Village Employee who detects a Violation, is authorized to issue a Violation Notice thereof and shall serve the Violation Notice in the manner set forth in this Chapter.
- (c) The correctness of facts contained in any Violation Notice shall be certified by the Authorized Village Employee issuing the Violation Notice by affixing his or her name (electronic or otherwise) to the Violation Notice at the time of issuance.
- (d) The Code Hearing Unit or the Traffic Compliance Administrator shall retain the original or a computer generated copy of the Violation Notice and keep it as a record in the ordinary course of business.
- (e) The Violation Notice or a copy thereof shall be admissible in any subsequent administrative or judicial proceeding to the extent permitted by law.
- (f) The Violation Notice shall be served upon the appropriate parties, as provided for in this Chapter.

2-24.9 - Judicial review.

Any final decision by a Hearing Officer that a Violation does or does not exist shall constitute a final determination for purposes of judicial review and shall be subject to review under the Illinois Administrative Review Law (735 ILCS 5/3-101 et seq.).

2-24.10 - Enforcement of judgments.

- (a) Any fine, other sanction, or costs imposed, or part of any fine, other sanction, or costs imposed, remaining unpaid after the exhaustion of or the failure to exhaust judicial review procedures under the Illinois Administrative Review Law are a debt due and owing the Village and may be collected in accordance with applicable law.
- (b) After expiration of the period in which judicial review under the Illinois Administrative Review Law may be sought for a final determination of a code violation, unless stayed by a court of competent jurisdiction, the findings, decision, and order of the Hearing Officer may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.
- (c) In any case in which a Defendant has failed to comply with a judgment ordering a Defendant to correct a code violation or imposing any fine or other sanction as a result of a code violation, any expenses incurred by the Village to enforce the judgment, including, but not limited to, attorney's fees, court costs, and costs related to property demolition or foreclosure, after they are fixed by a court of competent jurisdiction or a Hearing Officer,

shall be a debt due and owing the Village and may be collected in accordance with applicable law.

(d) Prior to any expenses being fixed by a Hearing Officer pursuant to this Chapter, the Village shall provide notice to the Defendant that states that the Defendant shall appear at a hearing before the administrative Hearing Officer to determine whether the Defendant has failed to comply with the judgment. The notice shall set the date for such a hearing, which shall not be less than seven (7) days from the date that notice is served. If notice is served by mail, the seven-day period shall begin to run on the date that the notice was deposited in the mail.

(e) Upon being recorded in the manner required by Article XII of the Code of Civil Procedure or by the Uniform Commercial Code, a lien shall be imposed on the real estate or personal estate, or both, of the Defendant in the amount of any debt due and owing the Village under this Chapter. The lien may be enforced in the same manner as a judgment lien pursuant to a judgment of a court of competent jurisdiction.

SECTION 4: This Ordinance shall be in full force and effect from its passage and approval as provided by law.

PASSED by the President and Board of Trustees of the Village of Wilmette, Illinois, on the **12th** day of **December 2017**, according to the following roll call vote:

AYES: **None** _____

NAYS: **None** _____

ABSTAIN: **None** _____

ABSENT: **None** _____

Clerk of the Village of Wilmette, IL

APPROVED by the President of the Village of Wilmette, Illinois, this on the **12th** day of **December 2017**.

President of the Village of Wilmette, IL

ATTEST:

Clerk of the Village of Wilmette, IL

DESCRIPTION: **PROFESSIONAL LEGAL SERVICES: HEARING OFFICER**
SOLICITATION #: **RFQUALIFICATIONS #17026**

REQUIREMENTS

I. Scope of Work: The specific responsibilities and tasks of the Administrative Hearing Officer for the Village of Wilmette include:

- A. Act as the presiding adjudicative officer at Wilmette Administrative Adjudication Hearings;
- B. Hear testimony and accept evidence at Hearings;
- C. Issue subpoenas directing witnesses to appear at Hearings;
- D. Preserve and authenticate the record of Hearings;
- E. Issue determinations based on evidence presented at Administrative Hearings
- F. Impose penalties and costs;
- G. All other duties provided for by Ordinance.

II. Minimum Qualifications: The Administrative Hearing Officer shall meet or exceed the following qualifications:

- A. Must be an attorney in good standing who has been licensed to practice in the State of Illinois for a minimum of three consecutive years.
- B. Must be available for hearing sessions on the third Wednesday each month from 1:30pm – 4:00pm
- C. Must provide certification and proof of completion of a formal training program consisting of:
 - 1. Instruction on the rules of procedure for administrative hearings;
 - 2. Orientation to each subject area of the Code that will be adjudicated;
 - 3. Observation of hearings conducted by Illinois municipalities that have adopted the administrative hearing system; and
 - 4. Participation in hypothetical hearings, including ruling on evidence and issuance of final orders.
- D. Must not have any personal, financial or business relationships that, in the judgment of the Village Manager, may give rise to an actual or apparent conflict of interest.
- E. It is preferred, but not required, that the Administrative Hearing Officer has prior judicial and/or other adjudicatory experience.

III. Required Submissions: The response to this Request for Qualification must include at least the following information identified by the bullet point number:

- A. In an envelope identified with the above request identification number, submit:

1. Submittal Contact Sheet
2. A summary statement of relevant experience and qualifications.
3. Illinois Attorney Registration & Disciplinary Commission identification number.
4. A listing of any potential conflicts of interest that could affect his/her ability to adjudicate issues for the Village.
5. Proposed substitute coverage in case of an unavoidable absence at a scheduled hearing.
 - a) As hearing dates are set in advance, arrangements for a qualified substitute are necessary should the selected Administrative Hearing Officer be unavailable for a hearing.
 - b) The Village is not liable for additional payment for substitute coverage. All payment arrangements are through the awarded party.
6. A list and detailed explanation of any exceptions to the qualifications listed above.
7. Any other information believed to be relevant to establishing qualifications for the position.
8. Attachments to Response
 - a) Attach a current resume showing professional experience, and employment and educational background, including any prior judicial and/or other adjudicatory experience.
 - b) Three references
9. A signed, sworn Certification of Compliance, in the form appended to this Request for Qualifications
10. The hourly or daily rate proposed to meet the scope of work.
11. Certificate of Insurance
12. Professional Letter of Agreement

III. Possibility of Award

- A. Any such agreement may be terminated by the Village with a written notice at least 15 days in advance of any such termination.
- B. The successful Administrative Hearing Officer will provide a minimum of 45 days' written notice to the Village Manager prior to termination of this engagement.
- C. The term of engagement of the Administrative Hearing Officer will remain in effect until terminated in writing by either party.