

**MEMORANDUM**

**To:** F.H. Paschen  
**From:** Burke Burns & Pinelli, Ltd.  
**Date:** January 17, 2023  
**Re:** Village of Elmwood Park/Job Order Contract

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You have asked us to look into the issue of whether school districts, park districts and non-home-rule units of government may purchase construction services from Paschen through its Job Order Contract ("JOC") with the Village of Elmwood Park ("Village").

**Brief Answer: Yes, any government unit – including school districts, park districts, municipalities, counties and non-home-rule units of government – located within the State of Illinois may participate in the JOC by contacting Paschen or the Village to schedule a meeting about initiating a job order request through the Elmwood Park JOC.**

This memorandum will set forth the statutory and contractual authorities that allow these units of government to take advantage of the JOC and some examples of Illinois local government units entering into joint purchasing agreements with one another.

**I Background**

In 2020, the Village solicited bids for construction services through the JOC. The Village awarded the JOC to Paschen on May 4, 2020. The JOC has a base term of two years, with the option to extend the JOC for three additional two-year terms, for a total of six years.

**II Authority**

The Illinois Constitution grants very broad powers to all local governments, including school districts, park districts and non-home-rule units, to cooperate with each other, with the State of Illinois, other states, the federal government, and private parties to provide public services. ILL. CONST. 1970 Art. VII, &10.

Article VII, Section 10 of the Illinois Constitution states:

*Units of local government and school districts may contract or otherwise associate among themselves, with the state, with other states and their units of local government and school districts and with the United States to obtain or share services and to exercise, combine, or transfer any power or function in any manner not prohibited by law or by ordinance. Units of local government and school districts may contract as*

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*otherwise associated with individuals, associations and corporations in any manner not prohibited by law or by ordinance.*

In addition, the Illinois Government Joint Purchasing Act (“Joint Purchasing Act”) expressly allows any government unit to purchase services jointly with one or more other government units. 30 ILCS §525/2(a). The Illinois Joint Purchasing Act defines government unit as the State of Illinois, any State agency, officers of the State of Illinois, any public authority which has the power to tax, or any other public entity created by statute. 30 ILCS §525/1. This definition includes school districts and park districts, which are created by statute pursuant to 105 ILCS §5/11E et seq. and 70 ILCS 1205/2-1 et seq. It also includes municipalities and counties, which have the power to tax pursuant to 65 ILCS §5/8-3-1 and 55 ILCS 5/5-1024 respectively. Joint purchases may be made by any agreement of governmental units. 30 ILCS §525/3. All joint purchases must be by competitive bid. §525/2(a). However, only one of the government units is required to conduct a bid. §525/3. The Joint Purchasing Act supersedes all other acts under which a governmental unit operates regarding purchasing and purchasing procedures. §525/2(a). Accordingly, the joint purchasing opportunities presented by the Joint Purchasing Act are available to all government units within the State of Illinois.

Each government unit must in some way approve participating in joint purchasing. In addition, each government unit’s procurement official must have authorization to award the job order being let pursuant to the JOC. This authorization may be accomplished in different ways. For example, some government units require authorization by its city council or board of trustees of a specific job order purchase, while others may allow their procurement official to award purchase orders without additional authorization where the dollar value is under a certain amount or an appropriation has already been made.

Once the governmental unit has approval, the only other issue is to ensure that the existing JOC itself does not include any restrictions on such joint purchases. Here, the JOC executed by the Village of Elmwood Park on May 4, 2020, includes a provision that expressly allows any unit of government to purchase work under the JOC pursuant to a licensing fee (Art. III, Sec. 10, Cooperative Purchasing). The JOC was executed according to the required competitive bidding process under the Illinois Procurement Code. Thus, there should be no restrictions here for an Illinois unit of government, including school districts, park districts and non-home-rule units of government from participating in the existing Village JOC.

### **III Examples of Local Governments Participating in Joint Purchasing Agreements with One Another. (\* - denotes a non-home-rule unit of government)**

#### **A. Aurora JOC**

Aurora	DuPage County	Tinley Park
Buffalo Grove Park District	Northbrook	Fox Valley Park District
Elgin	Orland Park	Downers Grove
Naperville	Riverside*	Geneva*
Downers Grove Park District	Schaumburg	Indian Prairie SD 204

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### **B. Elmwood Park JOC**

Aurora	Orland Park	Leyden Township
Elgin	Riverside*	Winnetka Park District
Cook County	Schaumburg	Libertyville*
DuPage County	Tinley Park	Naperville
Lakemoor*	Hodgkins	
Northbrook	Bridgeview	

### **C. Lakemoor JOC**

Homewood	Elgin
Winnetka Park District	Carol Stream Fire Protection District
River Grove	LaGrange Park*
Brookfield Zoo	Libertyville*
DuPage County	

### **D. Sourcewell JOC**

Glenview  
Carol Stream  
Glen Ellyn  
Hanover Park

### **E. NCPA JOC**

Schaumburg	Central Lake County Joint Action Water Agency	Troy CCSD 30C
Buffalo Grove	LaGrange Park*	East Maine SD 63
Northbrook	Huntley	Western Springs SD 101
Elgin	Lincolnwood SD 74	Libertyville*
Roselle*	LaGrange SD 105	Winnetka Park District
Hanover Park	Downers Grove	National Museum of National Art

### **F. Naperville JOC**

Naperville	Lakemoor*	Palatine Park District
Aurora	Glenbard Waste Water Authority	Bloomington SD 13
Tinley Park	Park Forest	Plainfield Village
Homer Township	Carol Stream	Oak Forest
Riverside*	Huntley	Warrenville Fire Protection District
Elgin	Homewood	La Grange Park
Downers Grove	Orland Park	Cary*
Buffalo Grove	Hanover Park	Thorn Creek Basin Sanitary District
North Central College	Bloomington	
Village of Lisle	Clarendon Hills*	

IV. Summary

The construction services offered through the competitively bid JOC are available to any government unit in the state of Illinois, including local municipalities, counties, school districts and park districts. Though Illinois law and the JOC itself authorize each of these units to procure services from the JOC, it is incumbent on each unit to obtain its own internal authorization to participate in a joint purchasing agreement as well as to comply with its own purchasing procedures. Paschen's JOC with the Village offers government units in Illinois an efficient and cost-effective avenue to complete construction projects of all sizes.