

**VILLAGE OF DOWNERS GROVE**  
**Report for the Village**  
**11/21/2017**

<b>SUBJECT:</b>	<b>SUBMITTED BY:</b>
Third Amendment to the Sales Tax Rebate Agreement with Pugi of Chicagoland	Enza Petrarca Village Attorney

**SYNOPSIS**

A resolution has been prepared to approve a third amendment to the Sales Tax Rebate Agreement between the Village of Downers Grove and Downers Grove Imports, Ltd. d/b/a Pugi of Chicagoland.

**STRATEGIC PLAN ALIGNMENT**

The goals for 2017-2019 include *Strong and Diverse Local Economy*.

**FISCAL IMPACT**

During the 5-year period when sales tax rebates will be provided (2024-2028), the Pugi dealerships are projected to generate an average of \$820,000 per year in gross sales tax revenue to the Village. The projected average annual rebate payment is \$35,000 with a net average annual Village revenue of \$785,000.

**RECOMMENDATION**

Approval on the Active Agenda of December 5, 2017.

**BACKGROUND**

The Village entered into a sales tax rebate agreement with Pugi of Chicagoland in 2005 to provide incentives to operate a Volkswagen dealership within Downers Grove. Pugi of Chicagoland now operates three dealerships in Downers Grove: Volkswagen (2020 Ogden Ave), Mazda (1850 Ogden Ave) and Hyundai (1866 Ogden Ave). The agreement was amended in 2009 and 2011. The original agreement and the amendments are summarized below.

Pugi is making improvements to the existing Mazda dealership and the parking lots serving the automobile dealerships.

***Third Amendment (2017)***

The proposed third amendment to the sales tax rebate agreement requires Pugi to make improvements to the Mazda dealership and the parking lots as depicted on the concept plans attached to the agreement, by not later than December 31, 2018. The term of the sales tax rebates would be extended by five years, during which that time period (January 1, 2024 – December 31, 2028) the Village would rebate 50% of the sales tax revenue generated by the dealerships above the base sales tax revenue amount. The base sales tax revenue amount shall be the amount of sales tax generated by the dealerships in 2023. Pugi will be required to continue to

operate the three dealerships through December 31, 2033 or will be required to make repayments of the incentive payments.

### **Key Terms**

- Pugi shall complete the improvements to the Mazda building as shown on the building improvement concept plans and complete the improvements to the parking lot as shown on the approved parking lot plans.
- Pugi shall complete the improvements no later than December 31, 2018.
- Pugi shall continue to operate the dealerships until December 31, 2033 and shall be subject to the reimbursement payments in the current agreement as they may be revised to comport with the revised term of the agreement.
- For the period of January 1, 2024 through December 31, 2028, the Village shall rebate 50% of the sales tax revenue generated by the dealerships above the base sales tax revenue amount. The base sales tax revenue amount shall be the amount of sales tax revenue generated by the dealerships in 2023.
- All other terms and conditions in the existing agreement shall remain in full force and effect.

### ***2005 Agreement***

In 2005, the Village entered into a sales tax rebate agreement with Pugi of Chicagoland. The agreement states, among other things that:

- The Village shall rebate a portion of the sales tax revenue generated by Pugi for a period of seven years (no rebate for sales tax revenue up to \$27,000,000, 50% rebate for sales tax revenue between \$270,000 and \$800,000, and 25% rebate for sales tax revenue above \$800,000).
- Pugi shall continue to operate the dealership for a period of not less than 10 years from the effective date of the agreement.
- In the event Pugi fails to continue to operate the dealership per the terms of the agreement, Pugi shall reimburse the Village according to a specific schedule
  - Years 1 through 3 - 100% of the rebate payments
  - Years 4 through 5 – 75% of the rebate payments
  - Years 5 through 10 – 50% of the rebate payments

### ***First Amendment (2009)***

In 2009, the Village approved an amendment to the agreement which included the following key terms:

- Extended the term of the rebate payments from seven years to twelve years.
- Extended the requirement for Pugi to operate the dealership from ten years to fifteen years.
- Required Pugi to reimburse the Village in an amount equal to 25% of the rebate payments for years 10 through 15 in the event that Pugi fails to operate the dealership
- Deleted the letter of credit submittal requirement.

### ***Second Amendment (2011)***

In 2011, the Village approved an amendment to the agreement which included the following key terms:

- Required Pugi to purchase the property at 1866 Ogden Avenue
- Required Pugi to make improvements to the property at 1866 Ogden Avenue (Hyundai), including bringing all signage into conformance with Village Code by December 31, 2011.
- Required Pugi to make improvements to the property at 2020 Ogden Avenue, including bringing all signage into conformance with Village Code, closing an existing curb cut and increasing the amount of greenspace located on the site, by no later than December 31, 2012.

- Required Pugi to operate all three dealerships until December 31, 2026 or pay back the tax rebate payments on the following schedule
  - If Pugi or an approved successor fails to continue to operate during:
    - Year 1 through 7: 100% of the Incentive Payment
    - Year 8 through 12: 75% of the Incentive Payment
    - Year 13 through 18: 50% of the Incentive Payment
    - Year 19 through December 31, 2026 – 25% of the Incentive Payment

## **ATTACHMENTS**

Resolution

Third Amendment to the Sales Tax Rebate Agreement

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

**A RESOLUTION AUTHORIZING EXECUTION OF A  
THIRD AMENDMENT TO THE SALES TAX REBATE AGREEMENT  
BETWEEN THE VILLAGE OF DOWNERS GROVE AND  
DOWNERS GROVE IMPORTS, LTD. D/B/A PUGI OF CHICAGOLAND**

BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois, as follows:

1. That the form and substance of a certain Third Amendment to Sales Tax Rebate Agreement (the "Agreement"), between the Village of Downers Grove (the "Village") and Downers Grove Imports, Ltd. d/b/a Pugi of Chicagoland ("Pugi"), as set forth in the form of the Agreement submitted to this meeting with the recommendation of the Village Manager, is hereby approved.

2. That the Mayor and Village Clerk are hereby respectively authorized and directed for and on behalf of the Village to execute, attest, seal and deliver the Agreement, substantially in the form approved in the foregoing paragraph of this Resolution, together with such changes as the Manager shall deem necessary.

3. That the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Village in accordance with the provisions of the Agreement.

4. That all resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.

5. That this Resolution shall be in full force and effect from and after its passage as provided by law.

\_\_\_\_\_  
Mayor

Passed:

Attest: \_\_\_\_\_  
Village Clerk

**THIRD AMENDMENT TO THE SALES TAX REBATE AGREEMENT  
BETWEEN THE VILLAGE OF DOWNERS GROVE AND  
DOWNERS GROVE IMPORTS, LTD. D/B/A PUGI OF CHICAGOLAND**

The Village of Downers, Illinois, an Illinois Municipal Corporation situated in the County of DuPage, Illinois (the “Village”) and Downers Grove Imports, Ltd. d/b/a Pugi of Chicagoland (“Pugi”) hereby agree that the following language shall be and is hereby incorporated into the agreement dated March 1, 2005, as amended June 16, 2009 and April 5, 2011, as follows:

WITNESSETH:

WHEREAS, Pugi is endeavoring to remodel the interior and exterior of the existing Mazda dealership located at 1850 Ogden – including an updated building façade, a parking lot expansion for three hundred seventy five (375) vehicles, and a stormwater detention basin, as indicated on the Design Plan attached hereto and herein incorporated as Exhibit A (the “Improvement Project”) ; and,

WHEREAS, the Village, recognizing the economic and other benefits derived therefrom by the Village and its residents, seeks to assist Pugi in its completion of the Improvement Project; and

WHEREAS, the Village desires to assist in the remodeling of the dealerships in order to serve the needs of the Village, to produce increased tax revenues and to stimulate employment and development within the Village; and

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby covenant and agree as follows:

**1. Incorporation of Recitals:** The foregoing recitals are hereby incorporated and adopted as set forth herein.

**2. General Terms: The following paragraphs shall be added to section 2:**

Pugi, after receipt of the promises and inducements contained herein, agrees to complete the Improvement Projects and improve its Mazda automobile sales dealership in substantial accordance with the Exhibit A. It is understood that Improvement Project shall be constructed substantially in accordance with the plans and specifications approved by the Village and construction shall be completed by no later than December 31, 2018. Pugi shall not cause or permit the existence of any violation of Village

ordinances, including but not limited to the Village's building code, zoning ordinances, fire code and any and all rules and regulations thereunder on any of property owned by Pugi.

**3. Sales Tax Incentives: Section 3 shall be amended as follows:**

In the event that all terms and conditions set forth in this Agreement are satisfactorily met by Pugi, including but not limited to the construction of the sidewalk improvements and landscaping as well as the construction and development and operation of the Dealership on the Property, the Village hereby agrees to pay Pugi ~~quarterly~~tri-annual installments over a maximum period of eighteen (18) years (the "Incentive Period" – through year 2023) as follows, subject however to the following conditions and restrictions:

- a) It is understood that each amount will be due and payable solely from the proceeds of sales tax revenue received by the Village from the Dealership Property.
- b) It is acknowledged and understood by and between the parties hereto that the Village receives sales tax revenue monthly, and that the taxes generated by sales in any one month are distributed to the Village approximately three months later (e.g. taxes generated by sales in July are generally not received by the Village until October).
- c) The initial payment year (hereinafter referred to as the "Initial Payment Year") shall be that twelve (12) month period commencing on the first day of the full month that follows the month in which the Dealership at the 1850 Ogden Avenue site is operating and opened to the public for business and the sidewalk and landscaping improvements have been completed (each subsequent twelve month period is hereinafter referred to as "Subsequent Incentive Year").
- d) The incentive base for the Incentive Period shall be TWENTY SEVEN MILLION DOLLARS (\$27,000,000.00) (hereinafter referred to as the "Incentive Base"). For the Incentive Period, the Village shall be entitled to all the sales tax revenue received from the Dealership Property up to the Incentive Base. For the Incentive Period, respectively, Pugi shall thereafter be entitled to fifty percent (50%) of the sales tax revenue, if any, received from the Dealership Property that exceeds the Incentive Base up to \$800,000.00 cumulative and after said incentive is reached, the Village shall receive seventy-five percent (75%) of the sales tax revenue and Pugi shall be entitled to twenty-five percent (25%) of the sales tax revenue for the remainder of the Incentive Period.
- e) For the period commencing January 1, 2024 and ending December 31, 2028, the Village shall rebate fifty percent (50%) of the sales tax revenue received from the Dealership Property that exceeds the "Amended Incentive Base". For purposes of this Section the "Amended Incentive Base" shall be defined as the total amount of sales tax revenue received from the Dealership Property for the 2023 calendar year.
- f) The Incentive Payments shall be computed ~~tri-annually~~at the close of each calendar quarter (March 31, June 30, September 30, December 31) by the Village as provided herein. The Village shall withhold the incentive payments for ninety (90) days after it

receives notification from the State of the sales tax revenue generated by the Dealership Property. If Pugi fails to continue the dealership as set forth in Section 6, the withheld incentive payment will be automatically forfeited to the Village. Upon expiration of the ninety (90) day period set forth above, and only if Pugi is in compliance with Section 6, the Village will make payments to Pugi within thirty (30) days.

**6. Commitment to Continue Dealership: Section 6 shall be amended as follows:**

The parties agree that all Incentive Payments are based in part upon: 1) a commitment by Pugi to purchase the property and to continue operation of all three dealerships, or an equivalent of the three dealerships, on the property located at 1850, 1866 and 2020 Ogden Avenue for a period of not less than ~~twenty-eight~~<sup>three</sup> (28<sup>3</sup>) years from the effective date of this Agreement, and; 2) a scheduled reimbursement of such incentive payments, if the terms of this commitment are not fulfilled. To that end, Pugi agrees to continue the operation of a new car Dealership(s) on the Property and shall continue to offer automotive sales with the point of sale being in Downers Grove for ~~twenty-three~~<sup>eight</sup> (28<sup>3</sup>) years from the effective date of this Agreement. If, at any time during this time period, the Dealership, or a successor, fails to offer automotive sales of new automobiles as proposed by the Dealership, then the Village shall be released and discharged from any further obligation to make payments under this Agreement, and Pugi or its successors shall reimburse the Village in accordance with Section 7 of this Agreement. The failure to meet this commitment is not a breach, but rather a foreseeable event for which the offsetting terms have been agreed to in Section 7 of this Agreement.

**7. Reimbursement: Section 7 shall be amended as follows:**

In the event Pugi, or any approved successor, fails to continue the operation of the three dealerships on the property located at 1850, 1866 and 2020 Ogden Avenue, as provided in Section 6 of this Agreement, Pugi, or such approved successor, shall reimburse to the Village within sixty (60) days of receipt of a written demand from the Village specifying the amount of the reimbursement all or a portion of the Incentive Payments and TIF Reimbursement Payments paid hereunder according to the following schedule:

If said event occurs during:

- \* Year one through seven- One hundred percent (100%) of the Incentive Payment
- \* Year eight through year twelve- seventy-five percent (75%) of the Incentive Payment
- \* Year thirteen through year eighteen - fifty percent (50%) of the Incentive Payment
- \* Year nineteen through year December 31, 20~~28~~<sup>33</sup> – twenty-five percent (25%) of the Incentive

Payment

After the expiration of a sixty (60) day written demand by the Village to Pugi or its successors, specifying the amount due, the Village may, in its sole discretion, pursue any and all available legal remedies to recover said monies, including, without limitation:

- \* Proceed with an action in law or in equity to recover the amounts owed.

All remaining terms of the 2005 Agreement, as amended in 2009 and 2011, shall apply equally to this Third Amendment.

WITNESS their hands and seals the day and year first above written.

THE VILLAGE OF DOWNERS GROVE,  
ILLINOIS, an Illinois Municipal Corporation

DOWNERS GROVE IMPORTS, LTD. D/B/A  
PUGI OF CHICAGOLAND

By \_\_\_\_\_  
Mayor

By \_\_\_\_\_

Attest \_\_\_\_\_  
Village Clerk

Secretary

Date \_\_\_\_\_

Attest

Date \_\_\_\_\_

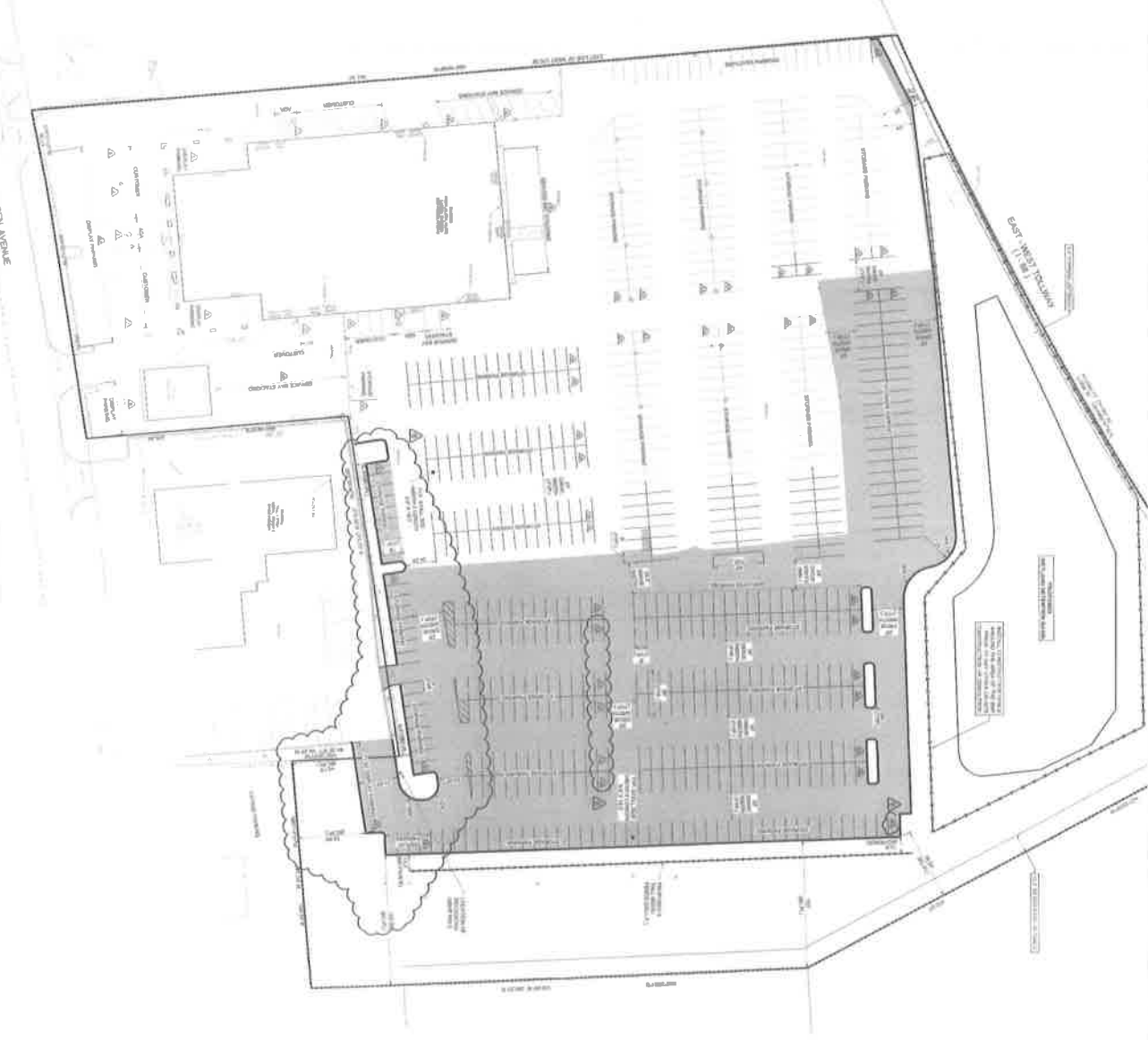
2:\word\agmt\pugi\11\4\171\mw\Agg\_17\Pugi-STRA-3rd\Attd

**EXHIBIT A**  
**Design Plan & Cost Estimates of Improvements**

**Consisting of:**

- a) Parking lot expansion/detention basin plans**
- b) Mazda signage & order form**
- c) Contract Proposal from ADR Custom Builders (8/15/17)**
- d) Proposed M&J Asphalt Paving Company (12/13/16)**

**SURVEYED BY:**  
 WILSON CHANG & ASSOCIATES, INC.  
 1000 WEST GORDON AVE.  
 SUITE 100  
 COVINGTON, LA 70429  
 PHONE: 504-835-8888  
 FAX: 504-835-8889  
 WWW.WILSONCHANG.COM



**GENERAL REMARKS:**  
 THIS PLAN IS A PART OF THE SUBMITTAL FOR THE PERMITS FOR THE CONSTRUCTION OF THE PROJECT. THE CLIENT IS RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED TO THE ENGINEER. THE ENGINEER'S RESPONSIBILITY IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE PROJECT AS SHOWN ON THIS PLAN. THE ENGINEER DOES NOT WARRANT THE ACCURACY OF THE INFORMATION PROVIDED TO THE ENGINEER. THE ENGINEER DOES NOT WARRANT THE ACCURACY OF THE INFORMATION PROVIDED TO THE ENGINEER. THE ENGINEER DOES NOT WARRANT THE ACCURACY OF THE INFORMATION PROVIDED TO THE ENGINEER.

**NOTES:**  
 1. ALL DIMENSIONS ARE IN FEET AND INCHES.  
 2. THE TOTAL AREA OF THE PROJECT IS 100,000 SQ. FT.  
 3. THE TOTAL AREA OF THE PROJECT IS 100,000 SQ. FT.

**LEGEND:**  
 [Symbol] PROPOSED PARKING SPACE  
 [Symbol] PROPOSED DRIVE DRIVEWAY FOR MATERIALS  
 [Symbol] PROPOSED DRIVE DRIVEWAY FOR MATERIALS  
 [Symbol] TOTAL # OF PARKING SPACES IN LOT

**NOTE:**  
 1. ALL DIMENSIONS ARE IN FEET AND INCHES.  
 2. THE TOTAL AREA OF THE PROJECT IS 100,000 SQ. FT.  
 3. THE TOTAL AREA OF THE PROJECT IS 100,000 SQ. FT.

**PARKING SUMMARY:**

TYPE OF PARKING	NO. OF SPACES
STANDARD	100
COMPACT	50
BIKE	10
TOTAL	160

**PROPOSED PARKING:**

TYPE OF PARKING	NO. OF SPACES
STANDARD	100
COMPACT	50
BIKE	10
TOTAL	160

**EXISTING PARKING:**

TYPE OF PARKING	NO. OF SPACES
STANDARD	100
COMPACT	50
BIKE	10
TOTAL	160

**PROPOSED DRIVEWAY:**

TYPE OF DRIVEWAY	NO. OF DRIVEWAYS
STANDARD	100
COMPACT	50
BIKE	10
TOTAL	160



**TERRA CONSULTING GROUP, LTD.**  
 600 Susan Highway  
 Park Ridge, IL 60068  
 PH: 847/938-8800  
 FAX: 847/938-8401

**FINAL ENGINEERING**  
 P. T. VU  
 PROFESSIONAL ENGINEER  
 LICENSE NO. 10000  
 MECHANICAL ENGINEERING  
 STATE OF LOUISIANA

**PARKING LOT EXPANSION**  
 PUGI AUTOMOTIVE  
 1988 WEST GORDON AVE.  
 COVINGTON, LOUISIANA, LA

**C-4**



## Mazda Signage & Order Form

**AGI** YOUR IMAGE.  
OUR PRIORITY.

Date 10/16/2017  
 Dealer Code 61432  
 Sales Order # 142990  
 Project ID: MAZ100-61432-001

Dealer Name PUGI MAZDA  
 Street Address 2020 W. OGDEN AVENUE  
 City DOWNERS GROVE State IL Zip Code 60515-2620  
 Telephone 630-964-9500

Qty	Product	Description	Dealer Price for Signs	Installation Zone 03	Total Price
1EA	MAZ-Custom	AGI to install new custom skirted BP30-10 monument @ 10' OAH. Dealer responsible for providing within 5' as well as proper access	20,311.00	6,416.00	26,727.00
1EA	MAZ-MS66/ML15.3- Stac	AGI to install new MS66/ML15.3 illuminated. Dealer responsible for providing electrical within 5' as well as proper access.	7,649.00	2,137.00	9,786.00
1EA	MAZ-RE-24-DN-UC	AGI to install new RE-DN-24 illuminated reading "P". Dealer responsible for providing electrical within 5' as well as proper access.	474.00	201.61	675.61
3EA	MAZ-RE-24-DN-LC	AGI to install new RE-DN-24 illuminated reading "ugl". Dealer responsible for providing electrical within 5' as well as proper access.	1,260.00	604.83	1,864.83
1EA	MAZ-RE-21-S-WM	AGI to install new RE-21-S-WM illuminated reading "Service". Dealer responsible for providing electrical within 5' as well as proper access.	2,685.00	1,000.00	3,685.00
1EA	MAZ-Custom	AGI to install new custom skirted BP100-35 monument @ 35' OAH. Dealer responsible for providing electrical within 5' as well as proper access	62,358.11	16,500.00	78,858.11
	Permit costs	Estimated Permit costs	2,800.00		2,800.00
	Procurement Costs	Est. Procurement Costs	2,800.00		2,800.00
	Lift Rental	Lift Rental	1,000.00		1,000.00
	Engineering	Estimated Engineering	1,500.00		1,500.00
	Asphalt Removal	Asphalt Removal	1,000.00		1,000.00
	Asphalt Repair	Asphalt Repair	1,750.00		1,750.00
	Express Survey and Brand	Express Survey and Branding	576.00		575.00
	Freight	Estimated Freight	16,500.00		16,500.00
	Crating	Crating Total	2,643.22		2,643.22
<b>Estimated Subtotals</b>			<b>125,305.33</b>	<b>26,859.44</b>	<b>152,164.77</b>
			<b>Estimated Tax</b>		<b>9,110.43</b>
			<b>Estimated Site Total</b>		<b>161,275.20</b>



31. Overhead.	???	\$50,000.00
32. General Contracting.		\$56,000.00

ADR Inc., to coordinate all activities, as well as materials procurement and general oversight.  
**ADR Custom Builders, Inc. agrees to perform above stated at a cost of \$842,744.65**

**Total for the overall project is proposed at: \$ 842,744.65**

**Please note. Permit fee and/or bond if required not included in this proposal.**

All materials and labor are included and accounted for. Necessary receipts, waivers, certifications, and such will be promptly provided upon request. All work performed is to pass all required inspections and it will have one year unconditional warrantee.

Should you have any further questions on this matter please feel free to contact me at the above listed number.



Sincerely,  
Danny Stojanovic, Owner  
ADR Custom Builders, Inc.

Accepted by: \_\_\_\_\_

Date: \_\_\_\_\_



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Asphalt Paving & Patching • Concrete Installation & Repair • Sealcoating • Striping • Excavating • Decorative Paving • Snow & Ice Control

**Proposal No. 2017-0024**

**Date: December 13, 2016**

**Submitted To:**

**Job Name: Pugi Parking Lot  
Expansion**

**Job Location: Downers Grove,  
Illinois**

**We hereby submit specifications and estimates for:**

Install (1,362 L.F.) silt fencing  
Remove trees and brush to accommodate new construction of additional parking areas and proposed detention basin  
Take down and haul away 900 L.F. of existing chain link fence  
Perform cuts to achieve new subgrade elevations in new parking area (10,120 C.Y.)  
Load, haul and dispose of excavated material as CCDD  
Perform cuts for new detention pond (13,096 C.Y.)  
Install rip rap channels in pond area  
Install 4" PVC Underdrain (130 L.F.)  
Install 6" PVC (75 L.F.)  
Install 12" RCP (553 L.F.)  
Install 15" RCP (212 L.F.)  
Install (2) 24" Inlet  
Install (5) 48" Catch Basin  
Install (1) 60" Catch Basin  
Install (1) 60" Restrictor manhole  
Install rip rap stone (275) yards  
Install (5) stone check Dam  
Install 4" CA-6 stone for barrier curb  
Install (3,805 L.F.) barrier curb  
Install 6" CA-6 stone for new parking lot (109,548 S.F.)  
Install prime coat  
Install 3" Bituminous Binder Course (109,548 S.F.)  
Install 1 1/2" Bituminous Surface Course (109,548 S.F.)  
Install pavement markings  
Install (410 L.F.) of new – 6 foot high pressure treated dog ear board – board on board wood privacy fence along east property line  
Furnish and install 4" topsoil in the new detention pond (1,050 C.Y.)

M&J Asphalt Paving Company Inc.

Pugi Parking Lot Expansion

2017-0024

Furnish and install topsoil in the landscape areas of new lot (290 C.Y.)

Install landscape as follows:

- (10) 2" Shingle Oak
  - (3) 2" Wafer Ash
  - (20) #5 New Jersey Tea Shrub
  - (34) #5 Northern Goosberry Shrub
  - (14) #5 Smooth Hydrangea
  - (1,731) #1 Ornamental Ribbon Grass
  - (86) yards double ground hardwood mulch
  - (1,050) yards sod for south and east perimeter area
- Detention Basin Area:
- (4,750) yards slope seed mix with DS-75 blanket
  - (515) yards "A" seed mix with DS-75 blanket
  - (800) yards "B" seed mix with DS-75 blanket
  - (280) yards "C" seed mix with DS-75 blanket

**TOTAL: \$1,650,000.00**Project Notes:

1. No permit, testing or bonds fees.
2. A Certificate of insurance furnished upon request.
3. Saw-cutting is included

**M&J Asphalt Paving Company Inc.**

Pugi Parking Lot Expansion  
2017-0024

**TERMS AND CONDITIONS**

*No permit, testing or bond fees. A certificate of insurance is furnished upon request.*

*If this proposal, 2017-0024 meets with your approval and you desire to enter into a contract on the terms and conditions set forth herein, please so indicate by signing and returning to us the original copy of this quotation, which shall become a contract upon, but not before, acceptance by M&J Asphalt Paving Company Inc. (M&J).*

*The quantities, if any, listed above are estimates. Payment will be based on actual quantities completed at the unit price or lump sum quoted for such item or items. Owner/contractor hereby acknowledges that the petroleum market is extremely volatile. Therefore, any asphalt or other material price increase from M&J's suppliers between the date of the proposal and the commencement date of the work is subject to an escalation clause. Owner/contractor hereby agrees to pay to M&J the material cost increase, including taxes together with a ten percent (10%) markup on said increase. M&J hereby agrees to provide owner/contractor with documents verifying said increase upon request.*

*M&J shall not be responsible for any damage to any underground utilities, appurtenances or other hidden conditions unless the owner/contractor has given to M&J advance written notice of their existence and location.*

*Payment is due in full within ten (10) days of receipt of the invoice. M&J shall receive final payment upon completion of the work within thirty (30) days of submission of its final invoice. Any and all payments not made in accordance hereof, shall be subject to a 1.5% per month service charge. Customer agrees to pay all reasonable costs, expenses and attorney fees incurred to collect sums past due.*

*M&J hereby warrants and guarantees that the work furnished hereunder shall conform to the specifications and requirements as set forth in the proposal and further warrants and guarantees that the work is free from defects in material and workmanship. This guarantee and warranty shall remain in effect for a period of twelve (12) months from the date of written acceptance of the work by the owner/contractor. M&J shall promptly, and at its sole cost and expense, either repair or replace any defective work upon receipt by a written notice of a defect within said twelve (12) month period.*

*Any alteration or deviation from the above drawings or specifications involving extra cost of materials or labor will incur an extra charge over the amount mentioned in this proposal/contract. All agreements must be in writing. All agreements are contingent upon strikes, accident or delays beyond our control.*

**NOTE: This proposal may be withdrawn by us if not accepted within 30 days.**

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<b>Down Payment</b>	<b>\$ See Above</b>
<b>Balance Upon Completion</b>	<b>\$ \$1,650,000.00</b>

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**Signed for M&J:**

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**Nick Distasio**

**Acceptance of Proposal**

*The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.*

---

Signature

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Date of Acceptance