



CHRISTOPHER B. BURKE ENGINEERING, LTD.

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August 15, 2018

Village of Bensenville
717 E. Jefferson Street
Bensenville, IL 60106

Attention: Mr. Joe Caracci, PE – Director of Public Works

Subject: Proposal for Professional Final Design Engineering Services
White Pines Water Main Rehabilitation
Village of Bensenville, Illinois

Dear Mr. Caracci:

Christopher B. Burke Engineering, Ltd. (CBBEL) is pleased to submit this proposal to perform professional final design engineering services related to the design of the White Pines Water Main Rehabilitation project, assistance with IEPA low-interest loan application process, preparation of bidding documents for the subdivision-wide water system improvement project and assistance with bidding services for the Village of Bensenville.

Below is our Understanding of Assignment, Scope of Services and Estimate of Fee.

UNDERSTANDING OF ASSIGNMENT

It is our understanding that the Village wishes to rehabilitate the existing water main system located within the White Pines Subdivision due to its failing condition. The White Pines Subdivision is bounded by Third Avenue (Jefferson Street) on the north, Church Road on the east, IL Route 83/Frontage Road on the west and Forest View Road/Woodland Avenue on the south. The existing system is failing at an increasing rate and the existing main locations within the rear yards makes repairs difficult to perform and expensive to restore. The White Pines Subdivision is unincorporated DuPage County (County) but is served by the Village water distribution system. We understand that the Village is planning to finance the project by obtaining an IEPA low-interest loan through the Public Water Supply Loan Program (PWSLP).

The Village is seeking professional engineering services to complete the IEPA low-interest loan application process and prepare construction plans, specifications, cost

estimates and bidding documents and provide bidding assistance services for the water main rehabilitation project.

CBBEL understands that the project will not encroach on any Special Management Areas and therefore a permit from DuPage County will not be required. Additionally, we assume that the project will not be required to impact the Forest Preserve-owned lot on the east side of IL Route 83.

SCOPE OF SERVICES

Based on our Understanding of Assignment, CBBEL proposes to provide the following Scope of Services:

DESIGN ENGINEERING

Task 1: IEPA Loan Application Assistance and Coordination: CBBEL will prepare and submit a Funding Nomination form for the project, in accordance with IEPA requirements.

CBBEL will update the Water Supply Project Plan that was submitted to IEPA in January 2015. Comments were received from IEPA in June 2015. CBBEL will address IEPA comments and prepare a comment response letter. The report will also need to be revised to reflect the scope of the proposed project as well as current existing conditions, environmental investigations, water system data, financial impacts/payment and implementation schedule.

CBBEL will also assist the Village in preparing and submitting the loan application documents required under the IEPA Loan Program. This includes the Loan Application and documents required to be submitted with the application, including documentation on the user charge system (OM&R, water ordinance and rates), dedicated source of revenue for debt obligations and debt ordinance.

CBBEL will prepare the submittals to the agencies identified in the IEPA Environmental Checklist for Loans to obtain the required environmental sign-offs which include the State Historic Preservation Office and Illinois Department of Natural Resources. This task will also include the submittals to the IEPA including any follow-up in response to any questions/comments that are received from the agencies.

A substantial amount of coordination with the IEPA throughout the project is anticipated to be required as the project is developed in accordance with IEPA loan requirements. CBBEL will work diligently with the IEPA on behalf of the Village to exchange project information, complete and submit requested forms and other data and support adherence to the proposed project schedule. CBBEL will work with IEPA to provide the necessary information and facilitate approvals of various forms and checklists that are required for loan approval.

Task 2 – Existing Conditions Verification: CBBEL will conduct a site review of the project area to assess existing project conditions, photograph/document key site features and conditions and notify the Village of anticipated design/construction issues. This task will also include walking the entire project limits with the topographic survey that was completed in 2008 and supplemented in 2016 for the project to identify any existing improvements or features that have changed substantively. Supplemental topographic survey will be performed in these areas as outlined in Task 3.

Task 3 – Supplemental Topographic Survey: CBBEL originally surveyed the majority of the subdivision in 2008 and performed supplemental survey work in 2016. Based on the findings of the field and data review, CBBEL will perform additional topographic survey to pick up project areas that have been improved/modified subsequent to the prior surveys. Among other locations to be identified by the effort included in Task 2, we anticipate needing to survey Church Street at the points of new water main connections and the east side of the intersection of 3rd Avenue and IL Route 83, as both areas have been improved since the prior surveys.

Survey of Massel Court is excluded from this task. **Survey of residential lots and other private property is excluded from this task.**

CBBEL will combine survey information from this task with the topographic survey previously completed, to provide a comprehensive, seamless existing conditions base map for the design documents.

We have budgeted five (5) days of field work by one (1) survey crew and five (5) days of office calculations/drafting for this task. If extensive deviations from the prior surveys are observed, CBBEL will notify the Village to discuss whether completion of a new survey of the entire project limits is warranted. New survey of the entire project limits would be completed as part of a separate contract or amendment to this contract.

Task 4 – Geotechnical Investigation: CBBEL's subconsultant, Testing Service Corporation (TSC) will obtain five (5) additional soil borings to determine the existing cross-section of the pavements and subsurface soil conditions within the project area. Borings will be drilled to a depth of approximately eight (8) feet. TSC will prepare a report describing existing soil conditions and make recommendations for remediation. The report will be performed by a soils engineer and reviewed by CBBEL.

The soil will also be tested for potential contaminants. TSC will perform investigation and testing work necessary to substantiate completion of IEPA Form LPC-662 or LPC-663. This work will include collection/preservation of soil samples and conducting a search to identify any Potentially Impacted Properties (PIPs). If PIPs are not present, TSC will perform the requisite pH test and provide the Village with the documentation necessary to sign Form LPC-662. If PIPs are identified, TSC will perform the additional required testing and provide signed LPC-663 forms to the Village for use during

construction. TSC will provide a list of dump sites that will accept the material identified in the PIP. The list shall be included in the Geotech report.

The soil borings taken on 3rd Avenue, IL Route 83 and IL Route 83 Frontage Road will also be tested for corrosion-related parameters as needed to complete Task 5.

Task 5 – Corrosion Control and Protection Design Study: CBBEL will coordinate with our subconsultant, Corrpro, to prepare a corrosion control design study, including cathodic protection, and make recommendations with respect to a feasible corrosion control and protection approach. The extents of the corrosion control and protection study will be limited to 3rd Avenue, IL Route 83 and IL Route 83 Frontage Road.

Task 6 – Utility Coordination: CBBEL will send the plans to all known utility companies for their review. Based on the information received from the utility companies CBBEL will mark the locations of their facilities on the plans. CBBEL will design the proposed improvements to minimize utility conflicts and will coordinate with all utility companies to resolve conflicts and facilitate relocation of utilities as required for the construction of the Village's project.

Task 7 – Pre-Final Plans, Specifications and Estimate (75%): CBBEL will prepare pre-final contract documents consisting of plans, specifications, estimate of time, status of utilities to be adjusted and an estimate of construction cost. The plans will be prepared in accordance with Village and IDOT design criteria.

CBBEL will use IDOT standard pay items or Village standard special provisions where applicable. Otherwise, project-specific special provisions will be written as needed. Plans, special provisions, and the estimate of cost will be submitted to the Village and any review agencies for review.

The plans will provide pay items and typical details for water service work to be completed on private property, **but detailed design of improvements on private property, and any work related to easement acquisition, are excluded from this scope.**

CBBEL will submit a permit application to IEPA for the construction of water main improvements. A permit will be obtained from IDOT for work within the IL Route 83 and IL Route 83 Frontage Road rights-of-way. A permit, if required, will be obtained from Addison Township for work to be completed within rights-of-way over which they have jurisdiction. The permit applications will be submitted in a timely manner to facilitate expeditious construction.

Task 8 – Bid Plans, Specifications and Estimate (100%): CBBEL will make revisions to the final submittal based on Village and any review agency final review comments. The requested number of copies of plans and specifications will be submitted the Village and any review agencies for their files. A final estimate of cost and estimate of required

working days will also be submitted. In addition to printed copies, we will provide the plans, specifications and estimate to the Village in electronic format (CAD and PDF).

CBBEL will provide final reproducible drawings and specifications to be issued to prospective bidders.

Task 9 – Stormwater Pollution Prevention Plan (SWPPP): CBBEL will prepare and submit a Notice of Intent (NOI) to the IEPA for the project site. In addition, CBBEL will prepare a SWPPP for the project in accordance with Part IV of the General NPDES Permit No. ILR10. This task also covers the submittal of an electronic copy of the SWPPP to the IEPA. As required by the NPDES Phase II Storm Water Construction General Permit (ILR10), an up-to-date copy of the SWPPP must be maintained on the project site during construction activities, which would be the responsibility of the Village Phase III consultant.

Task 10 – Bidding Assistance: CBBEL will perform the following Bidding Assistance services:

- Advertisement – CBBEL will prepare the bid advertisement (to be published by Village), distribute plans and specifications to all bidders, and hold a bid opening and pre-bid meeting (if required).
- Preparation of Addenda – CBBEL will field bidder questions and requests for clarification. Based on these questions and request, CBBEL will prepare addenda as necessary to respond to the questions presented. Addenda will be issued to the Village for distribution to the bidders.
- Bid Evaluation Assistance – CBBEL will attend the bid opening and evaluate the bids and bidders to determine if the bids were submitted in accordance with the contract documents and if the bidders are qualified to perform the work.
- Award Recommendation – Base upon the Bid Evaluation, CBBEL will provide a recommendation to the Village for award of the construction contracts including a spreadsheet tabulation of all bids received and opened.
- Contract Administration – CBBEL will assist the Village in preparation of contracts and execution of the contracts and review of contract-related documents provided by the successful bidder.

Task 11 – Project Meetings: CBBEL has assumed that three (3) design coordination/review meetings will be required with the Village and/or other project stakeholders. Additionally, CBBEL has assumed that our attendance will be required at three (3) public meetings and one (1) Board meeting related to the design and construction of the project.

CBBEL will prepare agendas, presentations and meeting exhibits as requested by the Village. Following attendance at each meeting, CBBEL will prepare meeting summaries.

Task 12 – Property Owner Coordination Assistance: CBBEL understands that the Village will serve as the primary point of contact to residents and other property owners within the Village limits as required to obtain access, secure easements, discuss the project, etc. However, it is acknowledged that CBBEL may be requested to assist in coordinating with property owners at various time during project development. Therefore, a budget of **eighty (80) hours** of property owner coordination assistance has been included for this task. Should additional involvement by CBBEL beyond this effort be required, we will notify the Village in advance and obtain approval to complete additional coordination on a Time and Materials or other basis, as mutually agreed to.

Task 13 – Construction Support: CBBEL will provide construction support services as requested by the Village. This effort is anticipated to include review and response to Village design questions, Contractor Requests for Information (RFIs) and other reasonable requests from the Village. We have budgeted **forty (40) hours** for this task. Should additional involvement by CBBEL beyond this effort be required, we will notify the Village in advance and obtain approval to complete additional coordination on a Time and Materials or other basis, as mutually agreed to.

OPTIONAL TASKS

Task O-1 – Private Property Reconnaissance (Drone Survey): This task includes performing reconnaissance of existing conditions in front, rear and side yards of private lots for the purposes of designing a new water services on private lots. This task will be limited to those lots that have existing rear yard water connections that will be moved to a new main constructed in the roadway right-of-way in front of the house as part of the construction project. The reconnaissance will allow us to evaluate potential water service routes and identify impacts to existing improvements such as driveways, patios, decks, pools, trees, landscaping, sheds, fences, etc. so that associated costs can be more accurately quantified and included in the bid documents.

It anticipated that 165 private residential lots will require reconnaissance as part of this task.

To obtain the reconnaissance information in the most economical way possible, CBBEL proposes to fly the areas with a drone, which can be done at a far lower cost than conventional topographic survey and without having to physically enter the property. The drone survey will also provide topographic information that will prove useful for the project. Drone survey is typically not as precise as conventional topographic survey but will be sufficient for the needs of the water service design. CBBEL has used drone survey on several recent projects. Our drone pilot is a licensed airplane pilot and is FAA Part 107 certified.

Due to the project's proximity to O'Hare Airport, a waiver from the FAA will be required to fly the project site. CBBEL will submit the waiver request to FAA. In our experience,

the timeframe for FAA's granting of the waiver takes approximately 90 days, but varies widely depending on the project.

CBBEL will obtain the drone data, process the data and incorporate it into the existing conditions base map.

Task O-2 – Design of Improvements on Private Property: CBBEL will design improvements on private property necessary to facilitate moving water service connections from existing rear yard mains to new mains in the roadway right-of-way in front of the house. This task will include evaluation of potential water service routes from the location the service exits the rear of the house, around the house and to the public right-of-way in the front yard. CBBEL will identify and quantify existing improvements that will be impacted by the proposed water service construction, including driveways, patios, decks, pools, trees, landscaping, sheds, fences, etc. so that associated costs can be more accurately quantified and included in the bid documents.

This task assumes that the Village will provide the location the existing water service exits at the house foundation on each lot, or that the Village will direct CBBEL with regard to an assumed water service location for all lots. CBBEL will not be responsible for identifying locations of existing water services at residential structures.

All proposed work on private property will be incorporated into the pre-final and final contract documents outlined in Tasks 7 and 8.

CBBEL will use IDOT standard pay items or Village standard special provisions where applicable. Otherwise, project-specific special provisions will be written as needed. Plans, special provisions, and the estimate of cost will be submitted to the Village and any review agencies for review.

It anticipated that 165 private residential lots will require water service design work as part of this task. We have budgeted four (4) hours of design and plan preparation work per lot for a total effort of 660 hours, which will include design development and route evaluation, sheet setup and preparation of a lot-specific water service routing detail and calculation of water service- and restoration-related quantities and specifications.

Task O-3 – Corrosion Control and Protection Designs, Drawings and Specifications (90%, 100%): If determined to be warranted based on the findings of Task 5 and if directed by the Village, CBBEL will coordinate with our subconsultant, Corpro, to prepare detailed corrosion control and protection plans, details, schedules, Special Provisions and quantities for inclusion in the overall project contract documents.

PROPOSED FEE

CBBEL proposes to complete the Scope of Work for the below listed fees:

DESIGN ENGINEERING

| DESCRIPTION | FEE |
|--|--------------|
| Task 1 – IEPA Loan Application Assistance and Coordination | \$ 13,056.73 |
| Task 2 – Existing Conditions Verification | \$ 9,834.04 |
| Task 3 – Supplemental Topographic Survey | \$ 15,555.81 |
| Task 4 – Geotechnical Investigation | \$ 7,482.00 |
| Task 5 – Corrosion Control and Protection Design Study | \$ 10,482.00 |
| Task 6 – Utility Coordination | \$ 12,868.37 |
| Task 7 – Pre-Final Plans, Specs and Estimate (75%) | \$180,935.26 |
| Task 8 – Final Plans, Specs and Estimate (100%) | \$ 60,893.36 |
| Task 9 – Stormwater Pollution Prevention Plan | \$ 3,427.34 |
| Task 10 – Bidding Assistance | \$ 5,939.80 |
| Task 11 – Project Meetings | \$ 12,105.70 |
| Task 12 – Property Owner Coordination Assistance | \$ 12,928.78 |
| Task 13 – Construction Support | \$ 7,379.03 |
| SUBTOTAL – DESIGN ENGINEERING | \$352,888.21 |

OPTIONAL TASKS

| DESCRIPTION | FEE |
|--|--------------|
| Task O-1 – Private Property Reconnaissance | \$ 11,900.78 |
| Task O-2 – Design of Improvements on Private Property | \$ 72,534.27 |
| Task O-3 – Corrosion Control and Protection Designs, Drawings and Specifications | \$ 13,676.09 |
| SUBTOTAL – OPTIONAL TASKS | \$ 98,111.14 |

TOTAL NOT-TO EXCEED FEE THIS PROPOSAL \$450,999.35

We will bill you at the hourly rates specified on the attached Schedule of Charges and establish our contract in accordance with the attached General Terms and Conditions, both of which are expressly incorporated into and are an integral part of this contract for Professional Engineering Services. The Scope of Services described above and related Estimated Work Effort are based on information known to date. It shall be understood that CBBEL shall be allowed the opportunity to adjust the Estimated Work Effort as additional information about this project is obtained and/or our level of participation

increases beyond that for which has been budgeted. It should be emphasized that any engineering services performed for tasks not included in this proposal and/or beyond customary efforts as well as for any additional meetings/consultation not specifically scheduled in this proposal shall be billed to you on a time and materials basis. Direct costs for blueprints, photocopying, mailing, overnight delivery, messenger services and report compilation have been included in the Estimated Work Effort as an allowance. Direct expenses beyond the allowance will be billed to you based upon the attached Schedule of Charges on a time and materials basis.

The contact person for this proposal is Mr. Bryan M. Welch, PE, Assistant Department Head, Civil Design, in our Rosemont, Illinois office. He has been selected for this project to provide you with individualized dedicated services. Mr. Welch may be contacted at our Rosemont office to answer any of your questions regarding this Proposal.

We appreciate the opportunity to be considered for this project and look forward to working together with the Village of Bensenville on this project.

We trust that you will find this proposal responsive to your request. If this proposal meets with your approval, please sign both copies and return one copy of this agreement as an indication of your acceptance and notice to proceed. Should you have any questions, please do not hesitate to call.

Sincerely,



Christopher B. Burke, PhD, PE, D.WRE, Dist.M.ASCE
President

Attachments: Schedule of Charges
General Terms and Conditions

THIS PROPOSAL, SCHEDULE OF CHARGES & GENERAL TERMS & CONDITIONS
ACCEPTED FOR THE VILLAGE OF BENSENVILLE.

BY: _____

TITLE: _____

DATE: _____



**Cost Estimate of
Consultant Services**
(Direct Labor Multiple)

| | |
|------------|--------------------------------|
| Firm | Christopher B. Burke Eng. Ltd. |
| Route | White Pines Water Main Rehab |
| Section | |
| County | DuPage |
| Job No. | |
| PTB & Item | |

| | |
|-------------------|----------------|
| Date | 08/14/18 |
| Overhead Rate | 129.74% |
| Complexity Factor | 0 |

| ITEM | MANHOURS (A) | PAYROLL (B) | (2.80+R) TIMES PAYROLL (C) | DIRECT COSTS (D) | SERVICES BY OTHERS (E) | DBE TOTAL (C+D+E) | TOTAL | % OF GRAND TOTAL |
|---|-----------------|----------------|----------------------------------|------------------------|---------------------------------|-------------------------|------------|------------------------|
| 1 - IEPA Loan Application Assistance and Coordination | 76 | 4,484.55 | 12,556.73 | 500.00 | | | 13,056.73 | 2.90% |
| 2 - Existing Conditions Verification | 80 | 3,512.16 | 9,834.04 | | | | 9,834.04 | 2.18% |
| 3 - Supplemental Topographic Survey | 120 | 5,555.65 | 15,555.81 | | | | 15,555.81 | 3.45% |
| 4 - Geotechnical Investigation | 12 | 529.29 | 1,482.00 | | 6,000.00 | | 7,482.00 | 1.66% |
| 5 - Corrosion Control and Protection Design Study | 12 | 529.29 | 1,482.00 | | 9,000.00 | | 10,482.00 | 2.32% |
| 6 - Utility Coordination | 104 | 4,238.70 | 11,868.37 | 1,000.00 | | | 12,868.37 | 2.85% |
| 7 - Pre-Final Plans, Specs and Estimate (75%) | 1532 | 63,726.88 | 178,435.26 | 2,500.00 | | | 180,935.26 | 40.12% |
| 8 - Final Plans, Specs and Estimate (100%) | 510 | 21,211.91 | 59,393.36 | 1,500.00 | | | 60,893.36 | 13.50% |
| 9 - Stormwater Pollution Prevention Plan (SWPPP) | 32 | 1,224.05 | 3,427.34 | | | | 3,427.34 | 0.76% |
| 10 - Bidding Assistance | 32 | 1,585.64 | 4,439.80 | 1,500.00 | | | 5,939.80 | 1.32% |
| 11 - Project Meetings | 84 | 3,966.32 | 11,105.70 | 1,000.00 | | | 12,105.70 | 2.68% |
| 12 - Property Owner Coordination Assistance | 80 | 4,617.42 | 12,928.78 | | | | 12,928.78 | 2.87% |
| 13 - Construction Support | 40 | 2,635.37 | 7,379.03 | | | | 7,379.03 | 1.64% |
| O-1 - Private Property Reconnaissance | 40 | 2,464.56 | 6,900.78 | | 5,000.00 | | 11,900.78 | 2.64% |
| O-2 - Design of Improvements on Private Property | 660 | 25,190.81 | 70,534.27 | 2,000.00 | | | 72,534.27 | 16.08% |
| O-3 - Corrosion Control and Protection Designs, Drawing | 20 | 795.03 | 2,226.09 | | 11,450.00 | | 13,676.09 | 3.03% |
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| TOTALS | 3434 | 146,267.62 | 409,549.35 | 10,000.00 | 31,450.00 | 0.00 | 450,999.35 | 100.00% |

CHRISTOPHER B. BURKE ENGINEERING, LTD.
GENERAL TERMS AND CONDITIONS

1. Relationship Between Engineer and Client: Christopher B. Burke Engineering, Ltd. (Engineer) shall serve as Client's professional engineer consultant in those phases of the Project to which this Agreement applies. This relationship is that of a buyer and seller of professional services and as such the Engineer is an independent contractor in the performance of this Agreement and it is understood that the parties have not entered into any joint venture or partnership with the other. The Engineer shall not be considered to be the agent of the Client. Nothing contained in this Agreement shall create a contractual relationship with a cause of action in favor of a third party against either the Client or Engineer.

Furthermore, causes of action between the parties to this Agreement pertaining to acts of failures to act shall be deemed to have accrued and the applicable statute of limitations shall commence to run not later than the date of substantial completion.

2. Responsibility of the Engineer: Engineer will strive to perform services under this Agreement in accordance with generally accepted and currently recognized engineering practices and principles, and in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representation, express or implied, and no warranty or guarantee is included or intended in this Agreement, or in any report, opinion, document, or otherwise.

Notwithstanding anything to the contrary which may be contained in this Agreement or any other material incorporated herein by reference, or in any Agreement between the Client and any other party concerning the Project, the Engineer shall not have control or be in charge of and shall not be responsible for the means, methods, techniques, sequences or procedures of construction, or the safety, safety precautions or programs of the Client, the construction contractor, other contractors or subcontractors performing any of the work or providing any of the services on the Project. Nor shall the Engineer be responsible for the acts or omissions of the Client, or for the failure of the Client, any architect, engineer, consultant, contractor or subcontractor to carry out their respective responsibilities in accordance with the Project documents, this Agreement or any other agreement concerning the Project. Any provision which purports to amend this provision shall be without effect unless it contains a reference that the content of this condition is expressly amended for the purposes described in such amendment and is signed by the Engineer.

3. Changes: Client reserves the right by written change order or amendment to make changes in requirements, amount of work, or engineering time schedule adjustments, and Engineer and Client shall negotiate appropriate adjustments acceptable to both parties to accommodate any changes, if commercially possible.
4. Suspension of Services: Client may, at any time, by written order to Engineer (Suspension of Services Order) require Engineer to stop all, or any part, of the services required by this Agreement. Upon receipt of such an order, Engineer shall immediately comply with its terms and take all reasonable steps to minimize the costs associated with the services affected by such order. Client, however, shall pay all costs incurred by the suspension, including all costs necessary to maintain continuity and for the resumptions

of the services upon expiration of the Suspension of Services Order. Engineer will not be obligated to provide the same personnel employed prior to suspension, when the services are resumed, in the event that the period of suspension is greater than thirty (30) days.

5. Termination: This Agreement may be terminated by either party upon thirty (30) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. This Agreement may be terminated by Client, under the same terms, whenever Client shall determine that termination is in its best interests. Cost of termination, including salaries, overhead and fee, incurred by Engineer either before or after the termination date shall be reimbursed by Client.
6. Documents Delivered to Client: Drawings, specifications, reports, and any other Project Documents prepared by Engineer in connection with any or all of the services furnished hereunder shall be delivered to the Client for the use of the Client. Engineer shall have the right to retain originals of all Project Documents and drawings for its files. Furthermore, it is understood and agreed that the Project Documents such as, but not limited to reports, calculations, drawings, and specifications prepared for the Project, whether in hard copy or machine readable form, are instruments of professional service intended for one-time use in the construction of this Project. These Project Documents are and shall remain the property of the Engineer. The Client may retain copies, including copies stored on magnetic tape or disk, for information and reference in connection with the occupancy and use of the Project.

When and if record drawings are to be provided by the Engineer, Client understands that information used in the preparation of record drawings is provided by others and Engineer is not responsible for accuracy, completeness, nor sufficiency of such information. Client also understands that the level of detail illustrated by record drawings will generally be the same as the level of detail illustrated by the design drawing used for project construction. If additional detail is requested by the Client to be included on the record drawings, then the Client understands and agrees that the Engineer will be due additional compensation for additional services.

It is also understood and agreed that because of the possibility that information and data delivered in machine readable form may be altered, whether inadvertently or otherwise, the Engineer reserves the right to retain the original tapes/disks and to remove from copies provided to the Client all identification reflecting the involvement of the Engineer in their preparation. The Engineer also reserves the right to retain hard copy originals of all Project Documentation delivered to the Client in machine readable form, which originals shall be referred to and shall govern in the event of any inconsistency between the two.

The Client understands that the automated conversion of information and data from the system and format used by the Engineer to an alternate system or format cannot be accomplished without the introduction of inexactitudes, anomalies, and errors. In the event Project Documentation provided to the Client in machine readable form is so converted, the Client agrees to assume all risks associated therewith and, to the fullest

extent permitted by law, to hold harmless and indemnify the Engineer from and against all claims, liabilities, losses, damages, and costs, including but not limited to attorney's fees, arising therefrom or in connection therewith.

The Client recognizes that changes or modifications to the Engineer's instruments of professional service introduced by anyone other than the Engineer may result in adverse consequences which the Engineer can neither predict nor control. Therefore, and in consideration of the Engineer's agreement to deliver its instruments of professional service in machine readable form, the Client agrees, to the fullest extent permitted by law, to hold harmless and indemnify the Engineer from and against all claims, liabilities, losses, damages, and costs, including but not limited to attorney's fees, arising out of or in any way connected with the modification, misinterpretation, misuse, or reuse by others of the machine readable information and data provided by the Engineer under this Agreement. The foregoing indemnification applies, without limitation, to any use of the Project Documentation on other projects, for additions to this Project, or for completion of this Project by others, excepting only such use as may be authorized, in writing, by the Engineer.

7. Reuse of Documents: All Project Documents including but not limited to reports, opinions of probable costs, drawings and specifications furnished by Engineer pursuant to this Agreement are intended for use on the Project only. They cannot be used by Client or others on extensions of the Project or any other project. Any reuse, without specific written verification or adaptation by Engineer, shall be at Client's sole risk, and Client shall indemnify and hold harmless Engineer from all claims, damages, losses, and expenses including attorney's fees arising out of or resulting therefrom.

The Engineer shall have the right to include representations of the design of the Project, including photographs of the exterior and interior, among the Engineer's promotional and professional materials. The Engineer's materials shall not include the Client's confidential and proprietary information if the Client has previously advised the Engineer in writing of the specific information considered by the Client to be confidential and proprietary.

8. Standard of Practice: The Engineer will strive to conduct services under this agreement in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions as of the date of this Agreement.
9. Compliance With Laws: The Engineer will strive to exercise usual and customary professional care in his/her efforts to comply with those laws, codes, ordinance and regulations which are in effect as of the date of this Agreement.

With specific respect to prescribed requirements of the Americans with Disabilities Act of 1990 or certified state or local accessibility regulations (ADA), Client understands ADA is a civil rights legislation and that interpretation of ADA is a legal issue and not a design issue and, accordingly, retention of legal counsel (by Client) for purposes of interpretation is advisable. As such and with respect to ADA, Client agrees to waive any action against Engineer, and to indemnify and defend Engineer against any claim arising from Engineer's alleged failure to meet ADA requirements prescribed.

Further to the law and code compliance, the Client understands that the Engineer will strive to provide designs in accordance with the prevailing Standards of Practice as previously set forth, but that the Engineer does not warrant that any reviewing agency having jurisdiction will not for its own purposes comment, request changes and/or additions to such designs. In the event such design requests are made by a reviewing agency, but which do not exist in the form of a written regulation, ordinance or other similar document as published by the reviewing agency, then such design changes (at substantial variance from the intended design developed by the Engineer), if effected and incorporated into the project documents by the Engineer, shall be considered as Supplementary Task(s) to the Engineer's Scope of Service and compensated for accordingly.

10. Indemnification: Engineer shall indemnify and hold harmless Client up to the amount of this contract fee (for services) from loss or expense, including reasonable attorney's fees for claims for personal injury (including death) or property damage to the extent caused by the sole negligent act, error or omission of Engineer.

Client shall indemnify and hold harmless Engineer under this Agreement, from loss or expense, including reasonable attorney's fees, for claims for personal injuries (including death) or property damage arising out of the sole negligent act, error omission of Client.

In the event of joint or concurrent negligence of Engineer and Client, each shall bear that portion of the loss or expense that its share of the joint or concurrent negligence bears to the total negligence (including that of third parties), which caused the personal injury or property damage.

Engineer shall not be liable for special, incidental or consequential damages, including, but not limited to loss of profits, revenue, use of capital, claims of customers, cost of purchased or replacement power, or for any other loss of any nature, whether based on contract, tort, negligence, strict liability or otherwise, by reasons of the services rendered under this Agreement.

11. Opinions of Probable Cost: Since Engineer has no control over the cost of labor, materials or equipment, or over the Contractor(s) method of determining process, or over competitive bidding or market conditions, his/her opinions of probable Project Construction Cost provided for herein are to be made on the basis of his/her experience and qualifications and represent his/her judgement as a design professional familiar with the construction industry, but Engineer cannot and does not guarantee that proposal, bids or the Construction Cost will not vary from opinions of probable construction cost prepared by him/her. If prior to the Bidding or Negotiating Phase, Client wishes greater accuracy as to the Construction Cost, the Client shall employ an independent cost estimator Consultant for the purpose of obtaining a second construction cost opinion independent from Engineer.
12. Governing Law & Dispute Resolutions: This Agreement shall be governed by and construed in accordance with Articles previously set forth by (Item 9 of) this Agreement, together with the laws of the **State of Illinois**.

Any claim, dispute or other matter in question arising out of or related to this Agreement, which can not be mutually resolved by the parties of this Agreement, shall be subject to mediation as a condition precedent to arbitration (if arbitration is agreed upon by the parties of this Agreement) or the institution of legal or equitable proceedings by either party. If such matter relates to or is the subject of a lien arising out of the Engineer's services, the Engineer may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by arbitration.

The Client and Engineer shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Requests for mediation shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. The request may be made concurrently with the filing of a demand for arbitration but, in such event, mediation shall proceed in advance of arbitration or legal or equitable proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

13. Successors and Assigns: The terms of this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns: provided, however, that neither party shall assign this Agreement in whole or in part without the prior written approval of the other.
14. Waiver of Contract Breach: The waiver of one party of any breach of this Agreement or the failure of one party to enforce at any time, or for any period of time, any of the provisions hereof, shall be limited to the particular instance, shall not operate or be deemed to waive any future breaches of this Agreement and shall not be construed to be a waiver of any provision, except for the particular instance.
15. Entire Understanding of Agreement: This Agreement represents and incorporates the entire understanding of the parties hereto, and each party acknowledges that there are no warranties, representations, covenants or understandings of any kind, matter or description whatsoever, made by either party to the other except as expressly set forth herein. Client and the Engineer hereby agree that any purchase orders, invoices, confirmations, acknowledgments or other similar documents executed or delivered with respect to the subject matter hereof that conflict with the terms of the Agreement shall be null, void and without effect to the extent they conflict with the terms of this Agreement.
16. Amendment: This Agreement shall not be subject to amendment unless another instrument is duly executed by duly authorized representatives of each of the parties and entitled "Amendment of Agreement".

17. Severability of Invalid Provisions: If any provision of the Agreement shall be held to contravene or to be invalid under the laws of any particular state, county or jurisdiction where used, such contravention shall not invalidate the entire Agreement, but it shall be construed as if not containing the particular provisions held to be invalid in the particular state, country or jurisdiction and the rights or obligations of the parties hereto shall be construed and enforced accordingly.
18. Force Majeure: Neither Client nor Engineer shall be liable for any fault or delay caused by any contingency beyond their control including but not limited to acts of God, wars, strikes, walkouts, fires, natural calamities, or demands or requirements of governmental agencies.
19. Subcontracts: Engineer may subcontract portions of the work, but each subcontractor must be approved by Client in writing.
20. Access and Permits: Client shall arrange for Engineer to enter upon public and private property and obtain all necessary approvals and permits required from all governmental authorities having jurisdiction over the Project. Client shall pay costs (including Engineer's employee salaries, overhead and fee) incident to any effort by Engineer toward assisting Client in such access, permits or approvals, if Engineer perform such services.
21. Designation of Authorized Representative: Each party (to this Agreement) shall designate one or more persons to act with authority in its behalf in respect to appropriate aspects of the Project. The persons designated shall review and respond promptly to all communications received from the other party.
22. Notices: Any notice or designation required to be given to either party hereto shall be in writing, and unless receipt of such notice is expressly required by the terms hereof shall be deemed to be effectively served when deposited in the mail with sufficient first class postage affixed, and addressed to the party to whom such notice is directed at such party's place of business or such other address as either party shall hereafter furnish to the other party by written notice as herein provided.
23. Limit of Liability: The Client and the Engineer have discussed the risks, rewards, and benefits of the project and the Engineer's total fee for services. In recognition of the relative risks and benefits of the Project to both the Client and the Engineer, the risks have been allocated such that the Client agrees that to the fullest extent permitted by law, the Engineer's total aggregate liability to the Client for any and all injuries, claims, costs, losses, expenses, damages of any nature whatsoever or claim expenses arising out of this Agreement from any cause or causes, including attorney's fees and costs, and expert witness fees and costs, shall not exceed the total Engineer's fee for professional engineering services rendered on this project as made part of this Agreement. Such causes included but are not limited to the Engineer's negligence, errors, omissions, strict liability or breach of contract. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

24. Client's Responsibilities: The Client agrees to provide full information regarding requirements for and about the Project, including a program which shall set forth the Client's objectives, schedule, constraints, criteria, special equipment, systems and site requirements.

The Client agrees to furnish and pay for all legal, accounting and insurance counseling services as may be necessary at any time for the Project, including auditing services which the Client may require to verify the Contractor's Application for Payment or to ascertain how or for what purpose the Contractor has used the money paid by or on behalf of the Client.

The Client agrees to require the Contractor, to the fullest extent permitted by law, to indemnify, hold harmless, and defend the Engineer, its consultants, and the employees and agents of any of them from and against any and all claims, suits, demands, liabilities, losses, damages, and costs ("Losses"), including but not limited to costs of defense, arising in whole or in part out of the negligence of the Contractor, its subcontractors, the officers, employees, agents, and subcontractors of any of them, or anyone for whose acts any of them may be liable, regardless of whether or not such Losses are caused in part by a party indemnified hereunder. Specifically excluded from the foregoing are Losses arising out of the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs, or specifications, and the giving of or failure to give directions by the Engineer, its consultants, and the agents and employees of any of them, provided such giving or failure to give is the primary cause of Loss. The Client also agrees to require the Contractor to provide to the Engineer the required certificate of insurance.

The Client further agrees to require the Contractor to name the Engineer, its agents and consultants as additional insureds on the Contractor's policy or policies of comprehensive or commercial general liability insurance. Such insurance shall include products and completed operations and contractual liability coverages, shall be primary and noncontributing with any insurance maintained by the Engineer or its agents and consultants, and shall provide that the Engineer be given thirty days, unqualified written notice prior to any cancellation thereof.

In the event the foregoing requirements, or any of them, are not established by the Client and met by the Contractor, the Client agrees to indemnify and hold harmless the Engineer, its employees, agents, and consultants from and against any and all Losses which would have been indemnified and insured against by the Contractor, but were not.

When Contract Documents prepared under the Scope of Services of this contract require insurance(s) to be provided, obtained and/or otherwise maintained by the Contractor, the Client agrees to be wholly responsible for setting forth any and all such insurance requirements. Furthermore, any document provided for Client review by the Engineer under this Contract related to such insurance(s) shall be considered as sample insurance requirements and not the recommendation of the Engineer. Client agrees to have their own risk management department review any and all insurance requirements for adequacy and to determine specific types of insurance(s) required for the project. Client further agrees that decisions concerning types and amounts of insurance are

specific to the project and shall be the product of the Client. As such, any and all insurance requirements made part of Contract Documents prepared by the Engineer are not to be considered the Engineer's recommendation, and the Client shall make the final decision regarding insurance requirements.

25. Information Provided by Others: The Engineer shall indicate to the Client the information needed for rendering of the services of this Agreement. The Client shall provide to the Engineer such information as is available to the Client and the Client's consultants and contractors, and the Engineer shall be entitled to rely upon the accuracy and completeness thereof. The Client recognizes that it is impossible for the Engineer to assure the accuracy, completeness and sufficiency of such information, either because it is impossible to verify, or because of errors or omissions which may have occurred in assembling the information the Client is providing. Accordingly, the Client agrees, to the fullest extent permitted by law, to indemnify and hold the Engineer and the Engineer's subconsultants harmless from any claim, liability or cost (including reasonable attorneys' fees and cost of defense) for injury or loss arising or allegedly arising from errors, omissions or inaccuracies in documents or other information provided by the Client to the Engineer.

26. Payment: Client shall be invoiced once each month for work performed during the preceding period. Client agrees to pay each invoice within thirty (30) days of its receipt. The client further agrees to pay interest on all amounts invoiced and not paid or objected to for valid cause within said thirty (30) day period at the rate of eighteen (18) percent per annum (or the maximum interest rate permitted under applicable law, whichever is the lesser) until paid. Client further agrees to pay Engineer's cost of collection of all amounts due and unpaid after sixty (60) days, including court costs and reasonable attorney's fees, as well as costs attributed to suspension of services accordingly and as follows:

Collection Costs. In the event legal action is necessary to enforce the payment provisions of this Agreement, the Engineer shall be entitled to collect from the Client any judgement or settlement sums due, reasonable attorneys' fees, court costs and expenses incurred by the Engineer in connection therewith and, in addition, the reasonable value of the Engineer's time and expenses spent in connection with such collection action, computed at the Engineer's prevailing fee schedule and expense policies.

Suspension of Services. If the Client fails to make payments when due or otherwise is in breach of this Agreement, the Engineer may suspend performance of services upon five (5) calendar days' notice to the Client. The Engineer shall have no liability whatsoever to the Client for any costs or damages as a result of such suspension caused by any breach of this Agreement by the Client. Client will reimburse Engineer for all associated costs as previously set forth in (Item 4 of) this Agreement.

27. When construction observation tasks are part of the service to be performed by the Engineer under this Agreement, the Client will include the following clause in the construction contract documents and Client agrees not to modify or delete it:

Kotecki Waiver. Contractor (and any subcontractor into whose subcontract this clause is incorporated) agrees to assume the entire liability for all personal injury claims suffered by its own employees, including without limitation claims under the **Illinois** Structural Work Act, asserted by persons allegedly injured on the Project; waives any limitation of liability defense based upon the Worker's Compensation Act, court interpretations of said Act or otherwise; and to the fullest extent permitted by law, agrees to indemnify and hold harmless and defend Owner and Engineer and their agents, employees and consultants (the "Indemnitees") from and against all such loss, expense, damage or injury, including reasonable attorneys' fees, that the Indemnitees may sustain as a result of such claims, except to the extent that **Illinois** law prohibits indemnity for the Indemnitees' own negligence. The Owner and Engineer are designated and recognized as explicit third party beneficiaries of the Kotecki Waiver within the general contract and all subcontracts entered into in furtherance of the general contract.

28. Job Site Safety/Supervision & Construction Observation: The Engineer shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences of procedures, or for safety precautions and programs in connection with the Work since they are solely the Contractor's rights and responsibilities. The Client agrees that the Contractor shall supervise and direct the work efficiently with his/her best skill and attention; and that the Contractor shall be solely responsible for the means, methods, techniques, sequences and procedures of construction and safety at the job site. The Client agrees and warrants that this intent shall be carried out in the Client's contract with the Contractor. The Client further agrees that the Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work; and that the Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to all employees on the subject site and all other persons who may be affected thereby. The Engineer shall have no authority to stop the work of the Contractor or the work of any subcontractor on the project.

When construction observation services are included in the Scope of Services, the Engineer shall visit the site at intervals appropriate to the stage of the Contractor's operation, or as otherwise agreed to by the Client and the Engineer to: 1) become generally familiar with and to keep the Client informed about the progress and quality of the Work; 2) to strive to bring to the Client's attention defects and deficiencies in the Work and; 3) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Engineer shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. If the Client desires more extensive project observation, the Client shall request that such services be provided by the Engineer as Additional and Supplemental Construction Observation Services in accordance with the terms of this Agreement.

The Engineer shall not be responsible for any acts or omissions of the Contractor, subcontractor, any entity performing any portions of the Work, or any agents or employees of any of them. The Engineer does not guarantee the performance of the

Contractor and shall not be responsible for the Contractor's failure to perform its Work in accordance with the Contract Documents or any applicable laws, codes, rules or regulations.

When municipal review services are included in the Scope of Services, the Engineer (acting on behalf of the municipality), when acting in good faith in the discharge of its duties, shall not thereby render itself liable personally and is, to the maximum extent permitted by law, relieved from all liability for any damage that may accrue to persons or property by reason of any act or omission in the discharge of its duties. Any suit brought against the Engineer which involve the acts or omissions performed by it in the enforcement of any provisions of the Client's rules, regulation and/or ordinance shall be defended by the Client until final termination of the proceedings. The Engineer shall be entitled to all defenses and municipal immunities that are, or would be, available to the Client.

29. Insurance and Indemnification: The Engineer and the Client understand and agree that the Client will contractually require the Contractor to defend and indemnify the Engineer and/or any subconsultants from any claims arising from the Work. The Engineer and the Client further understand and agree that the Client will contractually require the Contractor to procure commercial general liability insurance naming the Engineer as an additional named insured with respect to the work. The Contractor shall provide to the Client certificates of insurance evidencing that the contractually required insurance coverage has been procured. However, the Contractor's failure to provide the Client with the requisite certificates of insurance shall not constitute a waiver of this provision by the Engineer.

The Client and Engineer waive all rights against each other and against the Contractor and consultants, agents and employees of each of them for damages to the extent covered by property insurance during construction. The Client and Engineer each shall require similar waivers from the Contractor, consultants, agents and persons or entities awarded separate contracts administered under the Client's own forces.

30. Hazardous Materials/Pollutants: Unless otherwise provided by this Agreement, the Engineer and Engineer's consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials/pollutants in any form at the Project site, including but not limited to mold/mildew, asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic/hazardous/pollutant type substances.

Furthermore, Client understands that the presence of mold/mildew and the like are results of prolonged or repeated exposure to moisture and the lack of corrective action. Client also understands that corrective action is a operation, maintenance and repair activity for which the Engineer is not responsible.

June 13, 2005

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