

AGREEMENT
between
THE VILLAGE OF VILLA PARK, ILLINOIS
and
STRAND ASSOCIATES, INC.
for the furnishing of
PROFESSIONAL CIVIL ENGINEERING SERVICES
for
THE BIERMANN & MYRTLE IMPROVEMENT PROJECT – PHASE II

THIS agreement (“AGREEMENT”), made and entered into by and between the VILLAGE OF VILLA PARK, ILLINOIS, hereinafter referred to as the “VILLAGE,” and STRAND ASSOCIATES, INC., hereinafter referred to as the “ENGINEER,” has been prepared and executed to provide for professional civil engineering services for the VILLAGE OF VILLA PARK – Biermann & Myrtle Improvement Project Phase II Engineering, hereinafter referred to as the “PROJECT”.

In consideration of these premises and of the mutual covenants herein set forth, the ENGINEER agrees as follows:

A. THE ENGINEER AGREES:

1. The ENGINEER shall serve as the VILLAGE'S professional civil engineering consultant in those phases of the PROJECT to which this AGREEMENT applies and shall perform the following design, bidding-related, IEPA project planning document, loan application assistance and if-authorized services (“Services”) for the VILLAGE, as explained more fully below:

a. Project Description

This PROJECT entails engineering design services, preparation of construction permit applications, and loan application assistance for improvements to several roadways including:

1. Biermann Avenue between Sunset Drive and Illinois Route 64 (1,350 feet).
2. Ridge Road between Westmore Avenue and Biermann Avenue (300 feet).
3. Myrtle Avenue between Terry Lane and Madison Street (1,000 feet).

The improvements consist of roadway improvements, new eight-inch-diameter water main, and sanitary and storm sewer structure rehabilitation. Myrtle Avenue will be reconstructed. Biermann Avenue and Ridge Road will be patched and resurfaced.

New water main includes abandonment of the existing water main and replacement of existing water services and curb stops in boxes at the edge of the right-of-way (ROW), excluding Ridge Road. Existing water services that are lead material from the curb stop to the resident's water meter will be replaced on Biermann Avenue and Myrtle Avenue.

The two existing parallel trunk storm sewer lines on Myrtle Avenue shall be televised by VILLAGE. ENGINEER will review the televising and provide comments to VILLAGE whether one trunk sewer can be abandoned and the laterals relocated to the second trunk sewer. Existing inlet spacing on all roadways will be reviewed and additional inlets will be considered, as necessary. ENGINEER will review the condition of existing sanitary and storm sewer manholes within the ROW for possible rehabilitation.

ENGINEER will prepare a Project Planning Document in accordance with the Illinois Environmental Protection Agency's (IEPA) Project Planning Submittal Checklist. ENGINEER will assist VILLAGE with submittal of an application to the IEPA State Revolving Loan Fund for water main replacement improvements to be considered for this project. In development of the application, VILLAGE shall be responsible for the financial reporting and user charge.

The improvements will include preparation of several permits, including an IEPA water construction permit and Illinois Department of Transportation Traffic Permit for Biermann Avenue improvements within Illinois Route 64 ROW. Myrtle Avenue is partially located in the Salt Creek floodplain; therefore, applications for an Illinois Department of Natural Resources—Office of Water Resources Floodway Permit and DuPage County Stormwater Management Permit will be prepared. It is anticipated that Myrtle Avenue will be reconstructed at the existing elevations and geometry therefore, no flood plain impacts are anticipated. VILLAGE is a certified stormwater community in DuPage County and shall review the permit in lieu of the DuPage County Stormwater Management Commission.

b. Scope of Services

ENGINEER will provide the following Services to VILLAGE:

Design Services

1. Attend one project kickoff meeting with VILLAGE to discuss project scope, schedule, and design standards. The following design standards are anticipated to be applicable to the project: Illinois Department of Transportation (IDOT), VILLAGE'S standards, American Association of State Highway and Transportation Officials, Americans with Disabilities Act (ADA), and IEPA. Gather VILLAGE-provided supporting information such as public utility and plat

mapping, existing roadway and utility engineering drawings, and storm sewer televising. Draft and distribute meeting minutes from the kickoff meeting.

2. Correspond with utilities through the J.U.L.I.E to mark private utilities along the corridor.

3. Perform topographical survey of streets. Horizontal control will be in accordance with a global positioning system (GPS) based on Illinois State Plane Coordinates/East Zone NAD83(2011). Provide vertical control in accordance with a GPS based on NAVD 88 datum and NGS control. Provide approximately eight benchmarks. Survey visible and marked buried utilities. Gather rim and invert elevations and pipe sizes from the visual observation of structures for sanitary sewer, storm sewer, and water main. Survey will include roadway, curb and gutter, driveway entrances, utility structures, street lighting, and sidewalk from 10 feet outside the ROW. Survey cross sections every 50 feet, at driveway entrances, and at intersections.

4. Review the visual condition of approximately 20 existing sanitary and storm sewer structures within the ROW and provide a summary letter for potential rehabilitation or replacement.

5. Perform a site walkthrough with VILLAGE'S representatives to review the new water main routing, new storm sewer routing, and existing features for removal or avoidance.

6. Perform a site walkthrough to evaluate ADA accessibility and potential existing sidewalk removal and replacement. Document existing sidewalk not in accordance with ADA standards to VILLAGE on an exhibit. VILLAGE shall determine existing sidewalk to be removed and replaced. Incorporate removal and replacement of sidewalk into the drawings.

7. Design up to 23 sidewalk curb ramps at intersections in accordance with the ADA. Incorporate each curb ramp into the drawings as a detail with layout information.

8. Review VILLAGE-provided televising of storm sewers on Myrtle Avenue. Up to 2,180 feet of storm sewer is anticipated. Based on VILLAGE'S televising, evaluate potential existing storm sewer pipe deficiencies and consider rehabilitation options with VILLAGE. Perform hydraulic modeling and capacity analysis to abandon one trunk sewer and reconnect laterals to the second existing trunk sewer using Bentley StormCAD software.

9. Review existing storm inlet spacing and potential for additional inlets on Biermann Avenue and Ridge Road. Review additional inlets at low points in the gutter. Hydraulic modeling and capacity analysis on the exiting trunk storm sewers will not be performed. Summarize findings in a letter to VILLAGE.

10. Design horizontal alignment and plan view for each roadway. Develop a proposed vertical profile for Myrtle Avenue.

11. Design up to 2,350 feet of replacement eight-inch-diameter water main on Biermann Avenue and Myrtle Avenue. Water main design anticipates replacement of water services and curb stops in boxes up to the location of existing valve boxes, and replacement of up to ten lead water services past the ROW to water meters in homes. For existing lead services, coordination for replacement between the new valve box and the home shall be the responsibility of VILLAGE and is not included in this Agreement.

12. Develop two preliminary sets of drawings, technical specifications, and an opinion of probable construction cost (OPCC) for the two project locations: one for Biermann Avenue and Ridge Road and one for Myrtle Avenue for proposed roadway, water main, and storm and sanitary sewer improvements. Submit to VILLAGE for review. Include the following preliminary drawings: Title, storm and sanitary plan and profile, water main plan and profile, and roadway plan and profile. Submit preliminary drawings to VILLAGE for review. Prepare drawings at 20 scale.

13. Attend one preliminary engineering meeting with VILLAGE to discuss comments and review final design parameters. Prepare and distribute meeting minutes.

14. Develop 90 percent prefinal submittals that include drawings, Bidding and Contracting Documents, OPCC, and a disposition of VILLAGE'S preliminary drawing comments; and submit to VILLAGE, up to six private utility companies, and jurisdictional permitting agencies for review. Prefinal drawings will include those listed for preliminary drawings with general notes, summary of quantities, typical sections, alignment/ties/benchmarks, removal plan, utility schedules, sidewalk curb ramp details, intersection layout details (Myrtle Avenue only), landscaping and erosion and sediment control, construction details, and cross sections (Myrtle Avenue only). Cross sections will be provided every 50 feet, at driveway entrance centerlines, and at side streets for Myrtle Avenue. One set of Bidding Documents will be supplemented with IEPA documentation for funding under the State Revolving Loan Fund. Prepare the bid certification form. Include a breakdown of pay items, quantities, and VILLAGE'S respective funding source as identified in VILLAGE'S Capital Improvement Program budget in the OPCCs. Meet with VILLAGE to review the drawings. Prepare and distribute meeting minutes.

15. Submit 90 percent prefinal drawings, technical specifications, and applications to jurisdictional permitting agencies. The following permit applications are anticipated:

- a. IEPA Permit to Construct and Operate for the new water main.
- b. IDOT Region One Utility Permit for proposed work at North Avenue (Illinois Route 64) for Biermann Avenue.
- c. IEPA Construction Stormwater Notice of Intent.
- d. DuPage County Stormwater Permit for Myrtle Avenue. The applications will include cut and fill volumes of the improvements within the Zone A floodplain. VILLAGE shall be the jurisdictional reviewer and permit issuer.

16. Develop final Bidding and Contracting Documents. Each set will contain drawings, technical specifications, OPCC, and disposition to VILLAGE'S 90 percent submittal comments addressing permit agency comments, as appropriate.

17. Provide final documents to VILLAGE for VILLAGE to advertise and bid. Bidding Documents will be provided to VILLAGE in portable document format. MicroStation base files and drawings will be provided to VILLAGE in computer-aided design format. The OPCC will be provided to VILLAGE in Microsoft Excel format.

Bidding-Related Services

1. Provide one Advertisement to Bid to VILLAGE for VILLAGE to publish. VILLAGE shall distribute Bidding Documents.
2. Respond to bidder questions during the bidding period. Prepare and distribute addenda as necessary. One addendum is anticipated.
3. Review and tabulate the bids received by VILLAGE and assist VILLAGE in award of each project.
4. Prepare three sets of Contract Documents for signature.

IEPA Project Planning Document Services

1. Prepare a draft Project Planning Document in accordance with the IEPA Project Planning Submittal Checklist. Communicate with the Illinois Department of Natural Resources, State Historic Preservation Office, and the United States Army Corp of Engineers regarding the IEPA Loan Applicant Environmental Checklist.

2. Submit to VILLAGE for review and comment. VILLAGE shall provide the required financial information. Meet with VILLAGE via videoconference to review the draft Project Planning Document.

3. Incorporate VILLAGE'S comments as appropriate. Finalize and submit the Project Planning Document to the IEPA.

4. Assist VILLAGE with the advertisement for public hearing and the public hearing process associated with IEPA approval of the Project Planning Document.

Loan Application Assistance Services

1. Assist VILLAGE with the submittal of one IEPA Public Water Supply Loan Program application to the IEPA for water main improvements based on the Project Planning Document and Funding Nomination. In development of the application, VILLAGE shall be responsible for the financial reporting; user charge; and Operation, Maintenance, and Revenue certification.

2. Supplement one set of Bidding and Contract Documents with IEPA documentation for funding under the State Revolving Loan Fund and prepare the bid certification form.

3. Submit final bids and bidding certification documents to IEPA following VILLAGE'S receipt of a Letter of Commitment from the IEPA. Communicate with IEPA, VILLAGE, and contractor to obtain final loan approval. Communication will consist of a maximum of 40 hours. Any additional communication will require an amendment to this Agreement.

If-Authorized Services

If VILLAGE decides to reconstruct Biermann Avenue and Ridge Road, the following services will be provided if authorized by VILLAGE.

1. Design driveway apron replacement and earthwork schedules.
2. Design proposed plan improvements and vertical profiles.
3. Provide cross sections every 50 feet, at driveway entrances, and at side streets, and provide intersection layout details.

Service Elements Not Included

The following services are not included in this AGREEMENT. If such services are required, they will be provided as noted.

1. Additional Site Visits and/or Meetings: Additional VILLAGE-required site visits or meetings will be provided through an amendment to this Agreement or through a separate agreement with VILLAGE.
2. Archaeological or Botanical Investigations: ENGINEER will assist VILLAGE in engaging the services of an archaeologist or botanist, if required, to perform the field investigations necessary for agency review through a separate agreement with VILLAGE.
3. Construction-Related Services: Construction-related services for the project will require a separate agreement with VILLAGE.
4. Flood Studies: Any services involved in performing flood and floodway studies, if required, will be provided through an amendment to this Agreement or through a separate agreement with VILLAGE.
5. Geotechnical Engineering: Geotechnical engineering information will be required and provided through VILLAGE and VILLAGE'S geotechnical consultant. ENGINEER will assist VILLAGE with defining initial scope of geotechnical information that is required to allow VILLAGE to procure geotechnical engineering services.
6. Land and Easement Surveys/Procurement: Any services of this type including, but not limited to, a record search, field work, preparation of legal descriptions, or assistance to VILLAGE for securing land rights necessary for siting sanitary sewer, tanks, and appurtenances will be provided through a separate agreement with VILLAGE.
7. Preparation for and/or Appearance in Litigation on Behalf of VILLAGE: This type of service by ENGINEER will be provided through a separate agreement with VILLAGE.
8. Revising Designs, Drawings, Specifications, and Documents: Any services required after these items have been previously approved by state or federal regulatory agencies, because of a change in project scope or where such revisions are necessary to comply with changed state and federal regulations that are put in force after Services have been partially completed, will be provided through an amendment to this Agreement.
9. Services Furnished During Readvertisement for Bids, if Ordered by VILLAGE: If a Contract is not awarded pursuant to the original bids, any services of this type will be provided through an amendment to this Agreement.
10. Services Related to Buried Wastes and Contamination: Should buried solid, liquid, or potentially hazardous wastes or subsurface or soil contamination be uncovered at the site, follow-up investigations may be required to identify the

nature and extent of such wastes or subsurface soil or groundwater contamination and to determine appropriate methods for managing of such wastes or contamination and for follow-up monitoring. Investigation, design, or construction-related services related to buried solid, liquid, or potentially hazardous wastes or soil or groundwater contamination will be provided through a separate agreement with VILLAGE.

2. Additional services beyond the scope of the Engineering Services above-described, requested in writing by the VILLAGE, shall be performed by the ENGINEER in accordance with the hourly rate as agreed upon in writing between the VILLAGE and ENGINEER, and approved by the VILLAGE Board of Trustees.

3. The ENGINEER will 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 Chicagoland area. 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 VILLAGE 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 construction contractor, other contractors or subcontractors performing any of the work or providing any of the services on 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.

4. The ENGINEER shall procure and maintain for the duration of its AGREEMENT, and for three years thereafter, insurance against errors and omissions and claims for injuries to its employees which may arise from, or are in conjunction with, the performance of the services hereunder by the ENGINEER, its agents, representatives, employees, or sub-consultants.

a. Minimum Scope of Insurance

Coverage shall be at least as broad as:

- (1) Insurance Services Office Commercial General Liability occurrence form CG 0001 (Ed. 11/85);
- (2) Insurance Services Office form number CA 0001 (ed. 1/87) covering Automobile Liability, symbol 01 "any auto" and endorsement CA 0029 (Ed. 12/88) changes in Business Auto and Truckers coverage forms - Insured Contract or ISO form number CA 0001 (Ed. 12/90);
- (3) Professional Liability policy; and

- (4) Worker's Compensation as required by the Labor Code of the State of Illinois and Employers' Liability insurance.

b. Minimum Limits of Insurance

The ENGINEER shall maintain limits no less than:

- (1) Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury, and property damage. The general aggregate shall be \$2,000,000 per project.
- (2) Automobile Liability: \$1,000,000 combined single limit per accident or bodily injury and property damage.
- (3) Professional Liability: \$2,000,000 single limit for errors and omissions, professional liability.
- (4) Workers' Compensation and Employers' Liability: Workers' Compensation insurance within statutory limits, and Employers' Liability limits of \$500,000 per accident.
- (5) Umbrella Liability: \$2,000,000 combined single limit per occurrence for bodily injury, personal injury, and property damage. Minimum Aggregate shall be no less than \$2,000,000 per person, per aggregate.

c. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the VILLAGE. At the option of the VILLAGE, the ENGINEER shall procure a bond guaranteeing payment of losses and related investigation, claim administration and defense expenses.

d. Other Insurance Provisions

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

(1) General Liability and Automobile Liability Coverages

- (a) The VILLAGE, its officials and employees (paid or unpaid) are to be covered as additional insured as respects: liability arising out of activities performed by or on behalf of the ENGINEER; or automobiles owned, leased, hired or borrowed by the ENGINEER. The coverage shall contain no special

limitations on the scope of protection afforded to the VILLAGE, its officials and employees (paid or unpaid).

- (b) The ENGINEER's insurance coverage shall be primary as respects the additional insureds. Any insurance or self-insurance maintained by the VILLAGE, its officials, agents, and employees (paid or unpaid) shall be in excess of the ENGINEER's insurance and shall not contribute with it.
- (c) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the VILLAGE, its officials, agents, and employees (paid or unpaid).
- (d) The ENGINEER's insurance shall contain a severability of interests clause or language stating that the ENGINEER's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(2) All Coverages

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

e. Acceptability of Insurers

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

f. Verification of Coverage

The ENGINEER shall furnish the VILLAGE with certificates of insurance and with copies of endorsements affecting coverage. The certificates and endorsement for the insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements may be on forms

provided by the insurance carrier and are to be received and approved by the VILLAGE before any services commence. The VILLAGE reserves the right to request full certified copies of the insurance policies.

5. To the fullest extent permitted by law, the ENGINEER shall indemnify and hold harmless the VILLAGE, its officials and employees (paid or unpaid) against injuries, deaths, loss, damages, claims, suits, liabilities, judgments, cost and reasonable expenses, which may in anyway accrue against the VILLAGE, its officials and employees (paid or unpaid), arising in whole or in part in consequence of the negligent acts, errors or omissions or willful misconduct of the services by the ENGINEER, its employees, or subconsultants, or which may in any way result therefor, except that arising out of the negligence or willful act of the VILLAGE, its officials and employees (paid or unpaid). The ENGINEER shall, at its own expense, appear, defend and pay all reasonable charges of attorneys and all reasonable costs and other expenses arising therefore or incurred in conjunction therewith, and, if any judgment shall be rendered against the VILLAGE, its officials, agents and employees (paid or unpaid), in any such action, the ENGINEER shall, at its own expense, satisfy and discharge the same. Nothing contained herein shall be construed as prohibiting the VILLAGE, its officials, and employees (paid or unpaid) from defending, through the selection and use of their own agents, attorneys and experts, any injuries, deaths, loss, damages, claims, suits, liabilities, and judgments brought against them. The VILLAGE'S participation in its defense shall not remove the ENGINEER'S duty to indemnify, defend and hold harmless the VILLAGE as set forth herein, to the extent of the ENGINEER'S negligence.

6. Any insurance policies required by this AGREEMENT, or otherwise provided by the ENGINEER, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the VILLAGE, its officials, agents and employees (paid or unpaid) and herein provided.

7. The ENGINEER represents and warrants to the VILLAGE that neither it nor any of its principals, shareholders, members, partners, or affiliates, as applicable, is a person or entity named as a Specially Designated National and Blocked Person (as defined in Presidential Executive Order 13224) and that it is not acting, directly or indirectly, for or on behalf of a Specially Designated National and Blocked Person. The ENGINEER further represents and warrants to the VILLAGE that the ENGINEER and its principals, shareholders, members, partners, or affiliates, as applicable, are not, directly or indirectly, engaged in, and are not facilitating, the transactions contemplated by this Agreement on behalf of any person or entity named as a Specially Designated National and Blocked Person. The ENGINEER hereby agrees to defend, indemnify and hold harmless the VILLAGE, the corporate authorities, and all VILLAGE elected or appointed officials, officers, employees, agents, representatives, engineers, and attorneys, from and against any and all claims, damages, losses, risks, liabilities, and expenses (including reasonable attorneys' fees and costs) arising from and related to any breach of the foregoing representations and warranties.

8. The ENGINEER will comply with all applicable federal and Illinois statutes, and local ordinances of the VILLAGE and shall operate within and uphold the ordinances, rules and regulations of the VILLAGE while engaged in services herein described.

9. The VILLAGE reserves the right by written change order or amendment to make changes in requirements, amount of services, or engineering time schedule adjustments, and the ENGINEER and VILLAGE shall negotiate appropriate adjustments acceptable to both parties to accommodate such changes.

10. The VILLAGE may, at any time, by written order to the ENGINEER (Suspension of Services Order) require the ENGINEER to stop all, or any part, of the services required by this AGREEMENT. Upon receipt of such an order, the ENGINEER shall immediately comply with its terms and take all reasonable steps to minimize the costs associated with the services affected by such order. The VILLAGE, however, shall pay all costs incurred by the suspension, including all costs necessary to maintain continuity and for the resumption of the services upon expiration of the Suspension of Services Order. The 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.

11. This AGREEMENT may be terminated by the VILLAGE, upon seven (7) days' written notice to the ENGINEER, at its last known post office address. Provided that, should this AGREEMENT be terminated by the VILLAGE, the ENGINEER shall be paid for any services completed and any services partially completed. All field notes, test records, drawings, and reports completed or partially completed at the time of termination shall become the property of, and made available to, the VILLAGE. Within five (5) business days after notification and request, the ENGINEER shall deliver to the successor VILLAGE Engineer all property, books and effects of every description in its possession belonging to the VILLAGE and pertaining to the office of VILLAGE Engineer.

12. This AGREEMENT may be terminated by the VILLAGE upon written notice to the ENGINEER, at its last known post office address, upon the occurrence of any one or more of the following events, without cause and without prejudice to any other right or remedy:

- a. If the ENGINEER commences a voluntary case under any chapter of the Bankruptcy Code (Title 11, United States Code), as now or hereinafter in effect, or if the ENGINEER takes any equivalent or similar action by filing a petition or otherwise under any other federal or state law in effect at such time relating to bankruptcy or insolvency;
- b. If a petition is filed against the ENGINEER under any chapter of the Bankruptcy Code as now or hereafter in effect at the time of filing, or if a petition is filed seeking any such equivalent or similar relief against the

ENGINEER under any other federal or state law in effect at the time relating to bankruptcy or insolvency.

- c. If the ENGINEER makes a general assignment for the benefit of creditors;
- d. If a trustee, receiver, custodian or agent of the ENGINEER is appointed under applicable law or under contract, whose appointment or authority to take charge of property of the ENGINEER is for the purpose of enforcing a Lien against such property or for the purpose of general administration of such property for the benefit of the ENGINEER's creditors;
- e. If the ENGINEER admits in writing an inability to pay its debts generally as they become due.

13. Upon termination, the ENGINEER shall deliver to the VILLAGE, copies of partially completed drawings, specifications, partial and completed estimates, and data, if any, from investigations and observations, with the understanding that all such material becomes the property of the VILLAGE. In such case, the ENGINEER shall be paid for all services and any expense sustained, less all costs incurred by the VILLAGE, to have the services performed which were to have been performed by the ENGINEER.

14. The ENGINEER is qualified technically and is conversant with the policies applicable to the performance of design engineering and that sufficient, properly trained, and experienced personnel will be retained to perform the services enumerated herein.

15. The ENGINEER will maintain all books, documents, papers, accounting records, and other evidence pertaining to its costs incurred and to make such materials available at the ENGINEER's office at all reasonable times during the AGREEMENT period and retain such records for a period of three (3) years from the date of final payment under this AGREEMENT.

16. The ENGINEER warrants that he has not employed or retained any company or person, other than an employee working solely for the ENGINEER, to secure this AGREEMENT, and that he has not paid or agreed to pay any company or person any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this AGREEMENT. For breach or violation of this warranty, the VILLAGE shall have the right to annul this AGREEMENT without liability, or, in its discretion, to deduct from the AGREEMENT price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gifts, or contingent fee.

17. This AGREEMENT shall be deemed to be exclusive between the VILLAGE and the ENGINEER. This AGREEMENT shall not be assigned by the ENGINEER without first obtaining permission in writing from the VILLAGE.

18. All books, papers, notes, records, lists, data, files, forms, reports, accounts, documents, manuals, handbooks, instructions, computer programs, computer software, computer disks and diskettes, magnetic media, electronic files, printouts, backups, and computer databases created or modified by the ENGINEER relating in any manner to the services performed by the ENGINEER or by anyone else and used by the ENGINEER in performance of this services under this AGREEMENT (the "Work") shall be a "work made for hire" as defined by the laws of the United States regarding copyrights.

19. The ENGINEER hereby assigns to the VILLAGE and its successors and assigns all of its right, title, interest and ownership in the Work, including, but not limited to, copyrights, trademarks, patents, and trade secret rights and the rights to secure any renewals, reissues, and extensions thereof. The ENGINEER grants permission to the VILLAGE to register the copyright and other rights in the Work in the VILLAGE'S name. The ENGINEER shall give the VILLAGE or any other person designated by the VILLAGE all assistance reasonably necessary to perfect its rights under this AGREEMENT and to sign such applications, documents, assignment forms and other papers as the VILLAGE requests from time to time to further confirm this assignment. The ENGINEER further grants to the VILLAGE full, complete and exclusive ownership of the Work. The ENGINEER shall not use the Work for the benefit of anyone other than the VILLAGE, without the VILLAGE'S prior written permission. Upon completion of the Work or other termination of this AGREEMENT the ENGINEER shall deliver to the VILLAGE all copies of any and all materials relating or pertaining to this AGREEMENT. Any re-use of the Work by the Village shall be at its sole risk and without liability to ENGINEER.

20. The drawings, specifications, reports, and any other PROJECT documents prepared by the ENGINEER in connection with any or all of the services furnished hereunder shall be delivered to the VILLAGE for the use of the VILLAGE. The 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. The VILLAGE 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. Any reuse of PROJECT documents, without the express written consent of the ENGINEER, shall be at VILLAGE'S sole risk; and the VILLAGE shall indemnify and hold harmless the ENGINEER from all claims, damages, losses, and expenses including attorney's fees arising out of or resulting therefrom. When and if record drawings are to be provided by the ENGINEER, the information used in the preparation of record drawings is provided by others, the ENGINEER is not responsible for accuracy, completeness, nor sufficiency of such information. 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 VILLAGE to be included on the record drawings, then the ENGINEER will be due additional compensation for additional services. 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 VILLAGE'S confidential and proprietary information.

21. The ENGINEER will not at any time, either directly or indirectly, disclose, use or communicate or attempt to disclose, use or communicate to any person, firm, or corporation any confidential information or any other information concerning the business, services, finances or operations of the VILLAGE except as expressly authorized by the VILLAGE. The ENGINEER shall treat such information at all times as confidential. The ENGINEER acknowledges that each of the following can contain confidential information of the VILLAGE and that the disclosure of any of the following by the ENGINEER without the VILLAGE'S express authorization would be harmful and damaging to the VILLAGE'S interests:

- a.** Compilations of resident names and addresses, resident lists, resident payment histories, resident information reports, any other resident information, computer programs, computer software, printouts, backups, computer disks and diskettes, and computer databases and which are not otherwise known to the public.
- b.** All information relating to the Engineering Services being performed by the ENGINEER under this AGREEMENT, regardless of its type or form and which are not otherwise known to the public.
- c.** Ideas, concepts, designs and plans which are specifically involved with the Engineering Services being performed by the ENGINEER under this AGREEMENT which are created, designed, enhanced by the ENGINEER and which are not otherwise known to the public.
- d.** Financial information and police records.

This itemization of confidential information is not exclusive; there may be other information that is included within this covenant of confidentiality. This information is confidential whether or not it is expressed on paper, disk, diskette, magnetic media, optical media, monitor, screen, or any other medium or form of expression. The phrase "directly or indirectly" includes, but is not limited to, acting through ENGINEER'S wife, children, parents, brothers, sisters, or any other relatives, friends, partners, trustees, agents or associates.

22. All books, papers, records, lists, files, forms, reports, accounts, documents, manuals, handbooks, instructions, computer programs, computer software, computer disks and diskettes, printouts, backups, and computer databases relating in any manner to the VILLAGE'S business, services, programs, software or residents, whether prepared by the ENGINEER or anyone else, are the exclusive property of the VILLAGE. In addition, all papers, notes, data, reference material, documentation, programs, diskettes (demonstration or otherwise), magnetic media, optical media, printouts, backups, and all

other media and forms of expression that in any way include, incorporate or reflect any confidential information of the VILLAGE (as defined above) are the exclusive property of the VILLAGE. The ENGINEER shall immediately return said items to the VILLAGE upon termination of the ENGINEER's engagement or earlier at the VILLAGE'S request at any time. ENGINEER may retain one copy of the information used for the services in accordance with its record retention policy.

24. In the event of breach of the confidentiality provisions of this AGREEMENT, it shall be conclusively presumed that irreparable injury would result to the VILLAGE and there would be no adequate remedy at law. The VILLAGE shall be entitled to obtain temporary and permanent injunctions, without bond and without proving damages, to enforce this AGREEMENT. The VILLAGE is entitled to damages for any breach of the injunction, including, but not limited to, compensatory, incidental, consequential, exemplary and punitive damages. The confidentiality provisions of this AGREEMENT survive the termination or performance of this AGREEMENT.

25. The ENGINEER will comply with all applicable laws, codes, ordinances and regulations which are in effect as of the date of this AGREEMENT.

B. THE VILLAGE AGREES:

1. The VILLAGE shall provide full information regarding requirements for and about the PROJECT, including a program which shall set forth the VILLAGE'S objectives, schedule, constraints, criteria, special equipment, systems and site requirements and 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 VILLAGE 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 VILLAGE.

2. The ENGINEER shall indicate to the VILLAGE the information needed for rendering of the services of this AGREEMENT. The VILLAGE shall provide to the ENGINEER such information as is available to the VILLAGE and the VILLAGE'S consultants and contractors, and the ENGINEER shall be entitled to rely upon the accuracy and completeness thereof.

3. For the performance by the ENGINEER of the services set forth above, the VILLAGE shall pay the ENGINEER on the basis of payment:

a. Amount of Engineer's Fee.

The ENGINEER has calculated its fee for services related to the PROJECT not to exceed the total amount of Two Hundred Fifty-Seven Thousand 00/100 (\$257,000.00) Dollars.

Compensation for ENGINEER'S services for each specific task is itemized in the table below. The subtotals are estimates and may vary from the amounts shown, but they will stay within the total estimated fee. All tasks will be billed on a cost plus hourly rate fee basis.

Task	Compensation
Design Services	\$166,800.00
Bidding-Related Services	\$8,400.00
Project Planning Document Services	\$29,800.00
IEPA State Revolving Loan Fund Services	\$21,500.00
If Authorized Services	\$30,500.00
Total	\$257,000.00

b. Payment of Engineer's Fee. The VILLAGE, for and in consideration of the rendering of the Engineering services enumerated herein shall pay to the ENGINEER for rendering such services the fee hereinbefore established in the following manner:

(1) Upon receipt of monthly statements from the ENGINEER and the approval thereof by the VILLAGE, payments for the services performed shall be due and payable to the ENGINEER within thirty (30) days after approval by the VILLAGE.

(2) Payments shall be made in accordance with the Local Government Prompt Payment Act (50 ILCS 505/1 et seq.).

C. IT IS MUTUALLY AGREED:

1. The ENGINEER shall commence Services upon the execution of this AGREEMENT. The ENGINEER anticipates that the PROJECT will be completed in December 2024.

2. 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 VILLAGE. Nothing contained in this AGREEMENT shall create a contractual relationship with a cause of action in favor of a third party against either the VILLAGE or ENGINEER.

3. Each party to this AGREEMENT shall designate one or more persons to act with authority on its behalf with respect to appropriate aspects of the PROJECT. The persons designated shall review and respond promptly to all communications received from the other party.

4. Written notices between the VILLAGE and the ENGINEER shall be deemed sufficiently given after being placed in the United States mail, registered or certified, postage pre-paid, addressed to the appropriate party as follows:

a. If to the VILLAGE:

VILLAGE OF VILLA PARK
20 S. Ardmore Avenue
Villa Park, Illinois 60181
Attn: Village Manager

b. If to the ENGINEER:

STRAND ASSOCIATES, INC.
1170 South Houbolt Road
Joliet, Illinois 60431
Attn: Marc Grigas

c. Either party may change its mailing address by giving written notice to the other party as provided above. Whenever this AGREEMENT requires one party to give the other notice, such notice shall be given only in the form and to the addresses described in this paragraph.

5. This AGREEMENT represents the entire and integrated contract between the parties and supersedes all prior negotiations, representations or understandings, whether written or oral. This AGREEMENT may only be amended by written instrument executed by authorized signatories of the VILLAGE and the ENGINEER.

6. The terms of this AGREEMENT shall be binding upon and inure to the benefit of the parties and their respective successors.

7. 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.

8. If any term, covenant, or condition of this AGREEMENT or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this contract shall not be affected thereby; and each term, covenant or condition of this AGREEMENT shall be valid and shall be enforced to the fullest extent permitted by law.

9. This AGREEMENT shall be construed under and governed by the laws of the State of Illinois, and all actions brought to enforce the dispute resolution provisions of

this AGREEMENT shall be so brought in the Circuit Court of DuPage County, State of Illinois.

10. This AGREEMENT may be signed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same instrument.

11. This AGREEMENT shall become effective only after an appropriation therefor has been made. The term of this AGREEMENT shall be for one year following the effective date of the appropriation.

12. Opinion of Probable Cost. Any opinions of probable cost prepared by ENGINEER are supplied for general guidance of VILLAGE only. ENGINEER has no control over competitive bidding or market conditions and cannot guarantee the accuracy of such opinions as compared to contract bids or actual costs to VILLAGE.

13. Changes

- a. VILLAGE may make changes within the general scope of this AGREEMENT in the Services to be performed. If such changes cause an increase or decrease in ENGINEER'S cost or time required for performance of any Services under this Agreement, an equitable adjustment will be made and this Agreement will be modified in writing accordingly.
- b. No services for which additional compensation will be charged by ENGINEER will be furnished without the written authorization of VILLAGE. The fee established herein will not be exceeded without written agreement by VILLAGE but may be adjusted for time delays, time extensions, amendments, or changes in the Scope of Services.
- c. If there is a modification of IEPA, Illinois Department of Natural Resources, Illinois Department of Transportation, or DuPage County Stormwater Management Commission requirements relating to the Services to be performed under this Agreement subsequent to the date of execution of this Agreement, the increased or decreased cost of performance of the Services provided for in this Agreement will be reflected in an appropriate modification of this Agreement.

14. Data Provided by Others. ENGINEER is not responsible for the quality or accuracy of data nor for the methods used in the acquisition or development of any such data where such data is provided by or through VILLAGE, contractor, or others to ENGINEER and where ENGINEER'S Services are to be based upon such data. Such data includes, but is not limited to, soil borings, groundwater data, chemical analyses, geotechnical testing, reports, calculations, designs, drawings, specifications, record drawings, contractor's marked-up drawings, and topographical surveys.

D. CERTIFICATION OF ENGINEER

1. The ENGINEER certifies that the ENGINEER, its shareholders holding more than five percent (5%) of the outstanding shares of the ENGINEER, its officers and directors are:
 - a. not delinquent in the payment of taxes to the Illinois Department of Revenue in accordance with 65 ILCS 5/11-42.1-1;
 - b. not barred from contracting as a result of a violation of either Section 33E-3 (bid rigging) or Section 33E-4 (bid rotating) of the Criminal Code of 1961 (720 ILCS 5/33E-3 and 5/33E-4);
 - c. not in default, as defined in 5 ILCS 385/2, on an educational loan, as defined in 5 ILCS 385/1;
 - d. in compliance with the Veterans Preference Act (330 ILCS 55/0.01 *et seq.*);
 - e. in compliance with equal employment opportunities and that during the performance of the AGREEMENT, the ENGINEER shall:
 - (1) Not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service; and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.
 - (2) If it hires additional employees in order to perform this AGREEMENT or any portion hereof, it will determine the availability (in accordance with the Illinois Department of Human Right's Rules and Regulations) of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.
 - (3) In all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, marital status, national origin

or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service.

- (4) Send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the ENGINEER's obligations under the Illinois Human Rights Act and the Department's Rules and Regulations. If any such labor organization or representative fails or refuses to cooperate with the ENGINEER in its efforts to comply with such Act and Rules and Regulations, the ENGINEER will promptly so notify the Illinois Department of Human Rights; and the VILLAGE and will recruit employees from other sources when necessary to fulfill its obligations thereunder.
- (5) Submit reports as required by the Illinois Department of Human Rights, Rules and Regulations, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Illinois Human Rights Act and the Department's Rules and Regulations.
- (6) Permit access to all relevant books, records, accounts, and work sites by personnel of the contracting agency and the Illinois Department of Human Rights for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and the Department's Rules and Regulations.
- (7) Not maintain or provide for its employees any segregated facilities at any of its establishments, and not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. As used in this section, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin because of habit, local custom, or otherwise.

- (8) ENGINEER (except where it has obtained identical certifications from proposed Subconsultants and material suppliers for specific time periods), obtain certifications in compliance with this subparagraph from proposed subconsultants or material suppliers prior to the award of a subcontract or the consummation of material supply agreements, exceeding \$10,000.00 which are not exempt from the provisions of the Equal Opportunity clause, and that ENGINEER will retain such certifications in its files.
- (9) In the event of the ENGINEER's non-compliance with the provisions of this Equal Employment Opportunity Clause, the Act or the Rules and Regulations of the Department, the ENGINEER may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be cancelled or voided in whole or in part, and other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation.
- f. in compliance with 775 ILCS 5/2-105(A)(4) by having in place and enforcing a written sexual harassment policy.
- g. in agreement that in the event of non-compliance with the provisions of this certification relating to equal employment opportunity, the Illinois Human Rights Act or the Illinois Department of Human Rights, Rules and Regulations, the ENGINEER may be declared ineligible for future contracts with the VILLAGE, and this AGREEMENT may be canceled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation.
- h. in compliance with 30 ILCS 580/1 *et seq.* (Drug Free Workplace Act) by providing a drug-free workplace by:
- (1) Publishing a statement:
- (a) Notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, including cannabis, is prohibited in the ENGINEER's workplace.
- (b) Specifying the actions that will be taken against employees for violations of such prohibition.

- (c) Notifying the employee that, as a condition of employment on such AGREEMENT, the employee will:
 - (i) abide by the terms of the statement; and
 - (ii) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.
- (2) Establishing a drug-free awareness program to inform employees about:
 - (a) the dangers of drug abuse in the workplace;
 - (b) the ENGINEER's policy of maintaining a drug-free workplace;
 - (c) any available drug counseling, rehabilitation, and employee assistance program; and
 - (d) the penalties that may be imposed upon employees for drug violations.
- (3) Making it a requirement to give a copy of the statement required by subparagraph D.1.h.(1) to each employee engaged in the performance of the AGREEMENT, and to post the statement in a prominent place in the workplace.
- (4) Notifying the VILLAGE within ten (10) days after receiving notice under Subparagraph D.1.h.(1)(c)(ii) from any employee or otherwise receiving actual notice of such conviction.
- (5) Imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted, as required by 30 ILCS 580/5.
- (6) Assisting employees in selecting a course of action in the event drug counseling treatment and rehabilitation is required and indicating that a trained referral team is in place.

(7) Making a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

- i in compliance with the Substance Abuse Prevention on Public Works Projects Act (820 ILCS 265/1, *et seq.*), is a party to a collective bargaining agreement dealing with the subject matter of the Substance Abuse Prevention on Public Works Projects Act, or has in place and is enforcing a written program which meets or exceeds the program requirements of the Substance Abuse Prevention on Public Works Projects Act.
- j. not a VILLAGE official, spouse or dependent child of a VILLAGE official, agent on behalf of any VILLAGE official or trust in which a VILLAGE official, the spouse or dependent child of a VILLAGE official.
- k. not having solicited any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to the government employment or the official position of the employee or officer from the ENGINEER.
- l. not having given to any officer or employee of the VILLAGE any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to the government employment or the official position of the employee or officer.
- m. the ENGINEER acknowledges that, pursuant to the provisions of the Illinois Freedom of Information Act, (5 ILCS 140/1 *et seq.*), documents or records prepared or used in relation to services performed under this AGREEMENT are considered a public record of the VILLAGE; and therefore, the ENGINEER shall review its records and promptly produce to the VILLAGE any records in the ENGINEER'S possession which the VILLAGE requires in order to properly respond to a request made pursuant to the Illinois Freedom of Information Act (5 ILCS 140/1 *et seq.*), and the ENGINEER shall produce to the VILLAGE such records within three (3) business days of a request for such records from the VILLAGE at no additional cost to the VILLAGE.

2. Utilization of Women and Minority Businesses. ENGINEER agrees to take affirmative steps to assure that disadvantaged business enterprises are utilized when possible as sources of supplies, equipment, construction, and services in accordance with

the Public Water Supply Loan Program rules. As required by the award conditions of United States Environmental Protection Agency's Assistance Agreement with the IEPA, ENGINEER acknowledges that the fair share percentages are 5 percent for Minority Business Enterprises and 12 percent for Women's Business Enterprises.


IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be executed, by their duly authorized officers as of the dates below indicated.

Executed by the VILLAGE, this 15 day of FEBRUARY, 2023.

VILLAGE OF VILLA PARK
20 S. Ardmore Avenue
Villa Park, Illinois 60181

ATTEST:

By 
Village Clerk

By 
Nick Cuzzone, Village President

Executed by the ENGINEER, this 28 day of February, 2023.

STRAND ASSOCIATES, INC.
1170 South Houbolt Road
Joliet, Illinois 60431

By 
Joseph M. Bunker, Corporate Secretary

VILLAGE OF VILLA PARK

20 S ARDMORE AVE
VILLA PARK IL 60181-2610

630-834-8500

PURCHASE ORDER

TO: STRAND ASSOCIATES INC.
910 W WINGRA DR
MADISON WI 53715

DATE: 02/21/2023

P.O. Number: 230005

QTY	DESCRIPTION	UNIT PRICE	AMOUNT	GL ACCOUNT
1.00	BIERMANN & MYRTLE IMPROVEMENT PROJECT PHASE II ENGINEERING	130,000.00	130,000.00	60.502.03.292
1.00	BIERMANN & MYRTLE IMPROVEMENT PROJECT PHASE II ENGINEERING	119,000.00	119,000.00	82.502.02.292
1.00	BIERMANN & MYRTLE IMPROVEMENT PROJECT PHASE II ENGINEERING	8,000.00	8,000.00	83.502.02.292

TOTAL: 257,000.00