

AGENDA  
COMMITTEE OF THE WHOLE  
October 15, 2019  
2200 Harnish Drive  
Village Board Room  
- AGENDA -  
7:45 P.M.

Trustee Steigert – Chairperson  
Trustee Jasper  
Trustee Brehmer  
Trustee Glogowski  
Trustee Spella  
Trustee Sosine  
President Schmitt

1. **Roll Call – Establish Quorum**
2. **Public Comment – Audience Participation**  
*(Persons wishing to address the Committee must register with the Chair prior to roll call.)*
3. **Community Development**
  - A. Consider a Final PUD request for Advantage Moving on Lot 2 of the Algonquin Corporate Campus
  - B. Consider a Development Agreement with Advantage Moving and Storage
4. **General Administration**
  - A. Consider an Ordinance for Tax Abatement for Bond Series 2013
5. **Public Works & Safety**
  - A. Consider an Agreement with EnCap Construction Group for Woods Creek Reach 4 Restoration Project
  - B. Consider an Agreement with Applied Ecological Services for the Construction Management Services for Woods Creek Reach 4 Restoration Project
6. **Executive Session**
7. **Other Business**
8. **Adjournment**



**VILLAGE OF ALGONQUIN**  
*COMMUNITY DEVELOPMENT DEPARTMENT*

**– M E M O R A N D U M –**

DATE: October 15, 2019

TO: Committee of the Whole

FROM: Ben Mason, AICP, Senior Planner

SUBJECT: **Case No. 2019-15. 2621 Corporate Parkway — Final PUD**

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*\*Committee members: please note this property is located in the Algonquin Corporate Campus, wherein the Village offers developers an accelerated plan review process. COTW consideration of this petition therefore directly follows review of the project by the Planning and Zoning Commission the previous evening on Monday, October 14. Staff will provide an overview of the discussion from the P&Z meeting as part of its presentation Tuesday evening.*

Introduction

Mr. Michael Ritter, representative of RSR Associates, LLC, has submitted a petition for Final Planned Unit Development, for construction of a 40,600 square foot industrial warehouse building. This building will be located within the Algonquin Corporate Campus – directly east of the petitioner’s existing Advantage Moving and Storage facility – on a 2.88-acre vacant property on the south side of Corporate Parkway.

The subject property is Lot 2 in the Algonquin Corporate Campus and has an address of 2621 Corporate Parkway. The lot was recently purchased by the owners of Advantage Moving and Storage, who will be relocating approximately ten (10) employees from a warehouse in another community in which they are currently renting space.

Staff Comments

Comments from Christopher Burke Engineering, the Algonquin Police Department and Algonquin-Lake in the Hills Fire District are attached. The developer shall be required to modify the plans to address any additional comments or concerns identified by Public Works, who defer to the initial comments outlined in the CBBEL review memo at this time. Outlined below are some of the highlights of the proposal:

**Site / Engineering** – Access to the property will be off Corporate Parkway, and the developer is proposing the entrance at the northeast corner of the property to align with the proposed flow of trucks and vehicular traffic that will utilize the drive aisle on the far east side of the building. The developer shall provide turning radius exhibit demonstrating that there will not be a conflict with

the existing median on Corporate Parkway for semi-tractor trailers that would make a westbound left-turn out onto Corporate Parkway.

A total of 50 parking spaces will be provided on the site, divided between standard passenger vehicle parking alongside the front of the building, and another row of parking stalls with greater depth on the south end of the property for semi-tractor trailer trucks. Considering the new warehouse building will have approximately ten (10) employees, the passenger vehicle parking is sufficient at this time and the developer is proposing to reserve another 25 spaces at the north end of the property adjacent to Corporate Parkway should additional parking be needed in the future. This area for “future parking in reserve” is shown on the landscape plan to be initially landscaped with a mix of trees and shrubs.

Truck loading docks will be located at the rear of the building. The proposed parking for semi-tractor trailers at the south end of the property will adequately serve the needs of Advantage Moving and Storage and allow the business to relocate the semi-tractor trucks that have been parking in the nearby church lot on Boyer Road the past number of years.

**Landscaping** – Significant landscaping is proposed around the perimeter of the site, with the exception of the rear property line which will require the incorporate of attractive trees and shrubs similar to the rest of the property. Village Staff supports the relatively narrow 10’ landscape setbacks proposed for the east and south sides of the property, as the neighboring properties already offer or are planned for substantial landscape and open space areas adjacent to this property.

In light of the fact a significant portion of the front landscape setback along Corporate Parkway is proposed for conversion to additional parking if / when needed in the future, Village Staff recommends the installation of a dense row of arborvitae shrubs or similar landscape screening treatment in the 15-foot area that would not be disturbed directly adjacent to and south of the sidewalk.

**Architecture / Building** – The warehouse building will be constructed of precast concrete panels and the main field of the building will alternate between off-white and muted-blue color tones. To provide additional architectural interest, the same alternating color palette of off-white and blue precast panels proposed for the front façade shall be continued around the sides and rear of the building as well. All mechanical equipment and utility meters shall be screened from view or painted to match the building. The buildings’ window framing system shall be black or a dark bronze.

The warehouse building will serve Advantage Moving and Storage, but will be constructed with flexible floor plan space so that a portion could be sublet to another tenant in the future if needed. Additionally, the developer will be keeping the subject property’s existing status as a separate parcel from Advantage Moving and Storage’s lot, to retain the option in the future of selling the new warehouse building off to a separate company though there are no plans or desire to do so at the present time. Due to this possibility of Lot 2 having separate ownership in the future, Staff recommends the developer provide for cross-access in perpetuity – either in the form of an easement or covenant – between this parcel and the existing Advantage Moving & Storage property to the west.

## Recommendation

Staff recommends approval of the Final Planned Unit Development, consistent with the plans submitted by the developer and the following conditions:

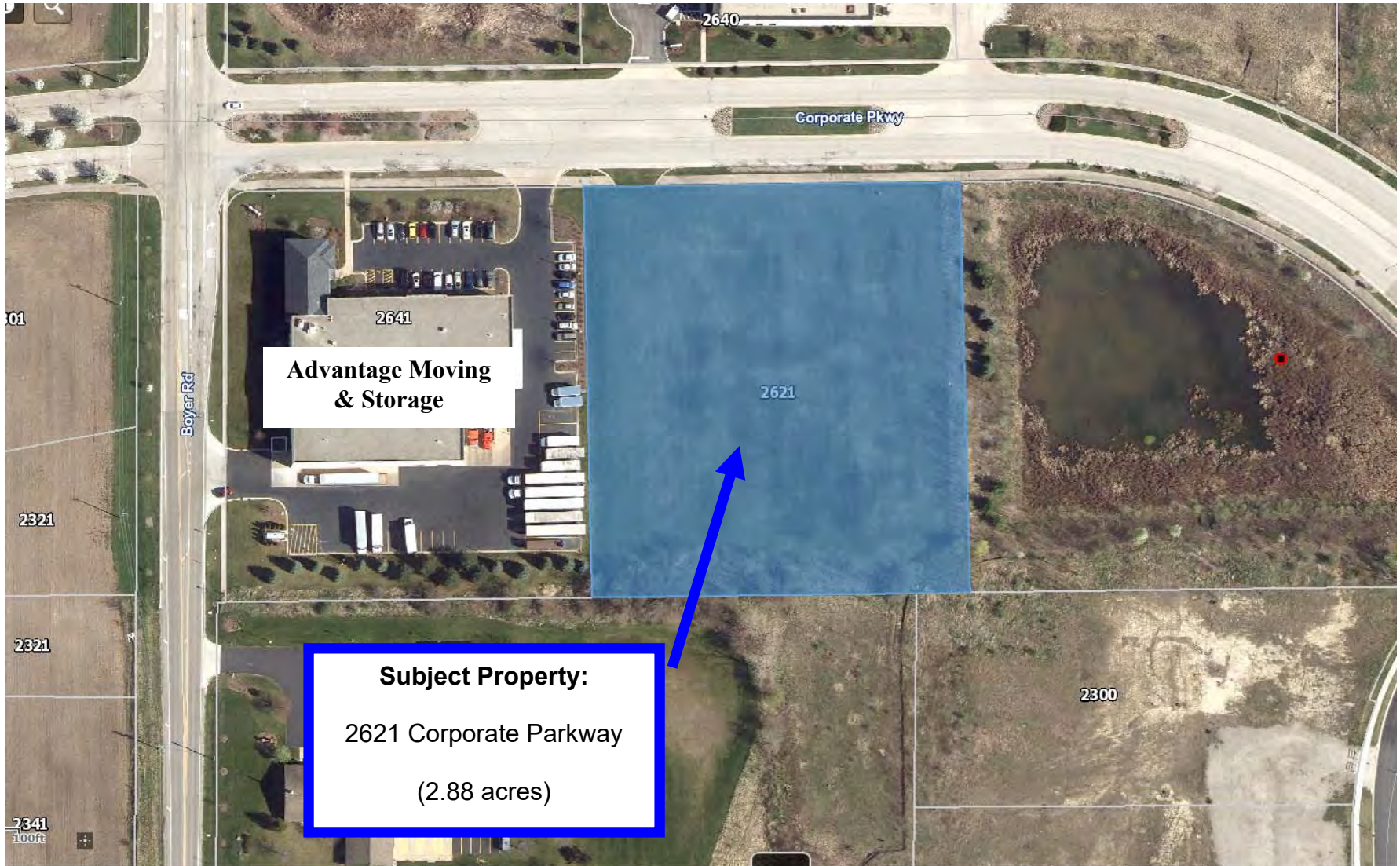
1. The site construction, utility installation and grading shall not commence until a Site Development Permit has been issued by the Village and all offsite and onsite utilities serving the subject property shall be underground, and water and sanitary sewer permits have been issued by the Illinois Environmental Protection Agency.
2. The Engineering Plans prepared by Morris Engineering, Inc. with the latest revision date of September 16, 2019 shall be revised to incorporate the comments noted below and in the October 9, 2019 memorandum from Christopher Burke Engineering, the September 27, 2019 memorandum from the Algonquin-Lake in the Hills Fire District, and subject to Public Works approval. The revised engineering plans shall show the location of a trash enclosure on the site.
3. The Landscape Plan as prepared by Sebert Landscaping Co. with the latest revision date of September 18, 2019, shall be revised to incorporate the comments noted below and in the October 9, 2019 memorandum from Christopher Burke Engineering, the September 27, 2019 memorandum from the Algonquin-Lake in the Hills Fire District, and subject to Public Works approval. The proposed tree species shall be revised to provide a total of four (4) deciduous shade tree species in equal quantities to meet the Village's diversity requirements. It is recommended the proposed Red Maple and Linden trees – which do not typically fare well in the local area – be replaced with alternative species from the Village's approved tree list. An attractive mix of trees and shrubs shall be incorporated within the rear landscape setback area. A dense row of arborvitae shrubs or similar landscape screening treatment shall be added within the 15-foot landscape setback along Corporate Parkway that would remain should the portion designated for future parking held in reserve ever be constructed.
4. The Photometric Plan, as prepared by PG Enlighten, with the latest revision date of September 17, 2019 shall be revised to shall be revised to incorporate the comments noted below and in the October 9, 2019 memorandum from Christopher Burke Engineering, the September 27, 2019 memorandum from the Algonquin-Lake in the Hills Fire District, and subject to Public Works approval. The parking lot light fixtures shall meet Village standards with 25 foot poles, metal halide or LED lights, lens flush with the housing, downcast lighting, all flat black in color. The building mounted lights shall be downcast, lens flush with housing and metal halide or LED, and black in color. No trespass light shall encroach onto the adjacent parcels to the east and south. The developer shall submit spec sheets of the proposed light fixtures for review by the Village Engineer. The Village Board shall have the right to review light levels and require a change if deemed inappropriate light levels.

5. The building shall be constructed to be consistent with the architectural elevations as prepared by DDCA Architects, with the latest revision date of October 9, 2019. To provide additional architectural interest, the same alternating color palette of off-white and blue precast panels proposed for the front façade shall be continued around the sides and rear of the building as well. In addition, all mechanical equipment and utility meters shall be screened from view or painted to match the building. The buildings' window framing system shall be black or a dark bronze. Should the current or future owner of the building ever propose re-painting the exterior façade, the color palette shall be subject to approval by the Village.
6. A monument sign is permitted for this lot and shall be constructed out of materials to match the building and follow the Village's Sign Code requirements with regards to location and size. A single name and address identifying the overall property may be featured on the sign. A rendering of the monument sign shall be reviewed and approved by Community Development Department staff prior to construction.
7. The developer shall provide for cross-access in perpetuity – either in the form of an easement or covenant – between this parcel and the existing Advantage Moving & Storage property to the west.
8. All roof-mounted or ground located mechanical equipment shall be screened with an appropriate architectural element or landscaping.
9. The Private Property Enforcement Agreement shall be executed with the Algonquin Police Department prior to the issuance of any Certificate of Occupancies.
10. No materials or products may be stored outside the building at any time.

Attachments:

Property in Question Map  
Staff Review Memos  
Developer Submittal Package

# Property in Question Map



**Advantage Moving  
& Storage**

**Subject Property:**  
2621 Corporate Parkway  
(2.88 acres)





**CHRISTOPHER B. BURKE ENGINEERING, LTD.**

9575 West Higgins Road Suite 600 Rosemont, Illinois 60018 TEL (847) 823-0500 FAX (847) 823-0520

October 9, 2019

Village of Algonquin  
2200 Harnish Drive  
Algonquin, IL 60102

Attention: Ben Mason, Senior Planner

Subject: 2621 Corporate Parkway – FIRST REVIEW  
Algonquin Case No. 2019-15  
(CBBEL Project No. 07-0272.00118)

Dear Ben:

We have reviewed the following documents related to this project:

- Engineering Plans prepared by Morris Engineering, Inc. bearing a revision date of September 16, 2019
- Stormwater Management Calculations for Southwest Randall Development prepared by Morris Engineering, Inc. bearing a revision date of March 10, 2003
- Photometric Plan prepared by PG Enlighten bearing a revision date of September 17, 2019
- Landscape Plan prepared by Sebèrt Design/Build bearing a revision date of September 18, 2019
- Colored Architectural Elevations and Floor Plans prepared by DDCA Architects bearing a revision date of September 18, 2019
- Stormwater Calculations prepared by Morris Engineering, Inc. undated
- Kane County Stormwater Management Permit Application, undated
- Algonquin Plan Distribution Memo dated September 19, 2019

It is our understanding that this project will be considered by the Planning and Zoning Commission on October 14, 2019. We offer the following comments for their deliberation:

**ENGINEERING PLANS**

The submitted “engineering” plan is really a rudimentary site plan with very little site engineering information provided. We have identified the following that should be included in the next engineering submittal.

1. The engineering plans shall include an Existing Conditions and Demolition sheet showing the existing topography any items that will be demolished/removed to construct the proposed improvements (not an inclusive list):
  - Curb removal and/or replacement
  - Pavement removal and/or replacement
  - Utility structures and pipelines
2. The engineering plans shall include a Geometric sheet providing information on the following (not an inclusive list):
  - Dimensions to property lines for proposed building and site parking areas
  - Parking stall and parking lot aisle widths
  - Legend for pavement types to be used on project
  - Curb radii, as applicable
  - Locations of pole mounted lighting
3. The engineering plans shall include a Utilities sheet depicting all underground infrastructure associated with the project (not an inclusive list):
  - Site storm sewers
  - Sanitary sewer lateral if building will have employee bathrooms
  - Potable water service if building will have employee bathrooms and/or fire protection system
  - Location of Fire Department Connection if a fire protection system will be installed.
  - Natural Gas, Telephone, and Electrical service lines
4. The engineering plans shall include a Grading sheet depicting the proposed vertical topographic features of the project (not an inclusive list):
  - Proposed pavement and curb elevations
  - Proposes spot grades and contours for turf areas
  - Site overflow route
  - Rim elevations of underground structures, especially storm sewer
  - Natural Gas, Telephone, and Electrical service lines
5. The engineering plans shall include a Soil Erosion and Sedimentation Control sheet depicting the use of all applicable SESC measures (not inclusive list):
  - Silt fence
  - Stabilized construction Entrance
  - Inlet filter baskets
  - Concrete washout area



- Temporary soil stockpiles
6. The engineering plans shall include all applicable specifications and standard details for the pavement, utility, and SESC components applicable to this project.
  7. The existing trees in the south parkway of Corporate Parkway are missing from the plan sheet.
  8. If there will be employees moving back and forth between the two buildings, then we recommend that a dedicated pedestrian walkway be designed into the improvements. One location that could be used is the pavement narrowing where there is an existing parking island along the east side of the parking area of the existing building.
  9. There is an existing fire hydrant along the south side of Corporate Parkway near the eastern boundary of the development site that is not noted on the plan sheet and could be impacted by the construction of the proposed driveway.

#### **PHOTOMETRIC PLAN**

10. The proposed Site Plan does not indicate the proposed lighting. Please identify the standalone lighting unit locations on the Site Plan and Utility Plan when it is Resubmitted.
11. The site geometry depicted on the Photometric Plan does not match the geometry as shown on the proposed Site Plan. Please revise the Site Plan and Photometric Plan accordingly.
12. The Landscape Plan shows trees that are conflicted with the standalone lighting units. Please revise Photometric and Site Plans accordingly.
13. On the Photometric Plan, there are no calculation points shown in the adjacent parking lot to the West of the building. Please provide a Calculation Grid that is all encompassing of all parking areas and drive aisles.

#### **LANDSCAPE PLAN**

14. The locations of all proposed pole-mounted lighting and underground utilities shall be added to the plan sheet to verify no conflicts exist with the proposed trees.
15. We note that the landscaping of the boulevard medians to the west and east of the site is more elaborate and lush than the median in front of the development

site. We will defer to the opinion of the Public Works staff, but this appears to be an opportunity to add more trees and shrubs to the median if so desired.

16. The existing trees in the south parkway of Corporate Parkway are missing from the plan sheet. We note that new trees are called out for the parkway. The plans should identify if the existing trees are to be removed or relocated.

## STORMWATER MANAGEMENT

17. The Applicant should provide runoff curve number calculations for Lot #2 improvements. The previous stormwater report and detention basins were sized assuming a runoff curve number of 92 with a hydrologic soil group B. If the proposed runoff curve number is greater than 92, then additional stormwater detention volume may be required to offset the increase in proposed impervious area not considered in the previously approved stormwater report.
18. The Stormwater Calculations for the development in 2003 indicates that the required retention volume has been provided for the site, provided the curve number above is at or below the value of 92. Similarly, if the proposed runoff curve number is greater than 92, then additional stormwater retention volume will be required.
19. There is a depressed area at the southwest corner of the site that is served by an existing storm structure. There is no elevation information provided for the structure and the surrounding contours are not numbered. This off-site flow will need to be accommodated with the engineering for the project.
20. Additional aspects of the development will be reviewed once a final engineering submittal has been provided (i.e. – storm sewer, overland flow, inlet capacity, stormwater quality, etc.).

Sincerely,



Paul R. Bourke, PE CFM CPMSM  
Assistant Head, Municipal Department



Michael E. Kerr, PE  
Executive Vice President

# Algonquin-Lake in the Hills Fire Protection District Fire District Memorandum



DATE: September 27, 2019  
TO: Ben Mason, Senior Planner Village of Algonquin  
FROM: Cory Pikora, Fire Prevention Director Algonquin- LITH FPD  
RE: 2019-15 Final PUD 2621 Corporate Parkway

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Thank you for providing the preliminary drawings for the purposed building at 2621 Corporate Parkway

## Overall Site:

- Indicate the fire hydrants locations on the drawing. **IFC 508.1**
- Fire hydrants shall be no further than 300 feet apart, all hydrants shall not be on a dead end and shall be looped. **F 903.6 Yard Hydrants.**
- Indicate the water main size provided for the fire sprinkler system.
- Provide an emergency vehicle access plan using the turning radius schematic provided for our tower ladder truck. This access plan should include all driveways / roadways of the property. **IFC 503.2.4 Turning Radius**
- Fire Department hose access shall be no more than 150 feet from the fire apparatus to all sides of the buildings from each of the fire department access road. **IFC 503.1.1**

## **Buildings and Facilities**

- Provide the location on the fire department connection on the drawing. **F903.3.7 Fire Department Connections**
- A fire hydrant shall be provided within 100 feet of the fire department connection. **F903.3.7 Fire Department Connections**
- The building will require a NFPA 72 compliant fire alarm system and a NFPA 13 complaint fire sprinkler system.
- Provide an egress plan.
- Should high piled storage be utilized within the building, the fire sprinkler system shall be designed for high piled storage. **F 905.3.8 High-Piled Combustible Storage**
- Should high piled combustible storage be utilized within the building, a NFPA 13 compliant Class I automatic wet standpipe system shall be installed in areas where combustible storage exceeds 12 feet in height. The hose connections shall be located at each door to the high piled combustible storage area. Where hose connection exceed 200', additional the Building Code Official is authorized to require additional hose connections. The standpipes shall be installed with its own riser piping system. **F 905.3.8 High-Piled Combustible Storage**
- Should high piled storage be utilized within the building, a racking diagram shall include the following: The commodity being stored, the size and height of the racks, the width of the aisle between racks and the location of all racks. **F 905.3.8 High-Piled Combustible Storage**

- All fire department access roads shall be a minimum of 20 feet of unobstructed width and 13'6" of unobstructed height. **IFC 503.2.1 Dimensions**
- Confirm the canvas awnings do not protrude into the fire department access roads.
- Mark the East, West, and South curb lines adjacent to the building as "No Parking Fire Lane" with either fire lane signage or paint and mark the curb line "No Parking Fire Lane" It is unclear if the West side of the building will have parking located in this area. The fire lane can be removed from the West side of the building should this area include parking. **IFC 503.3 Marking**
- Clear 75 cd Strobes are required above the main entrances of all buildings to activate on all fire alarms. **F907.10.1.1 Public and Common Areas**
- A blue lens 75 cd horn strobe is required to activate for a water flow alarm only and is required above the fire department connection. **F907.10.1.1 Public and Common Areas**
- A 10 psi safety factor is required for all fire sprinkler systems hydraulic calculations. **F903.5 Water Supplies**
- RPDA backflow preventer with meter bypass measured in gallons is required.
- The fire department connections shall be a 4 inch Storz connection, with a 30 degree downturn. For building requiring a sprinkler demand of 1000 gpm or greater two 4 inch Storz connections will be required. **F903.3.6.1 Algonquin Lake in the Hills Fire Protection District**
- Ball drips and main drains shall be piped to the exterior whenever possible.
- An adjustable low temp device is required in all sprinkler rooms to report as a supervisory alarm.
- All new fire alarm systems shall transmit via radio to a UL listed central station. **F903.4 Sprinkle System Monitoring and Alarms**
- Exterior and interior sprinkler bells shall be replaced with exterior and interior rated audio visual devices.
- A Knox Box for fire department key access will be required at the entrance and fire sprinkler room. **IFC 506.1 Key Boxes where required**

**Note: Any Code Section beginning with and F indicated the Algonquin Lake in the Hills Fire Protection District Local Ordinance.**

Should you have any questions on my comments, please feel free to contact me.

Cory Pikora  
 Fire Prevention Director  
 Algonquin-Lake in the Hills Fire Protection District



Village Of Algonquin  
Police Department



~MEMORANDUM~

DATE October 6, 2019  
TO Ben Mason, Senior Planner  
FROM Sergeant Robert Salazar  
SUBJECT Case No. 2019-15 Advantage Moving and Storage

I have reviewed the plans for Advantage Moving and Storage and find no issues with relation to the police department.

[Email](#)

[Print Form](#)





(SOME TREES NOT SHOWN FOR CLARITY)

VIEW FROM CORPORATE PARKWAY



VIEW FROM REAR LOT



## EXTERIOR COLOR LEGEND (COLORS AND COLOR PATTERN SUBJECT TO CHANGE)



**PRIMARY FIELD COLOR 1:**  
ICE CUBE (SW 6252)



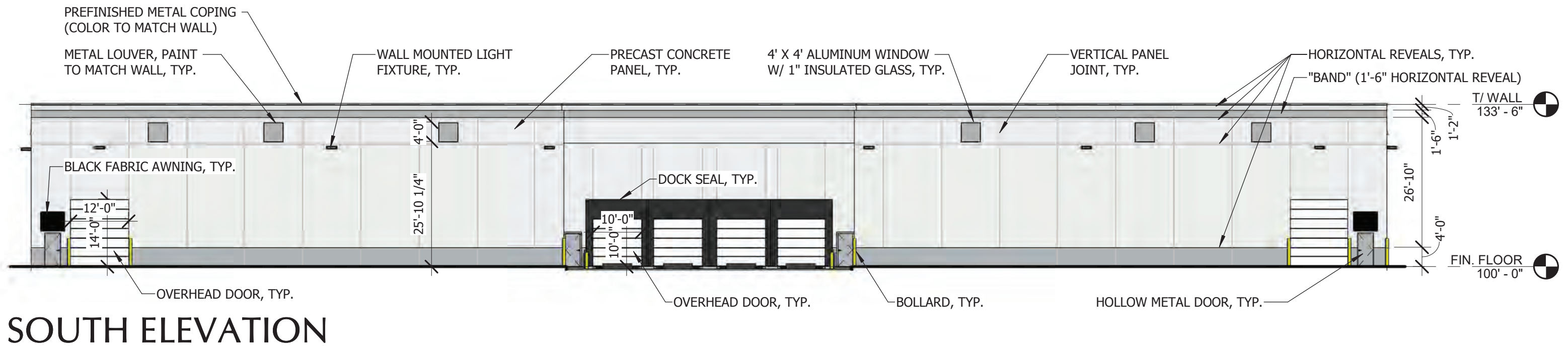
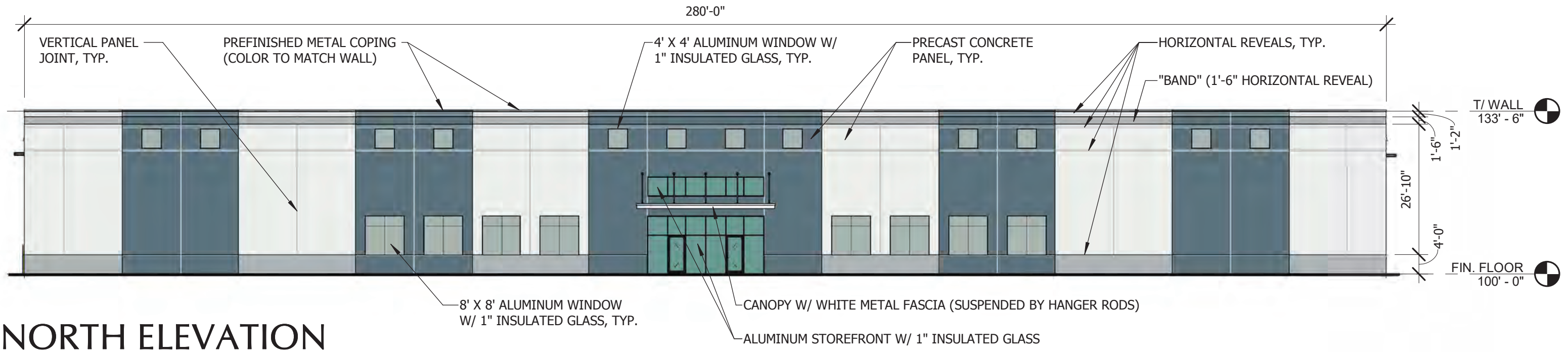
**BAND & BASE COLOR 2:**  
MORNING FOG (SW 6255)



**SECONDARY FIELD COLOR 3:**  
SMOKY BLUE (SW 7604)



**METAL COLOR 4:**  
DARK BRONZE



## EXTERIOR COLOR LEGEND (COLORS AND COLOR PATTERN SUBJECT TO CHANGE)



**PRIMARY FIELD COLOR 1:**  
ICE CUBE (SW 6252)



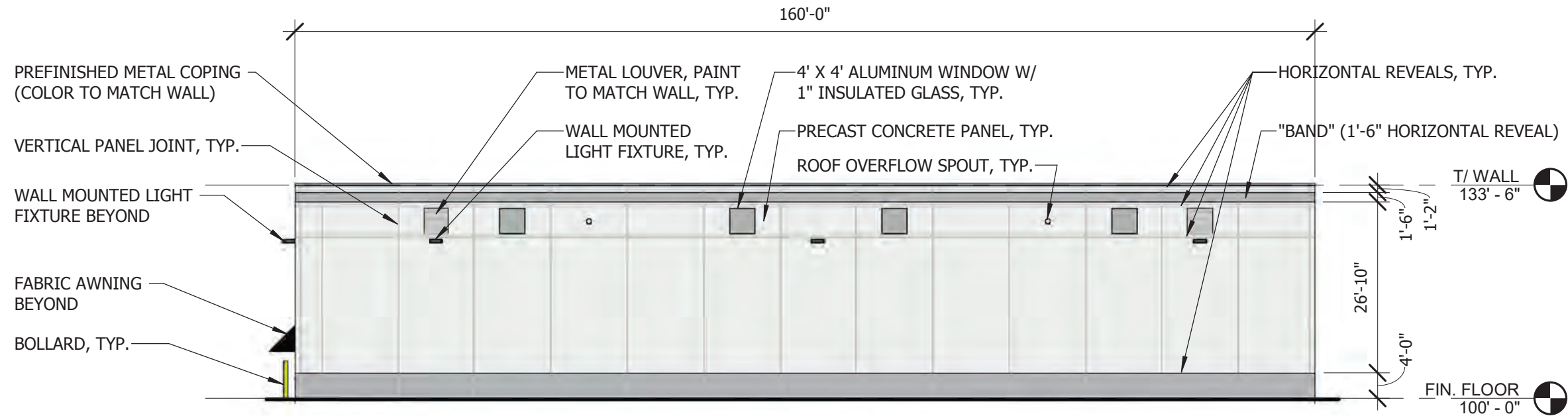
**BAND & BASE COLOR 2:**  
MORNING FOG (SW 6255)



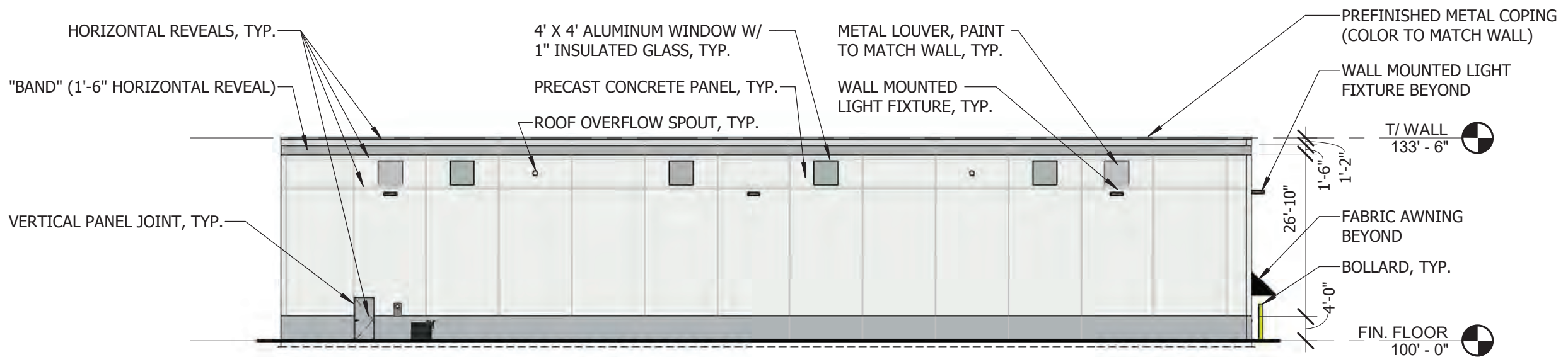
**SECONDARY FIELD COLOR 3:**  
SMOKY BLUE (SW 7604)



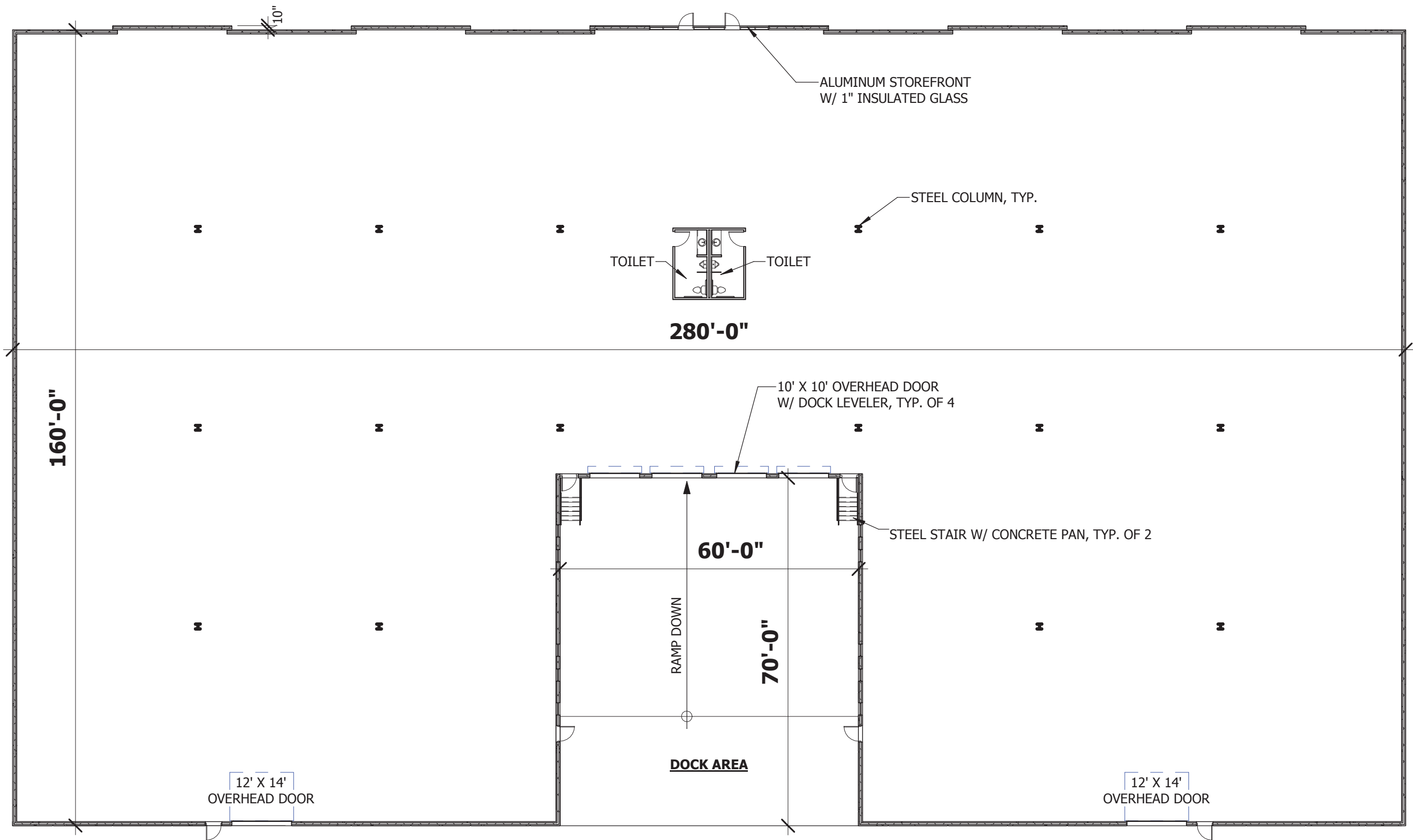
**METAL COLOR 4:**  
DARK BRONZE



### EAST ELEVATION



### WEST ELEVATION



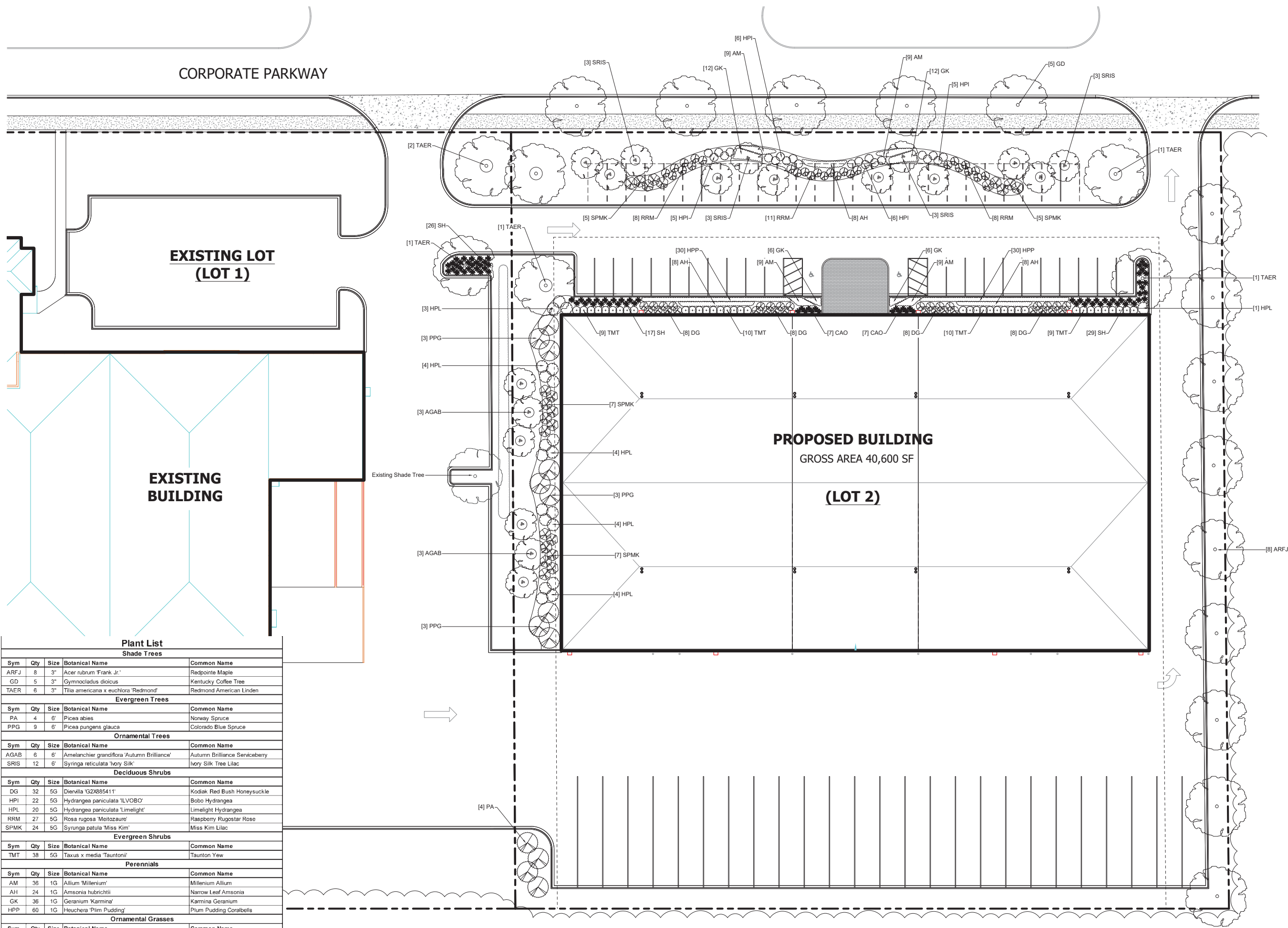
# FLOOR PLAN





# Algonquin Corporate Campus Lot #2

Algonquin, IL  
Landscape Plan



### Plant List

Sym	Qty	Size	Botanical Name	Common Name
<b>Shade Trees</b>				
ARFJ	8	3"	Acer rubrum 'Frank Jr.'	Redpointe Maple
GD	5	3"	Gymnocladus dioicus	Kentucky Coffee Tree
TAER	6	3"	Tilia americana x euchlora 'Redmond'	Redmond American Linden
<b>Evergreen Trees</b>				
PA	4	6'	Picea abies	Norway Spruce
PPG	9	6'	Picea pungens glauca	Colorado Blue Spruce
<b>Ornamental Trees</b>				
AGAB	6	6'	Amelanchier grandiflora 'Autumn Brilliance'	Autumn Brilliance Serviceberry
SRIS	12	6'	Syringa reticulata 'Ivory Silk'	Ivory Silk Tree Lilac
<b>Deciduous Shrubs</b>				
DG	32	5G	Diervilla 'G2X855411'	Kodiak Red Bush Honeysuckle
HPI	22	5G	Hydrangea paniculata 'LVOBO'	Bobo Hydrangea
HPL	20	5G	Hydrangea paniculata 'Limelight'	Limelight Hydrangea
RRM	27	5G	Rosa rugosa 'Meitosaure'	Raspberry Rugostar Rose
SPMK	24	5G	Syrunga patula 'Miss Kim'	Miss Kim Lilac
<b>Evergreen Shrubs</b>				
TMT	38	5G	Taxus x media 'Tauntoni'	Taunton Yew
<b>Perennials</b>				
AM	36	1G	Allium 'Millenium'	Millenium Allium
AH	24	1G	Armsonia hubrichtii	Narrow Leaf Armonia
GK	36	1G	Geranium 'Karmina'	Karmina Geranium
HPP	60	1G	Heuchera 'Plum Pudding'	Plum Pudding Coralbells
<b>Ornamental Grasses</b>				
CAO	14	1G	Calamagrostis x acutiflora 'Overdam'	Overdam Reed Grass
SH	72	1G	Sporobolus heterolepis	Prairie Dropseed



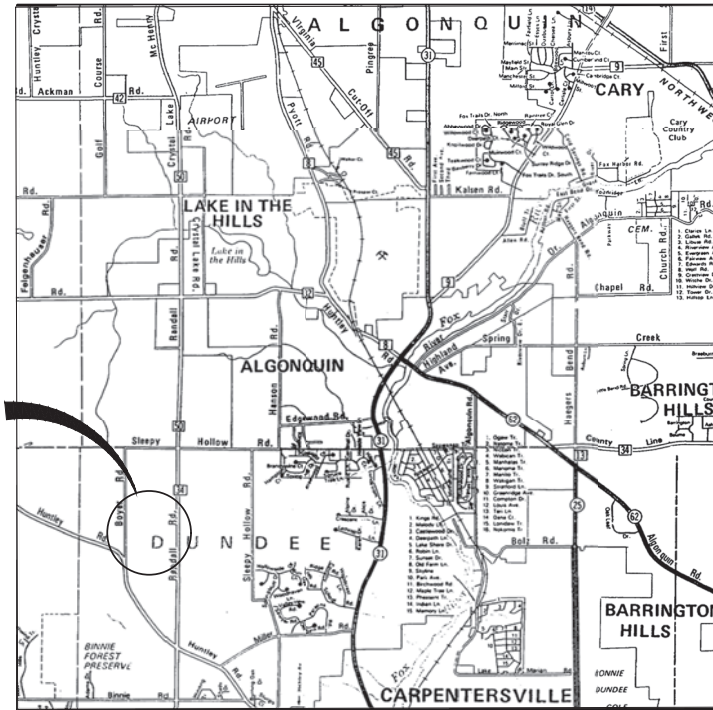
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# ALGONQUIN CORPORATE CAMPUS LOT #2

## ALGONQUIN, ILLINOIS

### LEGEND

EXISTING	PROPOSED		
⊙	⊙	MANHOLE	DECIDUOUS TREE
□	⊙	CATCH BASIN	EVERGREEN TREE
○	⊙	INLET	OVERLAND FLOOD ROUTE
⊙	⊙	CLEANOUT	DRAINAGE ROUTE
⊙	⊙	FLARED END SECTION	DOWNSPOUT
⊙	⊙	WATER VALVE BOX	SILT FENCE LINE
⊙	⊙	BUFFALO BOX (B.BOX)	DEPRESSED CURB
⊙	⊙	WATER VALVE & VAULT	SOIL EROSION GEOTEXTILE PROTECTION
⊙	⊙	FIRE HYDRANT	CONCRETE
⊙	⊙	WELL	BRICK
⊙	⊙	GAS VALVE	ASPHALT
⊙	⊙	GAS METER	BUILDING
⊙	⊙	COMMUNICATION CANISTER	GRAVEL
⊙	⊙	COMMUNICATION HANDHOLE	STONE
⊙	⊙	COMMUNICATION MANHOLE	
⊙	⊙	ELECTRIC CANISTER	
⊙	⊙	ELECTRIC HANDHOLE	
⊙	⊙	ELECTRIC MANHOLE	
⊙	⊙	ELECTRIC METER	
⊙	⊙	TRAFFIC SIGNAL	
⊙	⊙	TRAFFIC HANDHOLE	
⊙	⊙	TRAFFIC CONTROL BOX	
⊙	⊙	UTILITY POLE	
⊙	⊙	UTILITY POLE W/ LIGHT	
⊙	⊙	STREET LIGHT	
⊙	⊙	STREET SIGN	
⊙	⊙	BORING LOCATION	
⊙	⊙	MAILBOX	
⊙	⊙	SPOT ELEVATIONS	
⊙	⊙	PROPERTY LINE	
⊙	⊙	ADJACENT PROPERTY LINE	
⊙	⊙	EASEMENT LINE	
⊙	⊙	SETBACK LINE	
⊙	⊙	RIGHT OF WAY LINE	
⊙	⊙	STORM SEWER LINE	
⊙	⊙	SANITARY SEWER LINE	
⊙	⊙	WATERMAIN LINE	
⊙	⊙	UNDERGROUND GAS LINE	
⊙	⊙	UNDERGROUND COMM. LINE	
⊙	⊙	UNDERGROUND ELECTRIC	
⊙	⊙	OVERHEAD UTILITY	
⊙	⊙	FENCE LINE	
⊙	⊙	GUARDRAIL LINE	
⊙	⊙	CONTOUR LINE	



PROJECT LOCATION MAP

### INDEX OF SHEETS

1. COVER SHEET
2. SITE PLAN
3. DETAILS

DATE	1	2	3	4	5	6

COVER SHEET  
ALGONQUIN CORPORATE CAMPUS LOT #2  
ALGONQUIN, ILLINOIS

PREPARED FOR  
**DDCA ARCHITECTS**  
3321 S. ROUTE 31  
CRYSTAL LAKE, ILLINOIS 60012

### NOTICE TO CONTRACTORS

#### EXISTING UTILITIES

WHEN THE PLANS OR SPECIAL PROVISIONS INCLUDE INFORMATION PERTAINING TO THE LOCATION OF OVERHEAD AND/OR UNDERGROUND UTILITY FACILITIES, SUCH INFORMATION REPRESENTS ONLY THE OPINION OF THE ENGINEER AS TO THE LOCATION OF SUCH UTILITIES AND IS ONLY INCLUDED FOR THE CONVENIENCE OF THE BIDDER. THE ENGINEER AND THE OWNER ASSUME NO RESPONSIBILITY WHATSOEVER IN RESPECT TO THE SUFFICIENCY OR VERACITY OF THE INFORMATION SHOWN ON THE PLANS RELATIVE TO THE LOCATION OF UNDERGROUND UTILITY FACILITIES OR THE MANNER IN WHICH THEY ARE TO BE REMOVED OR ADJUSTED. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO DETERMINE THE ACTUAL LOCATION OF ALL SUCH FACILITIES. HE SHALL ALSO OBTAIN FROM THE RESPECTIVE UTILITY COMPANIES DETAILED INFORMATION RELATIVE TO THE LOCATION OF THEIR FACILITIES AND THE WORKING SCHEDULES OF THE UTILITY COMPANIES FOR REMOVING OR ADJUSTING THEM.

THE CONTRACTOR SHALL BE RESPONSIBLE FOR NOTIFYING ALL PUBLIC AND PRIVATE UTILITY COMPANIES WHICH MAY HAVE OVERHEAD OR UNDERGROUND FACILITIES IN THE AREA BEFORE CONSTRUCTION BEGINS. (SEE SPECIFICATIONS)

#### ENGINEER'S CERTIFICATION

STATE OF ILLINOIS )  
                                  ) SS.  
COUNTY OF DuPAGE)

I, STEVEN J. DAUL, A REGISTERED PROFESSIONAL ENGINEER OF ILLINOIS, HEREBY CERTIFY THAT THESE PLANS WERE PREPARED BY MORRIS ENGINEERING, INC. 515 WARRENVILLE ROAD, LISLE, ILLINOIS, 60532 UNDER MY PERSONAL DIRECTION. THIS TECHNICAL SUBMISSION IS INTENDED TO BE USED AS AN INTEGRAL PART OF AND IN CONJUNCTION WITH THE PROJECT SPECIFICATIONS. I FURTHER STATE THAT THE PROPOSED IMPROVEMENTS WILL NOT CAUSE PONDING OR FLOODING ON THE PROPERTY OR ADJACENT PROPERTIES.

DATED THIS XXTH DAY OF XX, A.D. 20 19

ILLINOIS REGISTERED PROFESSIONAL ENGINEER NO. 062-056211  
MY REGISTRATION EXPIRES ON NOVEMBER 30, 2019



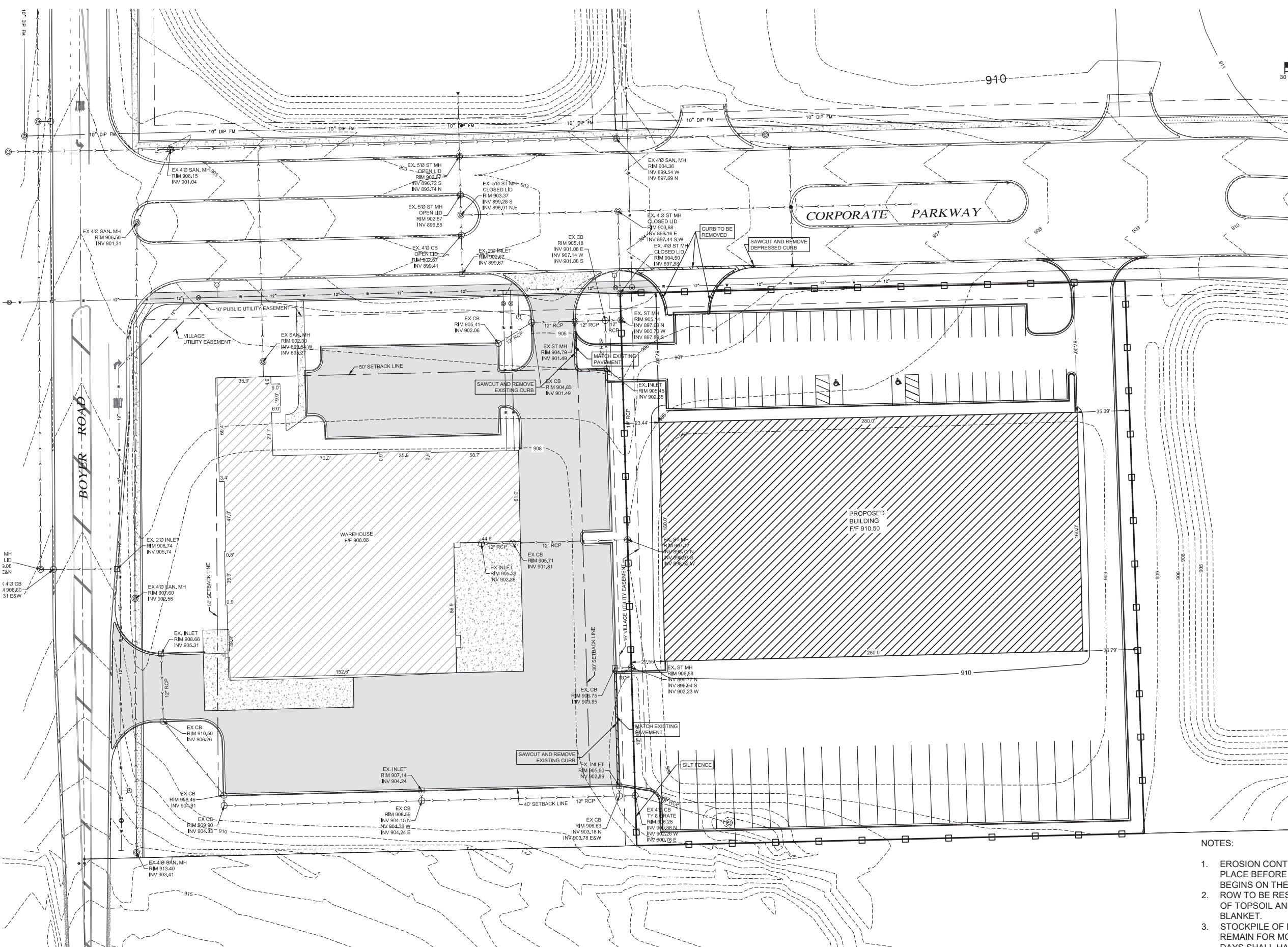
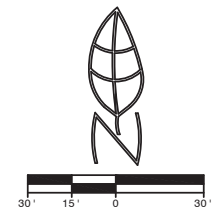
Morris Engineering, Inc.  
Civil Engineering • Consulting  
Land Surveying  
515 Warrenville Road, Lisle, IL 60532  
Phone: (630) 271-0770  
Survey: (630) 271-0699  
FAX: (630) 271-0774  
Website: www.ecivil.com



FIELD CREW:	
DRAWN BY:	CJS
CHECKED BY:	EF
APPROVED BY:	SD
DATE:	9-16-2019
SCALE:	HORIZ scale
	VERT scale
SHEET	1
OF 3 SHEETS	
PROJ #	19-08-2001

**SITE BENCHMARK #1**  
RAILROAD SPIKE IN UTILITY POLE LOCATED WEST OF RANDALL ROAD APPROXIMATELY 1852 FEET SOUTH OF THE INTERSECTION OF COUNTY LINE ROAD AND RANDALL ROAD.  
ELEVATION = 921.18





DATE	DESCRIPTION
1	
2	
3	
4	
5	
6	

SITE PLAN  
ALGONQUIN CORPORATE CAMPUS LOT #2  
ALGONQUIN, ILLINOIS

Morris Engineering, Inc.  
Civil Engineering • Consulting  
Land Surveying  
515 Warrenville Road, Lake, IL 60532  
Phone: (630) 271-0770  
Survey: (630) 271-0699  
FAX: (630) 271-0774  
Website: www.ecivil.com

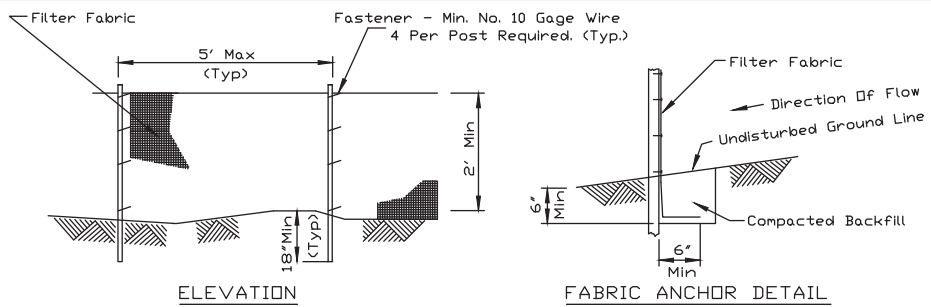


- NOTES:
1. EROSION CONTROL IS TO BE IN PLACE BEFORE ANY WORK BEGINS ON THE SITE.
  2. ROW TO BE RESTORED WITH 4" OF TOPSOIL AND SEED AND BLANKET.
  3. STOCKPILE OF MATERIALS TO REMAIN FOR MORE THAN THREE DAYS SHALL HAVE EROSION CONTROL INSTALLED AROUND THE PERIMETER.

FIELD CREW:	
DRAWN BY:	CJS
CHECKED BY:	EF
APPROVED BY:	SD
DATE:	9-16-2019
SCALE:	HORIZ 1"=30' VERT -
SHEET	<b>2</b>
OF 3 SHEETS	
PROJ # 19-08-2001	

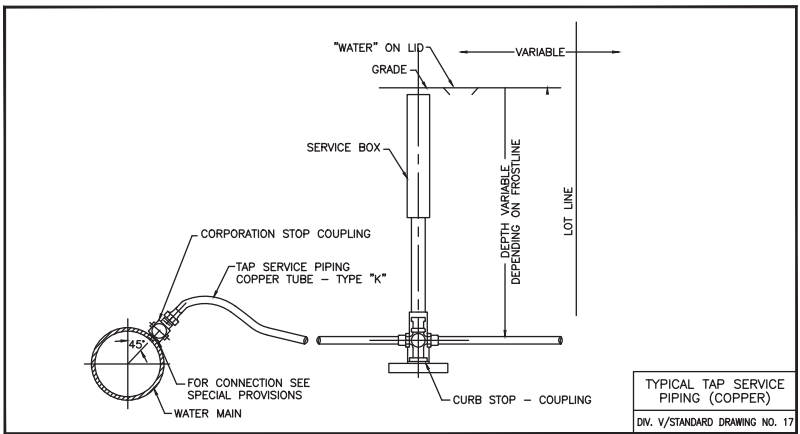
9/13/2019 4:59:10 PM  
C:\Users\jmorris\OneDrive\Documents\19-08-2001-SITE.dwg



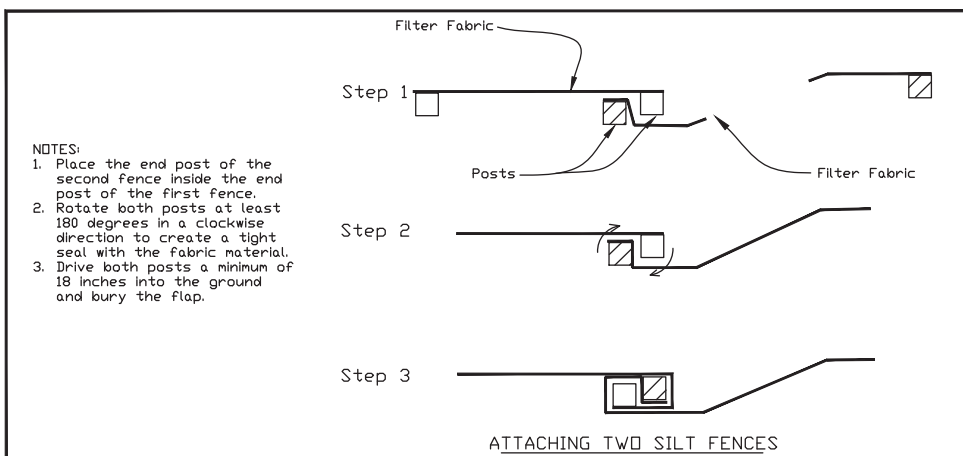


- NOTES:
1. Temporary sediment fence shall be installed prior to any grading work in the area to be protected. They shall be maintained throughout the construction period and removed in conjunction with the final grading and site stabilization.
  2. Filter fabric shall meet the requirements of material specification 592 Geotextile Table 1 or 2, Class I with equivalent opening size of at least 30 for nonwoven and 50 for woven.
  3. Fence posts shall be either standard steel post or wood post with a minimum cross-sectional area of 3.0 sq. in.

REFERENCE	STANDARD DIV. NO.	SILT FENCE PLAN SHEET 1 OF 2
Project _____	IL-620	
Designed _____	SHEET 1 OF 2	
Checked _____	DATE 11-20-01	

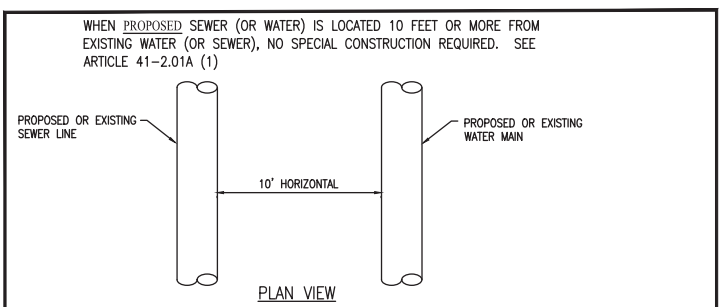


TYPICAL TAP SERVICE PIPING (COPPER)  
DIV. V/STANDARD DRAWING NO. 17

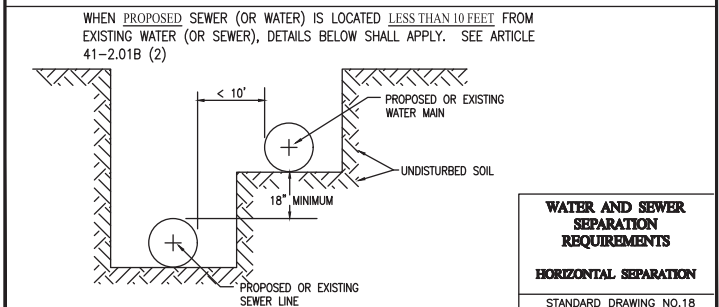


- NOTES:
1. Place the end post of the second fence inside the end post of the first fence.
  2. Rotate both posts at least 180 degrees in a clockwise direction to create a tight seal with the fabric material.
  3. Drive both posts a minimum of 18 inches into the ground and bury the flap.

REFERENCE	STANDARD DIV. NO.	SILT FENCE PLAN SHEET 2 OF 2
Project _____	IL-620(W)	
Designed _____	SHEET 2 OF 2	
Checked _____	DATE 1-29-99	

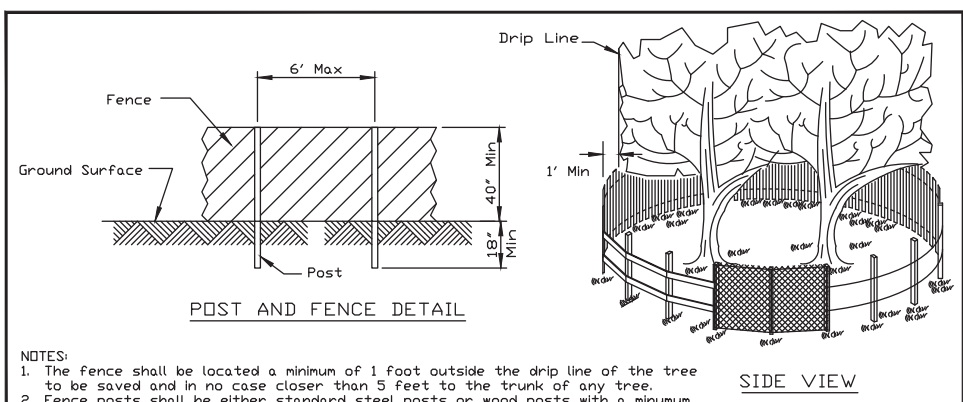


WHEN PROPOSED SEWER (OR WATER) IS LOCATED 10 FEET OR MORE FROM EXISTING WATER (OR SEWER), NO SPECIAL CONSTRUCTION REQUIRED. SEE ARTICLE 41-2.01A (1)



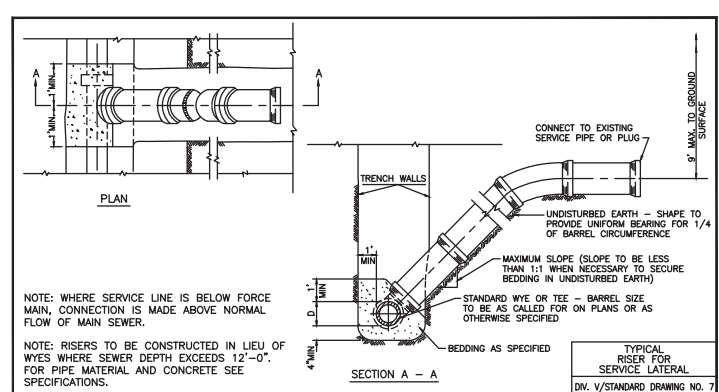
WHEN PROPOSED SEWER (OR WATER) IS LOCATED LESS THAN 10 FEET FROM EXISTING WATER (OR SEWER), DETAILS BELOW SHALL APPLY. SEE ARTICLE 41-2.01B (2)

WATER AND SEWER SEPARATION REQUIREMENTS  
HORIZONTAL SEPARATION  
STANDARD DRAWING NO. 18



- NOTES:
1. The fence shall be located a minimum of 1 foot outside the drip line of the tree to be saved and in no case closer than 3 feet to the trunk of any tree.
  2. Fence posts shall be either standard steel posts or wood posts with a minimum cross sectional area of 3.0 sq. in.
  3. The fence may be either 40" high snow fence, 40" plastic web fencing or any other material as approved by the engineer/inspector.

REFERENCE	STANDARD DIV. NO.	TREE PROTECTION FENCING
Project _____	IL-690	
Designed _____	SHEET 1 OF 1	
Checked _____	DATE 4-7-94	



NOTE: WHERE SERVICE LINE IS BELOW FORCE MAIN, CONNECTION IS MADE ABOVE NORMAL FLOW OF MAIN SEWER.

NOTE: RISERS TO BE CONSTRUCTED IN LIEU OF WYES WHERE SEWER DEPTH EXCEEDS 12'-0". FOR PIPE MATERIAL AND CONCRETE SEE SPECIFICATIONS.

TYPICAL RISER FOR SERVICE LATERAL  
DIV. V/STANDARD DRAWING NO. 7

9/13/2019 4:59:10 PM C:\Users\p262611\Corporate Blvd - Algonquin\Engineering\REL\0119-08-2001-SITE.dwg

DATE	1	2	3	4	5	6

DETAIL SHEET

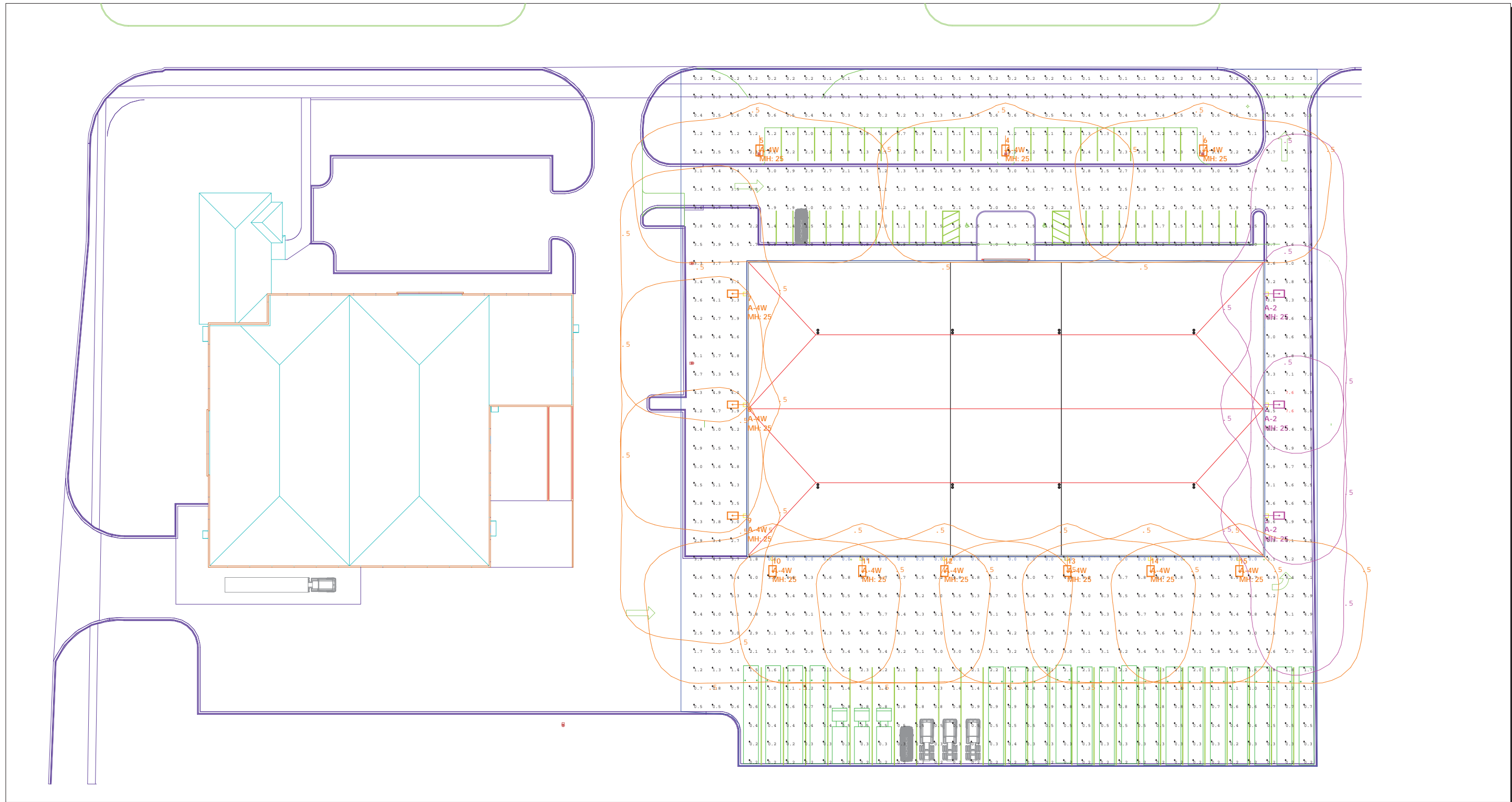
**ALGONQUIN CORPORATE CAMPUS LOT #2**  
ALGONQUIN, ILLINOIS

Morris Engineering, Inc.  
Civil Engineering • Consulting  
Land Surveying  
515 Warrenville Road, Lake, IL 60532  
Phone: (630) 271-0770  
Survey: (630) 271-0699  
FAX: (630) 271-0774  
Website: www.ecivil.com



FIELD CREW: \_\_\_\_\_  
DRAWN BY: CJS  
CHECKED BY: EF  
APPROVED BY: SD  
DATE: 9-16-2019  
SCALE: HORIZ scale  
VERT scale

SHEET  
**3**  
OF 3 SHEETS  
PROJ # 19-08-2001



Scale: 1 inch= 25 Ft.

Symbol	Qty	Label	Arrangement	Lum. Watts	Arr. Watts	Lum. Lumens	Arr. Lum. Lumens	LLF	Description	Manufacturer
	3	A-2	SINGLE	153.6	153.6	21688	21688	0.900	RAR2-320L-165-4K7-2	HUBBELL OUTDOOR
	12	A-4W	SINGLE	153.6	153.6	21488	21488	0.900	RAR2-320L-165-4K7-4W	HUBBELL OUTDOOR

Label	CalcType	Units	Avg	Max	Min	Avg/Min	Max/Min	Readings Taken @
N PKG LOT & BLDG PERIMETER_Planar	Illuminance	Fc	2.32	7.6	0.0	N.A.	N.A.	GRADE LEVEL

Parking Lot Design Guide	Basic (for typical conditions) lux/ftc	Basic Enhanced Security (in consideration of personal security or vandalism) lux/ftc	Security (security lighting for public spaces) lux/ftc	High Security (security lighting for public spaces) lux/ftc
Minimum Horizontal Illuminance (Measured on parking surface without any shadowing from any object)	2.0/0.2	5.0/0.5	10.0/1.0	30.0-60.0/3.0-6.0
Uniformity Ratio Maximum- to - Minimum	20:1	15:1	15:1	*4:1 *Avg-Min
Minimum Vertical Illuminance (for facial recognition measured at 5' above the parking surface at the point of lowest horizontal illuminance)	1.0/0.1	2.5/0.25	5.0-8.0/0.5-0.8	12-60/1.2-6.0

Recommendations based on RP-33-99, RP-20-98, 9th Edition IESNA Lighting Handbook

LumNo	Label	X	Y	Z	Orient	Tilt
1	A-2	444	86	25	0	0
2	A-2	444	26	25	0	0
3	A-2	444	-34	25	0	0
4	A-4W	304	171.5	25	270	0
5	A-4W	171	171.5	25	270	0
6	A-4W	411	171.5	25	270	0
7	A-4W	164.5	86	25	180	0
8	A-4W	164.5	26	25	180	0
9	A-4W	164.5	-34	25	180	0
10	A-4W	178	-56	25	270	0
11	A-4W	226.5	-56	25	270	0
12	A-4W	271	-56	25	270	0
13	A-4W	337.5	-56	25	270	0
14	A-4W	382.5	-56	25	270	0
15	A-4W	430.5	-56	25	270	0



#	Date	Comments

Drawn By: Jose Saucedo  
 Drawn By: jose.saucedo@pg-enlighten.com  
 Date: 9/17/2019  
 Scale: 1" = 25'

Project Name:  
**Algonquin Corporate Campus Lot #2**  
 Client Name:  
 Tim P. Larkin - DDCA Architects



**VILLAGE OF ALGONQUIN**  
*COMMUNITY DEVELOPMENT DEPARTMENT*

**– M E M O R A N D U M –**

DATE: October 11, 2019

TO: Committee of the Whole

FROM: Russell Farnum, AICP, Community Development Director

SUBJECT: *Consideration of Development Agreement with Advantage Moving*

---

As part of the proposed Advantage Moving expansion, they have requested a waiver of the building permit and impact fees related to their new construction project. This is a standard incentive the Village has offered to induce new construction in the Corporate Campus.

The Village's standard includes creation of jobs that pay at least \$40,000 per year. In this case, Advantage Moving has committed to creating at least 15 jobs that pay a minimum of \$65,000 per year, and maintaining those jobs for a minimum of two years.

The attached draft Agreement consolidates this request, provides for an annual verification of employment, and provides for payback of the permit and impact fees should the business fail to maintain that level of employment.

The estimated impact to the Village is approximately \$30,000 in permit fees that would pay for the staff time and expertise for reviewing the plans and inspecting the building during construction. Advantage Moving has been an Algonquin business for over 20 years and has a great reputation in the industry, and the fees that are being waived would not be collected if the property remained vacant anyway. This approach allows the Village to support this long term business with minimal actual financial cost to the Village.

Committee concurrence to forward this to the Board for approval is recommended.

**DEVELOPMENT AGREEMENT BETWEEN  
THE VILLAGE OF ALGONQUIN AND  
ADVANTAGE MOVING AND STORAGE, INC**

**THIS AGREEMENT** is entered into this \_\_\_ day of \_\_\_, 2019 (the “Effective Date”) by and between the Village of Algonquin, a municipality organized and existing under the laws of the State of Illinois with a principal address of 2200 Harnish Drive, Algonquin, IL 60102 (hereinafter referred to as the “Village”), and ADVANTAGE MOVING AND STORAGE, INC (hereinafter referred to as “ADVANTAGE MOVING ”), a Illinois company, incorporated in the State of Illinois, with corporate offices at 2641 Corporate Parkway, Algonquin, IL. The foregoing entities individually may be referred to as a “party” or collectively as the “parties.”

**WITNESSETH:**

**WHEREAS**, the Village, in adopting this Agreement, is exercising the powers provided by the Illinois statutes, specifically, 65 ILCS 5/8-1-2.5, and it is determined that the proposed development contemplated in this Agreement is desirable for the promotion of economic development and will enhance the tax base of the Village; and

**WHEREAS**, pursuant to the statute, it is the policy of the Village to stimulate economic growth in the Village, by either attracting new business to the Village or by encouraging the expansion of existing businesses within the Village; and

**WHEREAS**, the creation of new employment opportunities for residents of the Village and the increased tax revenues resulting from such business expansion or relocation within the Village is beneficial to the local economy; and

**WHEREAS**, the Village Council has determined that offering economic development incentives encourages existing businesses to expand and encourages new business to enter the Village, and thereby creates new employment opportunities for the residents of the Village; and

**WHEREAS**, ADVANTAGE MOVING anticipates creating 15 new jobs in the Village with an average salary of each job exceeding \$40,000 excluding benefits; and

**WHEREAS**, ADVANTAGE MOVING is acquiring the vacant property described in Exhibit “A” attached hereto located in the Algonquin Corporate Campus and incorporated herein by reference (hereinafter the “Property”) upon which it will construct an 40,600 square foot warehouse facility (hereinafter the “Project”), resulting in a capital investment of over \$3 million; and

**WHEREAS**, the Village proposes to provide ADVANTAGE MOVING economic development incentives for their expanding development in the Algonquin Corporate Campus as outlined in this agreement; and

**WHEREAS**, the Village finds and declares it is in the public’s best interest to award

economic development incentives to ADVANTAGE MOVING pursuant to this Agreement.

**NOW, THEREFORE**, in consideration of the premises and mutual covenants hereinafter contained, the parties do agree as follows:

1. Recitals: The above recitals are true and correct and form a material part of this Agreement.

2. Incorporation of Premises: The premises of this Agreement are incorporated herein as if fully set out below. All exhibits to this agreement as hereby deemed a part hereof.

3. Term of the Agreement: The term of this Agreement shall commence on the Effective Date and shall remain in effect until December 31, 2022, or until all of the obligations of the parties provided for in this Agreement have been satisfied, whichever occurs first.

4. Obligations of ADVANTAGE MOVING:

a. ADVANTAGE MOVING shall construct a minimum of 40,000 square feet warehouse and storage facility on the Property;

b. ADVANTAGE MOVING shall pay all fees and charges related to the Project, except those waived herein, and shall comply with all applicable statutes, ordinances, regulations, or the like of the State of Illinois, Village of Algonquin, or other governmental entity with jurisdiction.

c. ADVANTAGE MOVING shall create 15 new jobs within the Village of Algonquin, paying a minimum average annual wage of \$40,000, not including benefits, by no later than December 31, 2020.

d. ADVANTAGE MOVING will maintain at least 90% of the jobs created in the two years subsequent to December 31, 2020.

e. ADVANTAGE MOVING shall provide a written annual verification by no later than May 1st of each year, verifying compliance of the job creation requirements outline in this Agreement. This verification shall be required for each year during the term of this Agreement.

5. Village's Obligations:

a. The Village will waive all Project-related fees (building permit fees, sign permit fees, site development permit fees, impact and tap-on fees, etc.), but not including any charges for third-party reviews or inspections, or any fees that reflect an actual cost to the Village (such as the Water Meter Fee). The fee waiver is based on performance and will be awarded if the annual wage of each proposed job meets or exceeds \$40,000, excluding benefits, and if 90% of the jobs created are maintained for two years subsequent to December 31, 2020.

b. The Village's obligations to provide these economic incentives are expressly contingent upon ADVANTAGE MOVING's submittal of annual verification by May 1<sup>st</sup> and compliance with the job creation requirements during the term of this Agreement:

c. ADVANTAGE MOVING meets its obligations set forth in paragraph 4, above.

6. Event of Default:

a. Each of the following shall constitute an event of default (“Event of Default”) on the part of ADVANTAGE MOVING:

- i. The failure of ADVANTAGE MOVING to comply with each of the terms, covenants, conditions, obligations or provisions of this Agreement;
  - ii. If ADVANTAGE MOVING makes a material misrepresentation in any certification or communication submitted to the Village in an effort to induce the award, payment or the administration thereof that is determined to be false, misleading, or incorrect in any material manner.
- b. Remedies:
- i. In the occurrence of an Event of Default, the Village shall be entitled to pursue all rights and remedies available under the law, including requesting payment of all fees previously waived (per paragraph 9, below) and/or termination of this Agreement as provided for in paragraph 7 of this Agreement.
  - ii. The Parties agree that the Village shall have the specific rights and remedies set forth in this Agreement. Such rights and remedies are in addition to and cumulative with any and all other rights or remedies, now or hereafter available to the Village at law or in equity in order to enforce the provisions of this Agreement. The exercise of one or more rights or remedies shall not be deemed a waiver of the right to exercise at the same time or thereafter any other right or remedy nor shall any such delay or omission be construed to be a waiver of or acquiescence to any Event of Default. The exercise of any such right or remedy by the Village shall not release ADVANTAGE MOVING from its obligations or any liability under this Agreement, except as expressly provided for in this Agreement or as necessary to avoid duplicative recovery from or payments by ADVANTAGE MOVING.

7. Termination:

a. Upon the occurrence of an Event of Default and such default remains uncured, the Village may terminate the whole or any part of this Agreement.

b. Before the Village may exercise its right of termination, the Village shall provide written notice to ADVANTAGE MOVING’s breach or default and ADVANTAGE MOVING shall have thirty (30) days thereafter within which to cure the breach or default.

c. Waiver by the Village of breach of any of the provisions of this Agreement shall not be deemed a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

8. Records: ADVANTAGE MOVING shall maintain books, records, and other evidence relating to the Project in accordance with ADVANTAGE MOVING’s standard procedures and practices, which documents the Project and job creation in a manner that fulfills the requirements of this Agreement.

9. Repayment: ADVANTAGE MOVING shall be liable for repayment of any fees waived under the terms of this Agreement, which may be deemed by the Village to have been waived due to default by ADVANTAGE MOVING.

10. Indemnification: ADVANTAGE MOVING shall indemnify and hold harmless the



Village, its agents, employees, and elected and appointed officials, from and against all claims, damages, losses, and expenses (including all attorney's costs and fees, and all attorney's costs and fees on appeal) arising out of or resulting from ADVANTAGE MOVING's performance or activities as provided herein.

11. Assignment: ADVANTAGE MOVING shall not assign or otherwise transfer its rights, duties or obligations under this Agreement, in whole or in part, without the prior written consent of the Village.

12. Force Majeure: The parties shall use reasonable diligence to ultimately fulfill the intent of this agreement but shall not be liable to each other, or their successors or assigns, for damages, costs, attorney's fees (including costs or attorney's fees on appeal) for breach of contract, or otherwise for failure, suspension, diminution, or other variations of services occasioned by any cause beyond the control and without the fault of the parties. Such causes may include but shall not be limited to, Acts of God, or of the public enemy, acts of other government (including regulatory entities or court) in its sovereign or prior contractual capacity, fires, floods, epidemics, quarantines, restrictions, strikes, or failure or breakdown of transmission or other facilities.

13. Amendments: This Agreement may be amended only by written instrument upon mutual consent of both parties.

14. Land Development Regulations: Notwithstanding anything contained in this Agreement to the contrary, the Village does not, by this Agreement, abrogate any right it may have to grant or deny any particular land development regulatory approval, zoning classification or any applicable permit or approval.

15. Controlling Laws:

a This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Illinois, and all duly adopted ordinances, regulations and policies of the Village now in effect and those hereinafter adopted.

b The location for settlement of any and all claims, controversies, or disputes, arising out of or relating to any part of this Agreement, or any breach hereof, shall be Kane County, Illinois. In the event of a dispute, the parties agree to make reasonable attempts to amicably resolve any issues pertaining to this Agreement prior to commencing litigation in court.

16. Miscellaneous:

a ADVANTAGE MOVING warrants that it has not employed or retained any company or person, other than a bona fide employee or consultant working for them, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual for firm, other than a bona fide employee working solely for them, any fee, commission, percentage, gift, or any other consideration that is contingent upon or resulting from the award or making of this Agreement.

b This Agreement constitutes the entire agreement between the parties with respect to the specific matters contained herein and supersedes all previous discussions, understandings, and agreements. Amendment to or waivers of the provisions herein shall be made by the parties in

writing.

c. If any sentence, phrase, paragraph, provision or portion of this Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed an independent provision and such holding shall not affect the validity of the remaining portion hereto.

17. Notices: Any notices required or allowed herein under shall be in writing and given by certified mail, return receipt requested, or in person with proof of delivery in the addresses below or such other addresses either party shall have specified by written letters to the other party delivered in accordance herewith:

VILLAGE: Tim Schloneger  
Village Manager  
Village of Algonquin  
2200 Harnish Drive  
Algonquin, IL 60102

WITH A COPY TO: Village Attorney  
Zukowski, Rogers, Flood and McArdle  
50 N Virginia St  
Crystal Lake, IL 60014

ADVANTAGE MOVING: ADVANTAGE MOVING AND STORAGE, INC  
2641 Corporate Parkway  
Algonquin, IL 60102

IN WITNESS WHEREOF, the parties hereto have executed this Economic Development Incentive Agreement as of the date first written above.

**ADVANTAGE MOVING AND STORAGE, INC.**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

WITNESSES:

(1) \_\_\_\_\_

Print Name: \_\_\_\_\_

(2) \_\_\_\_\_

Print Name: \_\_\_\_\_

**VILLAGE OF ALGONQUIN**

\_\_\_\_\_  
John Schmitt, Village President

Attest:

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

DRAFT

**EXHIBIT "A"**

Lot 2 of the Final Plat of Algonquin Corporate Campus Unit 1, being a subdivision of part of the east half of Section 6, Township 42 North, Range 8, East of the Third Principal Meridian, in Kane County, Illinois, and recorded in the Kane County Recorder's Office on October 7, 2003, as Document Number 2003K185106

DRAFT



**VILLAGE OF ALGONQUIN**  
*GENERAL SERVICES ADMINISTRATION*

**- M E M O R A N D U M -**

DATE: October 9, 2019

TO: Tim Schloneger, Village Manager

FROM: Michael Kumbera, Assistant Village Manager

SUBJECT: *Abatement of 2019 Pledged Taxes: Bond Series 2013*

---

The Village ordinance that was approved in relation to Bond Series 2013 (Wastewater Treatment Facility expansion) require that Kane and McHenry County Clerks to annually levy taxes to provide funds for payment of the principal and interest. The 2019 tax levy for this bond series is \$834,476.00.

The Village has historically abated property taxes for our General Obligation Bond Series. As a condition to abate the debt service in the tax levy, the Village is required to have funds on deposit sufficient to pay the principal and interest on the bonds when due.

Attached to this memorandum is a statement from the Treasurer certifying that sufficient funds are on deposit to pay the required principal and interest amounts.

**Recommendation:** Staff recommends approval of the tax abatement ordinance for Bond Series 2013. Staff will be available in advance of and at the Committee of the Whole meeting to answer any questions.

C: Susan Skillman, Comptroller

**ORDINANCE NUMBER 2018 -O-**

**ORDINANCE** abating a portion of taxes heretofore levied to pay principal of and interest on certain General Obligation Refunding Bonds, Series 2013, of the Village of Algonquin, McHenry and Kane Counties, Illinois.

\* \* \*

**WHEREAS**, Division 6 of Article VII of the 1970 Constitution of the State of Illinois (the “**Constitution**”) provides that the Village of Algonquin, McHenry and Kane Counties, Illinois (the “**Village**”), is a home rule unit, and, as such, the Village is authorized to issue its full faith and credit obligations without first submitting the question of issuing such obligations to referendum approval; and

**WHEREAS**, pursuant to the provisions of the Constitution, the Village is a home rule unit and may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to tax and to incur debt; and

**WHEREAS**, the President and Board of Trustees (the “**Village Board**”) of the Village of Algonquin, McHenry and Kane Counties, Illinois (the “**Village**”), by an ordinance adopted on the 3rd day of December 2013 (the “**Ordinance**”), did provide for the issue of \$7,645,000 General Obligation Refunding Bonds, Series 2013 (the “**Bonds**”), of the Village and the levy of a direct annual tax sufficient to pay principal and interest on the Bonds; and

**WHEREAS**, on the 18<sup>th</sup> day of December 2013, a duly certified copy of the Ordinance, executed by the Village officials in accordance therewith, for the Bonds, was filed in the offices of the County Clerks of The Counties of McHenry and Kane, Illinois (the “**County Clerks**”); and



**NOW, THEREFORE, Be It Ordained** by the President and Board of Trustees of the Village of Algonquin, McHenry and Kane Counties, Illinois, as follows:

The Taxes heretofore levied in the Ordinance for the Bonds for 2019 shall be abated as follows:

Year	Amount Levied	Amount to be Abated	Remainder of Tax to be Extended
2019	\$833,626.00	\$833,626.00	\$0.00

Forthwith upon the adoption of this ordinance, the Village Clerk shall file a certified copy hereof with each of the County Clerks, and it shall be the duty of the County Clerks for the year 2018, to abate the taxes heretofore levied in and for the year 2019 for the Bonds and as shown hereinabove in Section 1 hereof.

This ordinance shall be in full force and effect forthwith upon its adoption.

Voting Aye:

Voting Nay:

Abstain:

Absent:

\_\_\_\_\_  
John C. Schmitt, Village President

(Seal)

ATTEST: \_\_\_\_\_  
Gerald S. Kautz, Village Clerk

PASSED:

APPROVED:

PUBLISHED:

STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF KANE        )  
COUNTY OF McHENRY    )

**RECEIPT OF VILLAGE TREASURER**

I, the undersigned, do hereby certify that I am the duly qualified and acting Village Treasurer of the Village of Algonquin, McHenry and Kane Counties, Illinois (the “**Village**”), and as such Village Treasurer, I do further certify as follows:

As of the date hereof, the Village has at my direction irrevocably deposited funds to secure required debt service in connection with the abated 2019 tax levy with Illinois Metropolitan Investment Fund to be used exclusively on behalf of the Village for the payment of principal and interest of the General Obligation Refunding Bonds, Series 2013.

The Village has all powers necessary under the applicable statutes, regulations and rulings and the governing body of the Village has taken all action necessary to authorize such action.

**IN WITNESS WHEREOF**, I hereunto affix my signature and the seal of the Village, this 9th day of October, 2019.

**VILLAGE OF ALGONQUIN**  
McHenry and Kane Counties, Illinois

By \_\_\_\_\_  
Village Treasurer

**(VILLAGE SEAL)**



**VILLAGE OF ALGONQUIN**  
*PUBLIC WORKS DEPARTMENT*

**– M E M O R A N D U M –**

DATE: October 11, 2019

TO: Committee of the Whole

FROM: Michele Zimmerman, Assistant Public Works Director

SUBJECT: *Construction Contract Approval – Woods Creek Reach 4 Restoration*

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Please see the attached memo from Applied Ecological Services regarding their analysis of the bids received for the above project. Being the design engineer on the project, they were able to confirm pricing with the contractor and that all aspects of the construction can be performed adequately. The Village has a history working with EnCap on past projects of this nature. They have been the contractor on 3 of our major stream restoration projects.

The engineer's estimate of probable cost, compiled by AES on 8/26/2019, was \$568,297.00. The low bidder price came in at \$414,186.70. Per the recommendation put together by AES, we feel the low bid pricing is commensurate with the design intent. Money for this project was passed as part of the 2019–2020 FY budget in account 06900300 45593, Park Improvement Fund, in the amount of \$250,000.00.

During the time of budget preparation last year, the Village received an opportunity to apply for a grant from the Department of Commerce and Economic Opportunity (DCEO). The criteria for the grant was that the project had to involve drainage improvements to a park property and be shovel ready. In November of 2018, public works was working with Applied Ecological on the design of the project and we had plans that were 80% complete, with the intention of going into construction in 2020. However, with the grant opportunity it was decided to finish the engineering and put a number in the budget and use this project to apply for the grant money. The \$250,000 budgeted number was our best guess during budget preparation last year with an 80% plan set.

In April 2019, we received notification that the Village was awarded \$50,000 from the DCOE. Thus, we bid the project this September as fall and spring are the ideal seasons to perform creek restoration work. The low bid price is \$164,186.70 more than our estimated budget number from last year. In discussion with the Village Manager and Assistant Village Manager, it was verified that the Park Improvement Fund has a fund balance that will support a transfer of the needed amount into the construction line item. In order to take advantage of the grant money, we would like to move forward with this transfer and award the project.

Thus, it is our recommendation that the Committee of the Whole take action to move this matter forward to the Village Board for approval of a construction contract with EnCap Construction Group for Woods Creek Reach 4 Restoration project to in the amount of \$414,186.70.



APPLIED ECOLOGICAL SERVICES

September 26, 2019

Mr. Robert Mitchard  
Village of Algonquin  
Director of Public Works  
110 Meyer Drive  
Algonquin, Illinois 60102

RE: Spella Park/Woods Creek Reach 4 Drainage Improvements & Restoration Project  
Recommendation for Award  
AES Project #18-0573 & 19-0712

Dear Mr. Mitchard,

On September 24, 2019 at 10:00 am, bids were received and opened for the Spella Park/Woods Creek Reach 4 Improvements & Restoration Project. Three bids were received and are summarized below.

<b>Encap, Inc.:</b>	<b>\$414,186.70</b>
<b>V3 Construction Group, LTD:</b>	<b>\$480,000.00</b>
<b>Semper Fi, Inc.:</b>	<b>\$600,861.75</b>

Encap, Inc. is the low bidder with a bid amount of \$414,186.70. The Village has a good working relationship and reputation with Encap, Inc. and Applied Ecological Services, Inc. (AES) believes Encap's bid to be in order. AES recommends accepting Encap's bid for the amount of \$414,186.70. AES's Opinion of Probable Cost (OPC) for this work was \$568,297.00. Attached please find a copy of the bid tabulation for your review and files.

If you have any future questions, please do not hesitate to contact me at (847) 844-9385.

Sincerely,

William W. Stoll  
AES Senior Ecologist/Regional Manager

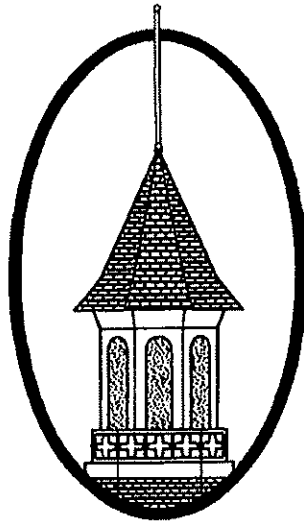
Enclosure: Bid Tabulation

cc. Michele Zimmerman – Village of Algonquin

**SPELLA PARK/WOODS CREEK REACH 4 BID TABULATION**

ITEM	DESCRIPTION	UNIT	AES OPC	Escap	V3	Semper Fi	
<b>1</b>	<b>SITE PREPARATION</b>						
1.1	MOBILIZATION	1	LS	\$20,000.00	\$10,000.00	\$26,310.30	\$37,275.00
1.2	CLEARING, GRUBBING, & TREE REMOVAL	1.00	LS	\$20,000.00	\$12,000.00	\$12,400.00	\$7,000.00
1.3	HERBICIDING (2x)	4.40	AC	\$1,760.00	\$6,600.00	\$4,840.00	\$2,552.00
1.4	DISCING/TILLING (1x)	2.20	AC	\$1,100.00	\$1,760.00	\$1,870.00	\$2,178.00
1.5	REMOVE EXISTING WEIR STRUCTURES	3	EA	\$3,000.00	\$4,500.00	\$5,700.00	\$4,605.00
<b>SITE PREPARATION SUBTOTAL</b>				<b>\$45,860.00</b>	<b>\$34,860.00</b>	<b>\$51,120.30</b>	<b>\$53,610.00</b>
<b>2</b>	<b>EARTHWORK</b>						
2.1	TOPSOIL STRIP/STOCKPILE/RESREAD	1,917	CY	\$28,755.00	\$28,755.00	\$34,697.70	\$43,362.75
2.2	EXCAVATION	3,356	CY	\$100,680.00	\$100,680.00	\$40,272.00	\$168,639.00
2.3	HAUL OFF OF MATERIAL	3,000	CY	\$210,000.00	\$30,000.00	\$63,000.00	\$60,600.00
2.4	FILL	356	CY	\$10,680.00	\$5,340.00	\$6,052.00	\$12,460.00
2.5	J-HOOK (3 EA) 18"-24" STONE	16	CY	\$8,000.00	\$7,520.00	\$15,200.00	\$4,800.00
2.6	STONE TOE PROTECTION, 368 LF, IDOT CLASS A4 RIPRAP	126	CY	\$16,380.00	\$28,350.00	\$25,200.00	\$34,272.00
2.7	AGGREGATE BASE (J-HOOK & TOE PROTECTION) IDOT	29	CY	\$2,175.00	\$3,190.00	\$2,407.00	\$5,800.00
2.8	GEOTEXTILE FABRIC (FOR STONE TOE PROTECTION)	1	LS	\$3,500.00	\$2,500.00	\$460.00	\$2,800.00
2.9	STORM SEWER OUTLET PROTECTION, IDOT CLASS A4 RIP	3	CY	\$390.00	\$405.00	\$390.00	\$750.00
<b>EARTHWORK SUBTOTAL</b>				<b>\$380,560.00</b>	<b>\$206,740.00</b>	<b>\$194,278.70</b>	<b>\$339,483.75</b>
<b>3</b>	<b>EROSION AND SEDIMENT CONTROL</b>						
3.1	TEMPORARY ROCK CONSTRUCTION ENTRANCE	1	EA	\$8,000.00	\$4,000.00	\$4,200.00	\$29,500.00
3.2	STAGING & STOCKPILE AREA WITH CONSTRUCTION FENCE	1	LS	\$1,500.00	\$1,250.00	\$2,300.00	\$17,250.00
3.3	SUMP PIT & DEWATERING	1	LS	\$21,000.00	\$10,000.00	\$25,275.50	\$25,000.00
3.4	TEMPORARY STREAM CROSSING	1	LS	\$4,500.00	\$3,000.00	\$4,200.00	\$11,500.00
3.5	EROSION CONTROL BLANKET - NAG SC150BN	1,854	SY	\$6,489.00	\$6,561.70	\$6,025.50	\$5,005.80
3.6	EROSION CONTROL BLANKET - NAG D375	16,022	SY	\$36,049.50	\$40,055.00	\$40,055.00	\$25,635.20
3.7	STRAW MULCH	3,345	SY	\$5,017.50	\$3,010.50	\$8,362.50	\$5,686.50
3.8	SILT FENCE	2,015	FT	\$10,075.00	\$6,045.00	\$9,067.50	\$9,067.50
3.9	INLET PROTECTION	4	EA	\$800.00	\$1,000.00	\$1,040.00	\$1,100.00
<b>TEMPORARY EROSION AND SEDIMENT CONTROL SUBTOTAL</b>				<b>\$93,431.00</b>	<b>\$74,942.20</b>	<b>\$100,526.00</b>	<b>\$129,745.00</b>
<b>4</b>	<b>ECOLOGICAL RESTORATION &amp; MANAGEMENT</b>						
4.1	DRY MESIC PRAIRIE SEEDING	1.00	AC	\$4,500.00	\$3,750.00	\$5,500.00	\$5,000.00
4.2	WET MESIC PRAIRIE SEEDING	1.08	AC	\$3,456.00	\$2,970.00	\$5,076.00	\$3,564.00
4.3	WET PRAIRIE SEEDING	2.33	AC	\$6,990.00	\$6,174.50	\$10,019.00	\$7,689.00
4.4	WET PRAIRIE/EMERGENT PLANT PLUGS	1,600	EA	\$8,000.00	\$16,000.00	\$12,000.00	\$7,520.00
4.5	TREE PLANTING & TREE TRUNK PROTECTION (2.5 CAL. S/W)	7	EA	\$7,000.00	\$5,250.00	\$5,880.00	\$5,250.00
4.6	TURF GRASS REPAIR AND RESEEDING AS NEEDED	1	LS	\$3,500.00	\$3,500.00	\$6,500.00	\$5,500.00
4.7	MANAGEMENT OF PLANTINGS (ALL ZONES, 3 YEARS)	3	YR	\$15,000.00	\$60,000.00	\$83,100.00	\$43,500.00
<b>ECOLOGICAL RESTORATION &amp; MANAGEMENT SUBTOTAL</b>				<b>\$48,446.00</b>	<b>\$97,644.50</b>	<b>\$134,075.00</b>	<b>\$78,023.00</b>
<b>TOTAL</b>				<b>\$568,297.00</b>	<b>\$414,186.70</b>	<b>\$480,000.00</b>	<b>\$600,861.75</b>

**Village of Algonquin**



**Request For Sealed Bids**

**Spella Park/Woods Creek Drainage Improvements and Restoration**

## **Section I - Instructions to Vendors**

### **1. Scope**

Sealed bids for Spella Park/Woods Creek Drainage Improvements & Restoration will be received by the Village of Algonquin until 10:00 a.m. on September 24, 2019.

### **2. Submission of Proposal**

Each vendor shall submit a sealed bid utilizing the "Proposal and Acceptance" form enclosed with these documents. Number shall be stated in written words and in figures. Signatures must be longhand and executed by the principal duly authorized to make contracts. The legal name of the vendor must be fully stated. Enclose the bid proposal in an opaque, sealed envelope bearing the legend "BID FOR SPELLA PARK/WOODS CREEK DRAINAGE IMPROVEMENTS & RESTORATION" Oral, telegraphic and/or telephone proposals or modifications will **not** be considered. All blank spaces must be filled in with either a dollar amount or \$0.

Address proposals to:

**Village of Algonquin  
Attn: Deputy Village Clerk  
2200 Harnish Drive  
Algonquin, IL 60102**

Proposals shall be received not later than 10:00 a.m. on September 24, 2019. Proposals will be publicly opened and read at the above time at the Ganek Municipal Center 2200 Harnish Dr., Algonquin, IL 60102. Each proposal must be accompanied by a bid bond or a proposal guarantee check complying with the specifications made payable to the Village of Algonquin. The amount of the check is required to be 5% of the bid amount or 5% bid bond.

### **3. Examination of Contract Documents and Existing Conditions**

Before submitting a Proposal, the vendor should carefully examine all of the Contract Documents, including the specifications. By the submission of a bid, the vendor will be understood to have read and fully informed himself as to the contents of all of the documents.

Should a vendor find any discrepancies, omission, ambiguities or conflicts among the Contract Documents, or be in doubt about their meaning, he shall bring such questions to the attention of the Village Clerk's Office not later than five (5) business days prior to the date of the receipt of bids. The Village Clerk's Office will review the questions and, where information sought is not already indicated or specified will issue a clarifying "Notice to Vendors," which will become a part of the Contract Documents. The Village will not make or be responsible for any oral instructions and clarifications, and no such oral instructions or clarification shall be binding upon the Village.

### **4. Rejection of Bids**

The Village reserves the right to reject any and all bids if it finds it necessary to do so and to waive any informalities or irregularities in the bids. The Village further reserves the right to accept the bids deemed to be in the best interest of the Village. The vendor acknowledges the right of the Village to reject any or all bids and waive informality or irregularity in any bid received.

## **5. Copies of Bid Documents**

Electronic copies of SPELLA PARK/WOODS CREEK DRAINAGE IMPROVEMENTS & RESTORATION. Bid Specifications, and Contract Documents may be obtained for free online at [www.algonquin.org/bids](http://www.algonquin.org/bids). A compact disc of the information may also be obtained at the Village of Algonquin, Office of the Village Clerk, Ganek Municipal Center, 2200 Harnish Drive, Algonquin, Illinois 60102 upon receipt of a \$10.00 non-refundable deposit. If mailing is requested, an additional \$5.00 deposit will be required.

## **6. Award of Contract**

A Contract may be awarded to the lowest responsible bidder. The Village reserves the right to review all bids submitted for a period of one hundred twenty (120) days after the date of submission. By submitting a bid, the vendor agrees that the amount specified in his/her bid shall remain in full force and effect for such one hundred twenty (120)-day period. No vendor shall modify, withdraw or cancel his/her bid or any part thereof for one hundred twenty (120) days after the date of submission, and no attempted modification, withdrawal or cancellation shall be valid.

## **7. Sales Tax Exemption**

Bids on all items shall be submitted exclusive of the Illinois Retailer's Occupation Tax. The Village of Algonquin is exempt from the payment of the Illinois Retailer's Occupation Tax.

## **8. Identify the Item**

Identify the item you will furnish by brand or manufacturer's name and catalog number(s).

## **9. Price Variances**

Bids on individual items must include unit prices as well as total prices. Where a variance exists on the bid form between the unit price and the extension, or whenever other discrepancies are noted between prices on the bid form and bid prices elsewhere in the bid package, at the sole option of the Village, unit prices bid on the bid form shall prevail.

## **10. Receipt of Bids**

All bids must be received in the Village Clerk's Office prior to the bid opening in order to be honored by the Village. All Bids will be opened at 10:00 a.m., or as soon thereafter as is practical, on the opening date specified. No bids will be accepted after the public opening begins. There will be no exceptions.

## **11. Guarantee**

A written copy of your guarantee must be submitted with the proposal and must be acceptable to the Village.

## **12. Variations Failure to Comply with Instructions and Specification**

Failure to comply with any of the instructions or general conditions of this contract may, at the discretion of the Village, disqualify the vendor. The Village may allow variations on the technical specifications attached hereto; however, all variations must be listed on the bid form. The Village has drafted technical specifications for goods and services which meet the technical needs and performance standards determined. Vendors may occasionally, however, offer goods or services which do not meet all technical specifications, but which may still perform as intended by the Village. In all such cases, it is incumbent upon the vendor to prove that his/her goods or services are of equal or better quality; and decisions by the Village with regard to allowing variations on the technical specifications will be final.





## **Section II General Conditions of Contract**

### **1. Contract Document**

The Contract Documents consist of:

- I. Instructions to Vendors
- II. General Conditions of Quote and Contract
- III. Technical Specifications
- IV. Proposal and Acceptance including any addenda issued prior to receipt of bids.

Whenever the term "addenda" appears in any of the Contract Documents, it shall be understood to refer to any written or graphic instruments issued prior to the execution of the Contract which modify or interpret the bid document, including drawings and specifications, by additions, deletions, clarifications or corrections. Addenda will become part of the Contract Documents when the Contract is executed.

Changes or corrections may be made in the Contract Documents after they have been issued and before bids are received. In such cases, a written addendum describing the change or corrections will be issued by the Village to all vendors of record. Such addendum or addenda shall take precedence over the portion of the documents concerned, and shall become part of the Contract Documents.

### **2. Compliance with Law**

All goods or equipment shall comply with all applicable Federal, State and local laws relative thereto, including all safety-related items as required by the Federal Occupational Safety and Health Act (OSHA). The vendor shall defend actions/claims brought and hold harmless the Village from loss, cost or damage, including but not limited to attorney's fees and other costs of defense by reason of actual or alleged violations of Federal, State or local law in the design or manufacturing of equipment and/or materials, and of any product liability claim.

### **3 Assignments**

The contractor shall not assign the whole or any part of this contract without the written consent of the Village.

### **4. Service Requirements**

The time of work starting dates should be listed on the proposal form, as these days may be taken into consideration in making the award.

### **5. Prevailing Wages**

This contract calls for the construction of a "public work," within the meaning of the Illinois Prevailing Wage Act, *820 ILCS 130/01 et seq.* ("the Act"). The Act requires contractors and subcontractors to pay laborers, workers and mechanics performing services on public works projects no less than current "prevailing rate of wages" (hourly cash wages plus amount for fringe benefits) in the county where the work is performed. The Department publishes the prevailing wage rates on

its website <http://www.state.il.us/agency/idoi/rates/rates.HTM> The Department revises the prevailing wage rates and the contractor/subcontractor has an obligation to check the Department's website for revisions to prevailing wage rates. For information regarding current prevailing wage rates, please refer to the Illinois Department of Labor's website. All contractors and subcontractors rendering services under this contract must comply with all requirements of the Act, including but not limited to, all wage requirements and notice and record keeping duties." Each bidder shall adopt a written sexual harassment policy in compliance with ILCS 5/2-105 (1992). Bidder agrees to comply with Substance Abuse Prevention on Public Works Projects Act, 820 ILCS 265/1 et seq. (2008). As required by the Act, the Bidder agrees to file with the Village, prior to commencing work, its written substance abuse prevention program. It is the responsibility of the vendor/contractor/subcontractor to comply with all applicable provisions of FOIA. The regulations of the State of Illinois Freedom of Information Act (FOIA) 5 ILCS 140, apply to all records of the vendor/contractor pertaining to this authorization or contract. When requested by the Village of Algonquin, the vendor/contractor is required to provide all records requested within no more than three (3) business days, at no cost to the Village of Algonquin.

## **6. Default and Termination**

If the Contractor fails to deliver the service within the time specified in the agreement between the Contractor and the Village for a period of more the fourteen (14) days for any reason, excluding acts of God, strikes or work stoppages, and acts of common enemy, the Village shall have the right to terminate this contract forthwith and to secure the furnishing of said equipment by contract or otherwise, charging against the Seller any excess cost incurred by the Village therefore, and to pursue any and all other remedies that the Village may have by virtue of any of the provisions of this contract and any and all other remedies provided by law.

## **7. Royalties and Patents**

The Seller shall pay all royalties and license fees. He shall defend all suits or claims for infringement of any copyright or patent rights, and shall hold and save the Village and its officers, agents, servants and employees blameless from any and all loss and/or liability of any nature or kind whatsoever, including cost and expenses of defense and attorney fees for or on account of any copyrighted, patented, or unpatented invention, process, article or appliance manufactured or used in the performance of the contract, including its use by the Seller, unless otherwise specifically stipulated in the Contract Documents.

## **8. Non-Collusion in Preparing Bids**

The vendor, by offering his/her signature to this proposal, agrees to the following:

**"Vendor certifies that this bid is made without any previous understanding, agreement or connection with any person or firm or corporation making a bid for the same item and is in all respect fail, with outside control, collusion, fraud or other illegal action."**

## **9. Interest of Public Officials or Employees**

No officer or employee of the Village, or the governing body of the Village, who exercises any responsibilities with respect to the purchase to be made shall, during his/her tenure in office, have any interest, direct or indirect, in any contract or purchase order issued as a result of this of this process.

## **10. Investigation Prior to Award**

The Village may make such investigations as are deemed necessary to determine the ability of the vendor to perform the work, and the vendor shall furnish all such information and data for this purpose as the Village may request. The Village reserves the right to reject any bid if the evidence submitted by, or investigation

of, such vendor fails to satisfy the Village that such vendor is properly qualified to carry out the obligations of the Contract and to complete the work contemplated therein.

### **11. Modification or Withdrawal of Bids**

Bids may be modified or withdrawn by written or telegraphic notice received prior to the exact hour and date specified with receipt of bids provided the Village is satisfied that a written confirmation of the telegraphic modification over the signature of the vendor was mailed prior to closing time. The telegraphic communication should not reveal the bid price, but should provide the addition or subtraction or other modifications so that the final price or terms will not be known by the Village until the sealed bid is opened. A bid may also be withdrawn in person by a vendor or his/her authorized representative, provided his identity is made known and he/she signs a receipt for the invitation, but only if the withdrawal is made prior to the exact hour and date set for receipt of bids. Telephone requests to withdraw a bid will not be considered.

### **12. Indemnity**

The vendor shall indemnify, keep and save harmless the Village, its agents, officials, and employees, against all injuries, deaths, loss, damage, claims, patent claims, suits, liabilities, judgment, costs and expenses, which may in any way accrue against the Village in consequence of the granting of this contract or which may in any way result therefrom, whether or not it shall be alleged or determined that the act was caused through negligence or omission of the vendor or his/her employees, and the vendor shall, at his own expense, appear, defend and pay charges of attorney and legal costs and other expenses arising therefrom or incurred in connection therewith, and if any judgment shall be rendered against the Village in any such action, the vendor shall, at his own expense, satisfy and discharge same. The vendor expressly understands and agrees that any performance bond or insurance protection required by the contract, or otherwise provided by the vendor, shall in no way limit the responsibility to indemnify, keep and save blameless and defend the Village as herein provided.

### **13. Form of Agreement**

The vendor agrees that upon the award of a Contract by the Village, he/she will, if so requested by the Village, forthwith execute an agreement, the terms of which shall be substantially as set out in these documents.

### **14. Compliance with Toxic Substances Disclosure to Employees Act**

Vendors are responsible for insuring that any materials purchased by the Village as a result of this process, or subsequent to the award of a purchase order, which are covered by the Toxic Substances Disclosure to Employees Act, will be labeled to meet all requirements of that Act. In addition, vendors will be responsible for providing material Safety Data Sheets (MSDS) to the Village, either at the time the materials are delivered or in conjunction with the invoice for those materials. Vendors agree to cooperate with the Village and to provide any and all necessary information that may be required by the Act or State agencies engaged in the administration and/or enforcement of the Toxic Substances Disclosure to Employees Act.

## Technical Specifications

### **Bid for Spella Park/Woods Creek Drainage Improvements & Restoration**

All technical specification for this project are included in the final engineering plans titled "Spella Park/Woods Creek Drainage Improvements & Restoration"

## PRE-QUALIFICATION

**THE CONTRACTOR THAT PERFORMS ALL PAY ITEMS ON THIS CONTRACT MUST MEET THE SPECIFICATIONS BELOW:**

The general contractor performing ALL work in this contract must have a degreed ecologist, who has knowledge in streambank restoration and restoration ecology, on staff who has been employed by said company for at least 2 years. A resume for the ecologist will be **required** to be submitted as part of this bid. This person must be on site daily during construction to supervise the technical nature of the project and make sure specs are met and that the restoration is completed successfully. If such documentation is not provided, or is inadequate, the owner shall have the right to reject the bid.

Qualification for the general contractor will be **required** to be submitted as part of this bid. These include a company portfolio, as well as evidence and documentation that the company has a minimum of ten years experience in similar work restoring natural communities and streambank restoration. The contractor must also show that they have successfully completed at least 10 projects, with at least one project per year for the past 10 years.

Past projects shall be listed as the owner will verify that the projects have been completed, are viable and still functioning per the original specifications with no significant infrastructure and native plant failures. If inadequate work product is found in past projects, the owner shall have the right to reject the bid.

The general contractor will ensure that they have a degreed ecologist on staff that has been employed by said contractor for at least 2 years and will be available for the duration of the project and the post construction maintenance and monitoring period.

## Schedule of Prices

ITEM	DESCRIPTION	QUANTITY		Unit Cost	Extended Cost
		TOTAL	UNIT		
<b>1</b>	<b>SITE PREPARATION</b>				
1.1	MOBILIZATION	1	LS	10,000	10,000.00
1.2	CLEARING, GRUBBING, & TREE REMOVAL	1.00	LS	12,000	12,000.00
1.3	HERBICIDING (2x)	4.40	AC	1,500	6,600.00
1.4	DISCING/TILLING (1x)	2.20	AC	800	1,760.00
1.5	REMOVE EXISTING WEIR STRUCTURES	3	EA	1,500	4,500.00
<b>SITE PREPARATION SUBTOTAL</b>					<b>34,860.00</b>
<b>2</b>	<b>EARTHWORK</b>				
2.1	TOPSOIL STRIP/STOCKPILE/RESPREAD	1,917	CY	15.00	28,755.00
2.2	EXCAVATION	3,356	CY	30.00	100,680.00
2.3	HAUL OFF OF MATERIAL	3,000	CY	10.00	30,000.00
2.4	FILL	356	CY	15.00	5,340.00
2.5	J-HOOK (3 EA) 18"-24" STONE	16	CY	470.00	7,520.00
2.6	STONE TOE PROTECTION, 368 LF, IDOT CLASS A4 RIPRAP	126	CY	225.00	28,350.00
2.7	AGGREGATE BASE (FOR J-HOOK AND STONE TOE PROTECTION) IDOT CLASS A1 RIPRAP	29	CY	110.00	3,190.00
2.8	GEOTEXTILE FABRIC (FOR STONE TOE PROTECTION)	1	LS	2,500.00	2,500.00
2.9	STORM SEWER OUTLET PROTECTION, IDOT CLASS A4 RIPRAP	3	CY	135.00	405.00
<b>EARTHWORK SUBTOTAL</b>					<b>206,740.00</b>
<b>3</b>	<b>EROSION AND SEDIMENT CONTROL</b>				
3.1	TEMPORARY ROCK CONSTRUCTION ENTRANCE	1	EA	4,000.00	4,000.00
3.2	STAGING & STOCKPILE AREA WITH CONSTRUCTION FENCE	1	LS	1,250.00	1,250.00
3.3	SUMP PIT & DEWATERING	1	LS	10,000.00	10,000.00
3.4	TEMPORARY STREAM CROSSING	1	LS	3,000.00	3,000.00
3.5	EROSION CONTROL BLANKET - NAG SC150BN	1,854	SY	3.55	6,581.70
3.6	EROSION CONTROL BLANKET - NAG DS75	16,022	SY	2.50	40,055.00
3.7	STRAW MULCH	3,345	SY	0.90	3,010.50
3.8	SILT FENCE	2,015	FT	3.00	6,045.00
3.9	INLET PROTECTION	4	EA	250.00	1,000.00
<b>TEMPORARY EROSION AND SEDIMENT CONTROL SUBTOTAL</b>					<b>74,942.20</b>
<b>4</b>	<b>ECOLOGICAL RESTORATION &amp; MANAGEMENT</b>				
4.1	DRY MESIC PRAIRIE SEEDING	1.00	AC	3,750.00	3,750.00
4.2	WET MESIC PRAIRIE SEEDING	1.08	AC	2,750.00	2,970.00
4.3	WET PRAIRIE SEEDING	2.33	AC	2,650.00	6,174.50
4.4	WET PRAIRIE/EMERGENT PLANT PLUGS	1,600	EA	10.00	16,000.00
4.5	TREE PLANTING & TREE TRUNK PROTECTION (2.5 CAL. SWO)	7	EA	750.00	5,250.00
4.6	TURF GRASS REPAIR AND RESEEDING AS NEEDED	1	LS	3,500.00	3,500.00
4.7	MANAGEMENT OF PLANTINGS (ALL ZONES, 3 YEARS)	3	YR	20,000	60,000.00
<b>ECOLOGICAL RESTORATION &amp; MANAGEMENT SUBTOTAL</b>					<b>97,644.50</b>
<b>TOTAL</b>					<b>414,186.70</b>

**\*\* Please note pre-qualification on previous page before you submit a bid**



## Proposal and Acceptance

### Bid for Woods Creek Streambank Stabilization & Restoration

#### 1. Bid Price

The contractor agrees to provide the product stated in this specification for the price of:

\$ 414,186 . 70

(number)

four hundred fourteen thousand one hundred eighty six dollars and seventy cents  
(written words)

**\*\*Please note pre-qualifications before you submit a bid\*\***

#### 2. Company Information and Signature

Name of Firm: ENCAP, Inc.

Address of Firm: 2585 Wagner Court

DeKalb, IL 60115

Phone Number: 815.748.4500

Officials Name: Jonathan Koepte

Officials Title: Vice President

Signature: 

## CONTRACT AGREEMENT

**THIS AGREEMENT**, executed this \_\_\_\_\_ day of \_\_\_\_\_ in the year 2019, herein referred to as the "**AGREEMENT**" by and between the **Village of Algonquin, Illinois**, party of the first part and \_\_\_\_\_ party of the second part.

**WITNESSETH**, that the parties to these presents, each in consideration of the undertaking, promises, and agreements on the part of the other herein contained, have undertaken, promised, and agreed and do hereby undertake, promise, and agree, the party of the first part for itself, its successors and assigns, and the party of the second part for himself or his heirs, executors, administrators, successors and assigns, as follows:

Spella Park/Woods Creek Drainage Improvements & Restoration

In the amount of \$ \_\_\_\_\_

### **CA.1 DEFINITIONS**

Wherever the words hereinafter defined or pronouns used in their stead occur in the Contract Documents, they shall have the following meaning:

The word "Owner" shall mean the part of the first part above designated.

The word "Contractor" shall mean the party of the second part above designated.

The word "Engineer" shall mean that person or firm duly appointed by the Owner to undertake the duties and power herein assigned to the Engineer, acting either directly or through duly authorized representatives.

The words "herein", "hereinafter", "hereunder" and words of like import shall be deemed to refer to the Contract Documents.

### **CA.2 THE CONTRACT DOCUMENTS**

The **AGREEMENT**, the **INFORMATION FOR BIDDERS**, the Contractor's **BID** as accepted by the Owner, the **SPECIFICATIONS**, the Drawings, and all Addenda and amendments to any of the foregoing collectively constitute the Contract Documents, and are sometimes herein referred to as the "Contractor".

The Contract Documents are complementary, and what is called for by any one shall be as binding as if called for by all. In the event of any conflict or inconsistency between the provisions of the **AGREEMENT** and the provisions of any of the other Contract Documents, the provisions of the **AGREEMENT** shall prevail.

### **CA. 3 OBLIGATIONS AND LIABILITY OF CONTRACTOR**

The Contractor shall do all the work and perform and furnish all the labor, services, materials, equipment, plant, machinery, apparatus, appliances, tools, supplies, and all other things (except as otherwise expressly provided herein) necessary and as herein

specified for the proper performance and completion of the Work in the manner and within the time hereinafter specified, in strict accordance with the Drawings, Specifications and other Contract Documents. ("the Work")

All parts of the work and all fixtures, equipment, apparatus and other items indicated on the Drawings and not mentioned in the Specification, or vice versa, and all work and material usual and necessary to make the Work complete in all its parts, including all incidental work necessary to make it complete and are indicated on the Drawings or mentioned in the Specifications, shall be furnished and executed the same as if they were called for by the Drawing and the specifications.

The Contractor shall coordinate his operations with those of any other contractors who may be employed on other work of the Owner, shall avoid interference therewith, and shall cooperate in the arrangements for storage of materials and equipment.

The Contractor accepts the relationship of trust and confidence established between him and the Owner by this Agreement. The Contractor covenants with the Owner to furnish his best skill and judgment and to cooperate with the Engineer in furthering the interests of the Owner.

The Contractor shall conduct his work so as to interfere as little as possible with private business and public travel. Wherever and whenever necessary or required, he shall maintain fences, furnish watchman, maintain lights, and take such other precaution as may be necessary to protect life and property.

The Contractor shall indemnify and save harmless the Indemnities (as that term is definition Table A hereto) and the Engineer and their officers, agents, servants and employees, from and against any and all claims, demands, suits, proceedings, liabilities, judgments, awards, losses, damages, costs and expenses, including attorney's fees and expenses, on account of bodily injury, sickness, disease or death sustained by any person or persons or injury or damage to or destruction of any property, directly or indirectly arising out of, relating to or in connection with the Work, whether or not due or claimed to be due in whole or in part to the active, passive or concurrent negligence or fault of the Contractor, his subcontractors, the Owner, the Engineer or any of their respective officers, agents, servants, or employees and/or any other person or persons, and whether or not such claims demands, suits or proceedings are just, unjust, groundless, false or fraudulent; and the Contractor shall and does hereby assume and agrees to pay for the defense of all such claims, demands, suits, and proceedings, provided, however, that the Contractor shall not be required to indemnify the Engineer, his officers, agents, servants or employees, against any such damages occasioned solely by defects in maps, plans, drawings, designs or specifications prepared, acquired or used by the Engineer and/or solely by the negligence or fault of the Engineer.

The Contractor shall have complete responsibility for the work and the protection thereof, and for preventing injuries to persons and damage to the work and property and utilities on or about the Work, until final completion and final acceptance thereof. He shall in no way be relieved of his responsibility by any right of the Engineer to give permission or directions relating to any part of the Work or the nature of the land (including but not limited to subsurface conditions) in or under on which the Work is done being different from indicated or shown in the Contract Documents or from what was estimated or expected, or on account of the weather, elements, or other cause.

The Contractor shall conduct his operations so as not to damage existing structures or work installed either by him or by other contractors. In case of any such damage resulting from his operations, he shall repair and make good as new the damaged portions at his own expense with consent of the damaged party. In the event that consent is not given, the contractor shall continue to be liable for the damaged cause.

The Contractor shall be as fully responsible to the Owner for the acts and omissions of his subcontractors, their officers, agents, servants and employees as he is for his own acts and omissions and those of his own officers, agents, servants, and employees.

Should the Contractor sustain any loss, damage or delay through any act or omission of any other contractor or any subcontractor of any such contractor or contractors, the Contractor shall no claim against the Owner therefore, other than for an extension of time, but shall have recourse solely to such other contractors or subcontractor.

If any other contractor or any subcontractor of any such other contract of any such other contractor shall suffer claim to have suffered loss, damage or delay by reason of the acts or omissions of the Contractor or of any of his subcontractors, the Contractor agree to assume the defense against any such claim and to reimburse such other contractor or subcontractor for such loss or damage.

The Contractor agrees to and does hereby indemnify and save harmless the Owner from and against any and all claims by such other contractors or subcontractors alleging such loss, damage, or delay and from and against any and all claims, demands, suits, proceeding, liabilities, judgments, awards, losses, damages, costs and expenses, including attorney's fees and expenses, arising out of relating, to or resulting from such claims.

The Contractor shall promptly pay all federal, state and local taxes which may be assessed against him in connection with the Work or his operations under the AGREEMENT and/or the other Contract Documents, including, but not limited to, taxes attributable to the purchase of material and equipment, to the performance of services, and the employment of persons in the prosecution of the Work.

The Contractor recognizes and acknowledges the right of the Owner through its representative, the Engineer, is to issue a written notice to stop work on any or all portion or portions of the Work if corrective action satisfactory to the Owner and Engineer has not been initiated with 48 hours after written notification is given to the Contractor's superintendent that the Work is not proceeding in conformance with the requirements of the Contract Documents. Exercise of this right by the Owner shall not form the basis for any claim by the Contractor for direct or indirect liability or cost against the Owner or the Engineer.

#### **CA. 4 AUTHORITY OF THE ENGINEER**

The Engineer shall be the sole judge of the intent and meaning of the drawing and specification and his decisions thereon and his interpretation thereof shall be final, conclusive and binding on all parties.

The Engineer shall be the Owner's representative during the life of the contract and he shall observe the Work in progress on behalf of the Owner. He shall have authority (1) to act behalf of the Owner to the extent expressly provided in the Contract or otherwise in writing; (2) to determine the amount, quality, acceptability and fitness of all work,

materials and equipment required by the Contract; and (3) to decide all questions which arise in relation to the Work, the execution thereof, and the fulfillment of the Contract. No work may be done by the Contractor when the Engineer is absent from the construction site unless Engineer has authorized such work.

## **CA. 5 SUPERVISION OF WORK**

The Contractor shall be solely responsible for supervision of the Work, shall give the work the constant attention necessary to ensure the expeditious and orderly progress thereof, and shall cooperate with the Engineer in every possible way.

At all times, the Contractor shall have as his agent on the Work a competent superintendent capable of reading and thoroughly understanding the Drawings and Specifications, with full authority to supply such labor, services, materials, equipment, plant, apparatus, appliances, tools, supplies, and other items as may be required. Such superintendent shall not be removed from the Work without the prior written consent of the Engineer. If, in the opinion of the Engineer, the superintendent or any successor proves incompetent, the Contractor shall replace him with another person approved by the Engineer; such approval, however, shall in no way relieve or diminish the Contractor's responsibility for supervision of the Work.

## **CA. 6 INSURANCE**

### **1. General Contractor's Insurance**

Before starting and until final completion and acceptance of the Work and expirations of the guarantee period provided for in the AGREEMENT the Contractor shall procure and maintain insurance of the types specified in paragraphs (a) to (g), inclusive, below, and to the limits for this insurance specified in Table A attached to this AGREEMENT. To evidence said coverage, prior to the commencement of the Work, Contractor shall file with the Owner valid Certificates of Insurance and amendatory riders or endorsements to Contractor's insurance policies, all in form and substance and with companies satisfactory to the Owner, naming the Indemnities (as that term is defined in Table A hereto) or other persons or entities designated by the Owner as additional insured there under.

Said endorsements or amendatory riders shall indicate that as respects said additional insured, there shall be severability of interests under said insurance policies for all coverage provided under said insurance policies. The Certificates and amendatory riders or endorsements shall clearly indicate the specific coverage and shall contain a provision requiring the giving of written notice to the Owner and Engineer at least (30) days prior to the cancellation, non-renewal or material modification of any such policies, as evidenced by return receipt of United States Certified Mail. The owner reserves the right to request complete copies of policies if deemed necessary to ascertain details of coverage not provided by said certificates, riders or endorsements. Such policy copies shall be "Originally Signed Copies" and shall be so designated. If the Contractor fails to purchase or maintain or require to be purchased and maintained the liability insurance required hereunder, the Owner may (but shall not be obligated to) purchase such insurance on the Contractor's behalf and shall be entitled to be repaid for any premiums paid therefore by the Contractor. If the Contractor fails to reimburse the Owner within ten (10) days after the Owner sends a written invoice to the Contractor therefore, then the Owner may withhold any amount due and owing the Owner for such insurance from any payment thereafter due to the Contractor.

The following types of insurance shall be provided:

- a. Worker's Compensation insurance including Employer's liability to cover employee injuries or disease compensable under the Workman Compensation Statutes of the states in which work is conducted under this contract; disability benefit law, if any; or Federal compensation acts.
- b. A Comprehensive General Liability policy to cover bodily injury to person other than employee and for damage to tangible property, including loss of use thereof, including the following exposures:
  1. All premises and operations.
  2. Explosion, collapse and underground damage.
  3. Contractor's Protective coverage for independent contractors or subcontractors employed by him.
  4. Contractual Liability for the obligation assumed in the Indemnification of Hold Harmless agreement found in Paragraph CA-3 of this contract.
  5. The usual personal Injury Liability endorsement with no exclusions pertaining to employment.
  6. Products and Completed Operations converge. This coverage shall extend through the contract guarantee period.
- c. A Comprehensive Automobile Liability policy to cover bodily injury and property damage arising out of the Ownership, maintenance or use of any motor vehicle, including owner, non-owned and hired vehicle. In light of standard policy provisions concerning (1) loading and unloading and (2) definitions pertaining to motor vehicles licensed for road use vs. unlicensed or self-propelled construction equipment, it is strongly recommended that the Comprehensive General Liability be written by the same insurance carrier, through not necessarily in one policy.
- d. NO TEXT
- e. The Contractor shall purchase a Builder's Risk - Installation Floater in a form acceptable to the Owner covering the property of the project for the full cost of replacement as of the time of any loss which shall include, as named insured, (1) the Contractor, (2) all Subcontractors, (3) all Sub-subcontractors, (4) the Owner, and the Engineer as their respective interests may prove to be at the time of loss, covering insurable property which is the subject of this contract, whether in place, stored at the job site, stored elsewhere, or in transit at the risk of the insured (s). Coverage shall be effected on an "All Risk" form including, but not limited to, the perils of fire, wind, vandalism, collapse, theft, and earthquake. The Contractor may arrange for such deductibles as he deems to be within his ability to self-assume, but he will be held solely responsible for the amount of such deductible and for any coinsurance penalties. Any insured loss under this contract shall be adjusted with the Owner and the Contractor and paid to the Owner as Trustee for the other insured.
- f. Umbrella or Excess Liability - The Owner may, for certain projects, require limits higher than those stated under "Limits of Liability" as listed in Table A of this contract. The Contractor is granted the option of arranging coverage under a single policy for the full limit required or by a combination of underlying policies with the balance provided by an Excess or Umbrella Liability policy equal to the



total limit(s) requested. Umbrella or Excess policy wording shall be at least as broad as the primary or underlying policy(ices) and shall apply both to the Contractor's general liability and to his automobile liability insurance.

- g. Railroad Protective Liability - Where such an exposure exists, the Contractor will provide coverage in the name of each railroad company having jurisdiction over right-of-way across which work under the Contract is to be performed. The form of policy and the limits of liability shall be determined by the railroad company(if) involved.

2. Insurance - Other Requirements.

a. Notice of Cancellation of Intent Not to Renew - Policies will be endorsed to provide that at least 30 days written notice shall be given to the Owner and to the Engineer or cancellation or intent not renew.

- b. Evidence of Coverage - Prior to commencement of the Work, the Contractor shall furnish to the Owner, Certificates of Insurance in force. The Owner reserves the right to request complete copies of policies if deemed necessary to ascertain details of coverage not provided by the certificates. Such policy copies shall be "Originally Signed copies", and so designated.

(1) Insurance required for the Contractor:

- (a) Workers' Compensation and Employer's Liability Comprehensive General Liability including:

- \* All premises and operations
- \* Explosion, collapse, and underground damage
- \* Contractors Protective
- \* Contractual Liability for obligations assumed in the Indemnification - Hold Harmless Agreement of this Contract
- \* Personal Injury Policy
- \* Products and Completed Operations

- (b) Comprehensive Automobile Liability - including owned, non-owned and hired vehicles.

- (c) Umbrella or Excess Liability.

(2) Insurance required for the Owner

- (a) The Contractor shall provide an endorsement on the general liability policy stating that the limits of liability applies separately to the project and that the Engineers and such public corporation in whose jurisdiction the work is located.

The Contractor shall also add as additional insured on the excess liability policy all parties covered under the general liability policy.

- (3) Insurance Required for the Contractor and the Owner.
- (a) Builder Risk - Installation Floater which names as insured(s) the Owners; the Engineer(s); their consultants, agents, and all employees; the Contractor and all subcontractors.
- (4) Each subcontractor and/or sub-contractor of any tier shall maintain the following insurance in amount not less than those specified below:
- (a) Worker's Compensation
- (i) Statutory in accordance with the laws of the state with jurisdiction including Voluntary Compensation, Board Form All States Endorsement, U.S. Longshorements's and Harbor Worker's Coverage and Maritime Coverage.
- (ii) Above to include employer's liability insurance at a limit of not less than \$500,000.00.
- (b) Comprehensive General Liability
- (i) Bodily Injury and Property Damage Liability in an amount not less than \$500,000.00 each occurrence and in the aggregate.
- (ii) Above to include Blanket Contractual Liability, Products/Completed Operations, independent Contractors, Broad Form Property Damage, Personal Injury (Employees Exclusion deleted), and "X", "C" and "U" Exclusive deleted.
- (c) Comprehensive Automobile Liability
- (i) Bodily Injury and property Damage Liability in the amount not less than \$500,000.00 each occurrence and in the aggregate.
- (d) Umbrella Liability
- (i) \$3,000,000.00 each occurrence and in the aggregate in excess of the Item (a)(ii)., (b) and (c) above.
- c. Qualification of Insurer - In order to determine financial strength and reputation of insurance carriers, all companies providing the coverage required shall have a financial rating not lower than A+ as listed in A.M. Best's Key Rating Guide, current edition. Companies with rating lower than A+:XII will be acceptable only upon written consent of the Owner.

- d. Subrogation Clause - The following subrogation clause shall appear in all policies of property insurance, "Subrogation Clause" - It is hereby stipulated that this insurance shall not be invalidated should the insured waive in writing prior to a loss any or all right of recovery against any part for loss occurring to the property described herein.
- e. When the Insurance coverage required hereunder, due to the attainment of a normal expiration date or renewal date, shall expire, the Contractor shall not less than thirty (30) days prior to such expiration or renewal date, supply the Owner with updated replacement Certificates of Insurance and amendatory riders or endorsements that clearly evidence the continuation of all coverage in the same manner, limits or protection, and scope of coverage, as was provided by the Certificates and amendatory riders or endorsements originally supplied. Contractor shall maintain a file of Certificates of Insurance received from each subcontractor and/or sub-subcontractors of any tier.
- f. No Insurance required or furnished hereunder shall in any way relieve the Contractor of or diminish any of his responsibilities, obligations and liabilities under the Contract.
- g. NO TEXT
- h. Each subcontractor and sub-subcontractor of any tier shall furnish Contractor, before commencing work, Certificate of Insurance evidencing compliance with the minimum requirements listed above. Each Certificate will not be canceled or reduced without thirty (30) day's prior written notice to the Contractor.

## **CA. 7 PATENTS**

The Contractor shall indemnify and save harmless the Owner and all persons acting for or on behalf of the Owner from all claims and liability of any nature or kind, and all damages, costs, and expenses, including attorney's fees, arising from or occasioned by an infringement or alleged infringement of any patents or patents right on any invention, process, material, equipment, article, or apparatus, or any part thereof, furnished and installed by the Contractor, or arising from or occasioned by the use or manufacture thereof, including their use by the Owner.

## **CA. 8 COMPLIANCE WITH LAWS**

The Contractor shall keep himself fully informed of all existing and future federal, state, and local laws, ordinances, rules, and regulations affecting those engaged or employed on the work, the materials and equipment used in the work or the conduct of the Work, and of all orders, decrees and other requirements of bodies or tribunals having any jurisdiction or authority over the same. If any discrepancy or inconsistency is discovered in the Drawing, Specification or other Contract Documents in relation to any such laws, ordinance, rule, regulations, order decree or other requirement, the Contractor shall forthwith report the same to the Engineer in writing. The contractor shall at all times observe and comply with, and cause all his agents, servants, employees, and subcontractors to observe and comply with all such existing and future laws, ordinances, rules, regulations, orders, decrees and other requirements, and he shall protect, indemnify

and save harmless the Indemnities from and against any and all claims, demands, suits, proceedings, liabilities, including attorney's fees and expenses, arising from or based upon any violation or claimed violation of any such law, ordinance, rule, regulation, order, decree or any other requirements, whether committed by the Contractor or any of his agents, servants, employees or subcontractors.

## **CA. 9 PROVISION REQUIRED BY LAW DEEMED INSERTED**

Each and every provision of law and clause required by law to be inserted in the Contract shall be deemed to be inserted herein, and the Contract shall be read and enforced as though they were included herein. If through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the Contract shall forthwith be physically amended to make such insertion.

## **CA. 10 PERMITS**

The Contractor shall, at his own expense, take out and maintain all necessary permits from the county, municipal, or other public authorities; shall give notices required by law; and shall post all bonds and pay all fees and charges incident to the due and lawful prosecution of the Work.

## **CA. 11 NOT TO SUBLET OR ASSIGN**

The Contractor shall constantly give the personal attention to the faithful prosecution of the Work, shall keep the same under his personal control, shall not assign the Contract or sublet the Work or any part thereof without the previous written consent of the Owner, and shall not assign any of the moneys payable under the Contract, or his claim thereto, unless by and with the like written consent of the Owner and the Surety on the Contract Bonds. An assignment or subletting in violation hereof shall be void and unenforceable.

## **CA. 12 DELAY BY OWNER**

The Owner may delay the beginning of the Work or any part thereof if the necessary lands or right-of-way for such work shall not have been obtained. The Contractor shall have no claim for additional compensation or damages on account of such delay, but shall be entitled only you an extension of time as hereinafter provided.

## **CA. 13 TIME FOR COMMENCEMENT & COMPLETION**

The date of the commencement of the Work shall be the date established in a notice to proceed. The rate of progress shall be such that the Work shall be performed and completed in accordance with the Contract before the expiration of the time limit stipulated in Table A except as otherwise expressly provided herein. Time is of the essence of this Contract. The performance and completion of the Work before the expiration of the limit set forth in Table A is a material inducement to the Owner to enter into this Agreement.

It is agreed that the rate of progress herein required has been purposely made low enough to all for the ordinary and foreseeable delays incident to construction work of this character. No extension of time will be given for ordinary or foreseeable delays, inclement weather, or accidents, and the occurrence of such will not relieve the Contractor from the necessity of maintaining this rate of progress and completing the Work within the stipulated time limit.

If delays are caused by acts of God, acts of Government, unavoidable strikes, extra work, or other causes or contingencies clearly beyond the control or responsibility of the Contractor, the Contractor may be entitled to additional time to perform and complete the Work, provided that the Contractor shall, within ten (10) days from the beginning of such delay notify the Owner in writing, with a copy to the Engineer, of the causes and particulars of the delay. Upon receipt of such notification, the Owner shall review and evaluate the cause and the extent of the delay. If, under the terms of the AGREEMENT, the delay is properly excusable, the Owner will, in writing, appropriately extend the time for completion of the Work. (This paragraph will be interpreted to include delays in receipt of the equipment provided that the Contractor placed his order and submitted shop drawings for such shown due diligence in following the progress of the order, and that the time required for delivery is in accordance with conditions generally prevailing in the industry). The Contractor agrees that he shall not have or assert any claim for nor shall he be entitled to any additional compensation or damages on account of such delays.

The time in which the Work is to be performed and completed is of the essence of this AGREEMENT.

#### **CA. 14 LIQUIDATED DAMAGES**

In case the Contractor fails to complete the Work satisfactorily on or before the date of completion fixed herein or as duly extended as herein before provided, the Contractor agrees that the Owner shall deduct from the payments due the Contractor each month the sum indicated in Table A of this document, not as a penalty, but as fixed and liquidated damages for each day of such delay. If the payments due the Contractor are less than the amount of such liquidated damages, said damages shall be deducted from any other moneys due or to become due the Contractor, and, in case such damage shall exceed the amount of all moneys due or to become due the Contractor, the Contractor or his Surety shall pay the balance to the Owner.

In addition to any liquidated damages, the Contractor shall pay all engineering and inspection costs incurred after the date of completion. Payments shall be made in the same manner as the liquidated damages.

#### **CA. 15 NIGHT AND SUNDAY WORK**

No work shall be done at night or on Sunday except (1) usual protective work, such as pumping and the tending of lights, (2) work done in case of emergency threatening injury to persons or property, or (3) if all of the conditions set forth in the next paragraph below are met.

No work other than that included in (1) and (2) above shall be done at the night except when (a) in the sole judgment of the Engineer, the work will be of advantage to the Owner and can be performed satisfactorily at night, (b) the work will be done by a crew organized for regular and continuous night work, and (c) the Engineer has given written permission for such night work. The cost of resident representative beyond the normal 40 hour work week shall be paid for by the Contractor.

#### **CA. 16 EMPLOY COMPETENT PERSONS**

The Contractor shall employ only competent persons on the Work and shall not employ persons or means which may cause strikes, work stoppages, or any disturbances by persons employed by the Contractor, any subcontractor, the owner, the Engineer or any other contractor. Whenever the Engineer notifies the Contractor in writing that in his opinion any person on the Work is incompetent, unfaithful, disorderly, or otherwise

unsatisfactory, or not employed in accordance with the provision of the Contract, such person shall be discharged from the Work and shall not again be employed on it, except with the written consent of the Engineer.

### **CA. 17 EMPLOY SUFFICIENT LABOR AND EQUIPMENT**

If in the sole judgment of the Engineer, the Contractor is not employing sufficient labor, plant, equipment or other means to complete the work within the time specified, the Engineer may, after giving written notice, require the Contractor to employ such additional labor, plant, equipment and other means as the Engineer deems necessary to enable the work to progress properly.

### **CA. 18 INTOXICATING LIQUORS**

The Contractor shall not sell and shall neither permit nor suffer the introduction or use of intoxicating liquors upon or about the Work.

### **CA. 19 ACCESS TO WORK**

The Owner, the Engineer, and their officers, agents, servants, and employees may at any and all times and for any and all purposes, enter upon the Work and the site thereof and the premises used by the Contractor, and the Contractor shall at all times provide safe and proper facilities therefore.

### **CA. 20 EXAMINATION OF WORK**

The Engineer shall be furnished by the Contractor with every reasonable facility for examining and inspecting the Work and for ascertaining that the Work is being performed in accordance with the requirements and intent of the Contract, even to the extent of requiring the uncovering or taking down portions of finished work by the Contractor.

Should the work thus uncovered or taken down prove satisfactory, the cost of uncovering or taking down and the replacement thereof shall be considered as extra work unless the original work was done in violation of the Contract in point of time or in the absence of the Engineer or his inspector and without his written authorization, in which case said cost shall be borne by the Contractor. Should the work uncovered or taken down prove unsatisfactory, said cost shall likewise be borne by the Contractor.

### **CA. 21 DEFECTIVE WORK, ETC..**

Until acceptance and during the applicable guarantee period thereafter, the Contractor shall promptly, without charge, repair, correct or replace work, equipment, materials, apparatus or parts thereof which are defective, damaged or unsuitable or which in any way fail to comply with or be in strict accordance with the provisions and requirements of the Contract or applicable guarantee and shall pay to the Owner all resulting costs, expenses, losses or damages suffered by the Owner.

If any material, equipment, apparatus or other items brought upon the site for use or incorporation in the Work, or selected for the same, is rejected by the Engineer as unsuitable or not in conformity with the specification or any of the other Contract Documents, the Contractor shall forthwith remove such material, equipment, apparatus and other items from the site of the Work and shall at his own cost and expense make good and replace the same and any material furnished by the Owner which shall be damaged or rendered defective by the handling or improper installation by the Contractor, his agents, servants, employee or subcontractor.



## **CA. 22 PROTECTION AGAINST WATER AND STORM**

The Contractor shall take all precautions necessary to prevent damage to the work by storm or water entering the site of the Work directly or through the ground. In case of damage by the storm or water, the Contractor shall at his own expense make such repairs or replacements or rebuild such parts of the Work as the Engineer may require in order that the finished Work may be completed as required by the Contract.

## **CA. 23 RIGHT TO MATERIALS**

Nothing in the Contract shall be construed as vesting in the Contractor any right of property in the materials, equipment, apparatus and other items furnished after they have been installed or incorporated in or attached or affixed to the Work or the site, but all such material, equipment apparatus and other items shall, upon being so installed, incorporated, attached or affixed, become the property of the Owner. Nothing in this subsection shall relieve the Contractor of his duty to protect and maintain all such materials, equipment, apparatus and other items.

## **CA. 24 CHANGES**

The Owner, through the Engineer, may make changes in the Work and in the Drawings and Specifications therefore by making alterations therein, additions thereto or omissions therefrom. All work resulting from such changes shall be performed and furnished under and pursuant to the terms and conditions of the Contract. If such changes result in an increase or decrease the quantities thereof, adjustment in compensation shall be made therefore at the unit prices stipulated in the Contract for such work, except that if unit price stipulated in the Contract for such work, except that if unit prices are not stipulated for such work, compensation for additional or increased work shall be made as provided hereinafter under the subsection titled "EXTRA WORK"; and for eliminated or decreased work the Contractor shall allow the Owner a reasonable credit as determined by the Engineer. Except in an emergency endangering life or property, no change shall be made unless in pursuance of a written order from the Engineer authorizing the change, and no claim for additional compensation shall be valid unless the change is so ordered.

The Contractor agrees that he shall neither have nor assert any claim for or be entitled to any additional compensation for damages or for loss of anticipated profits on work that is eliminated.

## **CA. 25 EXTRA WORK**

The Contractor shall perform any extra work (work in connection with the Contract but not provided for herein) when and as ordered in writing by the Engineer, at the unit prices stipulated either (a) at the price agreed upon before such work is commenced and named in the written order for such work, or (b) if the Engineer so elects, for the reasonable cost of such work, as determined by the Contractor and approved by the Engineer and Owner, plus a percentage of such cost, as set forth below. No extra work shall be paid for unless specifically ordered as such in writing by the Engineer.

The cost of extra work done under (b) above shall include the reasonable cost to the Contractor of materials used and equipment installed, common and skilled labor, and foremen, and the fair rental of all machinery and equipment used on the extra work for the period of such use.

At the request of the Engineer, the Contractor shall furnish itemized statements of the cost of the extra work ordered as above and give the Engineer access to all records, accounts, bills, and vouchers and correspondence relating thereto.

The Contractor may include in the cost of extra work the amounts of additional premiums, if any, paid on the required insurance on account of such extra work, of Social Security of other direct assessments upon the Contractor's payroll by Federal or other properly authorized public agencies, and of other approved payments made by the Contractor directly to his employees, but in fact are, and are customarily recognized as, part of the cost of doing work.

The Contractor shall not include in the cost of extra work any cost or rental of small tools, building, or any portion of the time of the Contractor, his superintendent, or his office and engineering staff.

To the cost of extra work done by the Contractor's own forces under (b) above (determined as stated above), the Contractor shall add 15 percent to cover his overhead, use of capital, the premium on the Bonds as assessed upon the amount of this extra work and profit.

In case of extra work done under b) by a subcontractor, the subcontractor shall compute, as above, his cost for the extra person, and the Contractor shall be allowed an additional 5 percent of the subcontractor's cost for the extra work to cover the cost of the Contractor's overhead, use of capital, the premium on the Bonds as assessed upon the amount of this extra work and profit. Said subcontractor's cost must be reasonable and approved by the Engineer.

If extra work is done under (b) above, the Contractor and/or subcontractor shall keep daily records of such extra work. The daily record shall include the names of the men employed, the nature of the work performed, and hours worked, materials and equipment incorporated, and machinery or equipment used, if any, in the prosecution of such extra work. This daily record, to constitute verification that the work was done, must be signed both by the Contractor's authorized representative and by the Engineer. A separate daily record shall be submitted for each Extra Work Order.

## **CA. 26 EXTENSION OF TIME ON ACCOUNT OF EXTRA WORK**

When extra work is ordered near the completion of the Contract or any time during the progress of the Work which unavoidably increases the time for the completion of the Work, an extension of time shall be granted as hereinbefore provided.

## **CA. 27 CHANGES NOT TO EFFECT BONDS**

It is distinctly agreed and understood that any changes made in the Work or the Drawing or Specifications thereof (whether such changes increase or decrease the amount thereof of the time required for it's performance) or any changes in the manner of time of payment made by the owner to the Contractor, or any other modifications of the Contract, shall in no way annul, release, diminish, or effect the liability of the Surety on the Contract Bonds given by the Contractor, it being the intent hereof that notwithstanding such changes the liability of the Surety on said bonds continue and remain in full force and effect. The amount of the Bond shall be increased if the Contract value is increased.

## **CA. 28 CLAIMS FOR DAMAGES**

If the Contractor makes claim for any damages alleged to have been sustained by breach of contract or otherwise, he shall, within (10) days of occurrence of the alleged breach or within (10) days after such damages are alleged to have been sustained, whichever date is earlier, file with the Engineer a written, itemized statement in triplicate of the details of the alleged breach and the details and amount of the alleged damages. The Contractor agrees that unless statement is made and filed as so required, his claim for damages shall be deemed waived, invalid and enforceable, and the shall not be entitled to any compensation for any such alleged damages. Within five (5) days after the timely filing of such statement, the Engineer shall file with the Owner one copy of the statement, together with his recommendations for action by the Owner.

## **CA. 29 ABANDONMENT OF WORK OR OTHER DEFAULT**

If the work shall be abandoned, or any part thereof shall be sublet without previous written consent of the Owner, or the Contract or any moneys payable hereunder shall be assigned otherwise than as herein specified, or if at any time the Engineer shall be of the opinion, and shall so certify in writing, that the conditions herein specified as to rate of progress are not being complied with, or that the work or any part thereof is being unnecessarily or unreasonably delayed, or that the Contractor has violated or is in default under any of the provision of the Contract, or if the Contract becomes bankrupt or insolvent or goes or is put into liquidation or dissolution, either voluntarily or involuntarily, or petitions for an arrangement or reorganization under the Bankruptcy Act, or makes a general assignment for the benefit of creditors or otherwise acknowledges insolvency, the happening any of which shall be and constitute a default under the contract, the Owner may notify the Contractor in writing, with a copy of such notice mailed to the Surety, to discontinue all Work or any part thereof; thereupon the Contractor shall discontinue such part thereof as the Owner may designate; and the Owner may, upon giving such notice, by contract or otherwise as it may be determine, complete the Work or such part thereof and charge the entire cost and expense of so completing the Work or such part thereof to the Contractor. In addition to the said entire cost and expense of completing the Work, the Owner shall be entitled to reimbursement from the Contractor and the Contractor agrees to pay the Owner any losses, damages, sustained or incurred by the Owner by reason of any of the foregoing causes. For the purposes of such completion the Owner may for itself or for any Contractor employed by the Owner take possession of and use or cause be used any and all materials, equipment, plant, machinery, appliances, tools, supplies, and such other items of every description that may be found or located at the site of the Work.

All costs, expenses, losses, damages, attorney's fees and expenses and any and all other charges incurred by the Owner under this subsection shall be charged against the Contractor and deducted and/or paid by the Owner out of any moneys due or payable or to become due or payable under the Contract to the Contractors; in computing the amounts chargeable to the Contractor, the Owner shall not be held to a basis of the lowest prices for which the completion of the Work or any part thereof might have been accomplished, but all sums actually paid or obligated therefor to effect its prompt completion shall be charged to and against the account of the Contractor. In case the costs, expenses, losses, damages, attorney's fees and expenses and other charges together with all payments theretofore may to or for the account of the Contractor are less than the sum which would have been payable under the Contract, the Contractor shall be entitled to receive the difference, and, in case such costs, expenses, losses, damages, attorney's

fee and expenses and other charges, together with all payments theretofore made to or for the account, shall pay the amount of the excess to the Owner.

### **CA. 30 PRICES FOR WORK**

The Owner shall pay and the Contractor shall receive the prices stipulated in the BID made a part thereof as full compensation for everything performed and furnished and for all risks and obligations undertaken by the Contractor under and as required by the Contract.

### **CA. 31 MONEYS MAY BE RETAINED**

The Owner may at any time retain from any moneys which would otherwise be payable hereunder so much thereof as the Owner may deem necessary to complete the Work hereunder and to reimburse it for all costs, expenses, losses, damage and damages chargeable to the Contractor hereunder.

### **CA. 32 FORMAL ACCEPTANCE**

This agreement constitutes an entire contract for one whole and complete Work or result. Fixing of the date of completion and acceptance of the Work or a specified part thereof shall only be effective when accomplished by a writing specifically so stating and signed by the Owner.

### **CA. 33 PROGRESS ESTIMATES**

Once a month, except as hereinafter provided, the Contractor shall submit to the Engineer, a request for a progress payment on a Contractor's Sworn Statement form for work completed in the previous calendar month. The Contractor shall attach to each such request current waivers of lien for work performed and materials and equipment supplied during the period covered by such request.

The Engineer shall check each progress payment request and forward the same to the Owner together with his certification that the work covered by such request has been performed satisfactorily. Upon approval of such payment requests by the Owner, the Owner shall make payment to the Contractor of the amount of such requests. The owner may retain from such payments an amount equal to ten (10) percent of the payment request. The Owner may reduce the ten (10) percent retainage to five (5) percent retainage when project is 50% complete if, in the opinion of the Owner, the Contractor is making satisfactory progress. The Owner may retain such other sums as are provided for in this Contract.

Estimates of lump-sum items shall be based on a schedule dividing each such item into its appropriate component parts together with a quantity and a unit price for each part so that the sum of the products of prices and quantities will equal the Contract price for the item. This schedule shall be submitted by the Contractor for and must have the approval of the Engineer before the first estimate becomes due.

If the Engineer determines that the progress of the Work will be benefited by the delivery to the site of certain materials and equipment, when available, in advance or actual requirement therefore and if such materials and equipment are delivered and properly stored and protected by invoices or other suitable vouchers satisfactory to the Engineer, less the retained percentages as above provided, may be included in the progress estimates; provided always that there be duly executed and delivered by the Contractor to the Engineer at the same time a Bill of Sale in form satisfactory to the Owner,

transferring and assigning to the Owner full ownership and title to such materials or equipment.

The Owner will make progress payments to the contractor within 30 calendar days after the approval by the Owner of the payment request. Contractor acknowledges that payments due hereunder may be provided by the Owner's construction lender for the Project (the "Lender") pursuant to the terms of a Construction Loan Agreement (the "Loan Agreement") through the construction escrow the Chicago Title Insurance Company (the "Title Insurer"). Contractor agrees: (i) to comply with all the requirements which may be imposed by the Loan Agreement with respect to reports of construction and conditions of payment; (ii) to consent to the assignment of this Agreement to Lender and to execute such acknowledgments and other documents as Lender may reasonably require; and (iii) to provide any and all additional documents that are required from the Contractor, any subcontractor or material suppliers by the Title Insurer as further evidence of such parties right to payment and to assure that the Work is free of any mechanics' lien claims. In addition, Contractor shall fully cooperate with and provide all construction reports and notices required by any inspecting engineer/architect or consultant of Lender. No progress payment shall constitute and acceptance of any work not in accordance with the Contract Documents.

#### **CA. 34 PARTIAL ACCEPTANCE**

The Owner may, at any time in a written order to the Contractor (1) declare that he intends to use a specified part of the Work which in his opinion is sufficiently complete, in accordance with the Contract Documents, to permit its use; (2) enclose a tentative list of items remaining to be completed or corrected, and (3) fix the date of acceptance of that specified part of the Work.

Within 45 days after acceptance under this subsection, the Engineer shall make an estimate in writing of the amount and value of the part of the Work so accepted. The Owner shall pay said amount to the Contractor after deducting therefore all previous payments, all charges against the Contractor as provisions of the Contract, said payment to be made at the time of the next monthly progress estimate.

Acceptance by the Owner under this subsection shall not relieve the Contractor of any obligations under the Contract Documents except agreed upon in writing between from any part of the Work which has been accepted, but the Owner will allow the Contractor reasonable access thereto to complete or correct items on the punchlist.

#### **CA. 35 FINAL ESTIMATE AND PAYMENT**

As soon as practicable after final completion of the Work, the Engineer shall make a final estimate in writing of the quantity of work done under the Contract and the amount earned by the Contractor.

The Owner shall pay to the Contractor the entire amount found by the Engineer to be earned and due hereunder after deducting therefrom all previous payments, all charges against the Contractor as provided for hereunder, and all amounts to be made as provided for in Paragraph CA.33 but in no event before, the expiration of the time within which claims for labor performed or materials or equipment furnished must be filed under the applicable Lien Law.

All quantities shown on progress estimates and all prior payments shall be subject to correction in the final estimate and payment.

### **CA. 36 LIENS**

If at any time any notices of lien are filed for labor performed or materials or equipment manufactured, furnished, or delivered to or for the Work, the Contractor shall, at his own cost and expense, promptly discharge, remove or otherwise dispose of the same in a manner satisfactory to the Owner, and until such discharge, removal or disposition, the Owner shall have the right to retain from any moneys payable hereunder an amount which, in its sole judgment, it deems necessary to satisfy such liens and pay the costs and expenses, including attorney's fees and expenses, of defending any actions brought to enforce the same, or incurred in connection therewith or by reason thereof.

### **CA. 37 CLAIMS**

If at any time there be any evidence of any claims for which the Contractor is or may be liable or responsible hereunder, the Contractor shall promptly settle or otherwise dispose of the same, and until such claims are settled or disposed of, the Owner may retain from any moneys which would otherwise be payable hereunder so much thereof as, in its sole judgment, it may deem necessary to settle or otherwise dispose of such claims and to pay the costs and expenses, including attorney's fee and expenses, of defending any actions brought to enforce such claims, or incurred in connection therewith or by reason thereof.

### **CA. 38 APPLICATION OF MONEYS RETAINED**

The Owner may apply any moneys retained hereunder to reimburse itself for any and all costs, expenses, losses, damage and damages, liabilities, suits, judgments and wards incurred, suffered or sustained by the Owner and chargeable to the Contractor hereunder or as determined hereunder.

### **CA. 39 NO WAIVER**

Neither the inspection by the Owner or the Engineer, nor any order, measurement, approval, determination, decision or certificate by the Engineer, nor any order by the Owner for the payment of money, nor any payment for or use, occupancy, possession or acceptance of the whole or any part of the Work by the Owner, nor any extension of time, nor any other act or omission of the Owner or of the Engineer shall constitute or be deemed to be an acceptance of any defective or improper work, materials, or equipment nor operate as a waiver of any requirement or provision of the Contract, nor of any remedy, power or right of or herein reserved to the Owner, nor the right to damages for breach of contract. Any and all rights and/or remedies provided for in the Contract are intended and shall be construed to be cumulative; and, in addition to each and every other right and remedy provided for herein or by the law, the Owner shall be entitled as of right to a writ of injunction against any breach or threatened breach of the Contract by the Contractor, by his subcontractors or by any other person or persons.

### **CA. 40 LIABILITY OF OWNER**

No persons, firm or corporation, other than the Contractor, who signed this Contract as such, shall have any interest herein or right hereunder. No claim shall be made or valid either against the Owner or any agent of the owner and neither the Owner nor any agent of the Owner shall be liable for or be held to pay any money, except as herein provided. The acceptance by the Contractor of the payment as fixed in the final estimate shall operate as and shall be a full and complete release of the Owner and every agent of the Owner of and from any and all claims, demands, damages, and liabilities of, by or to the Contractor for anything done or furnished for or arising out of or relating to or by reason



of the Work, except the claim against the Owner for the unpaid balance, if any there be, of the amounts retained as herein provided.

### **CA. 41 GUARANTEE**

The Contractor guarantees that the Work and services to be performed under the Contract, and all workmanship, materials and equipment performed, furnished, used or installed in the construction of the same, shall be free from defects and flaws, and shall be performed and furnished in strict accordance with the Drawings, Specifications, and other Contract Documents, that the strength of all parts of all manufactured equipment shall be adequate and as specified and that the performance test requirements of the Contract shall be fulfilled. This guarantee shall be for a period of one (1) year from and after the date of completion and acceptance of the Work as stated in the final estimate, and within three (3) days from the receipt of any written notice from the Owner stating the Work has failed to conform with the forgoing guarantee during said one (1) year period, Contractor shall commence the correction thereof. The Contractor's obligations under this subsection 41 shall survive termination of the Contract and shall be fully assignable by the Owner. If part of the Work is accepted in accordance with that subsection of this AGREEMENT titled "Partial Acceptance", the guarantee for that part of the work shall be for a period of one (1) year from the date fixed for such acceptance. All bonds shall remain in full force and effect during the guarantee period.

### **CA. 42 RETAIN MONEY FOR REPAIRS**

The Owner may retain out of the moneys otherwise payable to the Contractor hereunder a percentage of the amount thereof and set for in Table A and may expend the same, in the manner hereinafter provided, in making such repairs, corrections, or replacements in the Work as the Owner, in its sole judgment, may deem necessary.

If at any time within the said period of guarantee any part of the Work requires repairing, corrections, or replacements, the owner may notify the Contractor in writing to make the required repairs, corrections, or replacements. If the Contractor neglects to commence making such repairs, corrections, replacements to the satisfaction of the Owner within three (3) days from the date or receipt of such notice, or having commenced fails to prosecute such work with diligence, the Owner may employ other persons to make the same. The Owner shall pay the cost and expenses of the amounts retained for that purpose. If the amounts retained by the Owner are insufficient to pay for said corrective work, then the Contractor shall pay the difference to Owner upon demand. Upon the expiration of the said period of guarantee, provided that the Work at that time is in good order, the Contractor will be entitled to received the whole or such part of the sum last aforesaid, if any, as may remain after the cost and expenses of making said repairs, corrections, or replacements, in the manner aforesaid, have been paid therefrom.

### **CA. 43 LEGAL ADDRESS OF CONTRACTOR**

The Contractor's business address as set forth herein below and his office at or near the site of the Work are below and his office at or near the site of work are both hereby designated as places to which communications shall be delivered. The depositing of any letter, notice, or other communication in a postpaid wrapper directed to the Contractor's business address in a post office box regularly maintained by the United States Post Office or the delivery at either designated address of any letter, notice, or other communication by mail or otherwise shall be deemed sufficient service thereof upon the Contractor and delivered to the Engineer and the Owner. Service of any notice, letter, or

other communication upon the Contractor personally shall likewise be deemed sufficient service.

#### **CA. 44 HEADINGS**

The Heading or titles of any section, subsection, paragraph, provision, or part of the Contract Documents shall not be deemed to limit or restrict the content, meaning or effect of such section, subsection, paragraph, provision or part.

#### **CA. 45 EMPLOYMENT of ILLINOIS WORKERS ON PUBLIC WORKS**

If at the time this contract is executed, or if during the term of this contract, there is excessive unemployment in Illinois as defined in the Employment of Illinois Workers on Public Works Act, 30ILCS 570/0.01 et seq., as two consecutive months of unemployment exceeding 5%, the Contractor agrees to employ Illinois laborers in accordance with the "Employment of Illinois Workers on Public Works Act." An "Illinois laborer" is defined as any person who has resided in Illinois for at least thirty (30) days and intends to become or remain an Illinois resident.

#### **CA. 46 MODIFICATION OR TERMINATION**

Except as otherwise expressly provided herein, the Contract may not be modified or terminated except in writing signed by the parties hereto.

IN WITNESS HEREOF, the parties to this AGREEMENT have hereunder set their hands and seals as of the day and year above written.

**Village of Algonquin**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Attest & Seal

**Contractor:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Attest & Seal

# CERTIFICATE OF ACKNOWLEDGMENT OF CONTRACTOR

If a Corporation

## FOR AGREEMENT

State of \_\_\_\_\_

County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

Before me personally came \_\_\_\_\_  
to me known, who being by me duly sworn, did depose and say as follows:

That he resides at \_\_\_\_\_

And is the \_\_\_\_\_

of \_\_\_\_\_  
the corporation described in and which executed the foregoing instrument; that he knows  
the corporate seal of said corporation; that the seal affixed to the foregoing instrument is  
such corporate seal and it was so affixed by order of the Board of Directors of said  
corporation; and that the like order he signed thereto his name and official designation.

\_\_\_\_\_  
Notary Public (Seal)

My commission expires \_\_\_\_\_

## TABLE A

### AGREEMENT SUBSECTION REFERENCE

	<u>ITEM</u>	<u>MIN LIMITS</u>
CA.6.1.a	<b>Coverage A – Workers Compensation</b>	STATUTORY
	<b>Coverage B- Employer's Liability</b>	
	Bodily Injury by accident	\$100,000
	Bodily Injury by Disease	\$100,000
	Bodily Injury by Disease	\$500,000
	Policy Limit	
CA.6.1.b	<b>Comprehensive General Liability</b>	
	Bodily Injury, each Occurrence	\$500,000
	Bodily Injury, Aggregate(completed Operations)	\$500,000
	Property Damage, Each Occurrence	\$100,000
	Property Damage, Aggregate or Combined single limit	\$1,000,000
CA.6.1.c	<b>Comprehensive Automobile Liability</b>	
	Bodily Injury, each Person	\$250,000
	Bodily Injury, each Occurrence	\$500,000
	Property Damage, each Occurrence	\$100,000
	Combined single limit	\$1,000,000
CA.6.1.e	<b>Builder's Risk - Installation Floater</b>	Not Required
CA.6.1.f	<b>Umbrella or Excess Liability</b>	\$3,000,000
CA.6.1.g	<b>Railroad Protective Liability</b>	By Railroad
CA.13	<b>Time for Completion</b>	June 15, 2020
CA.14	<b>Liquidated Damages for each calendar day of delay in completion time</b>	\$1,000.00 /day
CA.33	<b>Amount of minimum progress Estimates</b>	None
CA.42	<b>Percentage to be Retained for Repairs</b>	10%

END OF CONTRACT AGREEMENT

## CONTRACT BONDS - PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, \_\_\_\_\_  
 (an individual partnership or corporation), duly organized under the Laws of the State of \_\_\_\_\_,  
 and having a usual place of business at \_\_\_\_\_,  
 \_\_\_\_\_ as Principal a \_\_\_\_\_,  
 a corporation duly organized under the Laws of the State of Illinois \_\_\_\_\_,  
 and duly authorized to do business in the State of Illinois, and having a usual place of  
 business at \_\_\_\_\_, as Surety, are holden and stand firmly  
 bound and obligated unto the \_\_\_\_\_, as obligee,  
 in the sum of \_\_\_\_\_,  
 lawful money of the United States of America, to and for the true payment whereof we  
 bind ourselves and, each of us, our heirs, executors, administrators, successors, and  
 assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal, by means of a written AGREEMENT (which together with  
 the Contract Documents in said AGREEMENT referred to are collectively sometime  
 referred to as

the "Contract"), dated \_\_\_\_\_, has entered into a contract with  
 the said obligee for the \_\_\_\_\_, a copy of which  
 AGREEMENT is attached hereto and by reference made a part hereof.

NOW, THEREFORE, THE CONDITION of this obligation is such that if the Principal  
 shall well and truly keep and fully and faithfully perform all of the terms and conditions  
 of said AGREEMENT and of the "Contract Documents" referred to in said  
 AGREEMENT (which collectively are hereinafter and in said AGREEMENT sometimes  
 referred to as the "CONTRACT") and all modifications thereof  
 on the Principal's part to be performed, this obligation shall be void; otherwise it shall  
 remain in full force and effect.

Whenever the said Principal shall be, and declared by the Owner to be, in default under  
 said Contract, the Owner having performed the owners obligation thereunder, the Surety,  
 for value received, shall promptly remedy the default, or at the option of the Owner, shall  
 promptly

- (a) Complete the said AGREEMENT and/or Contract in accordance with its terms  
 and conditions, or
- (b) Obtain a bid or bids for submission to and the approval of the Owner for  
 completing the said AGREEMENT and/or Contract and any modifications thereof  
 in accordance with the terms and conditions thereof, and upon determination by  
 the Owner and the Surety of the lowest responsible and acceptable bidder, arrange  
 for a contract between such bidder and the Owner, and make available to the  
 Owner as the work progresses (even though there should be a default or a  
 succession of defaults under the Contract or Contracts of completion arranged  
 under this paragraph) sufficient funds to pay the cost of completion less a sum

that shall be equal to the difference between the Contractor price as fixed and provided in said AGREEMENT and/or Contract or any modification thereof to be paid by the Owner to and/or for the account of and/or chargeable against the Principal, but not exceeding (including other costs and damages for which the Surety may be liable hereunder) the amount set forth in the first paragraph hereof.

The Surety, for value received, agree further that no charges in, omissions from, or alterations, modifications or additions to the terms and provisions of said AGREEMENT and/or Contract or the work to be performed thereunder, and that no extensions of time given or changes made in the manner or time of making payments thereunder, shall in any way affect the Surety's obligation on this Bond, and the Surety hereby waives notice of any such changes, omissions, alterations, modifications, additions or extension.

No right of action shall accrue on this Bond to or for the use of any persons other than the Owner named herein or the heirs, executors, administrators, successors and assigns of the Owner.

IN WITNESS WHEREOF, we have hereunto set our hands and seals to \_\_\_\_\_ counterparts of this Bond, this \_\_\_\_\_ day of \_\_\_\_\_, in the year Two Thousand and \_\_\_\_\_..

\_\_\_\_\_  
Principal (Seal)

\_\_\_\_\_  
Principal (Seal)

\_\_\_\_\_  
Principal (Seal)

\_\_\_\_\_  
Surety (Seal)

\_\_\_\_\_  
Surety (Seal)

NOTE:

If the Principal (Contractor) is a partnership, the Bond shall be signed by each of the partners.

If the Principal (Contractor) is a corporation, the Bond shall be signed in its correct name by its duly authorized officer or officers.

If the Bond is signed on behalf of the Surety by an attorney in fact, there shall be attached to it a duly certified copy of his power of attorney showing his authority to sign such Bonds.

There should be an executed an appropriate number of counterparts of the Bond corresponding to the number of counterparts of the AGREEMENT.



**IMPORTANT:** All Surety companies executing BONDS must hold certificates of authority as acceptable sureties (31 CFR 223) and be authorized to transact business in the State of Illinois.

## LABOR AND MATERIAL BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, \_\_\_\_\_,  
 (an individual, a partnership, a corporation) duly organized under the Laws of the State of \_\_\_\_\_,  
 and having a usual place of business at \_\_\_\_\_,  
 \_\_\_\_\_, as Principal, and \_\_\_\_\_,  
 a corporation duly organized under the Laws of the State of Illinois \_\_\_\_\_,  
 and duly authorized to do business in the State of Illinois, and having a usual place of  
 business at \_\_\_\_\_, as Surety, are holden and stand firmly  
 bound and obligated unto the \_\_\_\_\_, as obligee, in  
 the sum of \_\_\_\_\_,  
 lawful money of the United States of America, to and for the true payment whereof we  
 bind ourselves and, each of us, our heirs, executors, administrators, successors, and  
 assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal, by means of a written AGREEMENT (which together with  
 the Contract Documents in said AGREEMENT referred to are collectively sometime  
 referred to as

the "Contract"), dated \_\_\_\_\_, has entered into a contract with the said obligee for  
 the \_\_\_\_\_, a copy of which  
 AGREEMENT is attached hereto and by reference made a part hereof.

NOW, THEREFORE, THE CONDITION of this obligation is such, that if the Principal  
 shall promptly make payments to all claimants as hereinafter defined, for all labor  
 performed or furnished and for all materials and equipment furnished for or used in or in  
 connection with the work called for by said Agreement and/or Contract and any  
 modifications thereof, including lumber used but not incorporated in said work, and for  
 the rental of hire of vehicles, tools, and other appliances and equipment furnished for or  
 use disconnection with said work, this obligation shall be void; otherwise shall remain in  
 full force and effect, subject, however, to the following conditions:

- (a) A claimant is defined as one having a direct contract with the Principal or with a  
 subcontractor of the Principal for Labor, materials and/or equipment used or  
 reasonably required for use in the performance of the said work, labor and  
 materials being construed to include that part of water, gas, power, light, heat, oil,  
 gasoline, telephone service or rental of equipment directly applicable to the said  
 AGREEMENT and/or Contract and modifications thereof.
- (b) The above named Principal and Surety hereby jointly and severally agree with  
 the Owner that every claim and has herein defined, who has not been paid in full  
 before the expiration of a period of (90) days after the date on which the last of  
 such claimant's work or labor was done or performed, or material or equipment  
 were furnished by such claimant's may sue on this bond for the use of such  
 claimant, prosecute the suit to final judgment for such sum or sums as may be  
 justly due claimant, and have execution thereon. The owner shall not be liable for  
 payment of any costs or expenses of any such suit.

- (c) No suit or action shall be commenced hereunder by a claimant,
  - (i) Unless claimant, other than one having a direct contract with the Principal, shall have given written notice to any two of the following: The Principal, the Owner, or the Surety above named, within (90) days after such claimant did nor performed the last of the work or labor, or furnished the last of the materials or equipment for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials or equipment were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal , Owner or Surety at any place where an office is regular maintained for transaction of business, or served in any manner in which legal process may be served in the state in which the said work is located, save that such service need not be made by a public officer.
  - (ii) After the expiration of one (1) year following the date on which the Principal ceased work on said AGREEMENT and/or Contract and any modifications thereof, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof, such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.
  - (iii) Other than in a court of competent jurisdiction in and for the county or other political subdivision of the state in which the said work, or any part thereof, is situated, or in the United States District Court for the district in which the said Work, or any part thereof, is situated, and not elsewhere.
- (d) The amount of his bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics liens which may be filed of record against said AGREEMENT and/or Contract or said Work, whether or not claim for the amount of such lien be presented under and against this bond.

The Surety, for value received, agrees further that no changes in, omissions form, or alternations, modifications or additions to the terms and provisions of said AGREEMENT and/or Contract or the Work to be performed thereunder, and that no extensions of timed be given or changes made in the manner or time of making payments thereunder, shall in any way affect the Surety's obligations on this Bond, and the Surety hereby waives notice of any such changes, omissions, alteration, modifications, additions or extensions.

IN WITNESS WHEREOF, we have hereunto set our hands and seals to \_\_\_\_\_  
Two Thousand and \_\_\_\_\_.

\_\_\_\_\_  
Principal (Seal)

\_\_\_\_\_  
Principal (Seal)

\_\_\_\_\_  
Principal (Seal)

\_\_\_\_\_  
Surety (Seal)

\_\_\_\_\_  
Surety (Seal)

NOTE:  
If the Principal (Contractor) is a partnership, the Bond should be signed by each of the partners.

If the Principal (Contractor) is a corporation, the Bond shall be signed in its correct name by its duly authorized officer or officers.

If this Bond is signed on behalf of the Surety by an attorney - in- fact, there shall be attached to it a duly certified copy of his power of attorney showing his authority to sign such Bonds.

There should be an executed and approximate number of counterparts of the Bond corresponding to the number of counterparts of the AGREEMENT.

IMPORTANT: All surety companies executing BONDS must hold certifications of authority as acceptable sureties (31CFR 223) and be authorized to transact business in the State of Illinois.

### CONTRACT BONDS

#### Certificate of Acknowledgment of Contractor if a corporation

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

before me personally came \_\_\_\_\_ to me known, who being by me duly sworn, did depose and say as follows:

That he resides at \_\_\_\_\_ and is the, \_\_\_\_\_ of \_\_\_\_\_, the corporation describes in and which executed the foregoing instrument; that he knows the corporate seal of said corporation; that the seal affixed to the foregoing instrument is such corporate seal and it was so affixed by order of the board of Directors of said corporation; and that by the like order he signed thereto his name and official designation.

\_\_\_\_\_  
Notary Public (Seal)

My commission expires \_\_\_\_\_.

**BID BOND**

Conforms with The American Institute of Architects, A.I.A. Document No. A-310

KNOW ALL BY THESE PRESENTS, That we, ENCAP, Inc., 2585 Wagner Ct., DeKalb, IL 60115

\_\_\_\_\_ as Principal, hereinafter called the Principal,  
and the North American Specialty Insurance Company

of 1200 Main Street, Suite 800, Kansas City, MO 64105 , a corporation duly organized under

the laws of the State of New Hampshire , as Surety, hereinafter called the Surety, are held and firmly bound unto

Village of Algonquin, Illinois as Obligee, hereinafter called the Obligee,

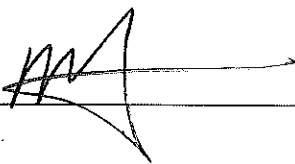
in the sum of FIVE PERCENT OF AMOUNT BID

Dollars (\$ 5% ) , for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

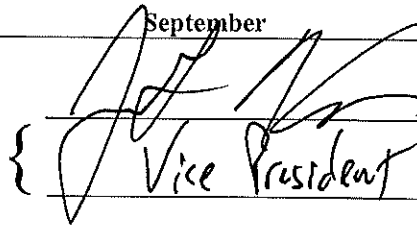
WHEREAS, the Principal has submitted a bid for Spella Park/Woods Creek Drainage Improvements & Restoration

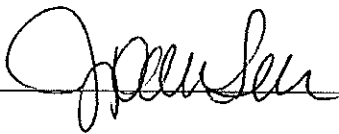
NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this 24th day of September, 2019



Witness

 ENCAP, Inc. (Seal)  
Principal  
Vice President  
Title



Witness

North American Specialty Insurance Company  
By Maura P. Kelly  
Maura P. Kelly, Attorney-in-Fact

SWISS RE CORPORATE SOLUTIONS

JRTH AMERICAN SPECIALTY INSURANCE COMPANY
WASHINGTON INTERNATIONAL INSURANCE COMPANY
WESTPORT INSURANCE CORPORATION

GENERAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, THAT North American Specialty Insurance Company, a corporation duly organized and existing under laws of the State of New Hampshire, and having its principal office in the City of Overland Park, Kansas and Washington International Insurance Company a corporation organized and existing under the laws of the State of New Hampshire and having its principal office in the City of Overland Park, Kansas, and Westport Insurance Corporation, organized under the laws of the State of Missouri, and having its principal office in the City of Overland Park, Kansas each does hereby make, constitute and appoint:

DAVID A. DOMINIANI, JOAN LEU, MAURA P. KELLY, SHARON K. MURRAY, JACQUELINE L. DREY and DUSTIN COOPER

JOINTLY OR SEVERALLY

Its true and lawful Attorney(s)-in-Fact, to make, execute, seal and deliver, for and on its behalf and as its act and deed, bonds or other writings obligatory in the nature of a bond on behalf of each of said Companies, as surety, on contracts of suretyship as are or may be required or permitted by law, regulation, contract or otherwise, provided that no bond or undertaking or contract or suretyship executed under this authority shall exceed the amount of:

ONE HUNDRED TWENTY FIVE MILLION (\$125,000,000.00) DOLLARS

This Power of Attorney is granted and is signed by facsimile under and by the authority of the following Resolutions adopted by the Boards of Directors of North American Specialty Insurance Company and Washington International Insurance Company at meetings duly called and held on March 24, 2000 and Westport Insurance Corporation by written consent of its Executive Committee dated July 18, 2011.

"RESOLVED, that any two of the President, any Senior Vice President, any Vice President, any Assistant Vice President, the Secretary or any Assistant Secretary be, and each or any of them hereby is authorized to execute a Power of Attorney qualifying the attorney named in the given Power of Attorney to execute on behalf of the Company bonds, undertakings and all contracts of surety, and that each or any of them hereby is authorized to attest to the execution of any such Power of Attorney and to attach therein the seal of the Company; and it is

FURTHER RESOLVED, that the signature of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be binding upon the Company when so affixed and in the future with regard to any bond, undertaking or contract of surety to which it is attached."



By [Signature] Steven P. Anderson, Senior Vice President of Washington International Insurance Company & Senior Vice President of North American Specialty Insurance Company & Senior Vice President of Westport Insurance Corporation

By [Signature] Mike A. Ito, Senior Vice President of Washington International Insurance Company & Senior Vice President of North American Specialty Insurance Company & Senior Vice President of Westport Insurance Corporation

IN WITNESS WHEREOF, North American Specialty Insurance Company, Washington International Insurance Company and Westport Insurance Corporation have caused their official seals to be hereunto affixed, and these presents to be signed by their authorized officers this 17th day of April, 2018.

North American Specialty Insurance Company
Washington International Insurance Company
Westport Insurance Corporation

State of Illinois
County of Cook

ss:

On this 17th day of April, 2018, before me, a Notary Public personally appeared Steven P. Anderson, Senior Vice President of

Washington International Insurance Company and Senior Vice President of North American Specialty Insurance Company and Senior Vice President of Westport Insurance Corporation and Michael A. Ito Senior Vice President of Washington International Insurance Company and Senior Vice President

of North American Specialty Insurance Company and Senior Vice President of Westport Insurance Corporation, personally known to me, who being by me duly sworn, acknowledged that they signed the above Power of Attorney as officers of and acknowledged said instrument to be the voluntary act and deed of their respective companies.



[Signature] M. Kenny, Notary Public

I, Jeffrey Goldberg, the duly elected Vice President and Assistant Secretary of North American Specialty Insurance Company, Washington International Insurance Company and Westport Insurance Corporation do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney given by said North American Specialty Insurance Company, Washington International Insurance Company and Westport Insurance Corporation which is still in full force and effect.

IN WITNESS WHEREOF, I have set my hand and affixed the seals of the Companies this 24th day of September, 2019.



**BID BOND**

Conforms with The American Institute of Architects, A.I.A. Document No. A-310

KNOW ALL BY THESE PRESENTS, That we, ENCAP, Inc., 2585 Wagner Ct., DeKalb, IL 60115

\_\_\_\_\_ as Principal, hereinafter called the Principal,  
and the North American Specialty Insurance Company

of 1200 Main Street, Suite 800, Kansas City, MO 64105, a corporation duly organized under the laws of the State of New Hampshire, as Surety, hereinafter called the Surety, are held and firmly bound unto

Village of Algonquin, Illinois as Obligee, hereinafter called the Obligee, in the sum of FIVE PERCENT OF AMOUNT BID

Dollars (\$ 5% ), for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for Spella Park/Woods Creek Drainage Improvements & Restoration

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this 24th day of September, 2019.

[Signature]  
\_\_\_\_\_  
Witness

[Signature]  
ENCAP, Inc. (Seal)  
Principal  
Vice President  
\_\_\_\_\_  
Title

[Signature]  
\_\_\_\_\_  
Witness

North American Specialty Insurance Company  
By [Signature]  
Maura P. Kelly, Attorney-in-Fact

SWISS RE CORPORATE SOLUTIONS

NORTH AMERICAN SPECIALTY INSURANCE COMPANY
WASHINGTON INTERNATIONAL INSURANCE COMPANY
WESTPORT INSURANCE CORPORATION

GENERAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, THAT North American Specialty Insurance Company, a corporation duly organized and existing under laws of the State of New Hampshire, and having its principal office in the City of Overland Park, Kansas and Washington International Insurance Company a corporation organized and existing under the laws of the State of New Hampshire and having its principal office in the City of Overland Park, Kansas, and Westport Insurance Corporation, organized under the laws of the State of Missouri, and having its principal office in the City of Overland Park, Kansas each does hereby make, constitute and appoint:

DAVID A. DOMINIANI, JOAN LEU, MAURA P. KELLY, SHARON K. MURRAY, JACQUELINE L. DREY and DUSTIN COOPER

JOINTLY OR SEVERALLY

Its true and lawful Attorney(s)-in-Fact, to make, execute, seal and deliver, for and on its behalf and as its act and deed, bonds or other writings obligatory in the nature of a bond on behalf of each of said Companies, as surety, on contracts of suretyship as are or may be required or permitted by law, regulation, contract or otherwise, provided that no bond or undertaking or contract or suretyship executed under this authority shall exceed the amount of:

ONE HUNDRED TWENTY FIVE MILLION (\$125,000,000.00) DOLLARS

This Power of Attorney is granted and is signed by facsimile under and by the authority of the following Resolutions adopted by the Boards of Directors of North American Specialty Insurance Company and Washington International Insurance Company at meetings duly called and held on March 24, 2000 and Westport Insurance Corporation by written consent of its Executive Committee dated July 18, 2011.

RESOLVED, that any two of the President, any Senior Vice President, any Vice President, any Assistant Vice President, the Secretary or any Assistant Secretary be, and each or any of them hereby is authorized to execute a Power of Attorney qualifying the attorney named in the given Power of Attorney to execute on behalf of the Company bonds, undertakings and all contracts of surety, and that each or any of them hereby is authorized to attest to the execution of any such Power of Attorney and to attach therein the seal of the Company; and it is

FURTHER RESOLVED, that the signature of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be binding upon the Company when so affixed and in the future with regard to any bond, undertaking or contract of surety to which it is attached.



By [Signature] Steven P. Anderson, Senior Vice President of Washington International Insurance Company & Senior Vice President of North American Specialty Insurance Company & Senior Vice President of Westport Insurance Corporation

By [Signature] Mike A. Ito, Senior Vice President of Washington International Insurance Company & Senior Vice President of North American Specialty Insurance Company & Senior Vice President of Westport Insurance Corporation



IN WITNESS WHEREOF, North American Specialty Insurance Company, Washington International Insurance Company and Westport Insurance Corporation have caused their official seals to be hereunto affixed, and these presents to be signed by their authorized officers this 17th day of April, 2018.

North American Specialty Insurance Company
Washington International Insurance Company
Westport Insurance Corporation

State of Illinois
County of Cook ss:

On this 17th day of April, 2018, before me, a Notary Public personally appeared Steven P. Anderson, Senior Vice President of

Washington International Insurance Company and Senior Vice President of North American Specialty Insurance Company and Senior Vice President of Westport Insurance Corporation and Michael A. Ito Senior Vice President of Washington International Insurance Company and Senior Vice President

of North American Specialty Insurance Company and Senior Vice President of Westport Insurance Corporation, personally known to me, who being by me duly sworn, acknowledged that they signed the above Power of Attorney as officers of and acknowledged said instrument to be the voluntary act and deed of their respective companies.



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I, Jeffrey Goldberg, the duly elected Vice President and Assistant Secretary of North American Specialty Insurance Company, Washington International Insurance Company and Westport Insurance Corporation do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney given by said North American Specialty Insurance Company, Washington International Insurance Company and Westport Insurance Corporation which is still in full force and effect.

IN WITNESS WHEREOF, I have set my hand and affixed the seals of the Companies this 24th day of September, 2019.



Spella Park/Woods Creek Drainage  
Improvements & Restoration

Village of Algonquin

**September 23, 2019**

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2585 WAGNER COURT DEKALB, IL 60115 (P) 815.748.4500 (F) 815.748.4255

[WWW.ENCAPINC.NET](http://WWW.ENCAPINC.NET)

[jkoepke@encapinc.net](mailto:jkoepke@encapinc.net)



## COMPANY EXPERIENCE & OPERATING HISTORY

With over 40 years of professional experience, ENCAP, Inc. recognizes that the success of our company and the ability to provide superior service to our clients rests on the quality, commitment, and dedication of our employees. ENCAP, Inc. is dedicated to finding, developing, and retaining the best talent available in our areas of expertise.

ENCAP, Inc. employs a staff of experienced ecological, environmental, and soil erosion control professionals who have a wide array of expertise, interests, and experiences. These include but are not limited to: wetlands, stormwater, permitting, native landscape design, wetland mitigation design, NPDES, soil erosion, tree preservation, and native landscaping. Our level of expertise is visible in the field and allows ENCAP, Inc. the ability to perform projects with sound professional judgment and careful attention to detail. Additionally, ENCAP, Inc. carefully selects our ancillary personnel, thus bringing a wealth of knowledge and experience to each project. ENCAP, Inc. currently employs a staff of approximately 65 individuals.

The ENCAP, Inc. staff is fully prepared to identify and address a wide array of ecological, environmental, and soil and erosion control issues. Our project experience includes wetland delineations, natural resource permitting with regulatory agencies and municipalities, planning, design, and implementation for: wetland mitigation projects, native landscaping projects, green infrastructure projects, bio-retention/bio-swale/BMP projects, and other natural resources projects, tree identification and surveys by a certified arborist, natural resource monitoring, floristic quality assessments and inventories, wildlife surveys, native landscape planting/installation of plants, trees, shrubs, seed, etc., invasive species management and restoration of natural areas, dewatering, site stabilization, public education and outreach, grant writing, and project management and budgeting. Led by its reputable project management staff, ENCAP, Inc.'s commitment to high-quality, efficient, and individualized service is carried through to every project.

ENCAP, Inc. was founded in 1973, and has continuously conducted business for 45 years. ENCAP has been performing construction and restoration work since 1992.

### **Primary Contact**

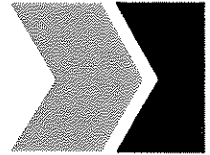
Jonathan Koepke, Vice President & General Manager  
ENCAP, Inc.

2585 Wagner Court  
DeKalb, IL 60115

jkoepke@encapinc.net | p: (815) 748-4500 f: (815) 748-4255 c: (815) 970-1671

# JONATHAN KOEPKE, CPESC, LEED AP

Vice President, General Manager



## EDUCATION

B.S. Department of History with High Honors; – Minor in Environmental Sciences  
Northern Illinois University, DeKalb, Illinois, 2001

M.A. Department of History; – Concentration in Geography – Area of Specialization U.S. Environmental  
History, Northern Illinois University, DeKalb, Illinois, 2003

MBA – School of Business, Northern Illinois University, DeKalb, Illinois, 2012

## CERTIFICATIONS

Certified Professional in Erosion and Sediment Control – No. 2862

Designated Erosion Control Inspector (DECI) – Lake County, IL

Licensed Illinois Commercial Pesticide Applicator (General Standards, Right of Way) # CA 03744188

Licensed Indiana Commercial Pesticide Applicator

NWCG S-130/S-190 Basic Wildland Firefighter Training for Controlled Wildland Burns

First Aid, CPR, AED Certified 2015

## PROFESSIONAL EXPERIENCE

Vice President, General Manager (2011 - Present) - ENCAP, Inc. DeKalb IL

Manage and direct corporate business operations including financing, profit and loss responsibility, long term planning, technical development, quality control, employee development, organizational structure, and day to day management activities.

Soil Erosion and Sediment Control Division Manager (2006 - 2011) - ENCAP, Inc. DeKalb, IL

Manage and direct the consultation, design, and installation of best management practices and streambank stabilization and restoration practices for ENCAP, Inc. Responsibilities include technical direction, field investigation, design recommendations, and consultation with clients and regulatory agencies on all aspects of erosion and sediment control.

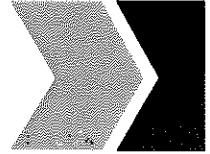
District Manager / Resource Conservationist (2005 - 2006) - Kane-DuPage Soil & Water Conservation District, St. Charles, IL

Manage district's land use programs and staff, performed technical review and oversight of complex construction projects around water resources including stream and river bank restorations. Administered the District's Streambank Stabilization and Restoration Program grant and performed initial site reviews and analysis.

Resource Analyst (2002 - 2005) - Kane-DuPage Soil & Water Conservation District, St. Charles, IL

Completed Land Use Opinion Reports to inventory natural resources on property that was subject to rezoning, Reviewed erosion and sediment control plans for technical standards and performed compliance site inspections on construction and restoration projects throughout Kane & DuPage Counties.

**JONATHAN KOEPKE, CPESC, LEED AP**  
Vice President, General Manager



**PROFESSIONAL ADVANCEMENT**

President - Great Lakes Chapter - International Erosion Control Association

International Erosion Control Association - Board of Directors, Treasurer 2015 - Present

USDA Natural Resources Conservation Service - Training Courses

Steambank Stabilization Design - I

Introduction to Soil and the Soil Survey

Hydric Soils for Wetland Delineation

Wetland Restoration Training

Conservation Planning

Speaker / Presenter at Numerous Conferences and Seminars throughout Illinois & Wisconsin

# **SUSAN ROWLEY, PWS, CWS, LEED AP**

**Ecological Consulting Director**



## **EDUCATION**

B.S. in Environmental Studies with Honors, Illinois State University, Bloomington/Normal Illinois

## **CERTIFICATIONS**

LEED AP (Leadership in Energy and Environmental Design Accredited Professional)  
Professional Wetland Scientist (PWS) - Society of Wetland Scientists  
International Society of Arboriculture Certified Arborist IL-4727A  
Lake County Certified Wetland Specialist #C-116  
McHenry County Certified Wetland Specialist  
Kane County Wetland Review Specialist #W-087  
Licensed Illinois Commercial Pesticide Applicator (General Standards, Right of Way) #CA 03751026  
Licensed Indiana Pesticide Applicator  
Certified Prescribed Burn Manager # 12-445  
NWCG S-130/S-190/S-290 Intermediate Wildland Firefighter Training for Controlled Wildland Burns  
First Aid, CPR and AED Certified 2018  
OSHA 30-Hour Certified

## **MAJOR PROJECTS**

Inland Real Estate – Hunters Woods. Tree Inventory for 2,820 trees. McHenry County, Illinois.

IL River Barge Dock Project. Endangered Aster and IN Bat Surveys. (Woodland, floodplain, wetland and upland habitats)

Mallard Point Site. Endangered Orchid Survey. Sugar Grove, Illinois. (Wet mesic, emergent, wet prairie, upland prairie, wet meadow, deep water habitats)

IL Sand/Cement Project. Stream and Habitat Assessment. (Emergent, wet meadow, stream, upland buffer habitats)

Wetland Delineations of over 500 sites within the Midwest and Northeast Northcentral Regions from 2005-Present.

Natural Area Assessments of over 450 sites within the Midwest and Northeast Northcentral Regions from 2005-Present.

## **PROFESSIONAL ADVANCEMENT**

U.S. Army Corps of Engineers Wetland Delineation Training  
USACE Interim Regional Supplement – Midwest Region Training  
Bollinger Wetland Plant Identification Training  
Numerous Arborist, Wetland, and Erosion Control Trainings  
Illinois Association of Environmental Professionals (IAEP) Member  
Mohlenbrock Wetland Plant Identification Training  
Association of State Wetland Managers(ASWM Member)  
IECA Member  
Society of Wetland Scientists Member

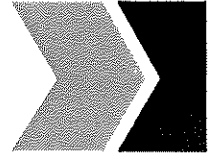
## **AREAS OF SPECIALIZATION**

Wetland Delineation and Permitting; Endangered and Threatened Species Surveys; Plant Inventory and Identification (Meander and Transect); FQA Field and Program Data; Wildlife Habitat Assessments; Invasive Species Management and Monitoring; Native Landscape and Wetland Mitigation Design



# MARK DEDINA

## Maintenance Superintendent



### EDUCATION

Bachelor of Science in Biology and Environmental Studies, Ripon College; Ripon, WI 2007

### CERTIFICATIONS

Licensed Illinois Herbicide Applicator (General Standards, Right-of-Way) #CA 03752372  
NWCG S-130/S-190 Basic Wildland Firefighter Training for Controlled Wildland Burns  
Chainsaw Safety Certification  
First Aid, CPR and AED Certified, 2017

### AREAS OF SPECIALIZATION

Native/non-native plant identification; Rare plant identification; Habitat specialist  
Effective chainsaw use and maintenance  
Midwestern Wetland and Prairie Ecology  
Natural Areas Restoration  
Plant Biology  
Bird Identification

### PROFESSIONAL EXPERIENCE

Maintenance Superintendent (2012- Present) - ENCAP, Inc., DeKalb, IL

Plant native seed, trees, shrubs, and live plugs while restoring prairie, riparian, and wetland habitats  
Invasive plant species control via the use of applied herbicide and mechanical practices  
Conduct controlled burns to variety of habitats  
Maintain accurate daily logs and notes on all sites attended, material used, and billable hours  
Collaborate with management, contractors, consultants, and daily workers for seeding and management tactics and timely completion of projects while maintaining daily logs on all sites and materials  
Construct and install a variety of erosion and sediment controlling solutions including: erosion control blanket, silt fence, temporary seed, dewatering systems, sediment traps, compost logs, inlet protection, gabion baskets, check dams, bio swales, etc.  
Operate and perform regular maintenance on a variety of equipment including: ATVs, chainsaws, various tractors and skid loaders equipped with buckets, power rakes, tub spreaders, trillion seeders, seed drills, disks, landscape rakes, straw crimpers, silt fence installation machines, and bush hog mowers

### ADDITIONAL EXPERIENCE

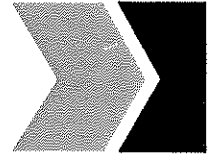
Volunteer Bird Monitoring for Life Net Nature Program- Las Tangaras Reserve, Mindo, Ecuador, December 2015

Perform daily feeder survey; Record species, sex and general behavior of over 12 species of hummingbirds.  
Observe Andean Cock of the Rock (*Rupicola peruvianus*) lek from a blind to record activity, behavior and location of male specimens.  
Keep working list of observed bird species throughout reserve property.  
Help maintain lodge, gardens, trail systems, water system, as well as general reserve maintenance.

Volunteer for Masai Giraffe and Kenyan Bird Monitoring Program - Siria Plateau, Kenya, Africa 2014

Tracked, photographed and recorded behaviors of free-ranging wild populations of the Masai Giraffe while monitoring other wildlife including eland, zebra, wildebeest, impala elephant, and others.  
Aided in the training of Masai eco-guides and offered feedback on their safari program.  
Provided suggestions for improving eco-tourism, business management, and discussed the formation

**MARK DEDINA**  
Maintenance Superintendent



of a wildlife conservancy on their native land.

Raptor Field Techniques Workshop - Linwood Springs Research Station, Stevens Point, Wisconsin 2011  
Completed 40 hours of hands on training in raptor ID, aging, sexing, measurements, molts, banding, blood sampling and auxiliary marking, netting/capturing techniques, monitoring, extractions, harness and jess design, telemetry and surveillance.

Volunteer for Kèköldi Bird Conservation and Monitoring Program - Talamanca Region, Costa Rica 2010  
Raptor identification, data processing, and estimation techniques for over 18 species of migratory raptors while living and interacting with the Kèköldi Indigenous Reserve.  
Daily hiking and monitoring through adverse field conditions  
Provided interaction and education for visiting students and other conservation groups

Raptor Management and Falconry Seminar - S.O.A.R. 2009  
Certified completion of 35 course on identification, rehabilitation, husbandry, training, handling and management of birds of prey for release and education.



# Improving Fish Passage in Mill Creek and Cal-Sag Channel

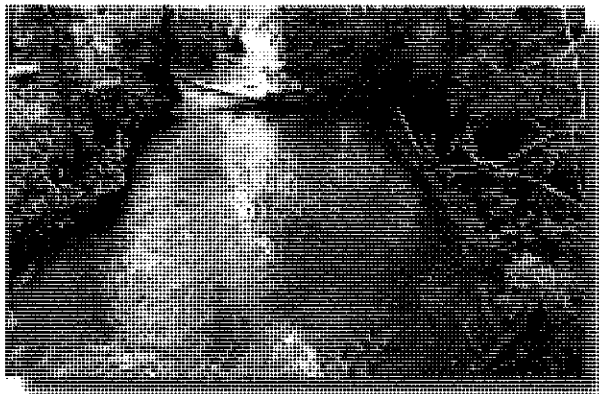
Friends of the Chicago River  
McCloughry Springs Forest Preserve  
Contract Dates: 2018-Present  
Contract Value: \$179,000

Mill Creek is a valuable stream system which provides stormwater runoff conveyance, recreational opportunities, wildlife and fisheries habitat, open space, and other benefits for the Cal-Sag channel. However, the value of the stream resource was compromised by such problems as fish migration barriers caused by water level drops at both the existing bridge crossing and a bedrock shelf downstream of the bridge. This contributed to diminished fish habitat value (lack of fish access to a meandering Mill Creek upstream of the bridge with large expanses of diverse habitat for fish spawning, rearing, and young-of-the-year survival). There was also a degradation of aquatic habitat downstream of the bridge, with essentially a paved section of bedrock which lacks cover or habitat for fish holding, fish passage, velocity diversity, or other benefits. ENCAP, Inc. was contracted in 2018 with construction beginning in 2019 for a design-build to improve the channel.

Existing bedrock was dismantled and cut in selected areas to lower existing grades. Cut bedrock was selectively re-used to install a riffle slope that provides flow energy dissipation as well as fish holding pools. Stepped pools were constructed in the middle and upstream area near the bridge to allow for fish holding stations. Sensitivity to the variety of existing and future potential fish species were incorporated in the design process through the selection and utilization of a variety of rock, gravel, sand, and boulder gradations throughout the structure. Streambank stabilization techniques including bank re-grading, native plantings, rock riffles, and rock toe were also utilized. The surrounding areas were also improve with the removal of invasive plant species and the installation of native vegetation. This project is currently under management.

**Contact:**

Maggie Jones, Conservation Programs Specialist - Friends of the Chicago River  
MJones@chicagoriver.org | (312) 939-0490 ext. 18



**Before Construction - 5.22.18**



**During construction - 4.17.19**



## Morton Arboretum Section 206

U.S. Army Corps of Engineers, Chicago District

Morton Arboretum

Contract Dates: 2015-Present

Contract Value: \$2,909,270

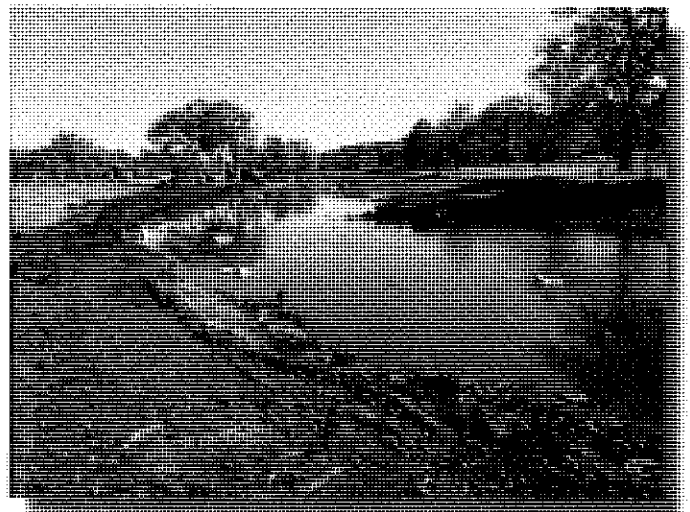
Contract Number: W912P6-15-C-0008

The Morton Arboretum Ecosystem Restoration is an ongoing 93 acre habitat enhancement project funded by the USACE and Morton Arboretum in Lisle, Illinois. The project includes many tasks for this restoration. These tasks include but are not limited to: 64 acres of selective invasive tree and shrub removal, earthwork and grading of the banks of 1.1 miles of the east branch Dupage River, creating stone riffles, 80 boulder clusters, in-stream woody habitat structures, invasive species removal, installation of native seed and plugs, and stewardship of the project site for 5 years including mechanical and herbicide management of invasive species as well as prescribed burning.

The heavy construction began in the fall of 2015 and was completed in the fall of 2017. During construction 16,000 cubic yards of material was removed from the banks of the river to reduce the near vertical banks to a more gentle slope from 3:1 to 15:1. During the grading, woody habitat structures comprised of logs saved from the invasive tree removal were installed on the banks of the river to improve stream complexity. In addition to the woody structures, boulder clusters comprising more than 600 6" to 5' glacial boulders were placed along the northern length of the river to improve diversity of habitat. To date, the structures have attracted an additional 6 fish species to this stretch of river since installation. Finally, at the upstream end of the project a 50' wide riffle was constructed of glacial cobble and stone to thoroughly mix and aerate the water flowing into the project from a channelized stretch of river.

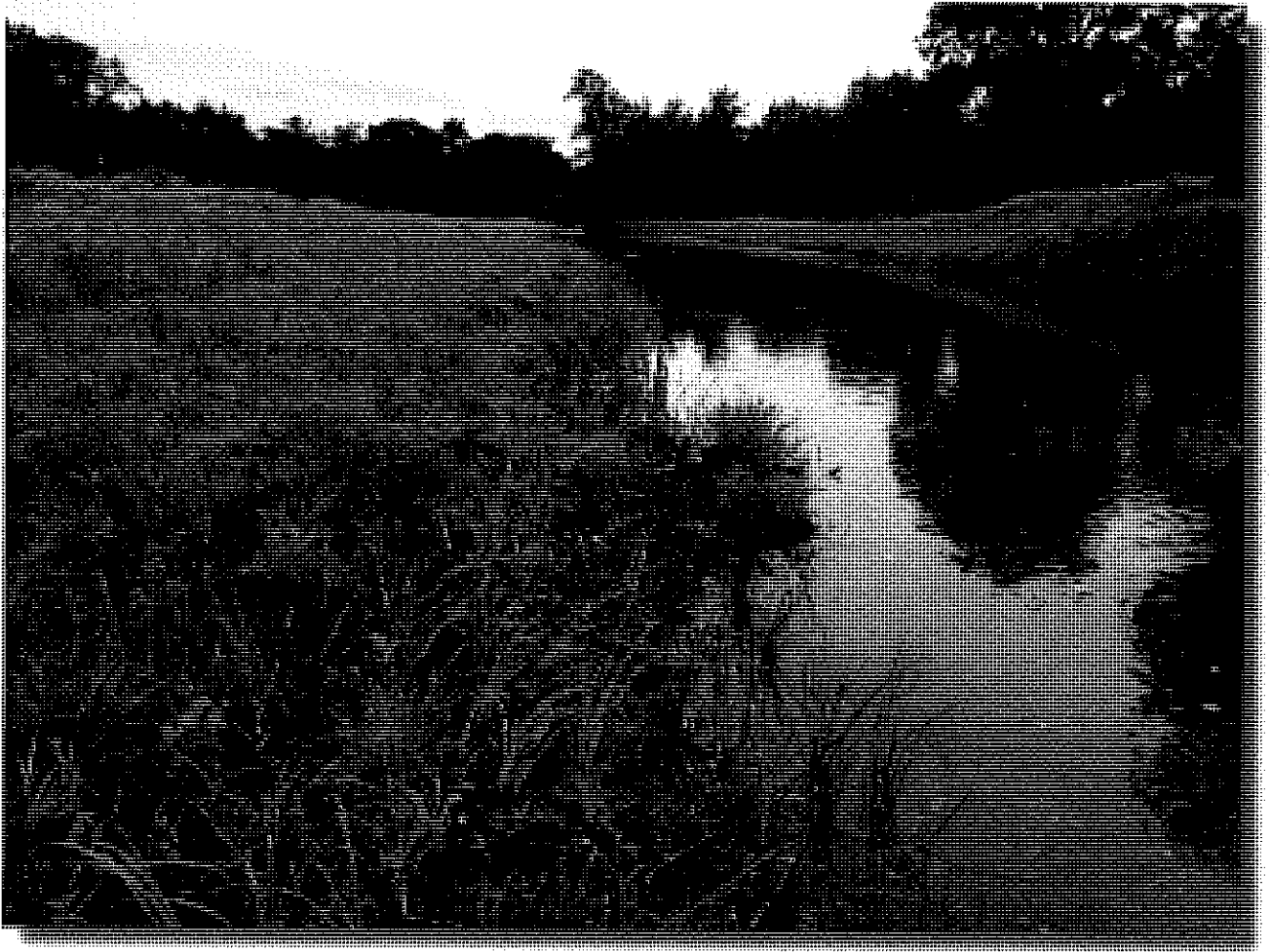


Beginning of construction, Spring 2015



During construction

# ENCAP INCORPORATED



The upland habitat was treated for invasive species for the entirety of the first year in preparation for seed and plug installation that occurred on year 2 of the project. 90 acres of native genotype seed and 51,000 live plugs were installed throughout the project and are currently under our team's stewardship.

#### Contacts:

Lynn Ewing, Contracting Officer- United States Army Corps of Engineers  
[Lynn.Ewing@usace.army.mil](mailto:Lynn.Ewing@usace.army.mil) | (312) 860-0078

Kurt Dreisilker, Head of Natural Resources- Morton Arboretum  
[kdreisilker@mortonarb.org](mailto:kdreisilker@mortonarb.org) | (630) 725-2093



# Nippersink Creek, Section 206 Ecosystem Restoration Project

U.S. Army Corps of Engineers, Chicago District

McHenry County Conservation District

Contract Dates: 2014-Present

Contract Value: \$4,503,000

Contract Number: W912P6-14-C-0027

The Nippersink Creek Section 206 Aquatic Ecosystem Restoration Project is an on-going project which included work with streambank grading, riparian corridor restoration and in stream structure construction. This complicated stream restoration project consisted of over 8,000 Linear Feet of streambank grading and seven in-stream riffles and habitat structures. The goal of the project was to re-establish the natural floodplain hydrology in order to hydrate side channel and off-bank wetlands as well as historic oxbow habitats while allowing the existing channel to reconnect to the historic floodplain and migrate naturally within the riparian corridor.

The project involved over 38,000 CY of excavation and hauling under difficult conditions throughout the winter of 2014-2015 in order to achieve the project goals. The project was performed by ENCAP, Inc. with excavation activities subcontracted to Earthwerks, Inc. Existing vertical cut banks were graded to 10:1 slopes in exterior bends to 20:1 slopes in interior bends to provide increased flood capacity as well as connectivity to the floodplain from the stream and existing tributaries.

The riffle construction included approximately 800 tons of sand, glacial cobble, and boulders which were placed to create a gentle 20:1 back slope from the riffle crest on each of the seven in stream riffle structures. All work was performed in the wet including demolition and riffle construction along with bank grading in the areas across the entire upstream 8,000 feet on streambank. The work was performed utilizing a combination of a long reach wide tracked excavator, low ground compression excavator, as well as two other mid-size excavators, six low ground compression tracked haul trucks, two low compression dozers, and two tracked skid steers.

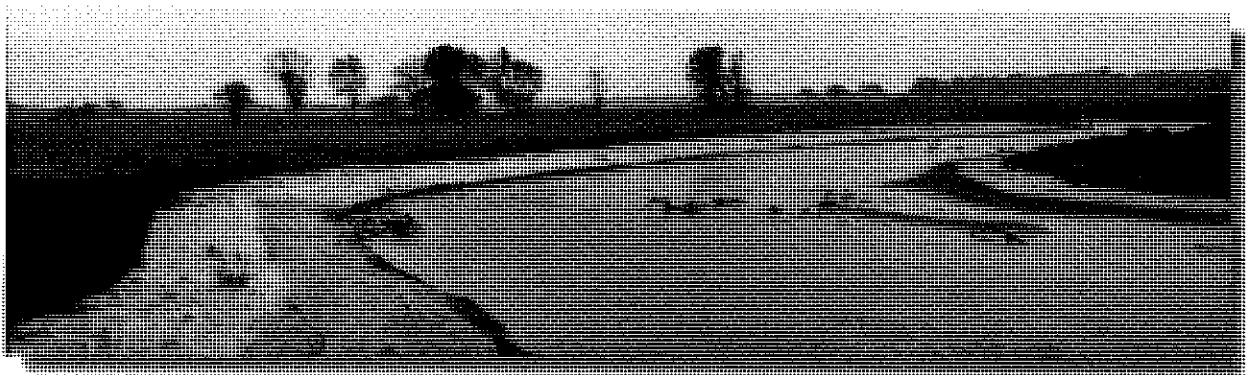


Photo Taken: May 26, 2015

# ENCAP INCORPORATED

Directly following excavation and grading, preparation work for native seeding began, which included over 188 acres of invasive woody clearing and 350 total acres of native seeding that encompassed a variety of unique ecosystems, including sedge meadow, riparian, wet mesic, marsh, fen, dry mesic, oak savanna, among others. Several sensitive and endangered plant and animal species were present throughout these areas, and special precautions were taken to ensure their protection throughout the restoration process, and included the ongoing maintenance and development of advanced plant identification skills held by our staff.

## Contacts:

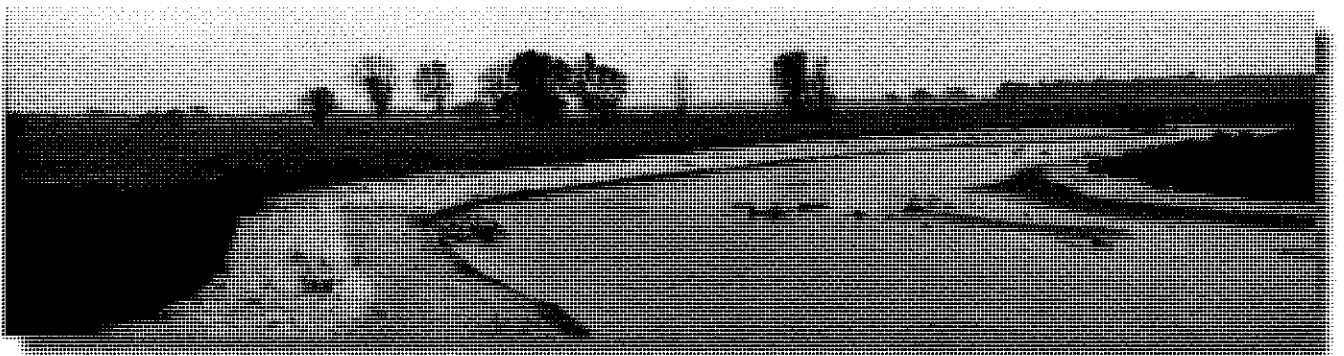
Frank Veraldi, Ecosystem Planner/Fish Biologist - United States Army Corps of Engineers  
Frank.M.Veraldi@usace.army.mil | (312) 846-5589

Jason Zylka, Restoration Ecologist - United States Army Corps of Engineers  
Jason.Zylka@usace.army.mil | (312) 415-7341

Ed Collins, Director of Land Preservation & Natural Areas- McHenry Country Conservation District  
MCCD@MCCDistrict.org | (815) 678-4532



Before - Photo Taken: October 8, 2014



After - Photo Taken: May 26, 2015





## **Woods Creek**

**Village of Algonquin**

**Contract Dates: 2016-2019**

**Contract Value: \$592,596.70**

In September of 2016, ENCAP, Inc. was contracted by the Village of Algonquin to begin work on the Woods Creek Streambank Stabilization and Restoration project. The goal of the project was to regrade and restore a highly incised, 3,100 linear foot streambank corridor. The work involved clearing and grubbing of the corridor, 1,268 CY of topsoil strip/stockpile/respread, 2,981 CY excavation, and 1028 ton of stone for 1516 feet of stone toe, 8 stone step grade control structures, and stone bedding. After earthwork was complete, 6.17 ac of native seed with erosion control blanket was installed along with 6,900 we prairie plugs, and 18 native trees. Construction and native plant installation was complete in July 2017. ENCAP, Inc. has been performing stewardship on the site since that date and will continue through 2019.

Reference: Michelle Zimmerman, Assistant Public Work Director, Village of Algonquin  
mzimmerman@algonquin.org, (847)658-2754



# Lawndale Creek Streambank Restoration Project

Village of Algonquin

Contract Dates: 2012 - 2016

Contract Value: \$89,080

This project involved the restoration of approximately 500 linear feet of streambank and riparian area along Lawndale Creek, a tributary of the Fox River in Algonquin, IL. This highly incised stream was located within a developed and urbanized area on the near west side of Algonquin. The stream had become severely eroded, incised and overgrown with woody invasive species such as buckthorn, honeysuckle, and box elder. The design for the project included clearing, removing, and herbiciding all woody invasive species, construction of boulder and cobble riffles, and stream bank grading and sloping to reconnect the stream to its associated and historic floodplain. The construction, grading, seeding, erosion control blanketing and native plug planting work was performed in the Summer of 2012 between May 30th and June 11th. The project was constructed from downstream to upstream utilizing low ground compression tracked skid steers and small tracked excavators. The work was performed utilizing low flow conditions. As a condition of the USACE permit and Soil and Water Conservation District requirements, flow was intentionally blocked at the upstream limit of the project during work hours to reduce sediment impact to downstream water resources. The excavated materials were spread outside the floodplain and seeded. This work also included planting of native trees and shrubs along the riparian corridor in the Fall of 2012. The site has been under management for invasive species by ENCAP, Inc. since that date.

Contact: Michelle Zimmerman, Assistant Director of Public Works - Village of Algonquin  
mzimmerman@algonquin.org | (847) 658-2754 x4401



Photo Taken: May 21, 2014



# Silver Creek Streambank Stabilization & Floodplain Enhancement Project

Village of Melrose Park  
Contract Dates: 2010-2011

The Silver Creek Streambank project involved the sloping back of 4140 linear feet of heavily wooded and steep urbanized stream banks to create some floodplain and help return a highly incised portion of silver creek to equilibrium. Several riffles and point bars were created using glacial cobbles to help this goal. The banks were then naturalized using native seed and over 10,000 plugs in conjunction with erosion control blanket. Coir log was used as a temporary erosion control and growth medium BMP for some of the emergent and wet mesic native plugs. Due to the restricted floodplain and riparian corridor, this project was completed in the wet. This approach required a special emphasis on the soil erosion and sediment control practices during the construction of the project. The project was completed using tracked excavators, rubber tracked skid steers, and tracked tree felling equipment. Construction began in June of 2010 and was completed in July of 2011.

Contact: Mr. Gary Marine, Director of Public Works - Village of Melrose Park  
gmarine@melrosepark.org | (708) 343-5128 ext 226

**Before**



Photo Taken: July 21, 2010

**After**



Photo Taken: October 28, 2011



# Flint Creek Floodplain Restoration Project

Village of North Barrington  
Contract Dates: 2013 - 2016

The Flint Creek Floodplain Restoration Project consists of 1,900 linear feet along the Flint Creek corridor that included streambank re-grading, woodland restoration, and erosion control enhancements to improve water quality for the Flint Creek watershed. Rock toe, rock riffles, and coir logs were installed in 2013 by ENCAP, Inc., as well as native floodplain plant communities throughout the floodplain corridor to improve water quality functions, soil stabilization, and promote wildlife habitat usage.

Grading, rock toe stabilization, and planting installation within streambank areas were completed in three phases. Initial restoration activities included invasive brush and tree removal, herbicide application of non-native/invasive species. Construction activities followed initial restoration work, including grading and excavation, installation of rock toe and rock riffles, and installation of erosion control blanket and native seeding. Native tree and shrub species were also installed throughout the floodplain corridor.

ENCAP, Inc., was retained for the monitoring and management of the native plant communities, with formal monitoring commencing in April 2013. Monitoring was conducted twice annually with additional site inspections made throughout the year to effectively identify and address management issues. Monitoring and maintenance activities continued for a period of three years or until all performance criteria had been met.

Following the 2016 growing season, the Flint Creek Floodplain Restoration Project received official sign-off from the USACE, Lake County SMC, and Village of North Barrington.

Contact: Nancy Schumm - Schumm Consulting LLC - 847.975.8391 Nburg719@aol.com



Before - Photo Taken: November 14, 2012



After - Photo Taken: October 7, 2016



## Hickory Creek Streambank Restoration Project

VFW of New Lenox

Install Date: Fall 2017

Contract Value: \$123,189.41

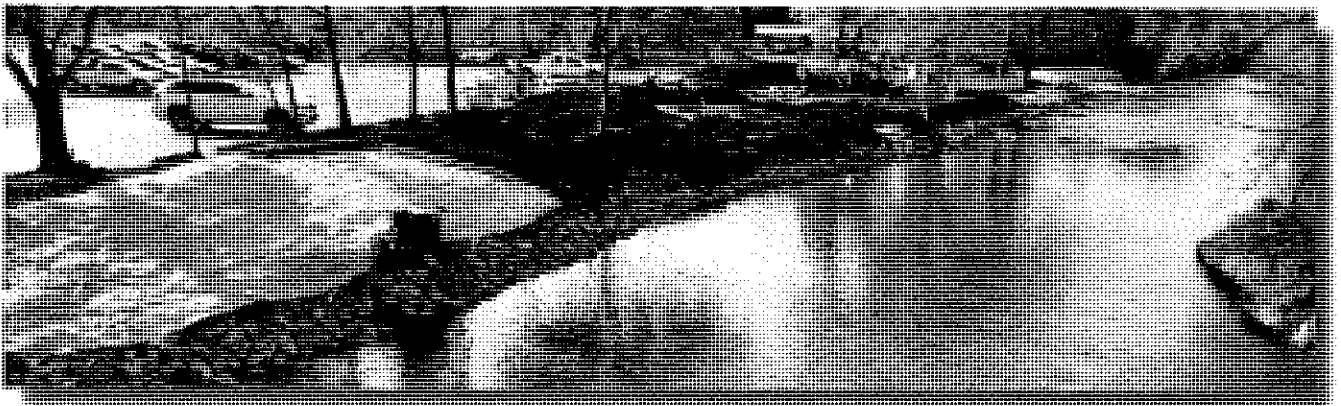
In the fall of 2017, ENCAP, Inc. was contracted to begin work on the Hickory Creek Streambank Restoration Project. The goal of this project was to regrade and restore the highly incised streambank behind the New Lenox VFW. The work involved stone toe protection of 410 linear feet of shoreline, rock point installation, lannon stone steps, and native plug and seed installation. In addition, a 250'x10' bioswale was installed with amended soil, rock checks, underdrain, and native seed & plugs.

Contact: Ted Gray, Living Waters Consultants, Inc.

TGray@lwc-inc.com | (630) 321-1133



Before Photo Taken: October 25, 2017



During Construction: November 3, 2017



## Ferry Creek Streambank Repair

West Chicago Environmental Response Trust  
Install Date: July 2017

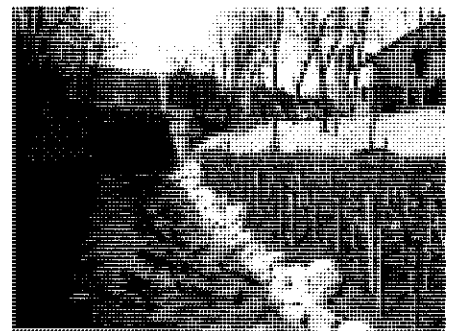
The Ferry Creek Streambank Repair project involved the stone toe installation along the banks of Ferry Creek in McDowell Grove Forest Preserve. ENCAP, Inc. installed 490 tons of cobbles and boulders along the shoreline and pressed them into the bank. The stone was also used to help repair an existing rock riffle in Ferry Creek. Areas for access were cleared and subsequently restored with native seed and blanket.

Contacts: Deepak Bhojwani - 847.942.2856  
Mark O'Leary - 608.897.8641

## East Bank Stabilization, West Fork North Branch

Village of Glenview  
Install Date: 2010

This project involved restoration and stabilization of the east bank of the West Fork North Branch of the Chicago River in downtown Glenview, IL. The scope of work involved the removal of woody invasive species through herbicide treatment and mechanical cutting, grading and reshaping the streambank, installation of two flagstone and cobble rock riffle structures, and boulder toe placement along the bank. Existing topsoil and clay materials were exported from the site and an amended soil was respread across the streambank and floodplain to facilitate seeding of native prairie, tree and shrub planting and installation of erosion control blanketing.

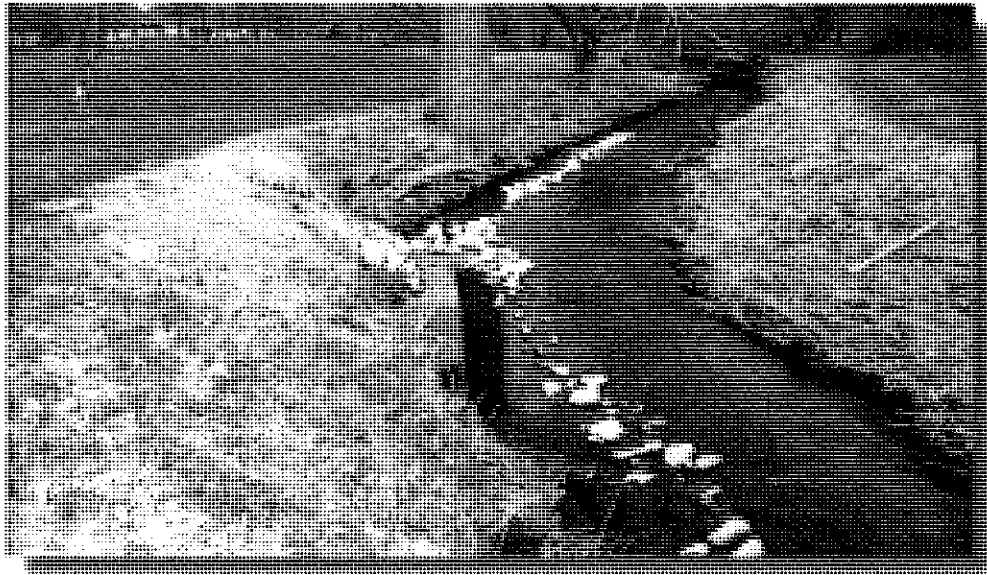


Reference: Robert Steele, Village of Glenview, 847.904.4423  
Project Cost: \$160,000

## Ferson Creek Streambank Stabilization

Windings of Ferson Creek HOA  
Contract Dates: 2008

This project involved the construction of a rock riffle and 250 linear feet of longitudinal peak stone toe protection along Ferson Creek for the Ferson Creek Homeowners Association. The project was funded in part by an Illinois Department of Agriculture – Streambank Stabilization and Restoration Program (SSRP) Grant and coordinated through the local Soil and Water Conservation District.





# Warrenville Grove Dam Modification Project

DuPage County Stormwater Management

Contract Dates: 2008-2011

Contract Value: \$1,940,950

The Warrenville Grove Dam Modification Project involved the removal of a low head dam on the West Branch of the DuPage River at the McDowell Grove Forest Preserve and modification of the structure into a riffle and pool complex which was completed in 2011. The project also included the restoration of 13 acres of floodplain in the formerly impounded area upstream of the dam structure and planting of trees and shrubs, as well as invasive species removal throughout the river corridor. The project was performed by EarthWerks, Corp. with restoration activities subcontracted to ENCAP, Inc. The dam modification included demolishing the existing limestone block dam and converting the dam location to a riffle and pool complex which would restore natural river hydrology and also allow fish passage in this reach of the river that had not existed prior to the development.

The dam modification and riffle construction included approximately 7,500 tons of sand, glacial cobble, and boulders which were placed to create a gentle 20:1 back slope from the riffle crest. All work was performed in the wet including demolition and riffle construction along with minor bank grading in the areas immediately upstream and downstream of the riffle. The work was performed utilizing a combination of a long reach wide tracked, low ground compression excavator, as well as two other mid-size excavators, and two tracked skid steers.



Photo Taken: September 11, 2014



# ENCAP

INCORPORATED

The impounded pool above the dam was allowed to draw down and the channel to shape itself within the historic floodplain. No grading of a new channel or rock or stone toe was placed to define the stream channel, which therefore allowed the stream channel to migrate within the newly opened and restored floodplain. The removal of the dam and restoration of the natural river hydrology also created backwater wetlands and pools in the former impoundment adjacent to several pre-existing islands which were above the dam.

The new river banks and floodplains were seeded with diverse sedge meadow communities, marsh species, and wet to mesic prairie. In addition, over 45,000 native plant plugs and 1,000 trees and shrubs were planted in the floodplain and wetland areas above the former dam. The project was then maintained and managed by ENCAP, Inc. for 3 years for invasive species control. The area has survived many large flood events without damage to the riffle structure or loss of the native floodplain plantings.

Contact: Sarah Hunn, P.E. - DuPage County Stormwater Management  
sarah.hunn@dupageco.org | (630) 407-6676



Photo Taken: September 11, 2014



# West Branch Hydraulic Improvements & Restoration Project

DuPage County Stormwater Management

Contract Dates: 2013-2018

Contract Value: \$3,280,307

The West Branch Hydraulic Improvements and Restoration Project involved the construction and improvement of nine cobble riffles and modification of the McDowell Grove Dam throughout a 1.8 mile stretch of the West Branch of the DuPage River. The project involved work on property owned by the County of DuPage and also within the McDowell Grove Forest Preserve. In addition to the riffle construction and improvements, 3 backwater/floodplain wetlands were constructed along a 3,500 foot section of the river owned by DuPage County.

The goal of the project was to improve riverine habitat and raise the profile of the river in the reach to more frequently flood the lower floodplain and thus improve floodplain function and habitat. The project involved over 75,000 CY of excavation and earthwork and 9,000 Tons of glacial cobble and boulder placement. In addition to the heavy construction activities, the project also included significant restoration plantings and invasive species removal along the floodplain. Plantings included approximately 50,000 native herbaceous plugs, 500 native trees and shrubs, and six acres of native seeding. Diverse mixes of wet meadow, sedge meadow, mesic prairie, shady floodplain, and mesic savanna communities were seeded throughout the project based on site conditions.



Photo Taken: September 11, 2014

# ENCAP

INCORPORATED

EarthWerks, Corp. was the prime contractor on the West Branch project and performed all earthwork and heavy construction activities, with ENCAP, Inc. subcontracted to perform all restoration, native plantings, and ecological maintenance work. The project started in late summer of 2013 and completed in July of 2014 with all construction and installation activities. The heavy construction was performed utilizing a long reach tracked excavator, one mid-sized excavator, a wide tracked dozer, a tracked haul truck, and two tracked skid steers. All construction was performed in the wet including floodplain shaping, grading, and riffle construction. Seeding and placement of 100% biodegradable erosion control blanket was completed immediately upon final grading to protect from erosion and begin establishment of the native plantings. Tree and shrub planting was also completed upon final grading in the Fall of 2013 and Spring of 2014. All live herbaceous plugs were installed in May-June of 2014. Maintenance and stewardship activities are on-going and will be continuing through 2018 by ENCAP, Inc.

Contact: Sarah Hunn, P.E. - DuPage County Stormwater Management  
sarah.hunn@dupageco.org | (630) 407-6676



Photo Taken: June 6, 2016



**VILLAGE OF ALGONQUIN**  
*PUBLIC WORKS DEPARTMENT*

**– M E M O R A N D U M –**

DATE: October 11, 2019

TO: Committee of the Whole

FROM: Michele Zimmerman, Assistant Public Works Director

SUBJECT: *Construction Management Services – Woods Creek Reach 4 Restoration*

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Attached you will find a proposal from Applied Ecological Services for construction management services in the amount of \$18,000.00 for the Woods Creek Reach 4 Restoration project. Construction management services for this project were passed as part of the 2019–2020 FY budget in account 06900300-42232, Park Improvement Fund, in the amount of \$35,000.00. This project is described as the construction of drainage improvements consisting of native seeding and stream restoration, ditch re-grading, storm sewer underdrain, riprap installation, wetland seeding, and native restoration.

Applied Ecological Services was the design engineer for this project. Therefore, they are intimate with the plan set and the required inspection time needed to ensure a quality built project. They are also familiar with the specifications needed to construct the project in order to review and approve materials and shop drawings.

Thus, it is our recommendation that the Committee of the Whole take action to move this matter forward to the Village Board for approval of construction management services for Woods Creek Reach 4 Restoration to Applied Ecological Services for \$18,000.00.



# Consulting Proposal and Agreement

## Project Information

Project Name: Spella/Woods Creek 4 Construction Oversight  
AES Project Number: 19-0712  
Branch: West Dundee, IL

September 6, 2019

Michele Zimmerman  
Assistant Director of Public Works  
Village of Algonquin  
110 Meyer Drive  
Algonquin, IL 60102

Re: Agreement and Authorization for Services by Applied Ecological Services, Inc. (AES) for Village of Algonquin.

Dear Michele,

Thank you for the opportunity to provide this proposal to perform construction oversight services related to the construction of the Spella Park/Woods Creek Reach 4 Restoration Project. For your review, we have enclosed our scope of work based on our understanding of your request for services.

We are confident you will find that AES provides exceptional expertise, service, and value and we look forward to working with you on this project. Please call with any questions regarding this proposal and supporting documents.

Once reviewed and signed, please return this Agreement according to the instructions on the signature page.

Sincerely,

William W. Stoll  
120 West Main St.  
West Dundee, IL 60118  
Office: 847-844-9385  
Cell: 773-507-0983  
[bill@appliedeco.com](mailto:bill@appliedeco.com)

**I. SCOPE OF WORK**

**Task 1. Construction Oversight**

AES will provide construction oversight services for the Spella Park/Woods Creek Reach 4 Restoration Project in Algonquin, Illinois. The anticipated project start date is October 2019 with a June 15, 2020 deadline. AES staff (Ecologists, Environmental Engineer, and/or Landscape Architect) will be present for 3-4 hours each day during construction activity. AES also anticipates attending a construction kickoff meeting and several project status meetings. When appropriate, AES will provide meeting minutes and/or memos to document issues and change orders that may arise during construction. AES will neither direct the contractor on means and methods of construction nor instruct the contractor on safety procedures and process.

Construction oversight will be conducted for the following:

- 1) Site Preparation (Tree Removal, clearing/grubbing, fencing, herbiciding, & soil preparation for native seeding)
- 2) Earthwork (topsoil strip/respread, excavation, fill, fine grading, J-hooks, stone toe protection)
- 3) Erosion & Sediment Control (construction entrance, stream crossing, erosion blanket, sump, siltfence, mulch)
- 4) Ecological Restoration (prairie seeding, existing wetland management, turf seeding, tree planting)
- 5) Review & Approve Contractor Invoices

All documentation will be kept in electronic format and include photos of soil preparation, native seeding/planting, J-hooks/riffles, stone toe protection, and erosion control. AES will also verify and document, stone sizing prior to placement, all native seed mixes, native plants, and native trees. Copies of all seed tickets and pictures of all plant materials will be documented.

Note: Construction Oversight will not extend in to the 3-Year Management time period that is required for the project.

*Product:* Construction oversight services

*Lump Sum Fee:* \$18,000

**Total Lump Sum Fee Task 1:                    \$18,000**

**Billing Information:**

Total amount of contract: **\$18,000**

Payment:

- Estimated Fees
- Estimated Fees, Not-to-Exceed (per fee schedule, with not-to-exceed amount)
- Lump Sum (% complete, by project total)
- Lump Sum by Task (% complete by task, no hourly detail)
- Time and Materials

**Special Billing Instructions:** Not Applicable

**Reimbursable Expenses:**

- Reimbursable expenses are included in the fee.
- Reimbursable expenses are not included in the fee and will be billed per the fee schedule.

Receipts Required:     Yes     No

Meals Charged:         Yes     No

Per Diems Charged:     Yes     No

Enclosure(s)

Standard Terms and Conditions

Exhibit A: AES Rate Schedule

Signature Page on Next Page

## Acceptance

In signing below, each party agrees to abide by all terms and conditions presented in this Agreement and the defined contents. Work will begin upon receipt of the applicable deposit and this signed authorization.

**\*\*PLEASE SIGN AND RETURN to Applied Ecological Services, Inc. An executed contract containing both signatures will be returned to you. This Agreement is not binding upon AES until executed by an officer of AES.**

Applied Ecological Services, Inc.

Signature:	Date:
Name:	
Title:	
P.O. Box 256, 17921 Smith Rd.	
Brodhead, WI 53520	
Phone: 608-897-8641	Fax: 608-897-8486
Email:	

Client:

Signature:	Date:
Name:	
Title:	
Company:	
Address:	
City, State, Zip:	
Phone:	Fax:
Email:	

Billing Address:

<input type="checkbox"/> Mark if same as above.	
Company:	
Name:	
Title:	
Address:	
City, State, Zip:	
Phone:	Fax:
Email:	

## Notes:

1. This Agreement summarizes the information contained in the proposal and is necessary for acceptance of the contract. Along with the attached documents, including the Standard Terms and Conditions, this summary and signature page will define and govern the contract.
2. This Agreement may be executed in one or more counterparts (transmitted by facsimile or PDF electronic transmission), each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

# Standard Terms and Conditions

1. **Term and Termination.** These Terms and Conditions apply to the attached agreement and any subsequent agreements or changes to existing agreements for services between Applied Ecological Services, Inc. (hereafter AES) and the Client as defined in the agreement. Together these documents and any attachments constitute the Agreement.

1.1. **Termination.** Either party may terminate this Agreement, in whole or in part, at any time upon no less than fifteen (15) days written notice to the other party. In addition, AES shall have the right to suspend its provision of Services in the event Client defaults in timely payment for Services.

1.2. **Payment Upon Termination.** In the event of termination, all previous unpaid invoices submitted by AES to Client will be due and payable. AES will also be paid, under the terms of the Agreement, for any and all work performed and/or completed, and expenses incurred between the time period covered by the most recent invoice and the date of termination. Additionally, AES will be reimbursed on a time-and-expenses basis at AES' standard rates for all reasonable termination expenses including: the cost of completing analyses, records, and reports necessary to document job status at the time of termination; the cost to bring any site work to a safe and stable condition; and reasonable costs associated with untimely demobilization and reassignment of personnel and equipment.

1.3. **Transition Period.** In the event that this Agreement is terminated by either party, Client may require AES to continue any or all activities as described in the Agreement to allow for a reasonable transition period. This work would be conducted under the terms of this Agreement, which will remain in force until the transition period is completed.

## 2. **Invoicing and Payment.**

2.1. **Invoicing/Payment Term.** AES shall invoice Client for Services performed on a periodic basis, usually monthly. Upon receipt of an invoice from AES, Client shall have thirty (30) days from the date of the invoice to pay the amount due, or to notify AES in writing of a bona fide dispute asserted in good faith as to one or more of the invoiced items. Unless otherwise provided, all Services, equipment, and materials furnished by AES shall be at the rates specified in AES' Rate Schedule, attached hereto as **Exhibit A** and incorporated by reference herein. The AES Rate Schedule may be modified by AES by written notice to Client. Deposits paid according to the terms above will be applied to the final invoices under this Agreement.

2.2. **Taxes.** All charges are net of any applicable taxes (except income and payroll taxes). Any additional costs due to applicable taxes will be reimbursed by Client. Sales tax, if applicable, will be added upon invoicing.

2.3. **Currency.** All fees are stipulated in U.S. Dollars and must be paid to AES in U.S. Dollars.

2.4. **Method.** Payments to AES shall be made via Automated Clearing House (ACH) to AES' bank account using the information below. Please include invoice number(s) in remittance correspondence. If unable to make payments via ACH, checks made payable to "Applied Ecological Service, Inc." can be mailed to P.O. Box 256, Brodhead, WI 53520. Please indicate the AES invoice number(s) in check memo.

Bank Name: **The Bank of New Glarus/Sugar River Bank Branch**  
Bank Address: **2006 1<sup>st</sup> Center Ave, Brodhead, WI 53520**  
Routing Number: **075903912**  
Checking Account Number: **101753861**

2.5. **Prevailing Wages.** Unless specifically set forth in the applicable Letter Agreement, Client represents that prevailing wages are not required for any of AES' Services under this Agreement. However, should AES be required to pay prevailing wages, Client will pay AES the increased costs associated with the applicable prevailing wage rates, including any penalties, back wages, and administrative expenses.

3. **Liens.** AES reserves the right to place or file liens on the Client's property if payment for work or Services performed is not made in a timely fashion, subject to compliance with applicable laws. Advance notices of lien rights with respect to an applicable project may be provided as an attachment to this Agreement.

## 4. **Confidentiality.**

4.1. **Definition and Exceptions.** For purposes of this Agreement, information shall be considered confidential if it is of a type generally understood to be confidential, or if the disclosing party specifically notifies the recipient party in writing, whether by labeling materials reflecting such information as "CONFIDENTIAL" or otherwise unambiguously informing the recipient party (hereinafter, "Confidential Information"). Such Confidential Information includes, but is not limited to, research, product plans, products, services, customers, markets, ideas, concepts, discoveries, techniques, specifications, methodologies, models, flow charts, data, software, developments, inventions, processes, designs, drawings, marketing plans, sales information, and financial information, and any information that constitutes a trade secret under the



Uniform Trade Secrets Act or similar laws. Notwithstanding the foregoing, Confidential Information shall not include information that (i) is already known to the recipient as shown by written records in its possession at the time such information is received; (ii) is already part of the public domain at the time of disclosure, or subsequently becomes part of the public domain through no fault of the recipient; (iii) is obtained on a non-confidential basis from a third party who lawfully disclosed the same to the recipient; or, (iv) is independently developed by an employee or consultant of the recipient who had no knowledge of or access to the information.

4.2. Nondisclosure of Confidential Information. During the term of this Agreement and for a period of three (3) years following termination, each party agrees to keep Confidential Information provided to such party by the other party in strict confidence and not to use any such Confidential Information other than in connection with the transactions contemplated by this Agreement, without the prior written consent of the other party. In addition, each party agrees not to misappropriate or threaten to misappropriate any trade secret information received, or any part thereof, for as long as such information remains a trade secret. Notwithstanding the foregoing, this Agreement shall not apply to the extent that information is subpoenaed or otherwise required by law to be disclosed by the recipient party, provided the recipient party shall use its best efforts to inform the disclosing party of any demand for such disclosure as soon as such demand is made, in order to allow the disclosing party the opportunity to seek protective relief.

4.3. Use of Project Information. Client agrees that AES may use Client's name and a general description of projects as a reference for other prospective clients, provided that no Confidential Information is disclosed.

## 5. Ownership of Work Product.

5.1. Work Product. All drawings, specifications and other documents and electronic data furnished by AES to Client under this Agreement ("Work Product") are deemed to be Instruments of Service, and AES shall retain the ownership and property interest therein, including the copyrights thereto.

5.2. Client's Limited License. Upon Client's payment in full for all work performed under this Agreement, AES shall grant Client a limited license to use the Work Product in connection with Client's occupancy or possession of the applicable project, and the drawings, specifications and other documents prepared by AES for the project may be retained by Client. Client may make changes, additions, and deletions to the applicable project design, in whole or in part, conditioned on Client's express understanding that such use of the Work Product is at Client's sole risk and without liability or legal exposure to AES.

5.3. Use. Any documents generated by AES are for the exclusive use of Client. Any use by third parties or use beyond the intended purpose of the document will be at the sole risk of Client unless otherwise agreed upon by AES in writing. If Client uses the design materials on any project other than the Project for which it was developed (a "Subsequent Use"), Client agrees that it shall do so at its sole risk and without liability or legal exposure to AES. Client further agrees that it shall defend, indemnify and hold harmless AES from and against any and all claims, damages, liabilities, losses and expenses, including reasonable attorney's fees, arising out of or resulting from such Subsequent Use.

## 6. Insurance.

6.1. Coverage. At all times during the term of this Agreement, AES shall, at its own expense, maintain insurance coverage of the kind and in the minimum amounts listed in **Exhibit B**.

6.2. Waiver of Subrogation. To the extent possible, any of the parties' insurance policies provided under the provisions of this Agreement, or which may be used in relation to this Agreement, shall contain waivers of subrogation in favor of the other party, by endorsement or otherwise, it being the intent of the parties that the insurance policies shall protect both parties. The parties release each other from liability covered by the insurance for which subrogation is waived.

6.3. Additional Coverage. Upon advance written notice, AES shall provide additional amounts or kinds of insurance as may reasonably be deemed necessary by Client in connection with the ongoing nature of operations and changes in exposure, but only to the extent the insurance is commercially available, and provided Client pays the cost of said coverage.

6.4. Notice of Cancellation. The above-required insurance shall be maintained by AES during the term of this Agreement, and shall not be canceled, altered, or amended by AES without thirty (30) days advance written notice to Client.

7. Limitation of Liability. With respect to any claim covered pursuant to the terms and conditions of AES' liability insurance policies carried pursuant to this Agreement, Client agrees that AES' total liability for acts, omissions, or damages, shall not exceed the available limits of coverage as set forth in such insurance policies.

Notwithstanding any other term of this Agreement to the contrary, in no event shall AES, (or its employees, agents, successors, or assigns) be liable to Client or any third party claiming through Client for indirect, special, incidental, consequential, exemplary, or punitive damages of any nature (including damages for loss of revenue, profits, business interruption, loss of business information, loss of capital, loss of technology, loss of data, increased costs of operation, litigation costs and the like) whether based upon a claim or action in contract, tort (including negligence),

or any other legal or equitable theory, in connection with the supply, use or performance of the Services provided by AES to Client, regardless of whether AES has been advised of the possibility of such damages or such damages were reasonable foreseeable.

## 8. Indemnification.

8.1. AES' Indemnification of Client. To the fullest extent permitted by law, AES shall indemnify and hold harmless the Client, its officers, directors, employees or agents, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of work on a project subject to this Agreement, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself) but only to the extent caused by the negligent acts or omissions of AES, its subcontractors, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused by a party indemnified hereunder.

8.2. Client's Indemnification of AES. To the fullest extent permitted by law, Client shall indemnify and hold harmless AES, its officers, directors, employees or agents, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of work on a project subject to this Agreement, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, but only to the extent caused by the negligent acts or omissions of Client, its subcontractors (other than AES), anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused by a party indemnified hereunder.

9. Independent Entities. Client and AES are independent entities, and nothing in this Agreement or otherwise shall be deemed or construed to create any other relationship, including one of employment, joint venture, or agency.

## 10. Dispute Resolution.

10.1. Direct Discussion. If a dispute arises out of or relates to this Agreement or its breach, the parties shall use good faith efforts to settle the dispute through direct negotiation.

10.2. Project Status During Dispute. If the dispute does not result in the termination of the Agreement, AES shall continue providing Services during all dispute resolution proceedings. Client shall continue to make payments in accordance with this Agreement, except with respect to amounts in dispute in accordance with Section 2.

10.3. Mediation. If the dispute cannot be settled through direct negotiation, except with respect to a matter involving payment of an invoice, the parties shall engage in mediation prior to entering into litigation and shall endeavor to resolve the dispute through the involvement of a neutral mediator. The Construction Industry Mediation Rules of the American Arbitration Association shall govern this process unless otherwise agreed. The costs of any mediation proceeding shall be shared equally by the parties. No legal action will be filed until mediation has concluded.

## 11. Standard of Care / Warranties.

11.1. Standard of Care. All Services provided by AES shall be performed by appropriately qualified personnel, properly licensed whenever required, and shall meet all standards of industry skill, care and judgment ordinarily expected in the locality where the Services are provided.

11.2. Warranties. Construction work performed by AES includes a one (1) year warranty on materials and workmanship. AES warrants that such work shall be free from material defects not intrinsic in the design or material required in the Agreement, if any. AES' warranty does not include remedies for defects or damages caused by normal wear and tear during normal usage, use for a purpose for which the project was not intended, improper or insufficient maintenance, modifications performed by the owner or others, or abuse. AES warrants that all materials shall be new unless otherwise specified, of good quality, in conformance with the Agreement, if any, and free from defective workmanship. If within one year the Client does not promptly notify AES of defective work, the Client waives AES' obligation to correct any defective work as well as the Client's right to claim a breach of warranty with respect to that defective work. If any of the Services are eliminated, or if AES is not retained to perform subsequent phases, AES' responsibility will extend only to the Services it completes.

## 12. Time for Performance.

12.1. AES' Services will be performed according to the schedule specified in the Letter Agreement or related Attachments approved by Client and AES and incorporated into this Agreement.

12.2. If the Services to be performed by AES are interrupted, disrupted, suspended, or delayed for any reason beyond the reasonable control of AES, the schedule of work and the date for completion will be adjusted accordingly. AES will be compensated for all reasonable increased costs resulting from such interruption, disruption, suspension, or delay.

## 13. Miscellaneous.

13.1. Entire Agreement. This Agreement and any Attachments which are or may be made a part thereof, constitute the entire agreement between the parties regarding the subject matter thereof, and all agreements, representations, promises, inducements, statements and understandings, made prior to or contemporaneous with this Agreement, written or oral, are superseded by this Agreement. This Agreement may not be modified or amended except in writing signed by a duly authorized representative of the parties hereto. No other act, document, usage or custom shall be deemed to modify this Agreement.

13.2. Governing Law and Jurisdiction. This Agreement shall be deemed to be an Agreement made under the laws of the State of Wisconsin, and for all purposes it, plus any related or supplemental exhibits, schedules, documents, or notices, shall be construed in accordance with and governed by the laws of such state. Both parties agree that the federal and state courts located in Wisconsin are an appropriate venue for any dispute between the parties, and both parties hereby submit to the jurisdiction of such courts. **CLIENT AND AES WAIVE ANY RIGHT TO A JURY TRIAL REGARDING ANY DISPUTE BETWEEN THE PARTIES.**

13.3. Construction / Headings. This Agreement shall be construed without regard to any presumption or rule requiring construction against the party causing the instrument to be drafted. The various headings in this Agreement are inserted for convenience only and shall not affect the meaning or interpretation of this Agreement or any section or provision hereof.

13.4. Force Majeure. Notwithstanding anything contained in this Agreement to the contrary, if either party is prevented from performing any of its obligations hereunder by laws, orders, regulations or directions of any government having jurisdiction over the parties hereto, or any department, agency, corporation or court thereof, or by war, act of public enemies, strikes or other labor disturbances, fires, floods, acts of God, or any causes of like or different kind beyond the reasonable control of either party, then such party shall be excused from any failure to perform any such obligation to the extent such failure is caused by any such law, order, regulation, direction or contingency.

13.5. Severability. Each provision contained herein is severable from the Agreement and if one or more provisions are declared invalid, the remaining provisions shall nevertheless remain in full force and effect.

13.6. Notices. All notices pursuant to this Agreement shall be in writing and shall be given by certified mail or personal delivery (including overnight mail by private carrier) to the address set forth on the signature page to this Agreement, or to such other address as may be subsequently provided by written notice given in accordance with this section. Such notices shall be deemed given when delivered (including by overnight mail by private carrier) or, if by mail, effective when deposited in the U.S. Mail certified with return receipt requested, postage prepaid.

13.7. Attorneys' Fees. In the event either party shall be the prevailing party in any suit for damages for breach of this Agreement, including nonpayment of invoices, or to enforce this Agreement, or to enjoin the other party from violating this Agreement, such party shall be entitled to recover as part of its damages its reasonable legal costs and related expenses, including attorneys' fees, in connection with bringing and maintaining any such action.

13.8. Successors and Assignees. This Agreement will be binding on AES and Client, and their successors, trustees, legal representatives, and assigns. Neither party may assign or transfer any rights, responsibilities, or interest in this Agreement without the written consent of the other party and any attempt to do so without such consent may be void, provided, however, in the case of an assignment by AES to an affiliate controlled by or under the common control of AES, Client's consent will not be unreasonably withheld. Nothing in this section will prevent AES from employing subcontractors or subconsultants to assist in the performance of Services under this Agreement.

13.9. Waiver. The failure of either party in any one or more instances to enforce one or more of the terms or conditions of this Agreement or to exercise any right or privilege in this Agreement, or the waiver by either party of any breach of the terms or conditions of this Agreement, shall not be construed as thereafter waiving any such terms, conditions, rights, or privileges, and the same shall continue and remain in force and effect as if no such failure to enforce had occurred.

13.10. Survival. All obligations of Client regarding amounts owed to AES and all limitations of liability and disclaimers and restrictions of warranty shall survive termination of this Agreement.

13.11. Exhibits and Attachments. All Exhibits and Attachments are incorporated and made part of this Agreement for all purposes.

13.12. Counterparts / Signatures. This Agreement may be executed in one or more counterparts (transmitted by facsimile or PDF electronic transmission), each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

EXHIBIT A  
RATE SCHEDULE

EXHIBIT B

INSURANCE