

COMMITTEE OF THE WHOLE
MAY 16, 2023
VILLAGE BOARD ROOM
2200 HARNISH DRIVE, ALGONQUIN
7:45 P.M.

Trustee Spella – Chairperson
Trustee Glogowski
Trustee Dianis
Trustee Smith
Trustee Brehmer
Trustee Auger
President Sosine

AGENDA

- 1. Roll Call – Establish a Quorum**
- 2. Public Comment – Audience Participation**
(Persons wishing to address the Committee must register with the Chairperson prior to roll call.)
- 3. Community Development**
- 4. General Administration**
- 5. Public Works & Safety**
 - A. Consider an Agreement with Peerless Fence for the Removal and Replacement of Fencing at the Countryside Standpipe
 - B. Consider an Agreement with Tri-R Systems Inc. for the Well 7 and 11 Motor Control Center Replacement
- 6. Executive Session** (if needed)
- 7. Other Business**
- 8. Adjournment**



VILLAGE OF ALGONQUIN
PUBLIC WORKS DEPARTMENT

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

DATE: May 16, 2023

TO: Tim Schloneger, Village Manager

FROM: Jason Schutz, Utilities Superintendent

SUBJECT: Countryside Standpipe/Booster Fence

Background:

The chain link fence at Countryside Standpipe surpassed its life expectancy and is in need of replacement. We received three proposals of \$56,000.00, \$48,250.00, and \$39,615.00 being the lowest from Peerless Fence. The scope of this work includes complete removal of the existing 6' galvanized fence, and replaced in kind with 591 LF of 8' tall black vinyl coated chain link fence.

Recommendation:

Peerless Fence installs residential and commercial fences throughout 5 states, and are a well-known reputable contractor that has performed work for other municipalities.

Currently, in the Water Division Operating Budget 07700400-44411, we have \$60,000.00 budgeted in Maintenance Storage Facility for fence replacement. We recommend that the contract for this work be moved to the next Village Board meeting for approval in the amount of \$39,615.00 to remove and replace the existing fence at Countryside Standpipe.

PEERLESS FENCE

A Division of Peerless Enterprises, Inc.
200 W River Dr * St. Charles, IL 60174
(630) 584-7710 * Fax (630) 584-7746

PROPOSAL AND ACCEPTANCE

Attn: Jason Meyer

Proposal submitted to: Village of Algonquin	Phone: 847-658-2754	Date: 4/28/2023
Street: 2200 Harnish Drive	Fax:	Job Phone:
City, State and Zip Code: Algonquin, IL 60102	Job Name: Water Tower Enclosure Replacement	
Email: jasonmeyer@algonquin.org	Date of Plans	Job Location: Algonquin, IL

We hereby submit specifications and estimates: Furnish and Install:

Removal of the existing 6' tall fence to include:

- Cut existing posts at grade (gate and corner posts concrete footings pulled).
- Haul away all removed material for disposal.

591 LF of 8' tall black vinyl coated chain link fence and gates to include:

- 4" OD SS-40 gate posts set in 16"x48" concrete footings.
- 3" OD SS-40 terminal posts set in 12"x42" concrete footings.
- 2 1/2" OD SS-40 line posts spaced 10' OC maximum and set in 10"x42" concrete footings.
- 1 1/2" OD SS-40 top and brace rails.
- 96" 8ga/9ga core 2" mesh K&K fused and bonded chain link fabric.
- One (1) 8' tall by 16' wide black vinyl coated chain link double swing gate located at the north entrance with industrial grade hinges and a multi-padlock ready latch.
- One (1) 8' tall by 14' wide black vinyl coated chain link double swing gate located at the southwest entrance with industrial grade hinges and a multi-padlock ready latch.

TOTAL INSTALLED PRICE - \$39,615.00

Proposal Based on: TAX EXEMPT STATUS; Union labor/Prevailing wage.

Due to current steel price increases & availability of materials our pricing can only be held for 15 days.

Full Day Mobilizations. | Spoils spread along the fence line or piled on site. | Normal site conditions. | Peerless standard safety requirements. | Peerless standard certificate of insurance. | Specifications & Quantities Above. | Fence line established by others. Ability to access fence line with digging equipment and concrete truck. | Private utilities located by others.

Quoted price is based on the current market cost. We reserve the right to adjust this quote based on market conditions at the time material is ordered and delivered to the job site.

Work performed per our current certificate of insurance.

Exclusions: Bonds, permits, licenses and fees.

Payment to be made as follows: Net 30 days upon credit approval.

OWNER MUST OBTAIN ALL PERMITS.

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner, on a regular time basis according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workers Compensation Insurance.

Authorized Signature:

Wayne Smith

Wayne Smith, Commercial Sales

Customer hereby assumes full responsibility for the location of the line upon which fence materials are to be installed and locate any and all private cable to include sprinkler systems, electric, septic fields, gas lines, grills, lighting, etc. Peerless Fence to Call J.U.L.I.E.

PEERLESS FENCE

Note: we may withdraw this proposal if not accepted within 15 days.

I, THE UNDERSIGNED, HEREBY AGREE THAT IN THE EVENT OF DEFAULT IN THE PAYMENT OF ANY AMOUNT DUE, AND IF THIS ACCOUNT IS PLACED IN THE HANDS OF AN AGENCY OR ATTORNEY FOR COLLECTION OR LEGAL ACTION, TO PAY AN ADDITIONAL CHARGE EQUAL TO THE COST OF COLLECTIONS INCLUDING AGENCY AND ATTORNEY FEES AND COURT COSTS INCURRED AND PERMITTED BY LAWS GOVERNING THESE TRANSACTIONS. ALL PAST DUE ACCOUNTS WILL BE CHARGED AT THE RATE OF 1.5% ON UNPAID MONTHLY BALANCE.

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

Signature _____

Signature _____

Date of Acceptance _____



1110

1120

1100

1100

900

900

Country Side Standpipe Lot

Wesley Ln

Ballard Dr

IL Route 62





VILLAGE OF ALGONQUIN PURCHASE AGREEMENT - CONSTRUCTION (Small Projects – Labor & Materials)

Date: **4/28** 2023

Purchase Order No. _____

Project: Replacement fence for countryside booster station.	Location: 900 Wesley Ln.
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Originating Department:		
Owner	Contractor/Vendor	Architect/Engineer
Owner : Village of Algonquin Address: 2200 Harnish Dr Algonquin, IL 60102 Phone: 847-658-2754 Fax: 847-658-2759 Contact: Jason Meyer	Name: Peerless Fence Group Address: 200 W River Dr. St. Charles, IL 60174 Phone: 630-584-7710 Fax: 630-584-7746 Contact: Wayne Smith	Name: N/A Address: N/A Phone: N/A Fax: N/A Contact: N/A

PREVAILING WAGE NOTICE: 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.*, which requires contractors and subcontractors to pay laborers, workers and mechanics performing services on public works projects no less than the current "prevailing rate of wages" (hourly cash wages plus fringe benefits) in the county where the work is performed. The Department publishes the prevailing wage rates on its website at <http://www.state.il.us/agency/idol/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. All contractors and subcontractors rendering services under this contract must comply with all requirements of the Act, *including but not limited to*, all wage, notice and record keeping duties.

COST OF WORK: The Contract Price of the Work under this Purchase Agreement is \$ 39,615.00.

SCOPE OF WORK: Furnish the Work/items described below in accordance with the following plans and specifications:
 Q General Contract, dated _____, 2018 Q Specification No(s): _____, dated _____, 2018
 Q Plans dated : _____ Q Addendum No(s): _____
 Q Other: _____

The following prices shall remain in effect for the duration of project:

QUANTITY	UNIT OF MEASURE	DESCRIPTION/ITEMS	LUMP SUM UNIT PRICE	EXTENSION
1	N/A	Replacement Fence for Countryside Booster.	\$39,615.00	\$ _____
			TOTAL	\$39,615.00

NOTES:

- 1) _____
- 2) _____

WARRANTIES and INDEMNIFICATION: Contractor/Vendor agrees to provide the following warranties for the Work: (a) all workmanship to be warranted for a period of one (1) year - manufacturer warrants material; and (b) all other warranties contained elsewhere in the Contract Documents or Supplemental Conditions hereto. Further, **CONTRACTOR/VENDOR SHALL FULLY INDEMNIFY AND SAVE THE VILLAGE OF ALGONQUIN HARMLESS FROM ALL CLAIMS, LIENS, FEES, AND CHARGES, AND THE PAYMENT OF ANY OBLIGATIONS ARISING THEREUNDER,** pursuant to the provisions in the Supplemental Conditions hereto.

CONTRACT TIMES: Contractor/Vendor agrees to commence Work within forty-eight (48) hours of receipt of the Owner's Notice to Proceed, and to complete the Work no later than _____ (____) days after commencing the Work. Time is of the essence.

THE TERMS OF THIS PURCHASE AGREEMENT AND THE ATTACHED SUPPLEMENTAL CONDITIONS ARE THE ENTIRE AGREEMENT BETWEEN THE VILLAGE/OWNER AND VENDOR. No payment will be issued unless a copy of this Purchase Agreement is signed, and dated and returned to the Owner. Material certifications/test reports required. All domestic material, unless otherwise specified. Purchase exempt from sales and/or use taxes.

ACCEPTANCE OF PURCHASE AGREEMENT: The parties, for themselves, their heirs, executors, administrators, successors and assigns, do hereby agree to the full performance of all terms and provisions herein contained. **IN WITNESS WHEREOF,** the parties hereto have executed this Purchase Agreement the day and year written below.

CONTRACTOR/VENDOR:

PURCHASER: Village of Algonquin

By: Bruce Kasper

Title: _____

Authorized Vendor Representative
Dated: 5/6/2023



SUPPLEMENTAL CONDITIONS

1. **Acceptance of Purchase Agreement:** The Purchase Agreement is an offer to contract, buy or rent and not an acceptance of an offer to contract, sell or rent. Acceptance of this Purchase Agreement is expressly limited to the terms hereof, and in the event that Contractor/Vendor's acknowledgment or other response hereto states terms additional to or different from those set forth herein, this Purchase Agreement shall be deemed a notice of objection to such additional or different terms and rejection thereof. This Purchase Agreement may be accepted by the commencement of any Work hereunder or the delivery of any goods herein ordered, and, in any event, shall be deemed accepted in its entirety by Contractor/Vendor unless Owner is notified to the contrary within ten (10) days from its date of issue.
2. **Amendment, Modification or Substitution:** This Purchase Agreement contains the entire agreement between the parties. Any modification or rescission thereof must be in writing and signed by Owner. No proposals or prior dealings of the parties or trade custom not embodied herein shall alter the interpretation or enforcement of this Purchase Agreement.
3. **Familiarity With Plans; Qualifications:** Contractor/Vendor acknowledges that it (a) has examined the site of the proposed Work and is familiar with the conditions surrounding same; and (b) has examined the plans and drawings, and has studied and is aware of, and satisfied with, the requirements of the Contract Documents. Contractor/Vendor represents to Owner that it is fully experienced and properly qualified as an expert to perform the class of work provided for herein, and that it is properly equipped, organized and financed to handle such work. Contractor/Vendor shall finance its own operations hereunder, shall operate as an independent contractor and not as the agent of Owner, and shall hold Owner free and harmless from all liability, costs and charges by reason of any act or representations of Contractor/Vendor, its agents or employees.
4. **Workmanship; Safety:** All Work shall be performed by Contractor/Vendor in a neat, skillful and workmanlike manner, and all materials furnished by Contractor/Vendor shall be new and of the best description and quality of their respective kinds, unless otherwise specified and ordered by Owner in writing. All Work and/or materials shall be subject to the inspection and approval of the Owner, its engineers and representatives. Contractor/Vendor is responsible for its own and its employees' activities on the jobsite, including but not limited to, the methods of work performance, superintendence, sequencing of work, and safety in, on or about the jobsite area in which it is performing the Work under this Purchase Agreement. Owner and Contractor/Vendor shall not require any laborer or mechanic employed in performance of this Purchase Agreement to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his health or safety, as determined under applicable federal and Illinois construction safety and health standards
5. **Extra's and Change Orders:** No claim by Contractor/Vendor that any instructions, by drawing or otherwise, constitute a change in Contractor/Vendor's performance hereunder, for which Contractor/Vendor should be paid additional compensation shall be valid, unless prior to commencing such allegedly extra or changed performance, Contractor/Vendor shall have received a written supplement to this Purchase Agreement authorizing such performance signed on behalf of Owner by a person have actual authority to do so. No claim for additional compensation on the basis that Contractor/Vendor has incurred any expense by reason of any act or failure to act or Owner or its contractor, subcontractor, materialmen or any other party shall be valid unless made in writing within 30 days of the alleged act or failure to act and approved by Owner, provided, however, that if the Contractor/Vendor should be delayed in furnishing the articles, items, equipment or materials (hereinafter sometimes referred to as "goods") or services or Work (hereinafter sometimes referred to as "Work") ordered herein, by the omission, neglect or default of Owner, its agents or employees, Contractor/Vendor shall be entitled to no additional compensation or damages for such delay, and shall be entitled only to an extension of time for a period equal to the time lost as a result of the aforesaid causes, determined by Owner. Any charges for extra not so authorized will not be paid.
6. **Inspection and Acceptance:** Owner shall have the right at all reasonable times to inspect and test all goods, materials or Work furnished by Contractor/Vendor and all Work performed or furnished by Contractor/Vendor. Notwithstanding any prior inspection, the passage of title or any prior payment, all goods, material and Work furnished thereunder are subject to final inspection and acceptance by Owner at its job site. If, after inspection, Owner rejects any goods furnish by Contractor/Vendor thereunder, Owner may, at its election, return those goods to Contractor/Vendor at Contractor/Vendor's expense, including the cost of any inspection and testing thereof. If Contractor/Vendor fails to proceed promptly with the correction or replacement of any rejected goods or Work, Owner may replace or correct such items or Work by purchase or manufacture and charge the cost incurred thereby to Contractor/Vendor or terminate this Purchase Agreement for default in accordance with paragraph 12 herein. By inspecting and not rejecting any goods and Work furnished thereunder, Owner shall not be precluded thereby from subsequently revoking its acceptance thereof if the goods or Work are later discovered to be nonconforming with this Purchase Agreement or the specifications and drawings applicable hereto, even if the defect does not substantially impair value to Owner.
7. **Taxes, Delivery, Risk of Loss:** Unless indicated to the contrary on the face hereof, it shall be the responsibility of Contractor/Vendor to arrange for and complete delivery of all goods or materials. If the goods or materials furnished thereunder are equipment, Contractor/Vendor shall give Owner two (2) working days' advance notice of delivery. All goods or materials furnished by Contractor/Vendor should be shipped in the manner and at the times indicated on the face hereof at the expense of

Contractor/Vendor, it being understood that the risk of loss with respect to such goods is with Contractor/Vendor until such goods come into the actual possession of Owner, regardless of the mode of delivery or earlier passage of title. This project is tax exempt. The Owner's tax-exempt number is E 9995 0855 05.

8. Payment: Owner will make partial payments to the Contractor/Vendor from time to time for the Work performed and the materials furnished by the Contractor/Vendor. Provided, however, in no event shall Owner be obligated to pay Contractor/Vendor any sum that exceeds the Contract Price absent a written change order executed by Owner.

8.1 Prior to issuance of any payments by the Owner to the Contractor/Vendor, the Contractor/Vendor shall furnish to the Owner (in a form suitable to the Owner) an application for the payment then due, together with receipts, waivers of claim and other evidence showing the Contractor/Vendor's payments for materials, labor and other expense incurred in the Contractor/Vendor's Work hereunder. The Owner will, at all times, be entitled to retain ten percent (10%) of all monies due and owing to the Contractor/Vendor as a part security for the faithful performance of this Agreement. This ten percent (10%) so withheld will not be paid to the Contractor/Vendor until the Owner has issued to the Contractor/Vendor a final acceptance of the Project.

8.2 Owner may withhold the whole or any part of any payment due to the Contractor/Vendor to the extent necessary to protect and indemnify the Owner from loss on account of (a) defective Work not remedied; (b) claims filed or reasonable evidence indicating probable filing of claims; (c) failure of the Contractor/Vendor to make payments promptly for material or labor; or (d) Contractor/Vendor's failure to furnish Owner with all written warranties and operational manuals for the Work.

8.3 Contractor/Vendor hereby authorizes the OWNER (1) to deduct from any amount due or becoming due the Contractor/Vendor under this Agreement for all amounts owing from the Contractor/Vendor to (a) the Owner for back-charges or services furnished for the account of the Contractor/Vendor; (b) the Owner for damages sustained whether through negligence of the Contractor/Vendor or through failure of the Contractor/Vendor to act as may be otherwise detailed herein; (c) materialmen; (d) subcontractors; (e) laborers; and (f) others for services and materials furnished to the Contractor/Vendor for the Work performed under this Agreement, and (2) to apply the amount so deducted to the payment of said materials, services, damages or back-charges applying such monies so available in the Agreement hereinbefore set forth.

8.4 Owner, without invalidating this Agreement, may make changes by altering, adding to or deducting from the Work to be performed. The value of any such changes will be determined as follows: (a) by the unit prices named in this Agreement, if any; or (b) by agreement in writing between the Owner and the Contractor/Vendor as to the value of the time and materials for the changes in the Work. In any event, the Contractor/Vendor will keep and present, in any form as the Owner may direct, a correct account of the net cost of any extra labor and materials, together with vouchers referring to the same.

8.5 Notwithstanding the payment in full for the Work hereunder, the Contractor/Vendor will be liable to repair or replace any imperfect workmanship or other faults; and if the Contractor/Vendor fails to repair or replace the imperfect workmanship or other faults, the Owner may do the Work and recover from the Contractor/Vendor the cost and expense thereof. No payment on account will be construed or considered as an approval of the Work for which payment is made.

9. Contractor/Vendor Warranty: Contractor/Vendor warrants in addition to all warranties which are imposed or implied by law or equity that all materials and Work furnished thereunder (a) shall conform to any specifications and drawings applicable to this Purchase Agreement; (b) shall be merchantable and of good quality and workmanship; (c) shall be fit for the purpose intended as well as the propose for which such goods, materials or Work are generally used; and (d) except for rented equipment, shall be free from defects for a period of one (1) year, or such longer period as is specified in the Scope of Work or Contract Documents, from the date such Work is performed or such materials are utilized or installed, and if installed as part of a structure or utilized equipment, for one (1) year or such longer period as is specified in the Contract Documents, from the date any such goods, materials or Work hereunder is accepted in writing by Owner. Contractor/Vendor expressly agrees that the statute of limitations with respect to Contractor/Vendor's warranties shall begin to run on the date of acceptance by Owner.

10. Insurance and Bonds:

10.1 Contractor/Vendor shall at all times maintain business automobile, commercial liability and workers compensation insurance covering its work and all obligations under this Purchase Agreement, and shall name the Owner as an additional insured on its commercial liability insurance policies for Contractor/Vendor operations under this Purchase Agreement. Liability insurance limits shall be in such amounts and include such coverages as set forth in the VILLAGE OF ALGONQUIN PURCHASE ORDER INSURANCE REQUIREMENTS attached to this Agreement. Contractor/Vendor shall furnish the Village with a certificate of insurance and such other documentation (including a copy of all or part of the policy) to the Village at the time of execution of this Agreement and thereafter on an annual basis on the anniversary date of this Agreement or at any other time as the Village deems necessary to establish compliance with this provision.

10.2 Contractor/Vendor shall furnish and pay for surety bonds and with surety or sureties satisfactory to Owner, guaranteeing the full performance of all of the conditions and terms hereof and guaranteeing that Contractor/Vendor shall promptly pay for all labor, materials, supplies, tools, equipment and other charges or costs of Contractor/Vendor in connection with the Work. Such performance and payment bond shall be in an amount determined by Owner.

10.3 Breach of this paragraph is a material breach subject to immediate termination.

11. Indemnity: Contractor/Vendor hereby agrees to indemnify, and hold the Owner, its directors, officers, employees, successors and assigns harmless from any and all claims, demands, liability, loss, damage, fines, penalties, attorney's fees and litigation expenses (collectively "Loss") arising out of injury to, including the death of, persons and/or damage to property, to the extent caused by the negligent acts or omissions of the Contractor/Vendor or those working at their direction.

Further:

11.1 Contractor/Vendor acknowledges that should any items or Work furnished hereunder prove defective, including damage to Owner supplied or constructed items, equipment or machinery, or if Contractor/Vendor is charged with any violation of any state or federal laws or regulations, the Owner shall be entitled to recover damages for breach of this Agreement, including but not limited to consequential damages, penalties, taxes or assessments (including punitive damages), costs and attorney's fees.

11.2 In any and all claims against Owner or any of its agents or employees, by any employee of Contractor/Vendor, the indemnification obligation under this paragraph shall not be limited by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor/Vendor under workers compensation acts, disability benefits acts or employee benefit acts, or other applicable law. Contractor/Vendor assumes the entire liability for its own negligence, and as part of this Agreement waives all defenses available to Contractor/Vendor as an employer which limit the amount of Contractor/Vendor's liability to Owner to the amount of Contractor/Vendor's liability under any workers compensation, disability benefits or employee benefit laws.

12. Patents: Contractor/Vendor warrants that (a) goods furnished thereunder, and the sale and use thereof, shall not infringe any valid United States patent or trademark; and (b) Contractor/Vendor shall indemnify Owner for its costs to defend any suit instituted against Owner, its agents or customers, charging infringement of any United States patent or trademark by virtue of the possession, use or sale of any goods furnished thereunder is enjoined because of patent infringement. Contractor/Vendor within a reasonable amount of time shall at Contractor/Vendor's expense procure for Owner its agents or customer, the right to continue using such goods with non-infringing goods or modify such goods so that they become non-infringing or remove such goods and refund to Owner any sums paid therefore, including transportation and installation charges.

13. Cancellation: Time of delivery of this Purchase Agreement is of the essence and Owner may, by written notice of default to Contractor/Vendor, cancel the whole or any part of this Purchase Agreement (a) if Contractor/Vendor fails to make delivery of the goods or perform the services within the time specified herein or any extensions thereof; or (b) if Contractor/Vendor fails to perform or so fails to make progress as to endanger performance thereunder, and in either circumstance does not cure such failure within a period of two (2) days after receipt of notice from Owner specifying such failure. Owner, by written notice to Contractor/Vendor, may cancel the whole or any part of this Purchase Agreement when it is in the best interest of Owner or when Owner has been notified of modification of the specifications pertaining thereto. If this Purchase Agreement is so canceled, the Contractor/Vendor shall be compensated as follows: (a) for materials delivered and services performed, the reasonable value as part of the Contract Price; (b) for materials not identified to this Purchase Agreement and service not performed, no compensation; and (c) for Contractor/Vendor's lost profits or incidental or consequential loss, no compensation.

14. Remedies: Contractor/Vendor shall, for the duration of its warranties under paragraph 9 herein, at the discretion of Owner and at the expense of Contractor/Vendor, replace, repair and insure any and all faulty or imperfect goods, materials or Work furnished or performed by Contractor/Vendor thereunder. In the event Contractor/Vendor fails to do so, Owner may furnish or perform the same, and may recover from Contractor/Vendor the cost and expense directly or indirectly resulting there from, including all consequential damages but not limited to the cost or expense of inspection, testing, removal, replacement, re-installation, destruction of other materials resulting there from, any increased cost or expense to Owner in its performance under contracts with others, and reasonable attorneys fees incurred by the Owner in connection with Vendor's default and Owner's enforcement of its rights under this Purchase Agreement. The foregoing remedies shall be available in addition to all other remedies available to Owner in equity or at law including the Uniform Commercial Code.

15. Compliance With Laws: During the performance hereunder, Contractor/Vendor agrees to give all notices and comply with all Laws and Regulations of the United States and/or the State of Illinois applicable to the performance of the Work, including but not limited to those Laws and Regulations regarding the payment of prevailing wages, non-discrimination laws, employment of Illinois workers, labor, wage and collective bargaining. Except where otherwise expressly required by applicable Laws and Regulations, Owner shall not be responsible for monitoring Contractor/Vendor's compliance with any Laws or Regulations.

16. Notices: All notices, demands, requests or other communications which may be or are required to be given, served, or sent by any party to any other party pursuant to this Purchase Agreement shall be in writing and shall be hand delivered, or sent by courier, or via facsimile with confirmation to the addresses shown on the Purchase Agreement.

17. Records, Reports and Information: Contractor/Vendor agrees to furnish Owner with reports and information regarding the Work performed under this Purchase Agreement, at such times as Owner may reasonably request, making full disclosure of efforts made by Contractor/Vendor and the results thereof. Contractor/Vendor agrees to maintain records, documents, and other evidence which will accurately show the time spent and Work performed under this Purchase Agreement for a minimum period of five (5) years after completion of the Work, and such records shall be subject to audit by the Owner upon reasonable advance notice to Contractor/Vendor on a mutually agreed date and time.

18. Tobacco Use: Contractor/Vendor, and its agents or employees, shall refrain from smoking, or the use of any tobacco, on designated Village campuses, both indoors and outdoors, in Village-owned vehicles and in privately-owned vehicles parked on campus property at any time, including non-working hours. Designated Village campuses consist of the William J. Ganek Municipal Center, Historic Village Hall, Public Works Facility, Wastewater Treatment Plant, Water Treatment Plants, and Pumping Stations. Leaving the remains of tobacco products or any other related waste product on Village property is further prohibited.

19. Assignment: Contractor/Vendor shall not assign this Purchase Agreement without written consent of Owner. Owner may unilaterally assign its rights under this Purchase Agreement upon reasonable notice to Contractor/Vendor.

20. Waiver: Either party's failure to insist in any one or more instances, upon the strict performance of any provision hereof or to exercise any right hereunder shall not be deemed to be a waiver or relinquishment of the future performance of any such provision or the future exercise of such right, but the obligation of Contractor/Vendor and Owner with respect to such future performance shall continue in full force and effect.

21. Controlling Law, Severability: The validity of this Purchase Agreement or any of its provisions and the sufficiency of any performance thereunder shall be determined under the laws of Illinois. Venue shall be in McHenry County, Illinois. The Owner is entitled to recover its reasonable attorneys' fees incurred in enforcing the terms of this Purchase Agreement. If any provision or requirement of this Purchase Agreement is declared or found to be unenforceable that balance of this Purchase Agreement shall be interpreted and enforced as if the unenforceable provision or requirement was never a part hereof.

22. Arbitration. Any controversy or claim arising out of or relating to this Purchase Order, or the breach thereof, shall be settled by binding arbitration administered by the American Arbitration Association under its Construction Industry Arbitration Rules or JAMS Dispute Resolution, as determined in the exclusive discretion of the Owner, at the Village of Algonquin Village Hall or Public Works Department, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The parties agree that an arbitration award by default may be entered upon the party failing to appear or defend itself in any arbitration proceeding.

23. Recovery of Fees. In the event of arbitration of this Purchase Order between the parties, or litigation of this Purchase Order, the non-prevailing party, as determined by the arbiter or court, shall pay all expenses incurred by the prevailing party, including, but not limited to (a) attorneys' fees, (b) filing costs, (c) witness fees, and (d) other general expenses of arbitration or litigation.

CONTRACTOR/VENDOR:



Breck Harper

5/01/2023
Date



VILLAGE OF ALGONQUIN
PUBLIC WORKS DEPARTMENT

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

DATE: May 16, 2023
TO: Tim Schloneger, Village Manager
FROM: Jason A. Meyer, Chief Water Operator
SUBJECT: Motor Control Center Replacement for Wells 7 and 11

This memo is to advise you of the proposed recommendation on the motor control center replacement project. This project was sent exclusively to Tri-R Systems Inc. They are the Village's SCADA system integrator. Due to the age of the motor control center for wells 7 and 11, they are in need of replacement. These two wells are the primary feed to Water Treatment Plant no. 1.

Bids

Due to the sensitive nature and proprietary components of the SCADA system, staff has solicited only a quote from Tri-R systems as they are the sole source provider for maintenance to their equipment.

FIRM	Total
Tri-R Systems Incorporated	\$44,000.00

Budget Information:

This project did not have an engineer's estimate of cost; replacement cost of the project is \$44,000.00. In order to cover the cost of the proposal it has been determined that all of the \$44,000.00 will be budgeted from account (07700400-44418). This decision has been made as the motor control center is a high priority installation due to rehabilitation need, and the Fiscal Year End 2024 Budget includes \$45,000.00 for completion of this project.

Recommendation

The contractor is very aware of the Villages requirements and operations. It is for those reasons and the analysis conducted that I recommend Tri-R systems incorporated to be awarded the amount of \$44,000.00 for the subject project contract at the next Village Board meeting.

December 5, 2022

Village of Algonquin

Re: *Well #7 and #11 MCC*

Per your request, TRI-R Systems Incorporated is pleased to provide pricing for the following work:

- Remove and dispose of existing MCC and LP
- Furnish and Install new Square D MCC per the attached BOM
- New feeder cable from Well Starter CP's to the new MCC

Price: \$44,000.00

This quote is valid for 30 days, after which values may be subject to change.

If you have any questions, please call.

Sincerely,
TRI-R Systems Incorporated



Dustin J. Bonnell
If acceptable, Please sign and date

Sign: X _____ **Date:** _____

Prepared By:

Aaron Harris
STEINER ELECTRIC CO
6900 ROCK VALLEY PRKWAY
LOVES PARK,IL 61111
aharris@stnr.com
D:8156365747

Proposal Name: ALGONQUIN MCC

Quote Name: ALGONQUIN MCC

Proposal Number: P-221122-3411769

Quote Number: Q-3734971

Quote Date: 12/02/2022

Through Addenda Number: 0

Sales Representative: Trace Yuhas

Conditions of Sale

Except as otherwise provided below, this Quotation is subject to Coordinated Project Terms. See <https://www.schneider-electric.us/en/download/document/0100PL0043>

Notwithstanding any provision to the contrary in the referenced Coordinated Project Terms or any other documentation provided in connection with this proposal, this quote is valid for 30 days. Quoted lead times are approximate and subject to change.

Schneider Electric reserves the right to amend, withdraw or otherwise alter this submission without penalty or charge as a result of any event beyond its control arising from or due to the current Covid-19 epidemic or events subsequent to this epidemic / pandemic including changes in laws, regulations, by laws or direction from a competent authority.

Seq #	Qty	Product Description
1	1	<p>Designation :</p> <p>Product Details :</p> <p>1 - Model 6 LVMCC-Model 6 MCC - Industrial Package</p> <p>-----</p> <p>RapidSource (CTO)</p> <p>-----</p> <p>POWER SYSTEM DATA: System Voltage: 480Y/277V 3PH 4W 60Hz Max Available Fault Current (RMS): 65kA Control Power: 120Vac</p> <p>BUS SYSTEM DATA: Power Bus: 600A Tin Plated Copper Vertical Bus: 300A Tin Plated Copper Neutral Bus: No Neutral Bus Provided (Neutral connection at Main) Horizontal Ground Bus: 300A Tin Plated Copper Vertical Ground Bus: Tin Plated Copper</p> <p>ENCLOSURE DATA: Enclosure Type: 15" Deep General Purpose Type 1 Exterior Color: ANSI 49 Interior Color: White</p> <p>STRUCTURE FEATURES: Equipment Mounting Height: 72" Rodent Barriers</p> <p>COMMON DEVICE FEATURES: Wiring Type: Class 1 Type B Wiring Manual Vertical Bus Shutters Drawing Format: PDF - Single Multi Page File Unit Nameplate Gray Surface / White Letters</p> <p>PRODUCT ACCESSORIES: See Common Device Features</p> <p>SPECIAL PRICING AND SECTION COUNT DATA: 2 - Total Section(s) in Lineup 1 - Section(s) with 300A Tin Plated Copper Vertical Bus 1 - Section(s) with 600A Tin Plated Copper Vertical Bus</p> <p>DIMENSIONS AND WEIGHT ----- Dimensions: 40.00"W X 15"D X 94.5"H Approximate Weight: 1200.00 lbs / 544.32 kgs</p> <p>INCOMING ----- Incoming Connection: Cable</p> <p>MAIN ----- Main Lugs Top Entry 600A Aluminum Mechanical Lugs: (2) 3/0 - 500 kcmil Wires/Phase Neutral Lug Termination Device Height - 9 in Power Meter PM5563 w/ Display Please contact plant for delivery schedule. Published delivery schedule may not apply. #14 AWG MTW Control Wire Device Height - 6 in</p>

FEEDERS

2 - Circuit Breaker Branch Feeder 20A
65kA Interrupting Rating
Aluminum Mechanical Lugs: (1) 14 - 3/0
AWG Wire/Phase
Device Height - 12 in
1 - Circuit Breaker Branch Feeder 30A
65kA Interrupting Rating
Aluminum Mechanical Lugs: (1) 14 - 3/0
AWG Wire/Phase
Device Height - 12 in
1 - Circuit Breaker Branch Feeder 400A
65kA Interrupting Rating
Aluminum Mechanical Lugs: (2) 2/0 - 500
kcmil Wires/Phase
Standard Electronic Trip Unit
Long-time + Instantaneous Protection
Device Height - 24 in

COMMON FEEDER FEATURES

Fishtape Unit Plugs

DISTRIBUTION TRANSFORMERS

1 - 10 kVA, 1-Ph Distribution Transformer w/
120/240 Volt Secondary
Wire to Panel in Unit 1C
Circuit Breaker Primary Disconnect
65kA Interrupting Rating
Aluminum Winding; 150 C Temperature Rise
Fishtape Unit Plugs
Device Height - 30 in

PANELBOARDS

18 Circuits NQ Panelboard w/ Main Circuit
Breaker 120/240V 1Ph 3W 60Hz
Connected to XFMR in Unit 2N
Copper Interior
Fishtape Unit Plugs
Device Height - 27 in
16 - QO 1 Pole 20A

MISCELLANEOUS DEVICES

2 - 3" Configured Space
1 - Surge Protection Device
Solidly Grounded
240kA Surge Rating
Wye Connected Secondary Transformer -
With Disconnect
SPD Surge Counter
Fishtape Unit Plugs
Device Height - 6 in

Estimated days to ship, excluding transit: 170 working days after customer release to manufacturer. See Conditions of Sale.

VILLAGE OF ALGONQUIN PURCHASE AGREEMENT - CONSTRUCTION (Small Projects - Labor & Materials)

Date: **4/25 2023**

Purchase Order No. _____

Project: Replacement MCC panel for Well's 7/11	Location: 2000 Sandbloom Rd.
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Originating Department:		
Owner	Contractor/Vendor	Architect/Engineer
Owner : Village of Algonquin Address: 2200 Harnish Dr Algonquin, IL 60102 Phone: 847-658-2754 Fax: 847-658-2759 Contact: Jason Meyer	Name: Tri-R Systems Inc Address: 1804 E. Lincoln HWY Dekalb, IL 60115 Phone: 815-787-0830 Fnx: 815-787-0930 Contact: Dustin Bonnell	Name: N/A Address: N/A Phone: N/A Fax: N/A Contact: N/A

PREVAILING WAGE NOTICE: 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.*, which requires contractors and subcontractors to pay laborers, workers and mechanics performing services on public works projects no less than the current "prevailing rate of wages" (hourly cash wages plus fringe benefits) in the county where the work is performed. The Department publishes the prevailing wage rates on its website at <http://www.state.il.us/agency/idol/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. All contractors and subcontractors rendering services under this contract must comply with all requirements of the Act, including but not limited to, all wage, notice and record keeping duties.

COST OF WORK: The Contract Price of the Work under this Purchase Agreement is \$ 44,000.00.

SCOPE OF WORK: Furnish the Work/Items described below in accordance with the following plans and specifications:
 Q General Contract, dated _____, 2018
 Q Specification No(s): _____, dated _____, 2018
 Q Plans dated : _____
 Q Addendum No(s): _____
 Q Other: _____

The following prices shall remain in effect for the duration of project:

QUANTITY	UNIT OF MEASURE	DESCRIPTION/ITEMS	LUMP SUM UNIT PRICE	EXTENSION
1	N/A	Replacement motor control center (MCC) for well number 7/11	\$44,000.00	\$ _____
			TOTAL	\$44,000.00

NOTES:

- 1) _____
- 2) _____

WARRANTIES and INDEMNIFICATION: Contractor/Vendor agrees to provide the following warranties for the Work: (a) all workmanship to be warranted for a period of one (1) year - manufacturer warrants material; and (b) all other warranties contained elsewhere in the Contract Documents or Supplemental Conditions hereto. Further, **CONTRACTOR/VENDOR SHALL FULLY INDEMNIFY AND SAVE THE VILLAGE OF ALGONQUIN HARMLESS FROM ALL CLAIMS, LIENS, FEES, AND CHARGES, AND THE PAYMENT OF ANY OBLIGATIONS ARISING THEREUNDER, pursuant to the provisions in the Supplemental Conditions hereto.**


CONTRACT TIMES: Contractor/Vendor agrees to commence Work within ~~forty-eight (48) hours of receipt~~ of the Owner's Notice to Proceed, and to complete the Work no later than _____ (_____) days after commencing the Work. Time is of the essence. **NA DS**

THE TERMS OF THIS PURCHASE AGREEMENT AND THE ATTACHED SUPPLEMENTAL CONDITIONS ARE THE ENTIRE AGREEMENT BETWEEN THE VILLAGE/OWNER AND VENDOR. No payment will be issued unless a copy of this Purchase Agreement is signed, and dated and returned to the Owner. Material certifications/test reports required. All domestic material, unless otherwise specified. Purchase exempt from sales and/or use taxes.

ACCEPTANCE OF PURCHASE AGREEMENT: The parties, for themselves, their heirs, executors, administrators, successors and assigns, do hereby agree to the full performance of all terms and provisions herein contained. **IN WITNESS WHEREOF**, the parties hereto have executed this Purchase Agreement the day and year written below.

CONTRACTOR/VENDOR:

PURCHASER: Village of Algonquin

By: 

Title: _____

Revision Date: August 14, 2018



Authorized Vendor Representative
Dated: 5/11/2023

SUPPLEMENTAL CONDITIONS

1. **Acceptance of Purchase Agreement:** The Purchase Agreement is an offer to contract, buy or rent and not an acceptance offer to contract, sell or rent. Acceptance of this Purchase Agreement is expressly limited to the terms hereof, and in the event Contractor/Vendor's acknowledgment or other response hereto states terms additional to or different from those set forth herein Purchase Agreement shall be deemed a notice of objection to such additional or different terms and rejection thereof. This Purchase Agreement may be accepted by the commencement of any Work hereunder or the delivery of any goods herein ordered, and, in event, shall be deemed accepted in its entirety by Contractor/Vendor unless Owner is notified to the contrary within ten (10) days of its date of issue.
2. **Amendment, Modification or Substitution:** This Purchase Agreement contains the entire agreement between the parties and any modification or rescission thereof must be in writing and signed by Owner. No proposals or prior dealings of the parties or custom not embodied herein shall alter the interpretation or enforcement of this Purchase Agreement.
3. **Familiarity With Plans; Qualifications:** Contractor/Vendor acknowledges that it (a) has examined the site of the proposed Work and is familiar with the conditions surrounding same; and (b) has examined the plans and drawings, and has studied and is aware and satisfied with, the requirements of the Contract Documents. Contractor/Vendor represents to Owner that it is fully experienced and properly qualified as an expert to perform the class of work provided for herein, and that it is properly equipped, organized and financed to handle such work. Contractor/Vendor shall finance its own operations hereunder, shall operate as an independent contractor and not as the agent of Owner, and shall hold Owner free and harmless from all liability, costs and charges by reason of any act or representations of Contractor/Vendor, its agents or employees.
4. **Workmanship; Safety:** All Work shall be performed by Contractor/Vendor in a neat, skillful and workmanlike manner, and materials furnished by Contractor/Vendor shall be new and of the best description and quality of their respective kinds, unless otherwise specified and ordered by Owner in writing. All Work and/or materials shall be subject to the inspection and approval of Owner, its engineers and representatives. Contractor/Vendor is responsible for its own and its employees' activities on the jobsite including but not limited to, the methods of work performance, superintendence, sequencing of work, and safety in, on or about the jobsite area in which it is performing the Work under this Purchase Agreement. Owner and Contractor/Vendor shall not require a laborer or mechanic employed in performance of this Purchase Agreement to work in surroundings or under working conditions that are unsanitary, hazardous or dangerous to his health or safety, as determined under applicable federal and Illinois construction safety and health standards.
5. **Extra's and Change Orders:** No claim by Contractor/Vendor that any instructions, by drawing or otherwise, constitute a change in Contractor/Vendor's performance hereunder, for which Contractor/Vendor should be paid additional compensation shall be allowed unless prior to commencing such allegedly extra or changed performance, Contractor/Vendor shall have received a written supplement to this Purchase Agreement authorizing such performance signed on behalf of Owner by a person having actual authority to do so. No claim for additional compensation on the basis that Contractor/Vendor has incurred any expense by reason of any act or failure of Owner or its contractor, subcontractor, materialmen or any other party shall be valid unless made in writing within 30 days of the alleged act or failure to act and approved by Owner, provided, however, that if the Contractor/Vendor should be delayed in furnishing the articles, items, equipment or materials (hereinafter sometimes referred to as "goods") or services or Work (hereinafter sometimes referred to as "Work") ordered herein, by the omission, neglect or default of Owner, its agents or employees, Contractor/Vendor shall be entitled to no additional compensation or damages for such delay, and shall be entitled only to an extension of time for a period equal to the time lost as a result of the aforesaid causes, determined by Owner. Any charges for extra not so authorized will not be paid.
6. **Inspection and Acceptance:** Owner shall have the right at all reasonable times to inspect and test all goods, materials or Work furnished by Contractor/Vendor and all Work performed or furnished by Contractor/Vendor. Notwithstanding any prior inspection, the passage of title or any prior payment, all goods, material and Work furnished thereunder are subject to final inspection and acceptance by Owner at its job site. If, after inspection, Owner rejects any goods furnished by Contractor/Vendor thereunder, Owner may, at its election, return those goods to Contractor/Vendor at Contractor/Vendor's expense, including the cost of any inspection and testing thereof. If Contractor/Vendor fails to proceed promptly with the correction or replacement of any rejected goods or Work, Owner may replace or correct such items or Work by purchase or manufacture and charge the cost incurred therefor to Contractor/Vendor or terminate this Purchase Agreement for default in accordance with paragraph 12 herein. By inspecting and accepting any goods and Work furnished thereunder, Owner shall not be precluded thereby from subsequently revoking its acceptance thereof if the goods or Work are later discovered to be nonconforming with this Purchase Agreement or the specifications or drawings applicable hereto, even if the defect does not substantially impair value to Owner.
7. **Taxes, Delivery, Risk of Loss:** Unless indicated to the contrary on the face hereof, it shall be the responsibility of Contractor/Vendor to arrange for and complete delivery of all goods or materials. If the goods or materials furnished thereunder are equipment, Contractor/Vendor shall give Owner two (2) working days' advance notice of delivery. All goods or materials furnished by Contractor/Vendor should be shipped in the manner and at the times indicated on the face hereof at the expense of Contractor/Vendor.

Contractor/Vendor, it being understood that the risk of loss with respect to such goods is with Contractor/Vendor until such goods come into the actual possession of Owner, regardless of the mode of delivery or earlier passage of title. This project is tax exempt. The Owner's tax-exempt number is E 9995 0855 05.

8. **Payment:** Owner will make partial payments to the Contractor/Vendor from time to time for the Work performed and the materials furnished by the Contractor/Vendor. Provided, however, in no event shall Owner be obligated to pay Contractor/Vendor any sum that exceeds the Contract Price absent a written change order executed by Owner.

8.1 Prior to issuance of any payments by the Owner to the Contractor/Vendor, the Contractor/Vendor shall furnish to the Owner (in a form suitable to the Owner) an application for the payment then due, together with receipts, waivers of claim and other evidence showing the Contractor/Vendor's payments for materials, labor and other expense incurred in the Contractor/Vendor's Work hereunder. The Owner will, at all times, be entitled to retain ten percent (10%) of all monies due and owing to the Contractor/Vendor as a part security for the faithful performance of this Agreement. This ten percent (10%) so withheld will not be paid to the Contractor/Vendor until the Owner has issued to the Contractor/Vendor a final acceptance of the Project.

8.2 Owner may withhold the whole or any part of any payment due to the Contractor/Vendor to the extent necessary to protect and indemnify the Owner from loss on account of (a) defective Work not remedied; (b) claims filed or reasonable evidence indicating probable filing of claims; (c) failure of the Contractor/Vendor to make payments promptly for material or labor; or (d) Contractor/Vendor's failure to furnish Owner with all written warranties and operational manuals for the Work.

8.3 Contractor/Vendor hereby authorizes the OWNER (1) to deduct from any amount due or becoming due the Contractor/Vendor under this Agreement for all amounts owing from the Contractor/Vendor to (a) the Owner for back-charges or services furnished for the account of the Contractor/Vendor; (b) the Owner for damages sustained whether through negligence of the Contractor/Vendor or through failure of the Contractor/Vendor to act as may be otherwise detailed herein; (c) materialmen; (d) subcontractors; (e) laborers; and (f) others for services and materials furnished to the Contractor/Vendor for the Work performed under this Agreement, and (2) to apply the amount so deducted to the payment of said materials, services, damages or back-charges applying such monies so available in the Agreement hereinbefore set forth.

8.4 Owner, without invalidating this Agreement, may make changes by altering, adding to or deducting from the Work to be performed. The value of any such changes will be determined as follows: (a) by the unit prices named in this Agreement, if any; or (b) by agreement in writing between the Owner and the Contractor/Vendor as to the value of the time and materials for the changes in the Work. In any event, the Contractor/Vendor will keep and present, in any form as the Owner may direct, a correct account of the net cost of any extra labor and materials, together with vouchers referring to the same.

8.5 Notwithstanding the payment in full for the Work hereunder, the Contractor/Vendor will be liable to repair or replace any imperfect workmanship or other faults; and if the Contractor/Vendor fails to repair or replace the imperfect workmanship or other faults, the Owner may do the Work and recover from the Contractor/Vendor the cost and expense thereof. No payment on account will be construed or considered as an approval of the Work for which payment is made.

9. **Contractor/Vendor Warranty:** Contractor/Vendor warrants in addition to all warranties which are imposed or implied by law or equity that all materials and Work furnished thereunder (a) shall conform to any specifications and drawings applicable to this Purchase Agreement; (b) shall be merchantable and of good quality and workmanship; (c) shall be fit for the purpose intended as well as the propose for which such goods, materials or Work are generally used; and (d) except for rented equipment, shall be free from defects for a period of one (1) year, or such longer period as is specified in the Scope of Work or Contract Documents, from the date such Work is performed or such materials are utilized or installed, and if installed as part of a structure or utilized equipment, for one (1) year or such longer period as is specified in the Contract Documents, from the date any such goods, materials or Work hereunder is accepted in writing by Owner. Contractor/Vendor expressly agrees that the statute of limitations with respect to Contractor/Vendor's warranties shall begin to run on the date of acceptance by Owner.

10. **Insurance and Bonds:**

10.1 Contractor/Vendor shall at all times maintain business automobile, commercial liability and workers compensation insurance covering its work and all obligations under this Purchase Agreement, and shall name the Owner as an additional insured on its commercial liability insurance policies for Contractor/Vendor operations under this Purchase Agreement. Liability insurance limits shall be in such amounts and include such coverages as set forth in the VILLAGE OF ALGONQUIN PURCHASE ORDER INSURANCE REQUIREMENTS attached to this Agreement. Contractor/Vendor shall furnish the Village with a certificate of insurance and such other documentation (including a copy of all or part of the policy) to the Village at the time of execution of this Agreement and thereafter on an annual basis on the anniversary date of this Agreement or at any other time as the Village deems necessary to establish compliance with this provision.

~~10.2 Contractor/Vendor shall furnish and pay for surety bonds and with surety or sureties satisfactory to Owner, guaranteeing the full performance of all of the conditions and terms hereof and guaranteeing that Contractor/Vendor shall promptly pay for all labor, materials, supplies, tools, equipment and other charges or costs of Contractor/Vendor in connection with the Work. Such performance and payment bond shall be in an amount determined by Owner.~~ **DS**

10.3 Breach of this paragraph is a material breach subject to immediate termination.

11. Indemnity: Contractor/Vendor hereby agrees to indemnify, and hold the Owner, its directors, officers, employees, successors and assigns harmless from any and all claims, demands, liability, loss, damage, fines, penalties, attorney's fees and litigation expenses (collectively "Loss") arising out of injury to, including the death of, persons and/or damage to property, to the extent caused by the negligent acts or omissions of the Contractor/Vendor or those working at their direction.

Further:

11.1 Contractor/Vendor acknowledges that should any items or Work furnished hereunder prove defective, including damage to Owner supplied or constructed items, equipment or machinery, or if Contractor/Vendor is charged with any violation of any state or federal laws or regulations, the Owner shall be entitled to recover damages for breach of this Agreement, including but not limited to consequential damages, penalties, taxes or assessments (including punitive damages), costs and attorney's fees.

11.2 In any and all claims against Owner or any of its agents or employees, by any employee of Contractor/Vendor, the indemnification obligation under this paragraph shall not be limited by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor/Vendor under workers compensation acts, disability benefits acts or employee benefit acts, or other applicable law. Contractor/Vendor assumes the entire liability for its own negligence, and as part of this Agreement waives all defenses available to Contractor/Vendor as an employer which limit the amount of Contractor/Vendor's liability to Owner to the amount of Contractor/Vendor's liability under any workers compensation, disability benefits or employee benefit laws.

12. Patents: Contractor/Vendor warrants that (a) goods furnished thereunder, and the sale and use thereof, shall not infringe any valid United States patent or trademark; and (b) Contractor/Vendor shall indemnify Owner for its costs to defend any suit instituted against Owner, its agents or customers, charging infringement of any United States patent or trademark by virtue of the possession, use or sale of any goods furnished thereunder is enjoined because of patent infringement. Contractor/Vendor within a reasonable amount of time shall at Contractor/Vendor's expense procure for Owner its agents or customer, the right to continue using such goods with non-infringing goods or modify such goods so that they become non-infringing or remove such goods and refund to Owner any sums paid therefore, including transportation and installation charges.

13. Cancellation: Time of delivery of this Purchase Agreement is of the essence and Owner may, by written notice of default to Contractor/Vendor, cancel the whole or any part of this Purchase Agreement (a) if Contractor/Vendor fails to make delivery of the goods or perform the services within the time specified herein or any extensions thereof; or (b) if Contractor/Vendor fails to perform or so fails to make progress as to endanger performance thereunder, and in either circumstance does not cure such failure within a period of two (2) days after receipt of notice from Owner specifying such failure. Owner, by written notice to Contractor/Vendor, may cancel the whole or any part of this Purchase Agreement when it is in the best interest of Owner or when Owner has been notified of modification of the specifications pertaining thereto. If this Purchase Agreement is so canceled, the Contractor/Vendor shall be compensated as follows: (a) for materials delivered and services performed, the reasonable value as part of the Contract Price; (b) for materials not identified to this Purchase Agreement and service not performed, no compensation; and (c) for Contractor/Vendor's lost profits or incidental or consequential loss, no compensation.

14. Remedies: Contractor/Vendor shall, for the duration of its warranties under paragraph 9 herein, at the discretion of Owner and at the expense of Contractor/Vendor, replace, repair and insure any and all faulty or imperfect goods, materials or Work furnished or performed by Contractor/Vendor thereunder. In the event Contractor/Vendor fails to do so, Owner may furnish or perform the same, and may recover from Contractor/Vendor the cost and expense directly or indirectly resulting there from, including all consequential damages but not limited to the cost or expense of inspection, testing, removal, replacement, re-installation, destruction of other materials resulting there from, any increased cost or expense to Owner in its performance under contracts with others, and reasonable attorneys fees incurred by the Owner in connection with Vendor's default and Owner's enforcement of its rights under this Purchase Agreement. The foregoing remedies shall be available in addition to all other remedies available to Owner in equity or at law including the Uniform Commercial Code.

15. Compliance With Laws: During the performance hereunder, Contractor/Vendor agrees to give all notices and comply with all Laws and Regulations of the United States and/or the State of Illinois applicable to the performance of the Work, including but not limited to those Laws and Regulations regarding the payment of prevailing wages, non-discrimination laws, employment of Illinois workers, labor, wage and collective bargaining. Except where otherwise expressly required by applicable Laws and Regulations, Owner shall not be responsible for monitoring Contractor/Vendor's compliance with any Laws or Regulations.

16. Notices: All notices, demands, requests or other communications which may be or are required to be given, served, or sent by any party to any other party pursuant to this Purchase Agreement shall be in writing and shall be hand delivered, or sent by courier, or via facsimile with confirmation to the addresses shown on the Purchase Agreement.

17. **Records, Reports and Information:** Contractor/Vendor agrees to furnish Owner with reports and information regarding the Work performed under this Purchase Agreement, at such times as Owner may reasonably request, making full disclosure of efforts made by Contractor/Vendor and the results thereof. Contractor/Vendor agrees to maintain records, documents, and other evidence which will accurately show the time spent and Work performed under this Purchase Agreement for a minimum period of five (5) years after completion of the Work, and such records shall be subject to audit by the Owner upon reasonable advance notice to Contractor/Vendor on a mutually agreed date and time.

18. **Tobacco Use:** Contractor/Vendor, and its agents or employees, shall refrain from smoking, or the use of any tobacco, on designated Village campuses, both indoors and outdoors, in Village-owned vehicles and in privately-owned vehicles parked on campus property at any time, including non-working hours. Designated Village campuses consist of the William J. Ganek Municipal Center, Historic Village Hall, Public Works Facility, Wastewater Treatment Plant, Water Treatment Plants, and Pumping Stations. Leaving the remains of tobacco products or any other related waste product on Village property is further prohibited.

19. **Assignment:** Contractor/Vendor shall not assign this Purchase Agreement without written consent of Owner. Owner may unilaterally assign its rights under this Purchase Agreement upon reasonable notice to Contractor/Vendor.

20. **Waiver:** Either party's failure to insist in any one or more instances, upon the strict performance of any provision hereof or to exercise any right hereunder shall not be deemed to be a waiver or relinquishment of the future performance of any such provision or the future exercise of such right, but the obligation of Contractor/Vendor and Owner with respect to such future performance shall continue in full force and effect.

21. **Controlling Law, Severability:** The validity of this Purchase Agreement or any of its provisions and the sufficiency of any performance thereunder shall be determined under the laws of Illinois. Venue shall be in McHenry County, Illinois. The Owner is entitled to recover its reasonable attorneys' fees incurred in enforcing the terms of this Purchase Agreement. If any provision or requirement of this Purchase Agreement is declared or found to be unenforceable that balance of this Purchase Agreement shall be interpreted and enforced as if the unenforceable provision or requirement was never a part hereof.

22. **Arbitration.** Any controversy or claim arising out of or relating to this Purchase Order, or the breach thereof, shall be settled by binding arbitration administered by the American Arbitration Association under its Construction Industry Arbitration Rules or JAMS Dispute Resolution, as determined in the exclusive discretion of the Owner, at the Village of Algonquin Village Hall or Public Works Department, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The parties agree that an arbitration award by default may be entered upon the party failing to appear or defend itself in any arbitration proceeding.

23. **Recovery of Fees.** In the event of arbitration of this Purchase Order between the parties, or litigation of this Purchase Order, the non-prevailing party, as determined by the arbiter or court, shall pay all expenses incurred by the prevailing party, including, but not limited to (a) attorneys' fees, (b) filing costs, (c) witness fees, and (d) other general expenses of arbitration or litigation.

CONTRACTOR/VENDOR:



5/1/23

Date