LEGAL NOTICE

Village of Morton Grove
Cook County, Illinois

Professional Engineering Services

REQUEST FOR QUALIFICATIONS (RFQ)

NOTICE IS HEREBY GIVEN by the President and the Board of Trustees of the Village of Morton Grove, Cook County, Illinois, that the Village is seeking statements of interest and qualifications from qualified engineering firms for general and specialized Municipal Engineering Services. RFQ documents are available at the office of the Village Engineer, 7840 Nagle Ave, Morton Grove, Illinois upon request. Qualifications will be received up to the hour of 10:00 a.m. Local Time, on the 1st day of May 2011 at the office of the Village Engineer, at the Public Works Facility, 7840 Nagle Avenue, Morton Grove, Illinois 60053.

The Board of Trustees reserves the right to accept or reject any proposals or addendums submitted to the Village subsequent to this Request for Qualifications and may also reject any or all consulting firms if they are deemed to be unacceptable at the sole discretion of the Board of Trustees.

Inquiries should be directed to Mr. Chris R. Tomich, P.E., Village Engineer, at (847) 470-663-3902.

Dated April 7th, 2011.
REQUEST FOR QUALIFICATIONS

Engineering Consulting, Bridge Program Manager, Construction Engineering, and Surveying Services

Project No. 2011-009

SECTIONS

General Scope of Work (Attachment 1)
Requirements for Statement of Qualifications (Attachment 2)
Contract (Attachment 3)

Village of Morton Grove
Engineering Division
Public Works Department
7840 N. Nagle
Morton Grove, IL 60053

Telephone: (847) 470-5235
Fax: (847) 965-9511
General Scope of Work

INTRODUCTION

The Village of Morton Grove, Illinois is a mature Chicago suburb of approximately 23,000 residents located in the near north suburbs and bordered by Niles, Glenview, Golf and Skokie. The municipality is essentially “built out” with the majority of land use dedicated to single-family residential structures. Morton Grove is 5.2 square miles with approximately twenty percent (20%) of the land owned by the Cook County Forest Preserve District.

Streets

The Village owns and maintains approximately 269 lane miles of local roads and one bridge. The State routes are also maintained by the Village and comprise approximately 58 lane miles. The State Routes within the Village are Oakton Street, Dempster Street, Golf Road, Caldwell Avenue, and Waukegan Road.

Water System

The Village of Morton Grove purchases its’ water from the City of Chicago, and owns and operates the entire potable water system within the community. The Village’s water distribution system consists of two independently operated systems; namely, the north and south system. Components of the Village’s system include two pumping stations, approximately 500,000 feet of water main, two water towers, 1,030 fire hydrants and 1,050 service valves.

Sewer System

The Public Works Department maintains the Village’s sewer system that is comprised of 41 miles of sanitary sewer, 45 miles of storm sewer and 21 miles of combined sewer. The sanitary sewer and combined sewer are connected to the Metropolitan Water Reclamation District of Greater Chicago system for treatment. The storm sewers discharge into the North Branch of the Chicago River at sixteen locations.

SCOPE OF SERVICES

The Village of Morton Grove is seeking statements of interest and qualifications from qualified engineering firms for general and specialized Municipal Engineering Services. The Village occasionally requires the assistance of professional engineering consultants, construction engineers and/or surveyors. Typical projects involve design, construction, and/or survey related to streets, sewers, storm drains, water mains, structures, etc. The actual service required varies from project to project.
The scope of work includes, but is not limited to the following:

1. Engineering Consulting
   a. Project development, scoping and preliminary engineering
   b. Transportation planning, traffic engineering and studies
   c. Preparation of displays and materials for public meetings
   d. Planning, coordination and implementation of public involvement
   e. Presentation and staffing at public meetings
   f. CADD – All work shall be compatible with and transferable to Microstation
   g. Value engineering
   h. Final design, plans, specifications and estimates preparation
   i. Review of the Village’s plans, specifications and estimates
   j. Construction cost estimating and/or analysis, and constructability review
   k. Construction scheduling
   l. Inspection and construction engineering, claims analysis
   m. Structural design such as retaining walls, bridge inspection, reservoir and elevated tank inspection, etc.
   n. Preparation and submittal of permits and assistance in obtaining approvals for various Federal, State and local regulatory agencies.
   o. Assist the Village in identification of possible funding sources for identified public improvement projects.
   p. Review of planned developments for conformance with applicable codes, regulations and generally accepted engineering principals.
   q. Design of storm sewer, sanitary sewer, combined sewer, water main and traffic signals and street lighting
   r. Review development plans for traffic signal, street lighting and parking lot lighting improvements
   s. Other engineering and planning services as required.

2. Bridge Program Manager
   a. Qualified personnel to serve as a Program Manager by Illinois Department of Transportation.
   b. Expertise in inspecting bridges and completing Bridge Condition Report.

3. Construction Engineering
   a. Construction cost estimating and/or analysis, and constructability review
   b. Construction scheduling
   c. Construction engineering and management
   d. Inspection
   e. Claims analysis
   f. As-Built drawings
   g. Other construction engineering services as requested.

4. Surveying
   a. Topographic surveys
   b. Boundary surveys
   c. Construction staking and surveys
   d. Legal description of property
   e. Other survey services as requested.
The Village may select one firm to perform some or all of the services described above on an “as requested” basis pursuant to a contract substantially similar to Attachment 3. The task order contract would be for a period of two years, with an option to renew for three additional one year periods, for a possible total of five years. The issuance of a contract does not guarantee work with the Village. At the end of the initial two year contract, the Village may request updates to your qualifications if renewing the contract for an additional year. If there are changes in the qualifications submitted, such as staff changes, you are requested to submit these changes/additions to the Village at the time the change is made. Pricing information may only be changed at renewal times. Nothing in these documents should be construed to preclude the Village from requesting a separate RFP or contracting with other Engineering Consultants anytime the Village chooses to do so.

**SCHEDULE OF ACTIVITIES**

<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
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<tr>
<td>Proposals Due</td>
<td>Monday, May 2, 2011 @ 10:00 am</td>
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<tr>
<td>Consultant Interviews (if necessary)</td>
<td>Thursday, May 26, 2011</td>
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<tr>
<td>Consultant Selection</td>
<td>Monday, May 30, 2011</td>
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<tr>
<td>Village Board Approval (Contract Award)</td>
<td>Monday, June 13, 2011 @ 7:00 pm</td>
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<tr>
<td>1&lt;sup&gt;st&lt;/sup&gt; Contract Period (2 Years)</td>
<td>7/1/2011 to 6/30/2013</td>
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<td>2&lt;sup&gt;nd&lt;/sup&gt; Optional Contract Renewal Period (1 Year)</td>
<td>7/1/2013 to 6/30/2014</td>
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<td>3&lt;sup&gt;rd&lt;/sup&gt; Optional Contract Renewal Period (1 Year)</td>
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<tr>
<td>4&lt;sup&gt;th&lt;/sup&gt; Optional Contract Renewal Period (1 Year)</td>
<td>7/1/2015 to 6/30/2016</td>
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**EVALUATION PROCESS**

All Statements of Qualifications will be evaluated to select a consultant that has the best qualifications and most experience in meeting the Village’s needs. A consultant shall identify all key personnel that are capable of providing the requested services to the Village. The Village will evaluate each consultant’s experience in completing similar work for the Village of Morton Grove and other municipalities within the Chicago metropolitan region.

The Village may invite selected consultants to participate in an interview. Village staff will make a recommendation to the Village Board of Trustees who will make the final selection.

If interviews are held, interviewees will be notified of the time and location of the interview. Each interview will consist of a 15-minute presentation with another half-hour for questions by Village staff.
Selection criteria will be based on key personnel, related experience, and value. The contract for the proposed work will be determined through a negotiation process utilizing the Village’s standard terms and conditions. If negotiations with the highest ranked firm are not successful, negotiations with the next highest ranked firm will then proceed. Anticipated award of the contract is no later than the end of June 2011.

The Board of Trustees reserves the right to accept or reject any proposals or addendums submitted to the Village subsequent to this Request for Qualifications and may also reject any or all consulting firms if they are deemed to be unacceptable at the sole discretion of the Board of Trustees.

Inquiries should be directed to Mr. Chris R. Tomich, P.E., Village Engineer, at (847)663-3902.
Requirements for Statement of Qualifications

Your Statement of Qualifications should include the following information:

1) Name, address and brief history of firm.

2) Résumés of key personnel to be assigned to this project.

3) Related experience during the last five years. For example:
   a) Projects where professional design services related to design work were performed.
   b) Examples of other projects with a representative municipal engineering scope. Include the name of the project, a contact person and dollar amount for each example.

4) You are invited to include a maximum of one page of additional information not included above, if you believe it may be useful and applicable to this request.

5) IDOT Pre-qualification – Pre-qualification with IDOT in HIGHWAYS: ROADS AND STREETS is strongly encouraged. IDOT certificate should be included with response.

6) Illinois Professional Design Firm – Registration with the State of Illinois as a Professional Design Firm in Professional Engineering, Structural Engineering, and Land Surveying is strongly encouraged. Registration should be included with response.

7) Labor Rates – Consultants should provide the billing rates for the various classifications of labor within the organization. A description of each classification of labor should also be provided.

Your qualifications for this work must be submitted by May 1, 2011 at 10:00 am.

Please submit three copies of your Statement of Qualifications to the Village of Morton Grove directed to the attention of:

Mr. Chris R. Tomich, P.E.
Village Engineer
Village of Morton Grove
7840 N. Nagle
Morton Grove, IL 60053
CONSULTING SERVICES CONTRACT

This contract (“Contract”), with an effective date of 7/1/2011 is by and between the Village of Morton Grove (“VILLAGE”) and (“CONSULTANT”).

In consideration of the mutual covenants and promises contained herein, the parties agree as follows:

1 SCOPE OF SERVICES

CONSULTANT shall perform the services as set forth in Attachment A (Contracted Services), Attachment C (Task Order) and Attachment D (Change Order), incorporated herein by reference, and shall strictly conform with the terms and conditions of this Contract.

2 TERM OF AGREEMENT

2.1 This Contract shall commence on the effective date stated above, and CONSULTANT is authorized to commence performance of the Contracted Services as of that date. This Contract terminates on 6/30/2013 unless terminated earlier pursuant to the terms and conditions of this Contract. The VILLAGE has the option to renew this Contract for three additional one year periods, for a possible of five years. The issuance of a contract does not guarantee work with the Village. Pricing information may only be changed at renewal times. The schedule of activities in the Request For Qualifications is incorporated herein by reference. CONSULTANT shall complete the Contracted Services in accordance with the time schedule (“Project Schedule”) set forth in Attachment A, Attachment C (Task Order) and Attachment D issued as part of this contract, including any intermediate milestones and phase submittals.

2.2 TIME IS OF THE ESSENCE with regard to the performance of the Contracted Services, specifically including but not limited to any intermediate milestones and phase submittals.

3 COMPENSATION AND PAYMENT

As compensation for the performance of the Contracted Services (“Compensation”), VILLAGE will pay CONSULTANT in the amount and manner set forth in Attachment B (“Compensation and Payment”), incorporated herein by reference and defined in Attachment C and Attachment D. VILLAGE shall not have any liability for any other expenses or costs incurred by CONSULTANT other than as expressly set forth in Attachment B, Attachment C and Attachment D. Written application for payment for completed work shall be submitted by CONSULTANT to VILLAGE not more than once monthly on a date specified by the VILLAGE.
4 LIEN WAIVER

CONSULTANT shall promptly pay for all services, labor, materials and equipment used or employed by CONSULTANT in the performance of the Contracted Services and shall maintain all materials, equipment, structures, buildings, premises and property of VILLAGE free and clear of mechanic’s or other liens. CONSULTANT shall, if requested, provide VILLAGE with reasonable evidence that all services, labor, materials and equipment have been paid in full.

5 INDEPENDENT CONSULTANT

For purposes of this Contract, CONSULTANT is an independent CONSULTANT and shall not be deemed to be an employee, agent or joint venturer of VILLAGE. CONSULTANT shall be solely responsible for the means and methods for carrying out the Contracted Services.

6 COMPLIANCE WITH THE LAW

CONSULTANT shall comply with all applicable statutes, ordinances, codes, regulations, consent decrees, orders, judgments, rules, and all other requirements of any and all governmental or judicial entities that have jurisdiction over the Contracted Services (“Law”).

7 PERMITS AND LICENSES

CONSULTANT will obtain and pay for all permits and licenses, registrations, qualifications, and other governmental authorizations required by law that are associated with CONSULTANT’s performance of Contracted Services.

8 STANDARD OF PERFORMANCE

8.1 CONSULTANT shall perform the Contracted Services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances in the region where the project (“Project”) is located.

8.2 CONSULTANT shall provide additional services as needed to correct any defects or deficiencies in the Contracted Services and shall bear all costs related to the correction of CONSULTANT’s or its lower-tier CONSULTANT’s defective or deficient performance at no additional cost to VILLAGE.
9 HEALTH & SAFETY

9.1 CONSULTANT acknowledges that there may be hazardous substances, wastes, or materials as defined by applicable Law (“Hazardous Materials”) at the Project Site or otherwise associated with the Contracted Services and CONSULTANT shall take appropriate precautions to protect and shall be solely and continuously responsible for the health, safety and welfare associated with its employees, subconsultants, agents and those person under the supervision and control of the CONSULTANT with the performance of the Contracted Services.

9.2 CONSULTANT’s employees, agents and the employees of its lower tier CONSULTANTs who perform the Contracted Services shall be experienced and properly trained to perform the Contracted Services under such conditions and shall take adequate precautions to protect human health and the environment in the performance of the Contracted Services.

9.3 In the event that CONSULTANT observes a potentially hazardous condition relating to the Contracted Services, CONSULTANT shall bring such condition to the attention of VILLAGE.

10 CONTACT WITH REGULATORY AGENCIES

Except to the extent expressly set forth in this Contract, CONSULTANT shall not communicate directly with applicable governmental regulatory agencies with regard to the Contracted Services without prior express authorization from VILLAGE unless directed otherwise. CONSULTANT shall direct inquiries from governmental regulatory agencies to VILLAGE for appropriate response.

11 QUALITY CONTROL PLANS

When required by the Scope of Services, CONSULTANT shall execute a quality control plan acceptable to VILLAGE that ensures the quality of its work products and activities. Prior to starting the performance of the Contracted Services, CONSULTANT shall submit its quality control plan for the work products and activities identified in the Scope of Services. Submission of the quality control plan to VILLAGE will not replace in any way CONSULTANT’s responsibility for quality control or for its work products and activities. Notwithstanding any review by VILLAGE, CONSULTANT shall be responsible for the quality of the Contracted Services.

TASK ORDERS

This contract is a task order contract. The VILLAGE will provide individual task orders to the consultant in the form of Attachment C, incorporated herein by reference. The task order will define the work to be completed, the time for the work to be completed and the compensation to the CONSULTANT for the task. The compensation for each task order will follow the agreed upon labor rates in Attachment B.
12 SUSPENSION OF SERVICES

VILLAGE may, at any time, with or without cause, suspend all or any portion of the Contracted Services for a period of up to 90 days (“Suspended Services”). CONSULTANT shall immediately stop the performance of the Suspended Services, until such time as VILLAGE issues direction to CONSULTANT to resume the Suspended Services. CONSULTANT shall take such action as is reasonably necessary to protect the Suspended Services and take such additional action as directed by VILLAGE. An equitable adjustment may be made in accordance with the Change Order procedures of this Contract.

13 FORCE MAJEURE

VILLAGE shall not be responsible for delay in the performance of its obligations under this Contract caused by a force majeure event. To the extent that Contracted Services are delayed by a force majeure event, CONSULTANT will be entitled to an equitable adjustment. For purposes of this Contract, a “force majeure event” is an occurrence or circumstance beyond the control of the claiming party and may include, but is not limited to extraordinary weather conditions, or other natural catastrophes, war, riots, strikes, lockouts, or other industrial disturbances or acts of any governmental agencies.

14 TERMINATION FOR CONVENIENCE

All or part of this Contract may be terminated by VILLAGE for its convenience. In such event, CONSULTANT will be entitled to Compensation for Contracted Services performed up to the date of termination. CONSULTANT shall not be entitled to compensation or profit for Contracted Services not performed.

15 TERMINATION FOR DEFAULT

15.1 VILLAGE may at any time, by written notice, terminate the whole or any part of this Contract for default (“Termination for Default”) upon failure of CONSULTANT to promptly cure such default in such time as VILLAGE may reasonably allow. For the purposes of this Contract, default includes but is not limited to:

A. Failure to strictly adhere to the terms and conditions of this Contract;

B. Failure to maintain progress so as to endanger proper performance of the Contracted Services; or

C. Failure to maintain adequate financial or legal capacity to properly complete the Contracted Services.
15.2 In the event of Termination for Default, CONSULTANT will be compensated for the Contracted Services properly performed prior to such termination for default. VILLAGE may withhold any outstanding Compensation otherwise due to CONSULTANT pending final completion and acceptance of the Contracted Services and an accounting of related costs. In the event that the withheld amount exceeds the damages associated with CONSULTANT’s default, VILLAGE shall promptly pay such excess funds to CONSULTANT. In the event of a shortfall between such costs and any amounts due to CONSULTANT, CONSULTANT shall promptly pay VILLAGE for such shortfall within 3 days of VILLAGE’s written demand for such payment.

15.3 If, after notice of Termination for Default, it is determined for any reason that CONSULTANT was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Termination for Convenience.

16 INSURANCE

16.1 CONSULTANT shall procure and maintain, for the duration of the contract, insurance against claims for injuries to persons or damages to property, which may arise from or in conjunction with the performance of the work hereunder by the CONSULTANT, his agents, representatives, employees or SUBCONSULTANTs.

16.2 Minimum Scope of Insurance - Coverage shall be at least as broad as:

A. Insurance Services Office Commercial General Liability occurrence form CG 0001 with the Village named as additional insured, on a form at least as broad as the attached sample endorsement including ISO Additional Insured Endorsement CG 2010 (Exhibit A), CG 2026(Exhibit B); and

B. Owners and Contractors Protective Liability (OCP) policy with the Village as insured Required if box is checked;

C. Insurance Service Office Business Auto Liability coverage form number CA 0001, Symbol 01 “Any Auto.”

D. Workers’ Compensation as required by the Workers’ Compensation Act of the State of Illinois and Employers’ Liability insurance.

E. Builder Risk Property Coverage with Village as loss payee - Required if box is checked

16.3 Minimum Limits of Insurance

A. CONSULTANT shall maintain limits no less than the following:
1. Commercial General Liability: $1,000,000 combined single limit per occurrence for bodily injury, and property damage and $1,000,000 per occurrence for personal injury. The general aggregate shall be twice the required occurrence limit. Minimum General Aggregate shall be no less than $2,000,000 or a project-contract specific aggregate of $1,000,000.

2. Owners and Contractors Protective Liability (OCP); $1,000,000 combined single limit.

3. Business Automobile Liability: $1,000,000 combined single limit per accident for bodily injury and property damage.


5. Builder’s Risk: Shall insure against “All Risk” of physical damage, including water damage (flood and hydrostatic pressure not excluded), on a completed replacement cost basis.

B. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the Village. At the option of the Village, either; the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Village, its officials, agents, employees and volunteers; or the CONSULTANT shall procure a bond guaranteeing payment of losses and related investigation, claim administration and defense expenses.

C. Other Insurance Provisions - The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability Coverages

   a. The Village, its officials, agents, employees and volunteers are to be covered as additional insured as respects: liability arising out of the CONSULTANT’s work, including activities performed by or on behalf of the CONSULTANT; products and completed operations of the CONSULTANT; premises owned, leased or used by the CONSULTANT; or automobiles owned, leased, hired or borrowed by the CONSULTANT. The coverage shall contain no special limitations on the scope of protection afforded to the Village, its officials, agents, employees and volunteers.
b. The CONSULTANT’s insurance coverage shall be primary as respects the Village, its officials, agents, employees and volunteers. Any insurance or self-insurance maintained by the Village, its officials, agents, employees and volunteers shall be excess of CONSULTANT’s insurance and shall not contribute with it.

c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Village, its officials, agents, employees and volunteers.

d. The CONSULTANT’s insurance shall contain a Severability of Interests/Cross Liability clause or language stating that CONSULTANT’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s ability.

e. If any commercial general liability insurance is being provided under an excess or umbrella liability policy that does not “follow form,” then the CONSULTANT shall be required to name the Village, its officials, agents, employees and volunteers as additional insureds.

f. All general liability coverages shall be provided on an occurrence policy form. Claims-made general liability policies will not be accepted.

2. Workers’ Compensation and Employers’ Liability Coverage

The insurer shall agree to waive all rights of subrogation against the Village, its officials, agents, employees and volunteers for losses arising from work performed by CONSULTANT for the Village.

3. Professional Liability (Required if Box is checked) ☒

a. Professional liability insurance with limits not less than $1,000,000 each claim with respect to negligent acts, errors and omissions in connection with professional services to be provided under the contract, with a deductible not-to-exceed $50,000 without prior written approval.

b. If the policy is written on a claims-made form, the retroactive date must be equal to or preceding the effective date of the contract. In the event the policy is cancelled, non-renewed or switched to an occurrence form, the CONSULTANT shall be required to purchase supplemental extending reporting period coverage for a period of not less than three (3) years.

c. Coverage (architect, engineer, surveyor, consultant): Professional liability insurance that provides indemnification and defense for injury or damage arising out of acts, errors, or omissions in providing the following professional services, but not limited to the following:
1. Preparing, approving, or failure to prepare or approve maps, drawings, opinions, report, surveys, change orders, designs or specifications;

2. Providing direction, instruction, supervision, inspection, engineering services or failing to provide them, if that is the primary cause of injury or damage.

4. All Coverages

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

D. Acceptability of Insurers

   Insurance is to be placed with insurers with a Best’s rating of no less than A-, VII and licensed to do business in the State of Illinois.

E. Verification of Coverage

   CONSULTANT shall furnish the Village with certificates of insurance naming the Village, its officials, agents, employees and volunteers as additional insureds, and with original endorsements affecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements may be on forms provided by the Village and are to be received and approved by the Village before any work commences. Other additional insured endorsements may be utilized, if they provide a scope of coverage at least as broad as the coverage stated on the ISO Additional Insured Endorsements CG 2010 or CG 2026. The Village reserves the right to request full certified copies of the insurance policies and endorsements.

F. Subcontractors

   CONSULTANT shall include all SUBCONSULTANTS as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

G. Assumption of Liability

   The CONSULTANT assumes liability for all injury to or death of any person or persons including employees of the CONSULTANT, SUBCONSULTANT or any other person and assumes liability for all damage to property sustained by any person or persons occasioned by or in any way arising out of any work performed pursuant to this agreement.
17 INDEMNITY

17.1 To the fullest extent permitted by law, the CONSULTANT hereby agrees to defend, indemnify and hold harmless the Village, its officials, agents and employees, against all injuries, deaths, loss, damages, claims, patent claims, suits, liabilities, judgments, cost and expenses, which may in anywise accrue against the Village, its officials, agents and employees, arising in whole or in part or in consequence of the performance of this work by the CONSULTANT, its employees, or subcontractors, or which may in anywise result therefore, except that arising out of the sole legal cause of the Village, its agents or employees, the CONSULTANT shall, at its own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefore or incurred in connections therewith, and, if any judgment shall be rendered against the Village, its officials, agents and employees, in any such action, the CONSULTANT shall, at its own expense, satisfy and discharge the same.

17.2 CONSULTANT expressly understands and agrees that any performance bond or insurance policies required by this contract, or otherwise provided by the CONSULTANT, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Village, its officials, agents and employees as herein provided.

17.3 The CONSULTANT further agrees that to the extent that money is due the CONSULTANT by virtue of this contract as shall be considered necessary in the judgment of the Village, may be retained by the Village to protect itself against said loss until such claims, suits, or judgments shall have been settled or discharged and/or evidence to that effect shall have been furnished to the satisfaction of the Village.

17.4 CONSULTANT shall not be liable under this Article to the extent that such Loss was caused by the sole negligence or willful misconduct of VILLAGE.

18 INFRINGEMENT

CONSULTANT shall not infringe upon any intellectual property (including but not limited to patents, trademarks or copyrights) (“Intellectual Property”) in the performance of this Contract. In the event that CONSULTANT is alleged to have infringed upon such Intellectual Property, in addition to CONSULTANT’s obligations under the Indemnity provisions above, CONSULTANT shall, at the sole discretion of VILLAGE and at CONSULTANT’s sole expense:

A. Procure for VILLAGE the right to continue using the infringing subject matter;

B. Replace or modify the infringing subject matter so that it becomes non-infringing but still complies with the requirements of the Contract; or

C. Reimburse VILLAGE for all payments made to CONSULTANT relating to or impacted by the infringing material and all costs incurred by VILLAGE resulting from such infringement.
19 DISPUTES

19.1 Any dispute related to this Contract shall be submitted to a panel consisting of at least one representative of each party who shall have the authority to enter into an agreement to resolve the dispute. The panel may meet or may conduct its discussions by telephone or other electronic means. In the event that the panel is unable to reach a mutual resolution of the dispute, or has failed to convene within two weeks of the request of either party, the matter may be referred by either party to a court of appropriate jurisdiction.

19.2 All communications between the parties or their representatives in connection with the attempted resolution of any dispute shall be confidential and deemed to have been delivered in furtherance of dispute settlement and shall be exempt from discovery and production, and shall not be admissible in evidence whether as an admission or otherwise, in any arbitration, judicial or other proceeding for the resolution of the dispute.

19.3 Pending any final judicial decision or settlement, CONSULTANT shall proceed diligently with the Contracted Services.

20 NOTICE

20.1 Any notice or communication required or permitted by this Contract shall be deemed sufficiently given if in writing and when delivered personally or upon receipt of registered or certified mail, postage prepaid with the U.S. Postal Service, and addressed as follows:

VILLAGE:

Village of Morton Grove
Public Works Department
7840 North Nagle Avenue
Morton Grove, Illinois 60053

Attn: Mr. Chris R. Tomich, P.E.
Village Engineer

or,

CONSULTANT:

Attn:

or to such other address as the party to whom notice is to be given has furnished by the receiving party in writing.
21 REMEDIES

No remedies or rights conferred upon VILLAGE by this Contract are intended to be exclusive of any remedy or right provided by law or equity, but each shall be cumulative and shall be in addition to every other remedy or right given herein or now or hereafter existing at law or in equity.

22 CONFIDENTIAL INFORMATION

22.1 All information and data disclosed by VILLAGE or otherwise developed or obtained under this Contract shall be deemed to be proprietary and confidential information (“Confidential Information”).

22.2 CONSULTANT shall not disclose Confidential Information without VILLAGE’s written consent. Those persons under CONSULTANT’s control shall not use Confidential Information for any purpose other than for the proper performance of the Contracted Services.

22.3 CONSULTANT’s obligations under this Article shall not apply to Confidential Information that is:

   A. In the public domain without breach of this Contract;
   
   B. Developed independently by CONSULTANT;
   
   C. Received by CONSULTANT on a non-confidential basis from others who had a right to disclosure such Confidential Information; or
   
   D. Required to be disclosed by Law, but only after actual prior written notice has been received by VILLAGE and VILLAGE has had a reasonable opportunity to protect disclosure of such Confidential Information.

22.4 CONSULTANT shall ensure that the foregoing obligations of confidentiality and use also extend and bind the employees and agents of CONSULTANT and its lower-tier subconsultants and CONSULTANTs who have been provided access to the Confidential Information under this Contract.

23 RIGHTS IN DATA

23.1 CONSULTANT agrees that all data and information in hard copy, electronic, or any other format, disclosed, developed or obtained under this Contract (“Data”), other than CONSULTANT’s Confidential Information, shall be and remain the sole property of VILLAGE. Delivery of the Data to VILLAGE shall be a precondition for Final Payment.
23.2 CONSULTANT shall promptly deliver all Data to VILLAGE upon VILLAGE’s request. CONSULTANT shall be fully responsible for the care and protection of the Data until such delivery. CONSULTANT may retain one copy of the Data for CONSULTANT’s archives subject to CONSULTANT’s continued compliance with the provisions of this Article.

23.3 CONSULTANT agrees not to assert, or to allow persons performing under CONSULTANT’s control, to assert any rights to Data or establish any claim under design, patent or copyright laws. It is expressly agreed that all copyrightable or patentable Data produced under the Contracted Services has been specifically commissioned by VILLAGE, shall be considered “work for hire”, and that all copyrightable and other proprietary rights therein shall vest solely in VILLAGE.

23.4 CONSULTANT understands and agrees that all rights under copyright and patent laws under this Contract belong to VILLAGE. CONSULTANT hereby assigns any and all rights, title and interests under copyright, trademark and patent law to VILLAGE, and agrees to assist VILLAGE in perfecting the same at VILLAGE’s expense. Except as otherwise provided in this Contract, said documents shall be delivered to VILLAGE without additional cost to VILLAGE.

24 COMPONENT WARRANTY

24.1 CONSULTANT represents and warrants that all information technology components, including, but not limited to hardware, software, accessories and peripherals, tools and utilities (collectively, "Components") provided by it and/or delivered to VILLAGE as part of this Contract will accurately process date/time data (including, but not limited to, calculating, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries, and leap year calculations. Furthermore, Components, when used in combination with other components, shall accurately process date/time data if the other components properly exchanges date/time data with it. This warranty shall survive for the full term of the applicable statute of limitations.

24.2 Within 5 days of discovery of any non-compliance, the discovering party shall notify the other party and, at VILLAGE’S sole option CONSULTANT shall, within 10 days of notice, repair or replace the non-compliant component at no cost to VILLAGE or refund VILLAGE’s purchase price.

25 EQUAL EMPLOYMENT OPPORTUNITY

25.1 In the event of the contractor's noncompliance with any provision of this Equal Employment Opportunity clause, the Illinois Human Rights Act, or the Rules and Regulations of the Illinois Department of Human Rights “Department”, the CONSULTANT may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be cancelled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation.
25.2 During the performance of this contract, the contractor agrees as follows:

A. That it will not discriminate against any employee or applicant for employment on the basis of race, age, marital status, color, religion, sex, physical or mental handicap unrelated to ability, national origin or ancestry or an unfavorable discharge from military service; and further that they will examine all job classifications to determine if minorities or women are underutilized and shall take appropriate affirmative action to rectify any such underutilization.

B. That, if it hires additional employees in order to perform this contract or any portion hereof, they shall determine the availability (in accordance with the Department’s rules of minorities and women in the area(s) from which they may reasonably recruit, and it will hire for each applicable job classification for which employees are hired in such manner that minorities and women are not underutilized.

C. That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination based on race, color, religion, sex, national origin or ancestry, marital status, age physical or mental handicap unrelated to ability or an unfavorable discharge from the military.

D. That it shall send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the contractor's obligations under the Illinois Human Rights Act and the Department’s Rules. If any such labor organization or representative fails or refuses to cooperate with the contractor in their efforts to comply with such Act and Rules, the contractor shall promptly so notify the Department and the contracting agency, and shall recruit employees from other sources when necessary to fulfill their obligations thereunder.

E. That it shall submit reports as required by the Department’s Rules and furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Illinois Human Rights Act and the Department's Rules.

F. That it shall permit access to all relevant books, records, accounts and work sites by personnel of the Department and the contracting agency for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and the Department’s Rules.
G. That it shall include verbatim or by reference the provisions of this clause in every subcontract it awards under which any portion of the contract obligations are undertaken or assumed so that such provisions will be binding upon such subcontractor. In the same manner as with other provisions of this contract, the contractor will be liable for compliance with applicable provisions of this clause by such subcontractors; and further it will promptly notify the Department or contracting agency in the event any subcontractor fails or refuses to comply therewith. In addition, no contractor shall utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

26 COMPLIANCE WITH FREEDOM OF INFORMATION ACT REQUEST

26.1 The Illinois Freedom of Information Act (FOIA) has been amended and effective January 1, 2010, adds a new provision to Section 7 of the Act which applies to public records in the possession of a party with whom the VILLAGE has contracted. The VILLAGE will have only a very short period of time from receipt of a FOIA request to comply with the request, and there is a significant amount of work required to process a request including collating and reviewing the information.

26.2 The undersigned acknowledges the requirements of FOIA and agrees to comply with all requests made by the VILLAGE for public records (as that term is defined by Section 2(c) of FOIA) in the undersigned’s possession and to provide the requested public records to the VILLAGE within two (2) business days of the request being made by the VILLAGE. The undersigned agrees to indemnify and hold harmless the VILLAGE from all claims, costs, penalty, losses and injuries (including but not limited to, attorney’s fees, other professional fees, court costs and/or arbitration or other dispute resolution costs) arising out of or relating to its failure to provide the public records to the VILLAGE under this agreement.

27 SURVIVAL OF TERMS

Articles on Indemnity, Confidential Information and Rights in Data shall survive termination of this Contract.

28 ASSIGNMENT AND CONTRACTING

28.1 CONSULTANT shall not assign or contract this Contract nor any rights or obligations herein without the prior written consent of VILLAGE. In the event this Contract is assigned or contracted by CONSULTANT, CONSULTANT shall remain responsible to VILLAGE for the proper performance of CONSULTANT’s obligations under this Contract.

28.2 The terms and conditions of CONSULTANT’s contracts or assignments under this Contract shall, at a minimum, require the CONSULTANT or assignee to fully comply with this Contract unless otherwise authorized in writing by VILLAGE.
29 AMENDMENT AND WAIVER

This Contract may be amended only by a writing executed by each of the parties. Either party may waive any provision of this Contract to the extent such provision is for the benefit of such waiving party. No action taken pursuant to this Contract shall be deemed to constitute a waiver by that party of its or the other party’s compliance with any representations or warranties or with any other provision of this Contract. No waiver by either party of a breach of any provision of this Contract shall be construed as a waiver of any subsequent or different breach, and no forbearance by a party to seek a remedy for noncompliance or breach by the other party shall be construed as a waiver of any right or remedy with respect to such noncompliance or breach.”

30 SEVERABILITY

The invalidity or unenforceability of any particular provision of this Contract shall not affect the other provisions, and this Contract shall be construed in all respects as if any invalid or unenforceable provision were omitted.

31 GOVERNING LAW

The validity, construction and performance of this Contract and all disputes between the parties arising out of or related to this Contract shall be governed by the laws, without regard to the law as to choice or conflict of law, of the jurisdiction set forth in the Contract, or if not expressly set forth, in the jurisdiction where the Project Site is located.

32 VENUE, JURISDICTION AND SERVICE OF PROCESS

The parties agree that any suit, action or proceeding arising out of or related to this Contract shall be instituted in the Federal District Court (Chicago) or in the appropriate state court in Cook County, Illinois, and each party irrevocably submits to the jurisdiction of those courts and waives any and all objections to jurisdiction or venue that it may have under the laws of such state or otherwise in those courts in any such suit, action, or proceeding.

33 CONFLICT OF INTEREST

The CONSULTANT represents and certifies that, to the best of its knowledge,

A. No Village employee or agent is interested in the business of the CONSULTANT or this Contract;

B. As of the date of this Contract neither the CONSULTANT nor any person employed or associated with the CONSULTANT has any interest that would conflict in any manner or degree with the performance of the obligations under this Contract; and
C. Neither the CONSULTANT nor any person employed by or associated with the CONSULTANT shall at any time during the term of this Agreement obtain or acquire any interest that would conflict in any manner or degree with the performance of the obligations under this Contract.

34 NO COLLUSION

34.1 The CONSULTANT represents and certifies that the CONSULTANT is not barred from contracting with a unit of state or local government as a result of

A. A delinquency in the payment of any tax administered by the Illinois Department of Revenue unless the CONSULTANT is contesting, in accordance with the procedures established by the appropriate revenue act, its liability for the tax or the amount of the tax, as set forth in Section 11-42. 1-1 et seq. of the Illinois Municipal Code, 65 ILCS 5/11-42. 1-1 et seq.; or

B. A violation of either Section 33E-3 or Section 33E-4 or Article 33E of the Criminal Code of 1961, 720 ILCS 5/22E-1 et seq.

34.2 The CONSULTANT represents that the only persons, firms, or corporations interested in this Agreement as principals are those disclosed to the Village prior to the execution of this Contract, and that this Contract is made without collusion with any other person, firm, or corporation.

34.3 If at any time it shall be found that the CONSULTANT has, in procuring this Contract, colluded with any other person, firm, or corporation, then the CONSULTANT shall be liable to the Village for all loss or damage that the Village may suffer, and this Contract shall, at the Village's option, be null and void.

35 CHANGE ORDERS

35.1 VILLAGE may, from time to time, order modifications or changes in the scope of the Contracted Services as defined in the individual Task Orders (Attachment {MERGEFIELD TASK_ORDER_ATTACHMENT} (“Changes”) by written change order in the form of Attachment D ("Change Order"), incorporated herein by reference. In addition, Change Orders may be requested by CONSULTANT based upon material changes to the Contracted Services. Change Orders shall consist of additions to, deletions from or other revisions to the Contracted Services, including those required by modifications or change orders to the related Prime Contract. Within 10 days after the date of such Change Order or material change, and in any event prior to the commencement of such revised Contracted Services, CONSULTANT shall notify VILLAGE in writing if CONSULTANT requests a change in the Compensation and/or Project Schedule and shall clearly state CONSULTANT’s justification for the Change Order. If approved by VILLAGE, an equitable adjustment will be made as appropriate.
35.2 FAILURE OF CONSULTANT TO COMPLY WITH THE REQUIREMENTS OF THIS ARTICLE SHALL CONSTITUTE A WAIVER OF SUCH CLAIM BY CONSULTANT.

35.3 Failure of the parties to agree on whether the Change Order constitutes a compensable change to the Compensation or should result in a change in the Project Schedule shall be subject to the Disputes provisions of this Contract. CONSULTANT shall diligently proceed with the Contracted Services as directed by VILLAGE, including any directed changes or potential changes in the Contracted Services, pending resolution of such Dispute.

36 ENTIRE AGREEMENT

36.1 This Contract embodies the entire agreement and understanding between the parties pertaining to the subject matter of this Contract, and supersedes all prior agreements, understandings, negotiations, representations and discussions, whether verbal or written, of the parties, pertaining to that subject matter.

36.2 The following exhibits are attached and made part of this agreement:

36.3 Attachment A – Contracted Services
36.4 Attachment B – Compensation and Payment
36.5 Attachment C – Task Order
36.6 Attachment D – Change Order

VILLAGE

Signature

Village President

Date

CONSULTANT

Signature

Name (Typed or Printed)

Date
Attachment A

Contracted Services

BASIC SERVICES

General

CONSULTANT shall provide professional services for VILLAGE as detailed in the attached Statement of Qualifications submitted by on 5/1/2011, which are incorporated herein by reference. Individual tasks will be defined by the VILLAGE in Attachment
Compensation and Payment

METHODS OF PAYMENTS FOR SERVICES AND EXPENSES

VILLAGE shall pay CONSULTANT for services rendered as follows:

The VILLAGE shall pay CONSULTANT at the hourly labor rates detailed in Exhibit 1 for the specified classification of work. When work is completed by an individual in higher job classification than is required for that work task, the CONSULTANT shall invoice the VILLAGE at the labor rate appropriate for that work task.

The VILLAGE shall pay CONSULTANT for direct costs associated with the work as per the rates listed Exhibit 1.

No additional markup will be allowed for SUBCONSULTANT charges.

VILLAGE shall pay the CONSULTANT an amount not to exceed 0, unless otherwise authorized by a Change Order.
TASK ORDER

In accordance with Article 35 of the Consulting Services Contract dated 7/1/2011 (“Contract”) between the Village of Morton Grove (“VILLAGE”) and (“CONSULTANT”), the CONSULTANT is authorized by the VILLAGE to perform the following task order as follows:

1  Contracted Services:

2  Time of Performance (attach schedule if appropriate):

3  CONSULTANT’s Compensation:

All other terms and conditions remain unchanged.

______________________________  ______________________________
VILLAGE                          CONSULTANT

______________________________  ______________________________
Signature                        Signature

______________________________  ______________________________
Village Engineer                 Name (Typed or Printed)

______________________________  ______________________________
Date                             Date
Attachment D

CHANGE ORDER

In accordance with Article 35 of the Consulting Services Contract dated 7/1/2011 (“Contract”) between the Village of Morton Grove (“VILLAGE”) and (“CONSULTANT”), this Change Order modifies the Contract as follows:

1 **Contracted Services:**

2 **Time of Performance (attach schedule if appropriate):**

3 **CONSULTANT’s Compensation:**

All other terms and conditions remain unchanged.

**VILLAGE**

__________________________
Signature

__________________________
Village Engineer

__________________________
Date

**CONSULTANT**

__________________________
Signature

__________________________
Name (Typed or Printed)

__________________________
Date