



**VILLAGE BOARD OF TRUSTEES
REGULAR MEETING NOTICE/AGENDA**

October 10, 2023, 7:00 pm

**RICHARD T. FLICKINGER MUNICIPAL CENTER, COUNCIL CHAMBERS
6101 CAPULINA AVENUE, MORTON GROVE, IL 60053**

In accordance with the Illinois Open Meetings Act, all Village Board and Commission meetings are open to the public. This meeting can be viewed remotely via the live stream link found at: www.mortongroveil.org/stream. (If an Executive Session is placed on the agenda, the meeting shall commence at 6:00 pm and the time between 6:00 pm and 7:00 pm shall be used for the Executive Session per 1-5-7A of the Village of Morton Grove Municipal Code. If the Agenda does not include an Executive Session, the meeting will begin at 7:00 pm.)

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Approval of Minutes** – Regular Meeting – September 26, 2023
4. **Special Reports** –
 - a. Outstanding Neighbor Recognition: MCC Academy, Superintendent Habeeb Quadri
Nominated by Julia S. Molloy Education Center
Presented by Community Relations Commissioner Kristey Chalabi
5. **Public Hearings** – None
6. **Plan Commission Reports** - None
7. **Residents' Comments (agenda items only)**
8. **President's Report** – *Administration, Comprehensive Plan, Council of Mayors, Northwest Municipal Conference, Strategic Plan Committee*
 - a. Proclamation: Polio Eradication Day October 24
9. **Clerk's Report** – *Family & Senior Services, Advisory Commission on Aging Condominium Association*
10. **Staff Report**
 - a. **Village Administration**

b. Corporation Counsel

11. Reports by Trustees

- a. **Trustee Khan** – *Finance Department, Appearance Commission, Capital Projects, Lehigh/Ferris TIF (Trustee Travis)*
- b. **Trustee Minx** – *Fire Department, Fire Pension Board, Special Events Commission, RED Center, NIPSTA (Trustee Thill)*
- c. **Trustee Shiba** – *Building Department, Environment & Natural Resources Commission, Legal Department, IT Department (Trustee Witko)*
- d. **Trustee Thill** – *Public Works Department, SWANCC (Solid Waste Agency of Northern Cook County), MG-Niles Water Commission, Traffic Safety Commission (Trustee Minx)*
 - 1. **Resolution 23-39:** Authorizing the Execution of a Contract Amendment with Christopher B. Burke Engineering Ltd. for Preliminary and Design Engineering Services for Oakton Street Pedestrian Facility Improvements Project
- e. **Trustee Travis** – *Police Department, Police Pension Board, Fire & Police Commission, Community Relations Commission, (Trustee Khan)*
- f. **Trustee Witko** – *Community & Economic Development Department, Economic Development Commission, Plan Commission/ Zoning Board (Trustee Shiba)*

12. Other Business

13. Presentation of Warrants: \$591,567.73

14. Residents' Comments

15. Adjournment

**MINUTES OF A REGULAR MEETING OF THE PRESIDENT
AND THE BOARD OF TRUSTEES OF THE VILLAGE OF MORTON GROVE
RICHARD T. FLICKINGER MUNICIPAL CENTER COUNCIL CHAMBERS
SEPTEMBER 26, 2023**

CALL TO ORDER

- I. Village President Dan DiMaria convened the Regular Meeting of the Village Board at 7:00 p.m. in the Council Chambers of Village Hall.
- II. Village Clerk Eileen Harford called the roll. Present were Trustees Saba Khan, Rita Minx, Ashur Shiba, John Thill, Connie Travis, and Janine Witko.

III. **APPROVAL OF MINUTES**

Trustee Minx moved to approve the Minutes of the September 12, 2023 Village Board Meeting as presented. Trustee Khan seconded the motion. **Motion passed unanimously via voice vote.**

IV. **SPECIAL REPORTS**

1. **Swearing-In of New Firefighter Steve Congenie**
 - a. Mayor DiMaria welcomed Mike Simkins, Fire and Police Commission Chairman, to the podium to swear in Morton Grove's newest firefighter, Steve Congenie. Mr. Simkins then invited Steve and his family to the podium, along with Chief Ensign, Mayor DiMaria, and Trustee liaison Travis. Steve introduced his fiancé and his mother.
 - b. Mr. Simkins said that Steve began his employment with Morton Grove in June of 2023. He did two weeks of orientation before going to the nine-week NIPSTA Fire Academy. Prior to onboarding, he completed the Lutheran General Paramedic Program while working on with a private ambulance service. Steve grew up in Villa Park with his parents, Leo and Kari, his older brother, Leo, and younger sister, Maria. He attended Willowbrook high school and later moved on to Cornell University. He was part of Cornell's wrestling team during his four years there. After earning his bachelor's degree in government and communications, he worked in business for several years prior to his pursuit of the fire service.
 - c. Mr. Simkins said, personally, Steve is very proud of and dedicated to his family. They are deeply rooted in service to others, with his dad completing his 29th year in Chicago public schools and his currently pursuing a doctorate degree in nursing. His siblings have also show great success in their fields of veterinary medicine and cancer research, respectively.

IV. **SPECIAL REPORTS** (continued)

- d. Steve's fiancé, Jamie, is also a teacher and has selflessly supported his passion for the fire department since the very beginning. Steve is grateful for his family's support and says he could not have forged his path without them. He is very excited as he begins his journey with the Morton Grove Fire Department—he'll be the first ever firefighter/paramedic in the family!
- e. Mr. Simkins then administered the oath to Steve and Chief Ensign pinned on Steve's badge. The Board and assemblage congratulated Steve and welcomed him enthusiastically. Mayor DiMaria thanked Chief Ensign for all that the Fire Department does, and thanked the Fire and Police Commission for the good work they do.

V. **PUBLIC HEARINGS**

NONE

VI. **PLAN COMMISSION REPORTS**

NONE

VII. **RESIDENTS' COMMENTS (AGENDA ITEMS ONLY)**

NONE

VIII. **PRESIDENT'S REPORT**

- 1. **Proclamation: Fire Prevention Week**
 - a. Mayor DiMaria proclaimed October 8–14 as "Fire Prevention Week." The 2023 Fire Prevention Week's theme is "Cooking Safety Starts With YOU." He noted that fire is a serious public safety concern, and that cooking is the leading cause of home fires in the United States. Two of every five home fires start in the kitchen, with 31% of these fires resulting from unattended cooking, and more than half of reported non-fatal home cooking fire injuries occurred when the victims tried to fight the fire themselves. The mayor said that children under five face a higher risk of non-fire burns associated with cooking than being burned in a cooking fire, and encouraged residents with children to turn pot handles toward the back of the stove, always keep a lid nearby when cooking, keep a three-foot "kid-free" zone around the stove, oven, and other things that can get hot and to watch what they're heating and set a timer to remind them they are cooking. Mayor DiMaria urged all residents to check their kitchens for fire hazards and use safe cooking practices during Fire Prevention Week and throughout the year.

VIII.

PRESIDENT'S REPORT (continued)2. Fire Department Open House

- a. Speaking of the Fire Department, Mayor DiMaria announced that the MGFD is hosting its second annual open house for the community. It's an excellent opportunity for residents to connect with the fire department. There will be tours of Station 4, giveaways, interactive activities for kids, live demonstrations, and opportunities to see the fire apparatus and equipment up close. The open house is happening on Saturday, October 7, from 11am to 2pm at Fire Station 4, 6250 N. Lincoln Avenue. He hoped to see everyone there.

3. Fall Leaf Collection Beginning Soon

- a. Mayor DiMaria stated that the Public Works Department will begin the annual Fall Leaf Collection Service, starting on October 16 and running to December 1. The Village is requesting that residents place leaves in the street by the curb and away from parked cars the day before their regularly scheduled street sweeping and refuse pick-up day. As a reminder, residents should NOT include other landscaping debris, such as grass clippings, bushes, flowers, or branches in leaf piles. These items damage equipment and cause delays in completing leaf collection. The Village will only pick up leaves. Residents are cautioned not to park on top of leaf piles. Many parts on the underside of a vehicle, specifically the exhaust system, generate a great amount of heat, which could ignite the leaves.
- b. If residents choose to place leaves in containers for collection with their regular Groot trash pickup, the following procedures should be followed: A dedicated 34-gallon can or biodegradable yard wastepaper bag must be used. Please DO NOT use plastic bags for yard waste. Also, each container or branch bundle must have a yard waste sticker attached to it.

4. Halloween Trick-or-Treat Hours

- a. Mayor DiMaria announced that trick or treat hours in the Village will be from 3:30 to 7:00pm on Tuesday, October 1. Household participating in trick or treating are asked to turn on their porch or outdoor lights during the authorized hours. Households not interested in participating should turn off their porch lights and minimize exterior lighting. Trick or treaters should only visit homes that have their porch/outdoor lights on.

IX.

CLERK'S REPORT

- 1. Clerk Harford reported that the October Senior luncheon will be at the Civic Center on October 6 with the theme "Bring a Friend." Seniors should reserve a spot by calling 847-868-5928.
- 2. Senior Programming has recently engaged with Oak Street Health (a division of CVS Health) to offer blood sugar and cholesterol screenings to local seniors. Health professionals will be at the Civic Center on the 3rd Thursday of every month at 10am to provide the service. No appointment is necessary and the screenings are free.

IX. **CLERK'S REPORT** (continued)

3. Also, as a reminder, the Morton Grove Senior Ride Share Program is supported by funds through the SafeLIGHT Foundation and private donors. The program offers free Lyft ride to registered residents who are at least 65 years old. A total of 60 MG senior "households" are currently registered and receiving services. As of the end of August, a total of 228 rides have been provided since the program's inception in late 2022. Scheduled rides are provided to grocery stores, pharmacies, and medical appointments within MG. Rides are also available to medical appointments at most area hospitals and medical buildings. The Program will continue as long as funds are available.

X. **STAFF REPORTS**A. **Village Administrator:**

Village Administrator Czerwinski had no formal report this evening.

B. **Corporation Counsel:**

Corporation Counsel Liston had no formal report this evening.

XI. **TRUSTEES' REPORTS**A. **Trustee Khan:**

Trustee Khan had no formal report this evening.

B. **Trustee Minx:**

Trustee Minx had no formal report this evening.

C. **Trustee Shiba:**

Trustee Shiba had no formal report this evening.

XI. **TRUSTEES' REPORTS** (continued)

D. Trustee Thill:

Trustee Thill had no formal report this evening.

XI. Trustee Travis:

E.

Trustee Travis announced that the Community Relations Commission (CRC) would be rolling out the Winter Adopt-a-Planter program, and they're hoping all Village residents and businesses will participate by signing up to decorate and care for the large Village planters located at the train station, Civic Center, and along Dempster Street and Waukegan Road. This program provides residents an opportunity to show pride in our community by adopting a planter to decorate and care for over the season. She noted that the majority of planters will include a 4-foot tall live evergreen tree for residents to decorate. And, new this year, some of the planters on Waukegan Road will have Red Twig Dogwood bushes planted in them as a permanent display. There will also be a few planters in various locations with a unique winter plant display. Instructions will be provided on how to decorate these planters. Online registration ends November 10, 2023, or when all the planters have been adopted. For more information, please call 847-663-3007 or email CRC@mortongrovel.org.

F. Trustee Witko:

Trustee Witko had no formal report this evening.

XII. **OTHER BUSINESS**

NONE

XIII. **WARRANTS**

Trustee Khan presented the Warrant Register for September 26, 2023 in the amount of \$384,734.50. She moved to approve the Warrant Register as presented, seconded by Trustee Thill.

Motion passed: 6 ayes, 0 nays.

Tr. Khan aye
Tr. Thill aye

Tr. Minx aye
Tr. Travis aye

Tr. Shiba aye
Tr. Witko aye

XIV.

RESIDENTS' COMMENTS

1. **Rudolf Vilk, 7508 Emerson.** Mayor DiMaria reminded Mr. Vilk to speak on a new topic and to be respectful in his speech, not condescending.
 - a. Mr. Vilk said he had talked to a couple of trustees who told him that Mr. Czerwinski is not a liar. Mr. Vilk said they are wrong and they are liars too. Mayor DiMaria requested that Mr. Vilk take his seat.
2. Trustee Witko asked if she could comment on Mr. Vilk's diatribe. She said, "I would like to speak to the audience regarding Mr. Vilk's comments. Those of you who attend or watch Village Board meetings online regularly are aware that Mr. Vilk has attended and speaks at almost every meeting for at the least the past five years. Most of his complaints relate to code enforcement issues such as his property, his water bill, or his obligation to obtain a vehicle sticker for his vehicle. The Village has addressed these issues with him repeatedly, in writing, during personal conferences, and at public Board meetings. He is very aware of the Village's answers to his questions—he just doesn't like the answers.
 - a. Those of you watching our meeting perhaps for the first time may question why we don't respond to Mr. Vilk, or they view our responses to him as short. Please understand, when we choose not to respond, it is not out of disrespect to Mr. Vilk. Past experiences show that any time we choose to communicate with him one-on-one, he picks out a comment or comments and twists the facts to make the Board and staff look nefarious.
 - b. Mr. Vilk's latest complaints are regarding a Resolution to sell obsolete fire department equipment. The Legislative Summary of the Resolution clearly explains what was being sold—20-year old fire hose—and stands for itself. This document, along with all documents pertaining to each Board meeting, are public and can easily be found online. Mr. Vilk took the term "personal property" out of context, and, in turn, called our Trustees and staff liars for trying to explain to him that "personal property" in this sense only means property that is NOT real estate... not property belonging to any particular individual.
 - c. We work very hard for the residents of Morton Grove, and, as residents ourselves, do everything we can to help Morton Grove be the best it can be while remaining open and honest. If anyone has any questions, please reach out to myself, Mayor DiMaria, or any of the Board members."

XV.

ADJOURNMENT

There being no further business being brought before the Board, Trustee Minx moved to adjourn the meeting, seconded by Trustee Witko. **Motion passed unanimously via voice vote.**

The meeting adjourned at 7:19 p.m.

PASSED this 10th day of October, 2023.

Trustee Khan	_____
Trustee Minx	_____
Trustee Shiba	_____
Trustee Thill	_____
Trustee Travis	_____
Trustee Witko	_____

APPROVED by me this 10th day of October, 2023.

Daniel P. DiMaria, Village President
Board of Trustees, Morton Grove, Illinois

APPROVED and FILED in my office this 11th day of October, 2023.

Eileen Harford, Village Clerk
Village of Morton Grove, Cook County, Illinois

Minutes by Teresa Cousar

Proclamation

Village of Morton Grove

WHEREAS, October 24, 2023 is World Polio Day, the international date for recognizing the Global Polio Eradication Initiative which has been active for more than 35 years and the goal of ridding the world of this disease is closer than ever; and

WHEREAS, Rotary International which is the parent organization for the Rotary Club of Skokie Valley and a founding member of the Initiative, reports that worldwide Polio cases have been reduced by 99.9 percent since the first Rotary International project to vaccinate children in the Philippines in 1979; and

WHEREAS, Rotary members across the world have contributed more than \$2.1 billion and countless volunteer hours to protect nearly 3 billion children in 122 countries from this paralyzing disease; and

WHEREAS, Rotary's advocacy efforts have played a role in decisions by governments to contribute more than \$10 billion to the effort; and

WHEREAS, today, Polio remains endemic only in Afghanistan and Pakistan, but realizing how crucial it is to continue working to keep other countries Polio-free; and

WHEREAS, if all eradication efforts stopped today, within 10 years, Polio could paralyze as many as 200,000 children each year; and

NOW, THEREFORE, I, Daniel P. DiMaria, Mayor of the Village of Morton Grove, do hereby proclaim October 24, 2023, as

“POLIO ERADICATION AWARENESS DAY”

and encourage all residents to consider how fortunate we are to live Polio free, and to support the total end of Polio on this earth.

In Witness hereof, I have hereunto set my hand and caused to be affixed the seal of the Village of Morton Grove

Daniel P. DiMaria, Mayor

Legislative Summary

Resolution 23-39

AUTHORIZING THE EXECUTION OF A CONTRACT AMENDMENT WITH CHRISTOPHER B. BURKE ENGINEERING LTD. FOR PRELIMINARY AND DESIGN ENGINEERING SERVICES FOR OAKTON STREET PEDESTRIAN FACILITY IMPROVEMENTS PROJECT

Introduced:	October 10, 2023
Purpose:	To authorize the Village Administrator to execute an amendment of the contract with Christopher B. Burke Engineering Ltd. for supplemental professional engineering services.
Background:	<p>The Village is cooperatively developing a project for a pedestrian facility along Oakton Street and Caldwell Avenue with Cook County, the Village of Niles, and the Village of Skokie.</p> <p>Resolution 19-12 authorized execution of a contract in the amount of \$164,026.41 to complete preliminary and design engineering for the Oakton Street Pedestrian Facility Improvements Project. Resolution 20-40 authorized execution of a supplemental agreement for additional preliminary and design engineering not included in the original scope of work in the amount of \$25,061.74.</p> <p>The project has been split into three stages in order to build segments as they are ready to be built. This requires additional engineering effort not included in the original scope of work or the supplemental work. There was additional engineering effort required beyond the first supplemental authorization that needs to be paid. The Village of Niles requested an additional connection to the forest preserve, which requires additional engineering effort. This Resolution will approve amending the contract Christopher B. Burke Engineering Ltd. to complete the additional engineering effort.</p>
Programs, Departments or Groups Affected	Public Works Department
Fiscal Impact:	\$77,500.00
Source of Funds:	2023 Account Number 30-50-60-55-2140
Workload Impact:	The Public Works Department as part of their normal work activities will perform the management and implementation of the project.
Administrator Recommendation:	Approval as presented.
Second Reading:	Not Required
Special Considerations or Requirements:	Authorization to execute a contract amendment would be contingent upon agreement by Villages of Niles and Skokie to pay a fair share of the additional cost.

Submitted by: Ralph E. Czerwinski, Village Administrator
Reviewed by: Teresa Hoffman Liston, Corporation Counsel
Reviewed by: Mike Lukich, Director of Public Works
Prepared by: Chris Tomich, Village Engineer

RESOLUTION 23-39

AUTHORIZING THE EXECUTION OF A CONTRACT AMENDMENT WITH CHRISTOPHER B. BURKE ENGINEERING LTD. FOR PRELIMINARY AND DESIGN ENGINEERING SERVICES FOR OAKTON STREET PEDESTRIAN FACILITY IMPROVEMENTS PROJECT

WHEREAS, the Village of Morton Grove (Village), located in Cook County, Illinois, is a home rule unit of government under the provisions of Article 7 of the 1970 Constitution of the State of Illinois, can exercise any power and perform any function pertaining to its government affairs, including but not limited to the power to tax, purchase, and incur debt; and

WHEREAS, the Village is cooperatively developing a project for a pedestrian facility along Oakton Street and Caldwell Avenue with Cook County, Village of Niles, and Village of Skokie; and

WHEREAS, Resolution 19-12, approved on February 26, 2019, authorized the Village Administrator to execute a contract for a professional services agreement with Christopher B. Burke Engineering Ltd. in the amount of \$164,026.41 to complete preliminary and design engineering for the Oakton Street Pedestrian Facility Improvements Project; and

WHEREAS, Resolution 20-40, approved on September 14, 2020, authorized execution of a contract amendment with Christopher B. Burke Engineering Ltd. in the amount of \$25,061.74 to complete supplemental engineering; and

WHEREAS, during the completion of the supplemental engineering work, the Village of Niles requested a 1,000-foot segment on the north side of Oakton Street from River Drive to St. Paul Woods to connect the new path to the forest preserve; and

WHEREAS, in order to timely complete the project, the work has been divided into three individual stages; and

WHEREAS, Stage 1 is the segment along Caldwell Avenue and the segment along the south side of Oakton Street from Caldwell Avenue to Lehigh Avenue, which is nearing construction completion; and

WHEREAS, Stage 2 consists of a short segment across private property requiring a permanent easement near Oakton Street and Caldwell Avenue and the 1,000-foot segment connecting the path to the forest preserve; and

WHEREAS, Stage 3 is the segment along Oakton Street from Lehigh Avenue to Niles West High School and the bridge over Edens Expressway; and

WHEREAS, Stage 1 required additional survey, analysis and design for crosswalks, accessibility and traffic signals that exceeded the scope of the supplemental engineering work authorized by Resolution 20-40; and

WHEREAS, Stage 2 needs preliminary and design engineering for the new segment; and

WHEREAS, Stage 3 will require contract documents for construction bidding, which was not included in the original scope of work; and

WHEREAS, Christopher B. Burke Engineering Ltd. has submitted a proposal (Exhibit “A”) in the amount of \$77,500.00 for the additional engineering work described above; and

WHEREAS, it is expected Village of Niles and Village of Skokie will share the cost of the supplemental engineering work, but to date, neither has formally agreed to do so; and

WHEREAS, the Adopted 2023 Budget includes sufficient funding in Capital Projects Account Number 30-50-60-55-2140 for this additional work.

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MORTON GROVE, COOK COUNTY, ILLINOIS AS FOLLOWS:

SECTION 1: The Corporate Authorities do hereby incorporate the foregoing WHEREAS clauses into this Resolution as though fully set forth therein thereby making the findings as hereinabove set forth.

SECTION 2: The Village Administrator or his designee is hereby authorized to execute a contract amendment with Christopher B. Burke Engineering Ltd. in the amount of \$77,500.00 to complete supplemental engineering for the Oakton Street Pedestrian Facility Improvements Project if and only if Village of Niles and Village of Skokie agree to pay the Village for their fair share of this cost.

SECTION 3: The Village Administrator or his designee is authorized and directed to negotiate a cost sharing agreement with the Villages of Niles and Skokie for the supplemental engineering authorized by Section 2 of this Resolution.

SECTION 4: This Resolution shall be in full force and effect upon its passage and approval provided a cost sharing agreement has been reached with the Villages of Niles and Skokie.

Passed this 10th day of October 2023

Trustee Khan _____

Trustee Minx _____

Trustee Shiba _____

Trustee Thill _____

Trustee Travis _____

Trustee Witko _____

Approved by me this 10th day of October 2023

Daniel P. DiMaria, Village President
Village of Morton Grove
Cook County, Illinois

Attested and Filed in my office this
11th day of October 2023

Eileen Scanlon Harford, Village Clerk
Village of Morton Grove
Cook County, Illinois

EXHIBIT "A"



CHRISTOPHER B. BURKE ENGINEERING, LTD.

9575 W Higgins Road, Suite 600 Rosemont, Illinois 60018-4920 Tel (847) 823-0500 Fax (847) 823-0520

July 6, 2023

Village of Morton Grove
Engineering Division
Public Works Department
7840 N Nagel Avenue
Morton Grove, IL 60053

Attention: Mr. Chris R. Tomich, PE, Village Engineer

Subject: Oakton Street Pedestrian Facility Improvements
Supplemental Proposal for Professional Engineering Services

Dear Mr. Tomich:

Christopher B. Burke Engineering, Ltd. (CBBEL) is pleased to provide this proposal for professional engineering services related to the Preliminary and Design Engineering for the Oakton Street Pedestrian Facility Improvements Project. Included below you will find our Understanding of the Assignment and Estimate of Fee.

UNDERSTANDING OF THE ASSIGNMENT

CBBEL has been contracted by the Villages of Morton Grove, Niles, and Skokie to complete Preliminary and Design Engineering services for the Oakton Street Pedestrian Facility Improvements Project. Due to changes in scope and multiple breakout stages (multiple State lettings), additional tasks that were not anticipated in the initial scope of work have been added to this project. These additional tasks are outlined and discussed below. The below tasks are broken down by Stage and Phase for clarity.

It is anticipated that this project will be completed in three stages. Stage 1 includes the construction of the proposed multi-use path from Caldwell Ave and Vapor Lane to Oakton Street and Lehigh Ave and is currently under construction. Stage 2 includes the construction of the proposed multi-use path from Caldwell Ave and the North Branch Chicago River along private property adjacent to the southeast bank of the North Branch Chicago River to Oakton Street and the North Branch Chicago River, as well as the construction of a new sidewalk along the north side of Oakton Street between Saint Paul Woods and River Drive which includes a signalized crossing at the west leg of the intersection of Oakton Street and River Drive. Stage 3 includes the construction of the proposed multi-use path from Oakton Street and Lehigh Ave to Oakton Street and I-94. It is anticipated that each stage will be posted as a separate contract on the IDOT Lettings Transportation Bulletin.

EXHIBIT "A"

STAGE 1 EXTRA - PHASE I TASKS:

Task 1 – Supplemental Topographic Survey and Utility Coordination:

This task includes the additional survey required to design the proposed signalized ADA crosswalks at the north and east legs of the intersection of Caldwell Ave and Oakton St.

This work includes locating utilities, trees, and additional ground shots. Survey also includes all shots necessary to provide the ADA design as required at IDOT intersections. This task also includes utility coordination and the initiation of resolution of conflicts associated with the crossings and sidewalk design.

- Information on state plane monuments to be utilized for horizontal control for the project.
- Information on benchmarks to be utilized for vertical control for the project.
- Locate hardscape items such as existing bridge components, pavement, curbs, utilities, streambanks, trees and sufficient ground shots for creating one (1) foot contours on the site.

Task 2 – Preliminary Design & Approval of ADA Crossings:

The design of the proposed crossing of the north and east legs of the intersection of Oakton Street and Caldwell Avenue was added to the scope of work for this project. Because these crossings involve a State Route, the design requires Phase I ADA design review/approval from IDOT, traffic counts, capacity analysis, and coordination with IDOT Traffic and Geometrics Units.

Task 3 – Phase I Traffic Signal Modification Submittal:

This task includes Traffic Signal Modifications associated with the proposed crossings at the north and east legs of the intersection of Oakton Street and Caldwell Avenue. Traffic Signal Modifications require a Capacity Analysis and signing plan in order to obtain concurrence from IDOT Traffic Programs Studies Unit for Design Approval.

STAGE 1 EXTRA - PHASE II TASKS:

Task 4 – Design of ADA Crossings:

The design of the proposed crossing of the north and east legs of the intersection of Oakton Street and Caldwell Avenue (State ROW) was added to the scope of work for this project. This task includes incorporating the ADA design elements into the Phase II Contract Plans, Specs, and Estimates (PS&E) package for IDOT review and approval.

Task 5 – Traffic Signal Modifications PS&E:

This task includes Traffic Signal Modification Phase II contract plans, specs, and estimates associated with the proposed crossings at the north and east legs of the intersection of Oakton Street and Caldwell Avenue. Traffic Signal equipment is owned and maintained by IDOT; therefore, Phase II Traffic Signal Modification PS&E for the proposed pedestrian push buttons at the existing IDOT signals are required for Bureau of Traffic review and approval.

EXHIBIT "A"

STAGE 2 - PHASE I TASKS:

Task 6 – Topographic Survey and Utility Coordination:

This task also includes additional survey for the design of a sidewalk along the north side of Oakton Street between Saint Paul Woods and River Drive, as well as for the crossing of the west leg of Oakton Street at River Drive.

This work includes locating utilities, trees, and additional ground shots. Survey also includes all shots necessary to provide the ADA design as required at IDOT intersections. This task also includes utility coordination and the initiation of resolution of conflicts associated with the crossings and sidewalk design.

- Information on state plane monuments to be utilized for horizontal control for the project.
- Information on benchmarks to be utilized for vertical control for the project.
- Locate hardscape items such as existing bridge components, pavement, curbs, utilities, streambanks, trees and sufficient ground shots for creating one (1) foot contours on the site.

Task 7 – Preliminary Design & Approval of ADA Crossing:

This task also includes the design of the crossing of the west leg of the intersection of Oakton Street and River Drive. Because these crossings involve a State Route, the design requires ADA design review/approval from IDOT, traffic counts, capacity analysis, and coordination with IDOT Traffic and Geometrics Units.

Task 8 – Phase I Traffic Signal Modification Submittal:

This task includes Traffic Signal Modifications associated with the proposed crossing at the west leg of the intersection of Oakton Street and River Drive. Traffic Signal Modifications require a Capacity Analysis and signing plan in order to obtain concurrence from IDOT Traffic Programs Studies Unit for Design Approval.

Task 9 – Preliminary Design and Approval of Oakton Street Sidewalk:

This work includes the design of a proposed new sidewalk within State ROW along the north side of Oakton Street between Saint Paul Woods and River Drive. The sidewalk design requires review by IDOT Bureau of Local Roads and Streets for Design approval. This task includes preparation of exhibits, response to IDOT comments, and IDOT coordination for design approval.

Task 10 – Special Waste: PESA Response Form & Exhibits:

The addition of new ADA crossings and a new sidewalk along Oakton Street results in additional excavation within State ROW. This excavation triggers State special waste procedures including a State PESA. CBBEL will prepare the PESA Response form with the required excavation impacts exhibits and complete the required coordination with IDOT in order to clear with work through IDOT's special waste process.

EXHIBIT "A"

Task 11 – Project Development Report Revisions:

Due to the proposed design changes (signalized ADA crossing at River Drive and new sidewalk along the north side of Oakton Street from Saint Paul Woods to River Drive), the Phase I Project Development Report (PDR) requires revisions and IDOT approval. This task includes updates to the PDR to reflect the latest design changes and coordination with IDOT to receive Design Approval for the changes. This task also includes updating the Environmental Survey Request and obtaining the required Environmental Clearances for the proposed changes to the original scope of work.

STAGE 2 - PHASE II TASKS:

Task 12 – Design of ADA Crossing:

This task includes incorporating the ADA crossing design into the Phase II Plans, Specs, and Estimates package for IDOT review and approval of the west leg of the intersection of Oakton Street and River Drive (State ROW).

Task 13 – Traffic Signal Modifications PS&E:

This task includes Traffic Signal Modification Phase II contract plans, specs, and estimates associated with the proposed crossings at the west leg of the intersection of Oakton Street and River Drive. Traffic Signal equipment is owned and maintained by IDOT; therefore, Phase II Traffic Signal Modification PS&E for the proposed pedestrian push buttons at the existing IDOT signals are required for Bureau of Traffic review and approval.

Task 14 – Design of Oakton Street Sidewalk:

This work includes the Phase II design of the proposed new sidewalk within State ROW along the north side of Oakton Street between Saint Paul Woods and River Drive. The sidewalk design will be added to the Phase II Plans, Specs, and Estimates.

Task 15 – Breakout Staging into Multiple Lettings:

The three breakout Stages are described under the “Understanding of Assignment” section above. Each breakout stage contract will be on a separate State letting and will have separate plans, specs, and estimates. Each breakout stage is required to satisfy all IDOT reviews and approvals separately. These reviews include pre-final and final submittals with responses to comments from IDOT Central Office and the following IDOT Bureaus or Units: Local Roads and Streets, Traffic (Arterials, Programs, and Staging Units), Bike and Ped Unit, EEO, Geometrics Unit, Bureau of Design, Materials, Roadside Development, Landscaping, and Maintenance. This proposal includes preparing contract documents for Stage 2. A separate proposal for Stage 3 Design Engineering Services will be provided at a later date.

This proposal does not include any services associated with land acquisition or railroad design or work.

EXHIBIT "A"

ESTIMATE OF FEE

CBBEL estimates the following fees for each of the tasks described above:

Stage 1 Extra - Phase I Tasks:

Task 1 – Supplemental Topographic Survey and Utility Coordination	\$ 6,500
Task 2 – Preliminary Design & Approval of ADA Crossings	\$ 4,000
Task 3 – Phase I Traffic Signal Modification Submittal	<u>\$ 5,500</u>
<i>Subtotal Stage 1 Extra, Phase I:</i>	\$ 16,000

Stage 1 Extra - Phase II Tasks:

Task 4 – Design of ADA Crossings	\$ 3,500
Task 5 – Traffic Signal Modifications PS&E	<u>\$ 7,000</u>
<i>Subtotal Stage 1 Extra, Phase II:</i>	\$ 10,500

Stage 2 - Phase I Tasks:

Task 6 – Topographic Survey and Utility Coordination	\$ 8,500
Task 7 – Preliminary Design & Approval of ADA Crossing	\$ 2,500
Task 8 – Phase I Traffic Signal Modification Submittal	\$ 4,500
Task 9 – Preliminary Design and Approval of Oakton Street Sidewalk	\$ 1,500
Task 10 – Special Waste: PESA Response Form & Exhibits	\$ 4,500
Task 11 – Project Development Report Revisions	<u>\$ 4,500</u>
<i>Subtotal Stage 2, Phase I:</i>	\$ 26,000

Stage 2 - Phase II Tasks:

Task 12 – Design of ADA Crossing	\$ 2,500
Task 13 – Traffic Signal Modifications PS&E	\$ 6,000
Task 14 – Design of Oakton Street Sidewalk	\$ 4,000
Task 15 – Breakout Staging into Multiple Lettings	<u>\$ 12,500</u>
<i>Subtotal Stage 2, Phase II:</i>	\$ 25,000

GRAND TOTAL : **\$ 77,500**

We will bill you at the hourly rates specified on the attached Schedule of Charges and General Terms and Conditions. Direct costs for blueprints, photocopying, mailing, overnight delivery, messenger services and report compilation are not included in the Fee Estimate. These General Terms and Conditions are expressly incorporated into and are an integral part of this contract for professional services. It should be emphasized that any requested additional services that are not included in the preceding Fee Estimate will be billed at the attached hourly rates.

EXHIBIT "A"

Please sign and return one copy of this agreement as an indication of acceptance and notice to proceed. Please feel free to contact us anytime.

Sincerely,



Michael E. Kerr, PE
President

Encl. Schedule of Charges
General Terms and Conditions

THIS PROPOSAL, SCHEDULE OF CHARGES AND GENERAL TERMS AND
CONDITIONS ACCEPTED FOR VILLAGE OF MORTON GROVE.

BY: _____

TITLE: _____

DATE: _____

DOC
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EXHIBIT "A"

Skokie/Morton Grove/Niles

Oakton Multi-Use Path

IDOT Section Numbers: 19-00108-01-BT & 19-00108-02-BT & 19-00108-03-BT

Breakdown of Engineering Fees

Contract	Task	Phase I	Phase II
Original Scope of Work	Project Development Report (Design Approval)	\$ 74,215	\$ -
	Plans, Specs, & Estimates	\$ -	\$ 89,812
Original Subtotal =		\$ 164,026	
Supplements for: - IDOT Drainage Tech Memo - Signalized ADA Crossing (Oakton St and Caldwell Ave, west leg) - Retaining wall structures (Oakton/Caldwell, Menards, Alyce)	# 1 - Location Drainage Tech Memo	\$ 25,062	\$ -
	# 2 - Additional Design Items: IDOT ADA pedestrian crossing, IDOT signal modifications, and retaining wall structures	\$ 25,000	\$ 24,937
Supplements Subtotal =		\$ 74,999	
Unfunded Design Engineering for completed work: - Additional IDOT signalized crossings at Caldwell Ave & Oakton Street (north and east legs)	Supplemental topographical survey & utility coordination	\$ 6,500	\$ -
	Design of ADA landings and crossings (State Route)	\$ 4,000	\$ 3,500
	Traffic signal modifications (State Route)	\$ 5,500	\$ 7,000
Unfunded Design Engineering (completed) =		\$ 26,500	
Future Extras for: - Additional sidewalk along north side of Oakton Street - Additional IDOT signalized crossing at River Dr & Oakton St - Multiple IDOT reviews and bid documents for breakout stages	Special Waste PESA Response along IDOT Route for additional sidewalk and crossings	\$ 4,500	\$ -
	Revised Project Development Report & Environmental Clearances for Design Approval of additional crossings, sidewalk, and signal modifications	\$ 4,500	\$ -
	Supplemental topographical survey & utility coordination	\$ 8,500	\$ -
	Design of IDOT pedestrian crossings (ADA)	\$ 2,500	\$ 2,500
	Design of IDOT signal modifications for pedestrian crossing	\$ 4,500	\$ 6,000
	Design of sidewalk from River Dr to St Paul Woods (FPDCC)	\$ 1,500	\$ 4,000
	Breakout staging into multiple contracts PSE (additional IDOT reviews)	\$ -	\$ 12,500
Future Extras Subtotal =		\$ 51,000	
GRAND TOTAL (engineering) =		\$ 290,025	

Stage 1 (bid) Construction = \$ 1,639,752

Stage 2 Path Construction = \$ 310,000

Alyce Spur Construct. Est. = \$ 245,000

SUBTOT Construction (excludes RR) = \$ 2,194,752

RR Crossing Construction = \$ 2,103,315

TOTAL Construction = \$ 4,298,066

	fee	% Constr. Cost (exluding RR)
% Phase I Eng =	\$ 166,276	7.6%
% Phase II Eng =	\$ 176,749	8.1%

EXHIBIT "A"

CHRISTOPHER B. BURKE ENGINEERING, LTD.
STANDARD CHARGES FOR PROFESSIONAL SERVICES
JANUARY 2022

<u>Personnel</u>	<u>Charges*</u> <u>(\$/Hr)</u>
Principal	275
Engineer VI	260
Engineer V	210
Engineer IV	175
Engineer III	155
Engineer I/II	125
Survey V	230
Survey IV	210
Survey III	185
Survey II	150
Survey I	115
Engineering Technician V	205
Engineering Technician IV	165
Engineering Technician III	120
Engineering Technician I/II	75
CAD Manager	195
CAD II	140
GIS Specialist III	160
GIS Specialist I/II	100
Landscape Architect	180
Landscape Designer I/II	105
Environmental Resource Specialist V	220
Environmental Resource Specialist IV	170
Environmental Resource Specialist III	130
Environmental Resource Specialist I/II	95
Environmental Resource Technician	125
Administrative	110
Engineering Intern	65
Information Technician III	140
Information Technician I/II	120

Direct Costs

Outside Copies, Blueprints, Messenger, Delivery Services, Mileage Cost + 12%

*Charges include overhead and profit

Christopher B. Burke Engineering, Ltd. reserves the right to increase these rates and costs by 5% after December 31, 2022.

EXHIBIT "A"
CHRISTOPHER B. BURKE ENGINEERING, LTD.
GENERAL TERMS AND CONDITIONS

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

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

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

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

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

EXHIBIT "A"

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

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

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

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

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

EXHIBIT "A"

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

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

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

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

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

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

EXHIBIT "A"

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

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

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

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

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

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

EXHIBIT "A"

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

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

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

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

EXHIBIT "A"

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

EXHIBIT "A"

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

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

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

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

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

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

EXHIBIT "A"

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

25. Information Provided by Others: The Engineer shall indicate to the Client the information needed for rendering of the services of this Agreement. The Client shall provide to the Engineer such information as is available to the Client and the Client's consultants and contractors, and the Engineer shall be entitled to rely upon the accuracy and completeness thereof. The Client recognizes that it is impossible for the Engineer to assure the accuracy, completeness and sufficiency of such information, either because it is impossible to verify, or because of errors or omissions which may have occurred in assembling the information the Client is providing. Accordingly, the Client agrees, to the fullest extent permitted by law, to indemnify and hold the Engineer and the Engineer's subconsultants harmless from any claim, liability or cost (including reasonable attorneys' fees and cost of defense) for injury or loss arising or allegedly arising from errors, omissions or inaccuracies in documents or other information provided by the Client to the Engineer.
26. Payment: Client shall be invoiced once each month for work performed during the preceding period. Client agrees to pay each invoice within thirty (30) days of its receipt. The client further agrees to pay interest on all amounts invoiced and not paid or objected to for valid cause within said thirty (30) day period at the rate of eighteen (18) percent per annum (or the maximum interest rate permitted under applicable law, whichever is the lesser) until paid. Client further agrees to pay Engineer's cost of collection of all amounts due and unpaid after sixty (60) days, including court costs and reasonable attorney's fees, as well as costs attributed to suspension of services accordingly and as follows:
- Collection Costs. In the event legal action is necessary to enforce the payment provisions of this Agreement, the Engineer shall be entitled to collect from the Client any judgement or settlement sums due, reasonable attorneys' fees, court costs and expenses incurred by the Engineer in connection therewith and, in addition, the reasonable value of the Engineer's time and expenses spent in connection with such collection action, computed at the Engineer's prevailing fee schedule and expense policies.
- Suspension of Services. If the Client fails to make payments when due or otherwise is in breach of this Agreement, the Engineer may suspend performance of services upon five (5) calendar days' notice to the Client. The Engineer shall have no liability whatsoever to the Client for any costs or damages as a result of such suspension caused by any breach of this Agreement by the Client. Client will reimburse Engineer for all associated costs as previously set forth in (Item 4 of) this Agreement.
27. When construction observation tasks are part of the service to be performed by the Engineer under this Agreement, the Client will include the following clause in the construction contract documents and Client agrees not to modify or delete it:

EXHIBIT "A"

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

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

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

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

EXHIBIT "A"

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

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

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

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

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

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

June 13, 2005

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