

## A G E N D A

REGULAR MEETING OF THE MUNICIPAL SERVICES COMMITTEE TO BE HELD ON  
MONDAY, JULY 8, 2019, AT 5:30 P.M. AT THE VILLAGE HALL, 835 MIDWAY DRIVE, IN  
THE VILLAGE OF WILLOWBROOK, DUPAGE COUNTY, ILLINOIS

Mayor

Frank A. Trilla

Village Clerk

Leroy R. Hansen

Village Trustees

Sue Berglund

Umberto Davi

Terrence Kelly

Michael Mistele

Gayle Neal

Paul Oggerino

Village Administrator

Brian Pabst

Chief of Police

Robert Schaller

Director of Finance

Carrie Dittman

1. CALL TO ORDER

2. ROLL CALL

3. APPROVAL OF MINUTES:

a) May 13, 2019 Regular Meeting of the Municipal Service Committee

4. DISCUSSION – A Short-Term Contract Extension with Republic Services for Scavenger Services for Single Family Residential Homes in the Village of Willowbrook

5. DISCUSSION – A Proposal for Professional Engineering Services for the Village of Willowbrook Stormwater Master Plan for Executive Plaza Drainage Area

6. DISCUSSION - Project Reports:

a) Village Hall - Parking Lot Renovation

b) Village Hall - Repair of Front Pylon Wall

c) Village Motor Fuel Tax 2019 Program

d) Architectural Services for CRC Interior Design

7. SUPERINTENDENT OF PUBLIC WORKS UPDATE

8. VISITOR'S BUSINESS

(Public comment is limited to three minutes per person)

9. ADJOURNMENT



MINUTES OF THE REGULAR MEETING OF THE MUNICIPAL SERVICES COMMITTEE OF THE VILLAGE OF WILLOWBROOK HELD ON MONDAY, MAY 13, 2019 AT THE VILLAGE HALL, 835 MIDWAY DRIVE, IN THE VILLAGE OF WILLOWBROOK, DUPAGE COUNTY, ILLINOIS

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1. CALL TO ORDER

Chairman Oggerino called the meeting to order at 5:30 PM.

2. ROLL CALL

Those present at roll call were Chairman Paul Oggerino, Trustee Terrence Kelly, Interim Village Administrator Michael Mertens, Superintendent of Public Works Joe Coons, John Clifford and Jocelyn Kruis of Republic Services.

3. APPROVAL OF MINUTES

After review of the draft minutes from the April 8th, 2019 regular meeting of the Municipal Services Committee, Trustee Terrence Kelly made a motion to approve the minutes as presented. Chairman Paul Oggerino seconded the Motion. Motion Carried.

4. DISCUSSION – Residential Solid Waste and Recycling Collection Services Contract

Administrator Halik drafted a Request for Proposal (RFP) for review along with a sample RFP from The Village of Elmhurst provided by John Clifford of Republic Services. The Village's current 4-year contract with Republic Services for scavenger services is set to expire after December 31, 2019. Within the contract, there is a renewal clause which allows for a contract extension of up to four years if executed a minimum of six months before the expiration date of the current contract, or by June 30, 2019. Interim Administrator Mertens asked the committee if we should go out for bid or request an extension to have the contract end in the summer of 2020 rather than a January 1<sup>st</sup> of 2020 to prevent potential bad weather and holiday confusion with a change of service. John Clifford of Republic Services commented that he had spoken with former Administrator Halik and Superintendent Coons about a possible extension. Trustee Kelly commented after the April 8<sup>th</sup> Municipal Services Committee meeting that we do an RFP, but would consider a 6-month extension with Republic Services to get us into the summer switch out. Mertens then commented that we could do the extension and still do an RFP this fall. It was suggested by the committee that an extension be negotiated with Republic Services and the Village Board members. Also, there was discussion about possible different levels of services added and to perhaps get the community's input. Chairman Oggerino also agreed that an extension would be in the best interest of the Village. Trustee Kelly recommended to negotiate with Republic Services for a 6-month extension and the committee agreed. John Clifford then spoke of the rising cost of the recycling process and the reasons for the price increase. Clifford went on to talk about the recycling process being done domestically versus overseas. Mertens then asked Clifford if he was comfortable with the motion to proceed with an extension and both agreed to discuss at a later date. Clifford spoke of how Republic services has serviced the Village for several years and was hopeful that something could be done to continue servicing the community. At that point John and Jocelyn from Republic services exited the meeting. The committee briefly summarized some of the options moving forward.

5. DISCUSSION – 2019 Motor Fuel Tax (MFT) Roadway Maintenance Program

Superintendent Coons commented that we are in the beginning stages of deciding what areas in town need to be addressed. It was determined that perhaps an extensive patching program would be better than doing complete streets so that we could repair a lot of the bad areas in town that are in much need of repair. The scope of work discussed would be 3-inch overlay patching, 6-inch full depth patching, thermoplastic traffic marking and crack sealing. Coons went on to discuss how the Village in the past did a more aggressive complete street overlay program. Trustee Kelly then asked if we would be going back to a complete street the following year. Coons went on to explain that this was the direction the Village would like to go, but due to the MFT funding getting lower every year, it is difficult to say for certain that this can be done. Coons went on to talk about getting possible funding through the DuPage Mayors and Managers Conference (DMMC) Surface Transportation Program (STP). It was discussed how difficult getting this kind of funding has become. Trustee Kelly discussed that the Village was very prideful in doing complete streets in the past and would like to maintain that level of service. Kelly did understand that the funding is not there like it used to be but was concerned of possible blow back from some residents. Interim Administrator Mertens recommended having some sort of a 5-year plan in place so that we can budget for future funding. The list of areas in need of repair was submitted to Burke Engineering.

6a. DISCUSSION – Architectural Service for CRC Interior Design

A worksheet was provided to the committee of all of the services that N. Batistich Architects would provide. Trustee Oggerino had some concerns about design meeting/staff interviews and a program statement. Oggerino also was concerned about the \$3000.00 retainer requested by N. Batistich Architects. Interim Administrator Mertens recommended having someone within the Village assist in the design meeting/staff interview process. Mertens commented that the contract was small enough that he didn't believe the \$3000.00 retainer would not make or break it. Trustee Kelly suggested that Mertens have a conversation with Mayor Trilla to assign Trustee Mistele to oversee the design phase.

6b. DISCUSSION – Village Hall – Parking Lot Renovation

Christopher Burke Engineering has submitted a proposal for the preparation of plans for the permeable paving parking lot for the Village Hall. DuPage County will be providing a grant of 25% of the cost of the project. Discussion of rather a decision to go with a permeable paving parking lot or blacktop was done by the committee. It was decided by the committee to look over previous notes and past minutes to determine what direction to go moving forward.

6c. DISCUSSION – Village Hall – Repair of Front Pylon Wall

L.J Morse Construction submitted a proposal to repair the pylon at the front of the Village Hall. A quote for the repair was submitted to the committee. Superintendent Coons recommended going with L.J. Morse because of previous work done in the past so that the finished product would match the existing structure. Interim Administrator Mertens mentioned that if we decided to go with L.J. Morse that the Board members waive the bidding process and give an explanation as to why. The committee agreed to move forward with the project.

7. REPORTS – Municipal Services Department

- a. Superintendent Coons reviewed the monthly permit activity report for the month of May 2019, and the Village received \$24,660.45 in permit revenue for the month. For the first month in fiscal year 2019/20, the department has brought in 8.81% of the budgeted revenue.
- b. Superintendent Coons reviewed the water system pumpage report for the months of April 2018. The report indicates that the Village pumped 26,615,000 gallons of water in the month of April. This volume represents an approximate 4% increase when compared to the pumpage in the same time period of FY 2017/18.
- c. Clarke Mosquito Control Service has begun in our community on May 8<sup>th</sup>. Interim Administrator Mertens also authorized top feeding minnows for the pond to help in the prevention of mosquitos.

8. SUPERINTENDENT OF PUBLIC WORKS UPDATE

Superintendent Coons discussed the start of the annual brush collection program. N.J. Ryan is doing the brush collection contract. New door hangers were created this year to put out explaining as to why the brush pile was rejected. A letter was sent out prior to the collection explaining all of the restrictions. Coons also spoke about various flooding issues throughout town.

9. VISITOR'S BUSINESS

John Clifford and Jocelyn Kruis from Republic Services joined us in discussion with line item 4. Residential Solid Waste and Recycling Collection Service Contract.

10. COMMUNICATION

None

11. ADJOURNMENT

Motion to adjourn was made by Trustee Kelly. Seconded by Chairman Oggerino. The meeting was adjourned at 6:21 PM.

## MUNICIPAL SERVICES COMMITTEE MEETING

### AGENDA ITEM SUMMARY SHEET

#### AGENDA ITEM DESCRIPTION

#### DISCUSSION – A Short-Term Contract Extension with Republic Services for Scavenger Services for Single Family Residential Homes in the Village of Willowbrook

#### COMMITTEE REVIEW

- Finance/Administration
- Municipal Services
- Public Safety

Meeting Date:

July 8, 2019

<input type="checkbox"/> Discussion Only	<input checked="" type="checkbox"/> Approval of Staff Recommendation (for consideration by Village Board at a later date)
<input type="checkbox"/> Seeking Feedback	<input type="checkbox"/> Approval of Staff Recommendation (for <u>immediate</u> consideration by Village Board)
<input type="checkbox"/> Regular Report	<input type="checkbox"/> Report/documents requested by Committee

#### BACKGROUND

Staff advised the Municipal Services Committee on May 13, 2019 that the contract with Republic Services for scavenger services is set to expire on December 31<sup>st</sup> 2019. The Municipal Services Committee discussed the option of a short-term contract extension with Republic Services that would move the contract expiration date into the summer of 2020. The Committee requested staff review the future scavenger contract criteria options (levels of service, stickers, recycling, term, etc.). These options will be presented back to the Committee for their consideration. A new request for proposal (RFP) for residential scavenger services is to be issued in the Fall of 2019 with an award and implementation in the summer of 2020.

Republic Services is agreeable to a short-term contract extension. Staff suggested a contract extension through the end of July 2020. This time frame would move the Village away from dealing with any summer holiday conflicts should a change in vendor occur due to the RFP process. Republic Services would request shifting from three days of service pickups, currently Monday, Tuesday & Wednesday, and moving to a one-day Village-wide pick up, on Thursdays, starting in January 2020. The proposed short-term extension would include a new recycling processing fee of \$1.62. Republic Services would adjust their short-term 2020 rates down so the net effect to the residents would be a 3% increase, which is the same yearly rate increase as our current contract.

The following items are provided for back up support for this subject: A rate summary (Document #1), Republic Services proposal (Document #2), Village Draft Contract Extension (Document #3), Current Republic Services contract (Document #4).

#### REQUEST FOR FEEDBACK

Staff is requesting consideration of this short-term contract extension with the updated service terms and fees as outlined in the attached documents. Should the Committee concur with the proposal the item would be presented to the Village Board on July 22, 2019 for formal consideration.

#### STAFF RECOMMENDATION

Staff recommends the short-term contract extension with Republic Services.

## Republic Services Short Term Rate Summary

5/17/2019

	2019 Rates	2020 Short Term Rates	Recycling Processing fee	Net increase with processing fee	Delta from 2019 to 2020
Single User per month					
Curbside collection - 35 gallon	\$ 20.82	\$ 19.82	\$ 1.62	\$ 21.44	3%
Curbside collection - 95 gallon	\$ 22.07	\$ 21.04	\$ 1.62	\$ 22.66	3%
Curbside collection - 65 gallon	\$ 22.81	\$ 21.87	\$ 1.62	\$ 23.49	3%
Curbside collection Senior - 35 gallon	\$ 16.63	\$ 15.51	\$ 1.62	\$ 17.13	3%
Sticker	\$ 3.00	\$ 3.00	\$ -	\$ 3.00	0%



June 14, 2019

5050 W. Lake Street Melrose Park, IL 60160  
708-345-7050 [www.republicservices.com](http://www.republicservices.com)

Mr. Mike Mertens  
Assistant Village Manager  
Village of Willowbrook, IL 60527

Dear Mr. Mertens:

On behalf of Republic Services, I would like to once again, thank you for this opportunity to continue our dialogue regarding a possible extension to our current collection services agreement.

**Current Collection Program:**

- Refuse: Volume based contractor provided containers, 35/65/95-gallon. One (1) bulk item included, no sticker required. Solid waste stickers are required for additional bulk items and additional refuse.
- Recycling: Unlimited recycling with a company provided recycling cart.
- Yard Waste: Collected in biodegradable yard waste bags or designated cans with pre-paid stickers attached. Optional 35/65/95- gallon carts available for an additional monthly fee.
- Collection services provided to Village facilities at no cost.

**Current Rates through December 31, 2019**

Single-Family Rates Per Unit, Per Month			
<b>Curbside Collection – 35- gallon</b>			<b>\$20.82</b>
<b>Curbside Collection – 65 -gallon</b>			<b>\$22.07</b>
<b>Curbside Collection – 95- gallon</b>			<b>\$22.81</b>
<b>Curbside Collection Senior – 35- gallon</b>			<b>\$16.63</b>
<b>Sticker – Refuse / Yard Waste, each</b>			<b>\$3.00</b>
<b>Annual Amnesty Day Collection</b>			<b>N/C</b>
<b>Village Facilities Collection</b>			<b>N/C</b>
<b>Special Events Collection Service</b>			<b>N/C</b>
<b>Leaf Collection</b>			<b>N/C</b>
<b>Special Event Services</b>			<b>N/C</b>

**Proposed Rate Adjustment for Collection Program: (Extension thru 07/31/2020)**

- All current program services remain the same
- Effective 09/01/19, all service to be provided one day per week, Thursday
- Partial year contract excludes annual amnesty day and event services reduced to three events.
- Republic Services must be notified of August 2020 service provider bid decision prior to September 30, 2019.

**Proposed Rates effective January 1, 2020 through July 31, 2020**

<b>Single-Family Rates Per Unit, Per Month</b>			
<b>Curbside Collection – 35- gallon</b>			<b>\$19.82*</b>
<b>Curbside Collection – 65 -gallon</b>			<b>\$21.04*</b>
<b>Curbside Collection – 95- gallon</b>			<b>\$21.87*</b>
<b>Curbside Collection Senior – 35- gallon</b>			<b>\$15.51*</b>
<b>Sticker – Refuse / Yard Waste, each</b>			<b>\$3.00</b>
<b>Annual Amnesty Day Collection</b>			<b>N/C</b>
<b>Village Facilities Collection</b>			<b>N/C</b>
<b>Special Events Collection Service</b>			<b>N/C</b>
<b>Leaf Collection</b>			<b>N/C</b>
<b>Special Event Services</b>			<b>N/C</b>
<b>Recycling Processing Fee</b>			<b>\$1.62**</b>

\* Annual CPI Rate Adjustment for Curbside Collection Rates Only:  
 (2021 @ 3.00%), (2022 @ 3.00%), (2023 @ 3.00%)

**Note:**

\*\*Recycling Processing Fee - \$01.62 not to exceed a 40% correction after the initial 12-months.

(Example: +40% = \$2.26 / -40% = \$.98)

As always, Republic Services values the opportunity to provide service to the Village and its residents. We look forward to continuing our partnership with the Village for years to come.

Sincerely,

*John Clifford*

John Clifford  
 Manager Municipal Sales  
 Republic Services

## **FIRST AMENDMENT TO AGREEMENT FOR SCAVENGER SERVICES**

WHEREAS, on October 26, 2015, the Village of Willowbrook (the “Village”) and Allied Waste Systems of North America, LLC d/b/a Republic Services // Allied Services of Melrose Park, a Delaware corporation, authorized to transact business in the State of Illinois (the “Contractor”) entered into an Agreement whereby Contractor agreed to provide single-family scavenger services within the corporate limits of the Village; and

WHEREAS, said Agreement commenced on January 1, 2015 and will terminate on December 31, 2019; and

WHEREAS, pursuant to Section 1, Paragraph B of the Agreement provides that upon the mutual agreement of the Village and Contractor, the term of the Agreement may be extended for a period not to exceed four (4) years from the termination or expiration of the Agreement; and

WHEREAS, Village and Contractor have agreed to extend the term of the Agreement through July, 2020, and have also agreed to modify certain other terms, conditions and provisions of the Agreement as hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises herein contained and other good and valuable consideration, the sufficiency of which is hereby acknowledged by the Parties the Village and Contractor hereby agree that the Agreement by and between the Village and Contractor dated October 26, 2015, shall be modified as follows:

1. Section I entitled “General”, Paragraph A, shall be amended by deleting “December 31, 2019” and inserting, in lieu thereof, “July 31, 2020”. All other provisions of Section I, Paragraph A of the Agreement shall remain in full force and effect and not amended by this First Amendment.

2. Section II entitled "Service and Rates", Paragraph A entitled "Garbage Collection", subparagraph 1, shall be amended by amending the first paragraph of II(A)(1) in its entirety to read as follows: Commencing September 1, 2019, the Contractor shall provide regular collection services on Thursday of each week to each single family residence within the geographical area depicted on "Exhibit A" attached hereto and made a part hereof.

The remainder of Section II, paragraph (A)(1) shall remain in full force and effect and not amended by this First Amendment.

3. Section II entitled "Service and Rates" shall be further amended by adding the following at the end of Section II, Paragraph A(6):

**Proposed Rates Effective January 1, 2020 Through July 31, 2020:**

Single-Family Rates Per Unit, Per Month	
Curbside Collection – 35 gallon	\$19.82
Curbside Collection – 65 gallon	\$21.04
Curbside Collection – 95 gallon	\$21.87
Curbside Collection Senior – 35 gallon	\$15.51
Annual Amnesty Day Collection	N/C
Village Facilities Collection	N/C
Special Events Collection Service	N/C
Leaf Collection	N/C
Special Event Services	N/C
Recycling Processing Fee	\$1.62

4. Section II entitled "Service and Rates" shall be amended by deleting "until December 31, 2019" from the second paragraph of Section II(A)(7) and inserting "through July 31, 2020".

5. Effectiveness of Amendment. All terms and conditions of the Agreement between the Village and Contractor shall remain in full force and effect except as specifically amended by this First Amendment.

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment as of the dates hereinafter set forth.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

VILLAGE OF WILLOWBROOK

By: \_\_\_\_\_  
Frank A. Trilla, Mayor

ATTEST:

By: \_\_\_\_\_  
Leroy Hansen, Village Clerk

ALLIED WASTE SYSTEMS OF NORTH  
AMERICA, LLC D/B/A REPUBLIC SERVICES //  
ALLIED WASTE SERVICES OF MELROSE  
PARK

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

Printed Name  
Its: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Printed Name  
Its: \_\_\_\_\_

## Exhibit "A"

### AGREEMENT FOR SCAVENGER SERVICES

THIS AGREEMENT ("Agreement"), made and entered into as of this 26th day of October, 2015, by and between the VILLAGE OF WILLOWBROOK, a municipal corporation, organized and existing under the laws of the State of Illinois (hereinafter referred to as "VILLAGE") and Allied Waste Services of North America LLC, doing business as Republic Services of Melrose Park//Allied Waste Services of Melrose Park, a corporation authorized to do business in the State of Illinois (hereinafter referred to as "CONTRACTOR");

WHEREAS, the VILLAGE is authorized by statute to contract for the collection and disposal of refuse and recyclable materials; and

WHEREAS, the VILLAGE and the CONTRACTOR had entered into an Agreement for Scavenger Services on the 8<sup>th</sup> day of August 2011 that allows for an extension of up to four years; and

WHEREAS, the CONTRACTOR has submitted a proposal for an extension of the Agreement for Scavenger Services; and

WHEREAS, the VILLAGE has determined, after substantial study and negotiation that a proposal by CONTRACTOR is in the best interest of, and most favorable to the VILLAGE; and

WHEREAS, the VILLAGE has negotiated an agreement with the CONTRACTOR that is mutually acceptable to the VILLAGE and to the CONTRACTOR; and

WHEREAS, the CONTRACTOR acknowledges that this Agreement is specifically for single family residential scavenger services as defined herein, and that it is the intent of the VILLAGE to license multiple scavenger firms to collect garbage, landscape waste and recyclables from industrial, commercial, institutional and multiple family dwellings.

NOW, THEREFORE, IN CONSIDERATION of the promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

#### I. GENERAL

- A. The VILLAGE hereby grants to the CONTRACTOR the exclusive right, privilege and license to provide single family residential scavenger service within the corporate limits of the VILLAGE, beginning on January 1, 2016, until and through December 31, 2019, unless and until extended,

cancelled or terminated as otherwise provided herein. The CONTRACTOR agrees to pay the annual license fee as set forth in the Village Code. This Agreement shall not include any scavenger service other than single family residential scavenger service as defined herein.

- B. Upon the mutual written consent of both the VILLAGE and the CONTRACTOR, this Agreement may be extended beyond its term provided the agreement for the extension is made at least six (6) months prior to December 31, 2019. The Agreement may be extended for a period of no more than four (4) years from the date of expiration. All amendments and changes to the agreement shall be made in writing and shall be agreed upon by both the VILLAGE and the CONTRACTOR.
- C. The CONTRACTOR agrees to provide single family residential scavenger service within the corporate limits of the VILLAGE pursuant to the terms and conditions contained herein.
- D. The CONTRACTOR shall develop a Public Awareness Program to inform all participating Willowbrook residents of all aspects of the scavenger services program outlined in this Agreement. The Public Awareness Program shall include at a minimum the development of an informational brochure, provided at no cost to the VILLAGE, to be delivered to all program participants. The CONTRACTOR shall also supply additional copies of the informational brochure to the VILLAGE. The contents of the informational brochure shall be mutually agreed upon by the CONTRACTOR and the VILLAGE. All costs associated with production and distribution of the informational brochure including, but not limited to, typesetting, printing, and postage, shall be the responsibility of the CONTRACTOR.

Upon request by the VILLAGE, the CONTRACTOR shall provide personnel for presentations at meetings or other similar gatherings to explain and reinforce the collection program throughout the term of the Agreement.

The VILLAGE retains the right to approve all materials to be delivered by the CONTRACTOR to program participants including, but not limited to, door hangers, leaflets, fliers, etc.

The VILLAGE shall supply the CONTRACTOR with an updated list of addresses of all single family residences affected by the Agreement to be used solely by the CONTRACTOR for publications related to the Agreement and for billing customers as outlined in Article VI.

- E. For purposes of this Agreement, the following definitions shall apply:

Aluminum formed containers/wrap: Aluminum cans, foil, trays, pie plates, and other similar formed containers.

Amnesty Day collection: A once per year collection where residents can place at the curb, in excess of their cart, an unlimited amount of properly prepared refuse and not be required to affix stickers to the excess refuse material. The CONTRACTOR and the VILLAGE shall agree upon the date of said collection.

Approved excess garbage container:

1. Garbage can: A plastic or galvanized metal can of a type commonly sold as a garbage can of capacity not less than four (4) gallons and not to exceed thirty two (32) gallons, and each such garbage can shall have two (2) handles upon sides of the can or bail by which it may be lifted and shall have a tight-fitting top. No garbage can shall exceed fifty (50) pounds in weight when filled.
2. Garbage bag: A plastic bag with a capacity not to exceed thirty three (33) gallons in size and weighing no more than fifty (50) pounds when filled.

Approved garbage container: The only approved garbage container is a CONTRACTOR supplied thirty-five (35), sixty-five (65), or ninety-five (95) gallon wheeled plastic container, or cart, with a tight-fitting top requiring a semi-automated or fully automated lifting mechanism for collection, and provided and maintained by the CONTRACTOR.

Approved recyclable container: The only approved recyclable container is a thirty-five (35), sixty-five (65), or ninety-five (95) gallon wheeled plastic container, or cart, with a tight-fitting top requiring a semi-automated lifting mechanism for collection, and provided and maintained by the CONTRACTOR.

Approved yard waste containers:

1. Kraft paper bags: Special biodegradable thirty (30) gallon paper bags, which shred and degrade quickly in the composting process. The bags shall not be chemically treated with toxic chemicals to inhibit bag content degradation.
2. Cart: A CONTRACTOR supplied thirty-five (35), sixty-five (65), or ninety-five (95) gallon wheeled plastic container with a tight-fitting top requiring a semi-automated or fully automated lifting mechanism for collection, and provided and maintained by the CONTRACTOR.
3. Bundles: Any material allowed under the definition of hard landscape waste, such as limbs, branches or other loose items which do not

exceed five feet (5') in length or fifty (50) pounds in weight. Each branch shall not exceed four inches (4") in diameter and the bundle shall not exceed eighteen inches (18") in total diameter. Bundles must be securely tied with biodegradable natural fiber twine.

Biodegradable natural fiber twine: Twine that is chemically structured so that it rapidly decomposes primarily through the action of living soil-borne microorganisms (crickets, slugs, sowbugs, millipedes, etc.)

Bulk Item: Any item set forth as refuse which is too large to fit into a cart. Examples include sofas, large tables and chairs, dressers, - bookcases, mattresses and box springs, other large household furniture, and large appliances, which do not contain CFC or HCFC refrigerant gas, PCB containing capacitors, mercury switches, or other hazardous components.

Cart: A CONTRACTOR supplied thirty-five (35), sixty-five (65), or ninety-five (95) gallon wheeled plastic container with a tight-fitting top requiring a semi-automated or fully automated lifting mechanism for collection, and provided and maintained by the CONTRACTOR. Carts are the only approved refuse and recyclable containers.

Catalog: A book made from either glossy or non-glossy paper stock, which contains an itemized listing of names or articles arranged in order or classified.

Chipboard: (Also referred to as paperboard) A thin, single layer of cardboard used in the packaging of consumer goods. Examples include cereal boxes, cracker boxes, clothing boxes, tissue boxes, and other similar products.

Composting: The process by which aerobic microorganisms decompose organic matter into a humus-like product.

Corrugated cardboard: A sturdy paperboard consisting of two paper grades, a wavy inner portion and a thick outside lining which is most commonly used for packaging.

Curbside: A position immediately behind the curb and within the parkway area used for staging refuse, recyclables, and yard waste prior to collection thereof.

Direct mail: Brochures, advertisements, flyers, post cards, greeting cards, window envelopes, file folders, and other similar correspondence.

Electronic Waste: Televisions, monitors, printers, computers, electronic keyboards, facsimile machines, videocassette recorders, portable digital

music players, video game consoles, small scale servers, scanners, electronic mice, digital convertor boxes, cable receivers, satellite receivers, digital video disc recorders or any other electronic devices banned from landfill disposal by the State of Illinois pursuant to the Illinois Electronic Products Recycling and Reuse Act (P.L. 95-0959), as amended

Excess refuse: Any refuse that does not fit reasonably in the CONTRACTOR provided cart.

Frozen food packages: Paperboard containers with special coatings to prevent tearing of the packages or smearing of the ink from moisture when refrigerated or frozen.

Garbage: Discarded materials resulting from the handling, cooking, spoilage and leftovers of foodstuffs, discarded food or food residues, and paper necessarily used for wrapping the same, and all types and kinds of waste materials from housekeeping activities, including but not limited to, ashes, metal, cans, bottles, books, glass, plastic, newspapers, boxes, cartons and small amounts of earth, rock or sod, small automobile parts and building materials, waste from residential type do-it-yourself projects, provided that all such materials are of a size sufficiently small to permit being placed in a cart, except those items which are banned from direct disposal into a landfill.

Garbage shall not include industrial wastes, waste from any manufacturing process, construction materials (other than provided in the paragraph above), broken concrete, lumber, large rocks, large automobile parts, vehicle batteries or dangerous substances which may create a danger to the health, safety, comfort or welfare of the residents of the VILLAGE, Unacceptable Waste or other items which are banned from direct disposal into a landfill.

Hazardous waste: includes, but is not limited to, any amount of waste listed or characterized as hazardous by the United States Environmental Protection Agency or any state agency pursuant to the Resource Conservation and Recovery Act of 1976, as amended, including future amendments thereto, and any other applicable law.

Hard landscape waste: Brown stemmed branches and shrub pruning with large stems or trunks not to exceed four (4) feet in length and two (2) inches in diameter individually, excluding Christmas trees.

High density polyethylene (HDPE) blow molded containers: Milk and water jugs, laundry detergent, shampoo, personal care, and other similar blow molded containers used inside the home.

Other high density polyethylene (HDPE) containers: Margarine tubs, baby wipe containers, and other similar ejection molded containers used inside the home.

Household construction and demolition debris: Waste materials from “do-it-yourself” interior and exterior household construction, remodeling, and repair projects, including, but not limited to, drywall, plywood, paneling, lumber, and other building materials; cabinets; carpeting; disassembled household fixtures; and small amounts of sod, earth, clay, sand, concrete, rocks, and similar materials.

Industrial wastes: Any and all debris and waste products generated by canning, manufacturing, food processing, restaurant, land clearing, building construction or alteration and public works type construction projects whether performed by a governmental unit or other entity.

Juice boxes: Aseptic cartons consisting of high-grade paperboard coated with polyethylene plastic and aluminum foil, excluding milk cartons.

Kraft bags: Special biodegradable thirty (30) gallon paper bags, which shred and degrade quickly in the composting process and are not chemically treated.

Kraft paper products: Mailing tubes, wrapping paper, and other similar Kraft type paper items.

Landscape waste: Hard landscape and soft landscape

LDPE: Low density polyethylene.

Magazines: Periodical publications made from either glossy or non-glossy paper stock.

Mixed papers: Stationery, direct mail, various office paper such as computer paper, notebook paper, typing paper, letterhead, index cards, file folders, envelopes, greeting cards, flyers, post-it notes, and other similar paper products.

Polyethylene terephthalate (PET) blow molded containers: Soft drink, liquor, cooking oil, personal care, and other similar blow molded containers used inside the home.

Other polyethylene terephthalate (PET) containers: Plastic plates, trays, cups, and other similar ejection molded containers used inside the home.

Properly prepared excess refuse: Excess refuse in an approved excess refuse container to which a refuse/yard waste sticker is affixed.

Properly prepared yard waste: Yard waste in an approved yard waste container to which a refuse/yard waste sticker is affixed.

Recyclables: (Also referred to as recyclable materials) Materials which have a useful second life in the economic cycle if they are successfully collected, separated, processed, and marketed for return to the economic mainstream.

Recyclable materials shall include aluminum cans and foil, tin/steel/bi-metal cans, formed steel and aluminum containers, empty aerosol cans, empty metal paint cans and lids, colored and clear glass bottles, plastics #1-5 and #7 bottles and other rigid containers, newspaper, magazines, catalogs, telephone directories, paper bags, Kraft Paper Products, corrugated cardboard, chipboard, paperboard, Mixed Paper, wet strength carrier stock, Direct Mail, aseptic packaging, gable top containers, six pack rings, and any other items the VILLAGE and the CONTRACTOR agree to recycle in the future.

Recycling: The use, collection, and remanufacture or secondary materials as feedstock for the production of new materials or products.

Refuse: Household garbage, household construction and demolition debris, white goods, and bulk materials.

Refuse/yard waste sticker: A special biodegradable sticker with glue that adheres to plastic and paper during weather extremes provided by the CONTRACTOR to local retailers and the VILLAGE for sale to the public wherein the purchase price includes the CONTRACTOR'S total collection, processing and sale/disposal costs for yard waste and excess refuse.

Single family residence: A free-standing, detached, single family dwelling unit.

Single family residential scavenger service: The collection or disposal of refuse from single family residences.

Single stream recycling: The process in which all recyclable material is commingled into a single container, left at the curb to be collected by one truck and separated at the recyclable processing facility.

Soft landscape waste: Grass and garden clippings, leaves, pruning of small diameter green stemmed shrubs, weeds, plant materials, etc.

Steel aerosol cans: A hard, strong, durable container comprised of malleable alloys of iron and carbon encasing a gaseous suspension of fine solid or liquid particles. Any aerosol can set out for recycling must be empty.

Telephone directories: A book consisting of a cover made from one grade of paper and pages made from newsprint type grade paper on which names, addresses, and telephone numbers, advertisements, basic information and other information are printed.

Unacceptable Waste: Any Special Waste, Electronic Waste, Hazardous Waste, radioactive, volatile, corrosive, highly flammable, explosive, biomedical, infectious, bio-hazardous, toxic, or listed or characteristic hazardous Waste as defined by federal, state, local law or otherwise regulated waste, vehicle batteries and vehicle tires.

Special Waste: Any nonhazardous solid waste which, because of its physical characteristics, chemical make-up, or biological nature requires either special handling, disposal procedures including liquids for solidification at the landfill, documentation, and/or regulatory authorization, or poses an unusual threat to human health, equipment, property, or the environment. Special Waste includes, but is not limited to:

- (a) Waste generated by an industrial process or a pollution control process;
- (b) Waste which may contain residue and debris from the cleanup of spilled petroleum, chemical or commercial products or wastes, or contaminated residuals;
- (c) Waste which is nonhazardous as a result of proper treatment pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 ("RCRA");
- (d) Waste from the cleanup of a facility which generates, stores, treats, recycles or disposes of chemical substances, commercial products or wastes;
- (e) Waste which may contain free liquids and requires liquid waste solidification;
- (f) Containers that once contained hazardous substances, chemicals, or insecticides so long as such containers are "empty" as defined by RCRA;
- (g) Asbestos containing or asbestos bearing material that has been properly secured under existing Applicable Law;
- (h) Waste containing regulated polychlorinated biphenyls (PCBs) as defined in the Toxic Substances Control Act (TSCA);
- (i) waste containing naturally occurring radioactive material (NORM) and/or technologically-enhanced NORM (TENORM); and
- (j) Municipal or commercial solid waste that may have come into contact with any of the foregoing.

Wet Strength Carrier Stock: Paperboard containers with special coatings to prevent tearing of the packages or smearing of the ink from moisture

when refrigerated or frozen: i.e. paper beverage carriers and frozen food packages.

White Goods: Any domestic and/or commercial large appliance which contains CFC or HCFC refrigerant gas, PCB containing capacitors, mercury switches, or other hazardous components. Examples include, but are not limited to, refrigerators, freezers, air conditioners, ranges (both electric and gas), humidifiers, dehumidifiers, water heaters, furnaces, and other similar large appliances.

Yard Waste: Hard landscape waste and soft landscape waste.

## II. SERVICE AND RATES

### A. Garbage Collection

1. The CONTRACTOR shall provide regular collection service once each week to each single family residence. Service shall be scheduled in various parts of the VILLAGE as set forth in "EXHIBIT B."

The CONTRACTOR shall collect and transport to an Illinois Environmental Protection Agency (IEPA), an Indiana Department of Environmental Management (IDEM) or a Wisconsin Department of Natural Resources (WDNR) permitted site all properly prepared refuse covered under this Agreement

2. The CONTRACTOR shall not be responsible for pick up of loose garbage deposited by residents, unless a special pickup is ordered. However, the CONTRACTOR shall be responsible for the pickup of loose garbage, recyclables and yard waste which may have been caused by negligence on the part of the CONTRACTOR to provide or properly service a container or collect bulk items.

In addition, the CONTRACTOR is responsible for completely emptying all containers and returning them to the parkway in a neat and orderly fashion. Furthermore, empty containers shall be returned to an upright position and grouped. The CONTRACTOR understands and agrees that the foregoing is a material term of this Agreement, and an important service delivery standard for the VILLAGE. The CONTRACTOR may, however, reject any Unacceptable Waste found in the course of collection.

3. The CONTRACTOR'S employees shall provide collection services to the VILLAGE'S residents with as little noise,

disturbance, and disruption as possible and shall not litter premises while in the process of making collections, or otherwise allow waste to blow, fall or spill from any vehicle used for collections. All containers shall be replaced immediately after emptying. The CONTRACTOR'S employees shall close all fence gates both upon entering and leaving premises and shall not cut across rear, front or side yards or flower beds to adjoining premises, without the permission of the owner.

4. Garbage shall be collected in carts issued by the CONTRACTOR. Each single family residence shall be provided with two carts, one for garbage, and the other for recyclables. The CONTRACTOR shall be responsible for providing replacement carts. The CONTRACTOR shall provide each single family residence a choice between thirty-five (35) gallon, sixty-five (65) gallon, or ninety-five (95) gallon carts. If a single family residence does not make a selection that residence shall receive sixty-five (65) gallon carts.

Every residence shall be entitled to one (1) exchange of their current carts for different sized carts at no charge from the CONTRACTOR within thirty (30) days of their delivery. After thirty (30) days all residents shall be charged \$25.00 per exchange of carts.

Every single family residence within the VILLAGE that is governed by this Agreement is required to have a set of carts provided by the CONTRACTOR. No other containers are approved for the disposal of garbage or recyclables, except 'Properly prepared excess refuse" placed in an "Approved excess garbage container" as found in Section I (E) 8 of this Agreement.

The VILLAGE reserves the right to approve the type, color and appearance of the garbage and recycling carts.

5. The cost to the residents for each thirty-five (35) gallon cart used for garbage shall not exceed \$19.33 per month until December 31, 2016, \$19.81 per month until December 31, 2017, \$20.31 per month until December 31, 2018 and \$20.82 per month until December 31, 2019.

The cost to the residents for each sixty-five (65) gallon cart used for garbage shall not exceed \$20.49 per month until December 31, 2016, \$21.00 per month until December 31, 2017, \$21.53 per month until December 31, 2018 and \$22.07 per month until December 31, 2019.

The cost to the residents for each ninety-five (95) gallon cart used for garbage shall not exceed \$21.18 per month until December 31, 2016, \$21.71 per month until December 31, 2017, \$22.25 per month until December 31, 2018 and \$22.81 per month until December 31, 2019.

6. The cost for residents in households headed by individuals 65 years old or older for each thirty-five (35) gallon cart used for garbage shall not exceed \$15.44 per month until December 31, 2016, \$15.83 per month until December 31, 2017, \$16.22 per month until December 31, 2018 and \$16.63 per month until December 31, 2019. To verify eligibility, the CONTRACTOR may require that the resident provide a copy of a driver's license or other state issued documentation.
7. Residents shall be allowed to place properly prepared bulk items for collection at the curb and shall not be required to sticker or be billed for the first bulk item. Each additional bulk item shall require one (1) refuse/yard waste sticker affixed thereto for collection.

The cost to residents of each refuse/yard waste sticker shall not exceed \$3.00 per sticker until December 31, 2019.

It is understood that stickers purchased by residents under the previous agreement and/or the previous year shall be honored by the CONTRACTOR throughout the entire term of this Agreement for the disposal of yard waste, bulk items, and excess garbage.

Local retailers and the VILLAGE shall sell the stickers to residents at the prices listed above. The CONTRACTOR shall be the sole distributor of stickers.

The CONTRACTOR shall be responsible for the printing of the stickers, which shall be designed to be of a "one-time use" variety.

8. Residents shall be allowed to place properly prepared excess garbage that does not fit reasonably in a cart at the curb for collection. Each "approved excess garbage container" must have one (1) refuse/yard waste sticker affixed thereto for collection.
9. The CONTRACTOR shall be responsible for pickup of properly prepared bulk items, properly prepared excess garbage and white goods, on the same date as garbage collection.

10. All other solid waste material not otherwise provided for herein shall be collected and disposed of in unlimited quantity as a special pick-up. Such items shall include small auto parts (excluding tires and batteries), large amounts of building materials (including, without limitation, lumber, structural steel, concrete, bricks and stone), pianos and such other bulky items that require more than one person to handle. Special pickup service shall be provided to single family residences at the request of the resident. The CONTRACTOR shall provide a telephone number at which it can be contacted regarding such special pickup, with the price defined in "EXHIBIT A" and the container size and pickup frequency to be determined by the CONTRACTOR and resident. Special pick-up service shall be provided after the resident and the CONTRACTOR have agreed to the terms, conditions, and time of the service. Residents may also contract with other licensed commercial haulers within the VILLAGE.
11. Unless specified otherwise by a resident, collection shall take place at the curbside.
12. Collection shall only occur between 7:00 a.m. and 5:00 p.m.
13. The CONTRACTOR shall furnish all scavenger services offered hereunder free of charge to all public buildings and park facilities under control of the VILLAGE during the term of this Agreement and during any extension of the term of this Agreement.
14. The CONTRACTOR shall provide scavenger services in emergencies as determined and declared by the VILLAGE to alleviate threats to public health, safety and welfare at a reasonable price mutually agreed upon by the VILLAGE and CONTRACTOR.
15. The CONTRACTOR shall provide scavenger services free of charge in conjunction with various community events conducted partially or fully on public property. Notwithstanding the foregoing, the CONTRACTOR shall be responsible for providing scavenger services for no more than six (6) events per year.
16. The CONTRACTOR shall prepare and submit to the VILLAGE a monthly report accurately detailing:
  - a. The total weight of garbage collected and disposed of and the facility to which it was transported; and

- b. The total weight of recyclables collected and disposed of and the facility to which it was transported; and
- c. The total weight of landscape waste collected and disposed of and the facility to which it was transported; and
- d. A comprehensive list of all complaints received and resolution of said complaints; and
- e. Other data reasonably requested by the VILLAGE.

17. The CONTRACTOR shall provide at no cost to the residents or VILLAGE an annual "Amnesty Day" collection. The date and design of the collection shall be at the discretion of the VILLAGE. During the "Amnesty Day", residents governed by this Agreement shall be permitted to place material at the curb without the need for refuse/yard waste stickers. No material excluded under this Agreement shall be collected in conjunction with the "Amnesty Day".

18. In the event the VILLAGE should request the use of equipment from CONTRACTOR, the price shall be defined in "EXHIBIT A".

THE CONTRACTOR shall furnish residents with a program for the disposal of Medical Sharps (as defined by Illinois law). Upon request of a resident, Medical Sharps disposal service shall be provided to single family residences at uniform rates. Residents may also contract with other companies for the disposal of medical sharps.

#### B. Recycling Collection

- 1. The CONTRACTOR shall collect properly prepared recyclables from each single family residence.
- 2. Recyclables shall be collected once each week at the curb of each single family residence on the same day as garbage collection from said single family residence.
- 3. Recyclables shall be collected in carts issued by the CONTRACTOR. Each single family residence shall be provided with a recycling cart by the CONTRACTOR at no additional charge to the resident or VILLAGE. The size of the recycling cart shall be the same size as the garbage cart unless otherwise requested by the resident.

4. All recyclables shall be collected, separated and processed to facilitate the sale of recyclables to manufacturers for post-consumer use. No materials collected as recyclables shall be deposited at a landfill or waste incinerator. CONTRACTOR will not be held liable for any claims under this section arising out of recyclable materials that are contaminated with other waste material.
5. The CONTRACTOR shall be responsible for preparing and submitting to the VILLAGE a monthly report detailing monthly tonnage collected and other information as may be requested by the VILLAGE at the VILLAGE'S sole discretion.

C. Yard Waste Collection

1. Once each week during the yard waste collection season and coinciding with garbage collection, the CONTRACTOR shall collect from each single family residence all properly prepared yard waste. The yard waste collection season shall be April 1 to December 31 of each year during the term of this Agreement. The VILLAGE and the CONTRACTOR may mutually agree in writing to alter this yard waste collection season. No one branch or brush bundle shall exceed four feet (4') in length by two feet (2') in diameter, nor exceed fifty (50) pounds.
2. The price of each authorized refuse/yard waste sticker is outlined in A.7 and "EXHIBIT A".
3. Seasonal collection reports shall be furnished to the VILLAGE documenting the volume and tonnage of landscape waste collected.
4. Christmas trees left at the curbside through the third week of January of each year during the term of the Agreement, shall be collected at no cost to the resident or VILLAGE.

D. Unused sticker reimbursement: Upon cancellation, termination, or expiration of this Agreement, the CONTRACTOR shall, within sixty (60) days, reimburse the VILLAGE for the value of unused refuse/yard waste stickers returned to the VILLAGE within thirty (30) days of expiration of the Agreement. The requirements of this Subsection D shall survive, and shall be binding on and enforceable against the CONTRACTOR after the cancellation, termination, or expiration of this Agreement.

E. Fuel Adjustment: In the event that the average cost of diesel fuel for a period beginning August 1<sup>st</sup> and ending October 30<sup>th</sup> exceeds four and 47/100 dollars (\$4.47) per gallon (hereinafter referred to as "Fuel Threshold") after

January 1, 2016, (hereinafter referred to as the “Fuel Expense Increase”), the Contractor may, at any time after the verification of said fuel Expense Increase, provide the Village with a written request for an increase in the monthly charges for collection, removal and disposal of municipal waste, recyclables and yard waste imposed hereunder (hereinafter the ‘Fuel Request’) effective on January 1<sup>st</sup>. Any such Fuel Request shall be in writing and shall provide, in detail, the following information:

- (1) The calculations relative to the price per gallon of diesel fuel during the period of August 1<sup>st</sup> through October 30<sup>th</sup>;
- (2) The calculations demonstrating how the Fuel Expense Increase impacts the cost of the services by the Contractor hereunder; and
- (3) The proposed revised month charges and sticker price as a result of the Fuel Expense Increase provided, however, that if the parties are unable to reach an agreement as to the amount of any increase then either party may cancel the Agreement upon 120 days notice to the other party.

Within thirty (30) days of the receipt of any such Fuel Request, the Village and the Contractor shall meet to discuss the Fuel Request and determine what revisions, if any, should be made to the monthly charges, as a result of any Fuel Request, (hereinafter referred to as the “Fuel Increase”), shall be mutually agreed upon, which the Village agrees to exercise in a reasonable manner.

The Fuel Threshold shall be adjusted annually. For the August to October 2017 measurement period, the Fuel Threshold is \$4.58 per gallon. For the August through October 2018 period the Fuel Threshold is \$4.70 per gallon.

In the event that the average cost of diesel fuel, during the period beginning August 1<sup>st</sup> and ending October 30<sup>th</sup> immediately following a fuel increase is less than the Fuel Threshold, the monthly charges shall be adjusted to eliminate the Fuel Increase on the following January 1<sup>st</sup>.

### III. COLLECTION

- A. The CONTRACTOR hereby acknowledges that certain holidays may fall upon those days otherwise designated for the collection of garbage, yard waste, and recyclables. In such an event, collection shall be delayed one (1) day during holiday weeks when a recognized holiday falls on a regular collection day. Recognized holidays are: New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.
- B. Any material placed for collection, which is not properly prepared or consistent with the guidelines set forth herein, shall not be collected. A self-adhesive “sorry note” is to be placed on the material stating the reason

the material was not collected. The date, address, and reason that the “sorry note” was issued shall, at the VILLAGE’s request, be reported to the VILLAGE. The CONTRACTOR shall provide “sorry notes” at its own cost.

The CONTRACTOR shall provide a local phone number, staffed by an authorized agent, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday, to handle inquiries and complaints connected with garbage, recycling and yard waste collections. The CONTRACTOR shall also make available a software application that can be accessed through smartphones or web browsers for inquiries and complaints at no cost for customers with billing accounts. All complaints shall receive prompt and courteous attention from the CONTRACTOR. Complaints alleging missed collections shall be investigated promptly and, if verified, the CONTRACTOR shall arrange for pickup within twenty-four (24) hours of complaint.

- C. All complaints received by the CONTRACTOR and pertaining to the performance of this Agreement shall be given prompt and courteous attention. Any complaint received by the VILLAGE shall be faxed or otherwise transmitted to the CONTRACTOR. Upon request of the VILLAGE, the CONTRACTOR shall provide the VILLAGE with copies of all complaint forms within five (5) business days of a complaint being made, indicating thereon the resolution thereof.

Where any dispute arises between a customer and the CONTRACTOR, as to the manner or placing of containers for collection or preparation of recyclable materials, or the nature of the Agreement or the like, the CONTRACTOR agrees that in the specific instance collection shall be immediately made even though in its opinion, the customer is in error; and that it will immediately report the same to the VILLAGE so that the CONTRACTOR and the VILLAGE resolve the dispute, if possible, before additional collection becomes necessary. The intent of this paragraph is to avoid disputes or disagreements between customers and the CONTRACTOR’S employees, and to permit disputes/disagreements to be handled by mutual discussion between the CONTRACTOR and the VILLAGE.

If a missed pick-up is reported by the VILLAGE or a customer to the CONTRACTOR, the CONTRACTOR shall collect the garbage, recyclable material or landscape waste from such customer within one (1) business day of notification. All complaints other than missed pick-ups shall be resolved to the satisfaction of VILLAGE within two (2) business days. Upon request, the CONTRACTOR shall provide monthly written reports to the VILLAGE regarding the status of service calls or complaints, and shall maintain a daily log of such calls or complaints

received, which record shall be open to the VILLAGE for inspection and copying at any reasonable time.

The CONTRACTOR shall cooperate with the VILLAGE in minimizing complaints from customers. Continued unreasonable complaint levels, as determined by the VILLAGE, or failure of the CONTRACTOR to carry out any of its contractual obligations such as but not limited to rude treatment, messy pick-ups, damage to persons or property and early start-up may be due cause for the VILLAGE to terminate this Agreement after CONTRACTOR has been provided with due notice, an opportunity to be heard and a cure period of at least five (5) business days

The CONTRACTOR shall have the right to notify any customer of noncompliance with the applicable VILLAGE Code provisions concerning the handling or disposal of solid waste as those same may apply to such customers. The CONTRACTOR shall report any continuance of any such noncompliance to the VILLAGE.

- D. Services provided by the CONTRACTOR shall be performed at all times in a good, workman-like manner. The CONTRACTOR shall not damage any public or private property, real or personal. In the event of any accident involving persons or property within the VILLAGE, the CONTRACTOR shall immediately notify the VILLAGE and shall provide the VILLAGE with the date, time, location and general description of the accident.
- E. The CONTRACTOR shall furnish capable employees for use in the crews of the CONTRACTOR performing the services specified in this Agreement. The CONTRACTOR shall prohibit all drinking of alcoholic beverages and uses of controlled substances by its drivers and crewmembers while on duty or in the course of performing their duties under this Agreement.

In the event that any of the CONTRACTOR'S employees is deemed by the VILLAGE to be unfit or unsuitable to perform the services under this Agreement as a result of intoxication, drug use, incompetence, improper attire, or abusive or obnoxious behavior, the CONTRACTOR shall immediately remove such employee from work within the VILLAGE and replace him with a suitable and competent employee at no expense to the VILLAGE.

- F. Any and all refuse, yard waste or recycling carts reported by residents to be malfunctioning or in disrepair, damaged by the CONTRACTOR, or that show significant wear from regular handling shall be repaired or replaced at the expense of the CONTRACTOR within five (5) business days. Any and all resident owned garbage or yard waste containers that

are damaged by the CONTRACTOR shall be repaired or replaced at the expense of the CONTRACTOR within five (5) business days.

G. In furnishing single family residential scavenger services, the CONTRACTOR agrees to adhere to all Federal, State and Local laws, regulations and ordinances pertaining to refuse haulers.

#### IV. EQUIPMENT

A. Any motor vehicle owned, leased or operated by the CONTRACTOR during the course of performing this Agreement which has an obstructed view to the rear and is to be operated at any time in reverse gear on the public streets of the VILLAGE shall either be equipped with a reverse signal alarm (backup alarm) audible above and distinguishable from the surrounding noise level, or the CONTRACTOR shall provide and utilize an observer to signal that it is safe to back up.

The CONTRACTOR shall furnish all necessary equipment and labor for such collection service and shall at all times provide a sufficient amount of equipment and labor to maintain a completely adequate service. All equipment used by the CONTRACTOR shall be painted with no rust showing on cab, chassis or body. All refuse shall be hauled and collected in exclusively modern, neat, enclosed, non-leakable, rear, front or side loading packer-type motor trucks, equipped with a loading mechanism that is designed in such a way that the entry for refuse and yard waste into the vehicle's collecting body will be exposed only for the time actually required to deposit the materials as collected along the route. Equipment used for special pick-up service may be open body trucks, dump trucks and similar type equipment. When open body trucks are used, the CONTRACTOR will use care to see that no litter or scattering of waste materials occurs by providing a suitable covering. The CONTRACTOR shall keep all equipment used in the performance of its work in a clean, sanitary and quiet operating condition. All vehicles used for collection, including smaller collection vehicles necessary on narrow streets and alleys, shall at all times be provided with a broom and shovel for use by the CONTRACTOR'S personnel.

Equipment used in the collection of refuse shall be properly licensed by the State of Illinois and conform to all Federal and State equipment safety standards.

B. The CONTRACTOR shall not store, or allow to be stored, any equipment or materials on private property except in strict compliance with the Village of Willowbrook Village Code.

## V. DISPOSITION OF MATERIALS

- A. The CONTRACTOR shall have available for use throughout the term of this Agreement an Illinois Environmental Protection Agency (IEPA), an Indiana Department of Environmental Management (IDEM), or Wisconsin Department of Natural Resources (WDNR) permitted site for the ultimate disposal of all refuse collected under this Agreement unless otherwise directed by the VILLAGE to dispose of the waste in a particular site or location.
- B. All garbage, landscape waste and recyclable material shall be removed from the VILLAGE at the close of each day of collection and shall be disposed of at a lawfully operated regional pollution control facility(ies) located outside the VILLAGE and at the CONTRACTOR'S sole expense.
- C. The CONTRACTOR hereby warrants that sufficient sites for the disposal of refuse will be available to the CONTRACTOR during the full term of this Agreement and any renewal thereof.
- D. All landscape waste shall be disposed of at a lawfully operated landscape waste composting facility. Said facility may treat, compost, ground or land apply said landscape waste. Said facility shall not be located within the corporate limits of the VILLAGE. No landscape waste may be disposed of at a landfill or solid waste incinerator unless otherwise authorized by the Illinois Environmental Protection Act (415 ILCS 5/1).

## VI. BILLING AND COLLECTION

- A. The CONTRACTOR will be solely responsible for printing and distributing refuse/yard waste stickers to the VILLAGE and local retailers as hereinbefore set forth. The monthly charge for cart service shall be billed by the CONTRACTOR directly to the resident on a quarterly basis.
- B. The CONTRACTOR shall collect and include on each quarterly bill a minimum surcharge of \$2.16 per customer to fund the annual brush collection program. All collected surcharges shall be remitted at no charge to the VILLAGE within ninety (90) days after the due date of the quarterly bill. The VILLAGE reserves the right to change the amount of the surcharge when necessary.
- C. For the term of this Agreement, the CONTRACTOR shall pay all charges due for the CONTRACTOR'S disposal of garbage at the stipulated facility. At no time shall the VILLAGE be required to pay for actual

disposal charges. The CONTRACTOR will be responsible for any lawful interest, penalties or late payment charge assessed as a result of the CONTRACTOR'S failure to make timely payment as set forth above.

D. Residents of the VILLAGE may choose to subscribe to a yard waste season cart service in place of the yard waste sticker service. For single family residences selecting this optional service:

1. The CONTRACTOR shall provide the single family residence with a choice of a thirty-five (35), sixty-five (65), or ninety-five (95) gallon cart used solely for yard waste.
2. The cost to the residents for each thirty-five (35) gallon cart used for yard waste shall not exceed \$19.62 per month until December 31, 2016, \$20.31 per month until December 31, 2017, \$21.02 per month until December 31, 2018 and \$21.75 per month until December 31, 2019. The cost to the residents for each sixty-five (65) gallon cart used for yard waste shall not exceed \$23.00 per month until December 31, 2016, \$23.81 per month until December 31, 2017, \$24.64 per month until December 31, 2018 and \$25.50 per month until December 31, 2019. The cost to the residents for each ninety-five (95) gallon cart used for yard waste shall not exceed \$25.89 per month until December 31, 2016, \$26.80 per month until December 31, 2017, \$27.73 per month until December 31, 2018 and \$28.70 per month until December 31, 2019. The customer will be billed by the CONTRACTOR only for the months during the yard waste collection season as explained in Article II.C.1.

## VII. VIOLATIONS REGARDING SERVICE/EQUIPMENT – FINES

The VILLAGE expects high quality service to be provided to VILLAGE residents. In the event the CONTRACTOR violates any of the following standards, the Village Administrator may assess fines against the CONTRACTOR in the amounts set forth:

- A. Failure to clean up spilled refuse, landscape waste or recyclable material within one (1) business day after notification by the VILLAGE – seventy-five and no/100ths dollars (\$75.00) fine for each instance and for each day the violation continues. If the spill is cleaned up by the VILLAGE, the fine shall be seventy-five and no/100ths dollars (\$75.00) plus the cost of cleanup.
- B. Early start fine of seventy-five and no/100ths dollars (\$75.00) per route, per day will be assessed for each instance of pick-up prior to 7:00 A.M. reported to the VILLAGE.

C. Failure to make a required pick-up – seventy-five and no/100ths dollars (\$75.00) will be assessed for failure to make a required pick-up which is not remedied within two (2) business days of receipt of complaint. An additional seventy-five and no/100ths dollars (\$75.00) will be assessed for each day thereafter during which the pick-up is not effectuated.

The assessment of fines is to insure the quality of services provided and shall not be deemed to be a waiver or release of any other remedy the VILLAGE may be entitled to under law. The assessment of fines shall be made by the Village Administrator. The Village Administrator shall assess fines once each month and notify the CONTRACTOR. The notice shall contain the following information:

1. Date of each violation
2. Approximate location of each violation
3. Nature of each violation
4. Fine being assessed
5. Total fine for the month

The CONTRACTOR shall have thirty (30) days to pay to the VILLAGE any fines assessed. In the event the CONTRACTOR fails to pay any fines assessed within said time period, or, in the event of an appeal by the CONTRACTOR, after a decision by the Mayor and Board of Trustees (in the form of a written ordinance approved by the same in accordance with the Willowbrook Village Code and the laws of the State of Illinois), the VILLAGE shall have the right to draw on the performance bond provided for in this Agreement for the amount of any unpaid fines. The Village Administrator's decision in assessing any fine shall be final unless the CONTRACTOR appeals such decision in writing within seven (7) days after the date of the notice provided for above. Such appeal shall be made to the Mayor and Board of Trustees. The Mayor and Board of Trustees shall consider such appeal at a regular or specially called meeting at which time the CONTRACTOR shall have an opportunity to present its side of the case. The decision of the Mayor and Board of Trustees regarding any such appeal shall be final.

## VIII. OTHER CONSIDERATIONS

A. The CONTRACTOR shall maintain its books and records related to the performance of this Agreement in accordance with the following minimum requirements.

1. The CONTRACTOR shall maintain any and all ledgers, books of account, receipts, invoices, vouchers and canceled checks, as well as all other records or documents evidencing or relating to charges for services, expenditures or disbursements for a minimum period of three (3) years after the termination of this Agreement, or for any longer period required by law.

2. The CONTRACTOR shall maintain all documents and records, which demonstrate performance under this Agreement for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this Agreement.
3. The CONTRACTOR'S records or documents shall be made available for inspection or audit, at any time, during regular business hours, upon advance written request by a VILLAGE representative to ensure compliance with the provisions of this Agreement. The records shall be available to the VILLAGE representatives at the CONTRACTOR'S address indicated for receipt of notices in this Agreement.

B. The CONTRACTOR shall furnish an irrevocable performance bond in the amount of three hundred twenty five thousand and No/100 dollars (\$325,000) to be renewed annually for the faithful performance of this Agreement.

C. Failure of the CONTRACTOR to Perform:

1. All terms and conditions of the Agreement are considered material and failure to perform any of said terms or conditions on the part of the CONTRACTOR shall be considered a breach of this Agreement. Should the CONTRACTOR fail to perform any such terms or conditions, the VILLAGE shall have the right to terminate this Agreement after five (5) days' written notice to the CONTRACTOR of the violation of the Agreement and failure of the CONTRACTOR to remedy the violation within said time to the satisfaction of the VILLAGE. In addition to any and all equitable legal remedies available to the VILLAGE in the event of a breach of this Agreement by the CONTRACTOR, the VILLAGE shall have the right to draw upon the performance bond described in this Agreement. The remedies provided to the VILLAGE herein shall be cumulative and not exclusive. No waiver by the VILLAGE of a default by the CONTRACTOR under this Agreement shall be construed as a waiver by the VILLAGE of any subsequent default or failure to perform on the part of the CONTRACTOR.
2. In the event of a failure by the CONTRACTOR to provide any of the services required under this Agreement for a period of five (5) days following written notice of such failure, then the VILLAGE, at their sole option and by any means, may cause such materials to be properly disposed of or otherwise handled or processed. Any and all expenses incurred by the VILLAGE may be charged against the CONTRACTOR and the performance bond furnished by the CONTRACTOR. Expenses incurred by the VILLAGE shall also include any previously purchased, but unused refuse/yard waste stickers in the possession of the general public and retail outlets. In addition, the VILLAGE may immediately

terminate this Agreement as per the terms of the above section and may elect, in their sole discretion, to seek any available legal remedy.

The CONTRACTOR shall not be in breach of this Agreement whenever it fails to provide any service required under this Agreement, if such failure is caused by events or occurrences of a nature commonly known as "force majeure" or acts of God or strikes beyond the CONTRACTOR'S control.

D. Insurance:

1. During the duration of this Agreement, the CONTRACTOR shall maintain the following insurance limits:
  - a. Workers' Compensation Insurance as prescribed by the laws of the State of Illinois.
  - b. Employers' Liability Insurance, with limits of not less than one million dollars (\$1,000,000) per occurrence.
  - c. Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. The general and aggregate shall be twice the required occurrence limit. Minimum General Aggregate shall be no less than \$2,000,000
  - d. Commercial Automobile Liability Insurance with a limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage per occurrence.
  - e. Umbrella Excess Liability insurance with a limit of not less than five million dollars (\$5,000,000) for bodily injury, property damage, and personal injury per occurrence.
2. The CONTRACTOR shall furnish a certificate of insurance annually, verifying the existence of the aforementioned coverages. Further, the VILLAGE shall be named as additional insured parties on each said policy except Worker's Compensation for any liability arising out of the CONTRACTOR'S work in a form subject to the review and approval by the VILLAGE at their sole discretion. Each certificate shall also bear an endorsement precluding the cancellation of coverage without giving the VILLAGE at least thirty (30) days prior notice thereof in writing. For purposes of this Agreement, "arising out of the CONTRACTOR'S work" shall mean:
  - a. Liability the VILLAGE may incur for which the VILLAGE is indemnified under Article VIII.D.3 below; and/or

- b. Liability the VILLAGE may incur due to joint negligence of the CONTRACTOR and the VILLAGE.
3. To the fullest extent permitted by law, the CONTRACTOR agrees to indemnify, defend and save the VILLAGE and its officers, agents and employees, harmless from and against any and all suits, actions or claims of any kind or character, including expenses, attorneys' fees and costs, brought because of any injuries or damages received or sustained by any person, persons, including employees, agents or invitees of the VILLAGE, or property arising by reason of or as a result of, this Agreement or the performance or nonperformance of the CONTRACTOR hereunder or by reason of any act or omission of the CONTRACTOR, or its officers, agents, employees or subcontractors. The CONTRACTOR shall indemnify, defend, save and hold harmless the VILLAGE, its officers, agents and employees, from any and all liability, losses, damages, expenses and lawsuits, including workers' compensation claims, attorneys' fees and costs of defense, that the VILLAGE may suffer, incur or become liable for on account of:
  1. The negligence or intentional acts of omissions of the CONTRACTOR, its employees, agents or assigns.
  2. Any assertion of claim under the Illinois Workers' Compensation Act or similar acts made by any person.
  3. Any action in law or equity brought by any party under Federal or State law in an effort to set aside this Agreement.
  4. The CONTRACTOR shall, at the CONTRACTOR'S own expense, appear, defend, and pay any charges of attorneys and all costs and other expenses arising from the foregoing, or incurred in connection therewith in the defense of the VILLAGE, their agents, officials and employees.
  5. The CONTRACTOR agrees that in the event a judgment should be entered against the VILLAGE as a result of the negligence and omissions herein above described, the CONTRACTOR shall immediately satisfy same including, but without limitation on the foregoing, all costs and interest in connection therewith.
  6. The CONTRACTOR expressly understands and agrees that any performance bond or insurance protection required of this CONTRACTOR, or otherwise provided by this CONTRACTOR, shall in no way limit the responsibility to indemnify, keep and save

harmless and defend the VILLAGE, their agents, officials and employees as hereinabove provided.

E. Federal, State and Local regulations; taxes; permits; licenses:

1. The CONTRACTOR shall adhere to all Federal and State guidelines governing equal employment opportunities.
2. The VILLAGE has adopted an ordinance governing the prevailing rate of wages paid for work in DuPage County as determined by the Illinois Department of Labor. All labor performed under the provision of this Agreement shall comply with the Illinois Prevailing Wage Act.
3. The VILLAGE is exempt from State and Local sales, excise and use taxes. Rates shall include all applicable taxes.
4. Rates shall include the cost of permits, licenses and all other certifications required by Federal, State and Local laws, regulations and ordinances.
5. The rates and charges set forth in this Agreement are subject to adjustment in accordance with this section in the event of a "Change of Law." For purposes of this Agreement, the term "Change of Law" shall mean a change in a current federal, State of Illinois, or local law, statute, ordinance or regulation or a new federal, State of Illinois, or local law, statute, ordinance or regulation that affects the Contractor's manner of performance or cost of providing services. In the event of Change of Law, the Contractor shall provide a detailed written notice to the Village of the Change in Law, the manner in which the Change of Law affects the costs of services, the magnitude of the effect of the Change of Law on the cost of services, and the Contractor's proposal in response to that effect. Within thirty (30) days after receipt by the Village of the Contractor's notice, the Contractor and the Village shall meet to discuss the Change of Law and determine what change, if any, is necessary and appropriate to the rates and charges in this Contract and the timing and method of implementing any such change. The Village may request any documentation necessary from the Contractor to assist with the analysis of the Change of Law impact.

F. Subcontracting and assignment: the CONTRACTOR shall not subcontract out or assign single family residential scavenger service and/or this Agreement to a subcontractor or an assignee without prior written consent of the VILLAGE and said consent may be withheld at the VILLAGE'S sole discretion; provided however that CONTRACTOR may assign this Agreement, without consent, to an affiliate of the CONTRACTOR.

G. Title to refuse, recyclables, yard waste and other materials set out for collection shall transfer to the CONTRACTOR when the aforementioned items are placed in the CONTRACTOR'S vehicles. When the

CONTRACTOR transports those materials to a processing, disposal or other site (collectively "Disposal Site"), title shall pass to the operator of that Disposal Site. Title to and liability for Unacceptable Waste shall at no time pass to the Contractor and shall remain with the generator of such waste. If the Disposal Site is paid for taking the materials that cost paid to the Disposal Site shall be paid solely by the CONTRACTOR. If money is paid to the CONTRACTOR for the material, the CONTRACTOR shall keep the proceeds and shall give an accounting to the VILLAGE, on their request for internal purposes only.

## IX. MISCELLANEOUS

- A. The CONTRACTOR agrees to comply at all times with all applicable laws, ordinances, rules and regulations of the VILLAGE, the County of DuPage and the State of Illinois, and the United States Government and any agencies thereof. The CONTRACTOR agrees to comply with applicable Local, State and Federal laws and requirements concerning equal employment opportunities.

In the event of the CONTRACTOR'S noncompliance with any provision of the Equal Employment Opportunity Act, the Americans With Disabilities Act (ADA), the Illinois Fair Employment Practices Act, or the Fair Employment Practices Commission's Rules and Regulations for Public Contracts, the CONTRACTOR is declared non-responsible and therefore ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivision or municipal corporations, this Agreement may be canceled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation.

- B. The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Agreement. The CONTRACTOR also warrants that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of, or the carrying out of this Agreement. For breach or violation of this warranty, the VILLAGE shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the price of consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.
- C. The CONTRACTOR is free to engage in work as a private scavenger or hauler and to charge the public for services other than as provided in this Agreement. Such private scavenging or hauling shall not be construed as falling within the terms of this Agreement, and if the CONTRACTOR

engages in such activities, it specifically relieves the VILLAGE of all liability associated with such activities.

- D. The CONTRACTOR shall obtain and pay for all licenses and permits. The CONTRACTOR shall pay all Federal, State and local taxes, including sales tax, social security, workers' compensation, unemployment insurance and other taxes, which may be chargeable against labor, material, equipment, real estate, and any other items necessary to and in the performance of this Agreement.
- E. No assignment of this Agreement, either voluntarily or involuntarily or by process of law, or any right or obligation accruing under this Agreement shall be made in whole or in part by the CONTRACTOR without the prior written consent of the VILLAGE; provided however that CONTRACTOR may assign this Agreement, without consent to an affiliate of the CONTRACTOR or in connection with the sale of the CONTRACTOR's business. In the event of any assignment, the assignee shall assume the liability of the CONTRACTOR. This Agreement shall not be or come under the control of creditors, or a trustee or trustees of the CONTRACTOR in case of bankruptcy, or insolvency of the CONTRACTOR, but shall be subject to termination as provided herein.
- F. Neither the CONTRACTOR nor its employees shall request or accept any gratuities from any person, firms, or corporation for services required to be performed under this Agreement provided that where customers desire special service over and above that provided by the VILLAGE Code and this Agreement, they may make such arrangement as they so desire and make any payment therefore to the CONTRACTOR'S office.
- G. It is expressly agreed and understood that the CONTRACTOR is in all respects an independent contractor, notwithstanding in certain respects the CONTRACTOR is required to follow the directions of designated the VILLAGE officials, and that the CONTRACTOR is in no respect an agent, servant or employee of the VILLAGE. This Agreement specifies the work to be done by the CONTRACTOR, but the method to be employed to accomplish this work is the responsibility of the CONTRACTOR, unless otherwise provided in this Agreement.
- H. The CONTRACTOR shall furnish the Village Administrator with every reasonable opportunity for ascertaining whether or not the work as performed is in accord with the requirements of this Agreement. The Village Administrator may appoint qualified persons to inspect the CONTRACTOR'S operations, records, and equipment at any reasonable time and the CONTRACTOR shall admit authorized representatives of the VILLAGE to make such inspections at any reasonable time and place.

- I. It is expressly agreed that in no event shall the VILLAGE be liable or responsible to the CONTRACTOR or any other person on account of stoppages or delay in the work herein provided for, by injunction or other legal or equitable proceedings brought against the CONTRACTOR, or from or by account of any delay from any cause whatsoever over which the VILLAGE does not exercise control.
- J. Should a strike occur which lasts more than three (3) calendar days, the VILLAGE shall be permitted to institute such procedures to collect and dispose of the refuse, landscape waste and recyclable material to be collected pursuant to this Agreement as the VILLAGE deems necessary, and may draw on the performance bond to pay for the costs of such procedures.
- K. If the CONTRACTOR shall at any time during the term of this Agreement become insolvent, or if proceedings in bankruptcy shall be instituted against the CONTRACTOR, or if proceedings in bankruptcy shall be instituted by the CONTRACTOR or if the CONTRACTOR shall be adjudged bankrupt or a receiver of any property of the CONTRACTOR shall be appointed in any suit or proceedings brought by or against the CONTRACTOR, or if the CONTRACTOR shall make an assignment for the benefit of the creditors, then in each and every case, this Agreement and the rights and privileges granted hereby may, at the option of the VILLAGE, immediately cease, determine and be forfeited and canceled. The CONTRACTOR shall list the VILLAGE as a creditor in any bankruptcy filing.
- L. The CONTRACTOR and the VILLAGE agree that venue for any action, whether in law or equity, arising out of this Agreement, shall exclusively be in the Circuit Court of the Eighteenth Judicial Circuit, DuPage County, Illinois.
- M. This Agreement is governed by the law of the State of Illinois.
- N. All amendments to this Agreement must be in writing and signed by the parties hereto.
- O. Except as otherwise explicitly provided in this Agreement, all notices permitted or required to be given by the parties to this Agreement shall be in writing and shall be deemed delivered to the addressee when delivered in person on a business day at the address set forth below, or on the third business day after being deposited in the United States mail for delivery at the address set forth below, postage prepaid, certified or registered mail, return receipt requested.

Notices to the VILLAGE shall be addressed to, and delivered at, each of the following addresses:

Village of Willowbrook  
835 Midway Drive  
Willowbrook, Illinois 60527  
Attention: Village Administrator

Notices to the CONTRACTOR shall be addressed to, and delivered at, the following address:

Allied Waste Services of North America, LLC.  
5050 W. Lake Street  
Melrose Park, Illinois 60160  
Attention: General Manager

By notice complying with the requirements of this Article, each party shall have the right to change the address or addressee for all future notices to such party.

- S. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be and shall constitute one and the same instrument.
- T. The provisions of this Agreement shall be interpreted when possible to sustain their legality and enforceability. In the event any provision of this Agreement shall be held invalid, illegal or enforceable by a court of competent jurisdiction, in whole or in part, neither the validity of the remaining part of such provision, nor the validity of any other provisions of this Agreement, shall be in any way affected thereby.
- U. This Agreement sets forth the entire agreement between the parties with respect to the accomplishment of the work and the rates and charges therefore, and there are no other understandings or agreements, oral or written, between the parties with respect to the service to be provided, and the rate and charges therefore.
- V. The CONTRACTOR warrants that it is experienced in each of the areas under which it will have duties and obligations under this Agreement and that it had adequate personnel and experience to properly and satisfactorily discharge its duties and obligations under this Agreement.

IN WITNESS WHEREOF, the CONTRACTOR has executed this Agreement with its corporate seal affixed thereto, by its duly authorized corporate officials acting pursuant to authority granted by its Board of Directors, and the Village has executed this Agreement with its corporate seal affixed thereto, by its Mayor and Village Clerk acting pursuant to authority granted by the Mayor and Board of Trustees thereof, all on the day and year first written above.

VILLAGE OF WILLOWBROOK

By: Frank A. Trilla

Frank A. Trilla  
Mayor

Attest: Leroy R. Hansen

Leroy R. Hansen  
Village Clerk



Allied Waste Services of North America, LLC

By: Chris J. Smith

Its: General Manager

Attest: Richard V. Miller

Its: Municipal Services Manager

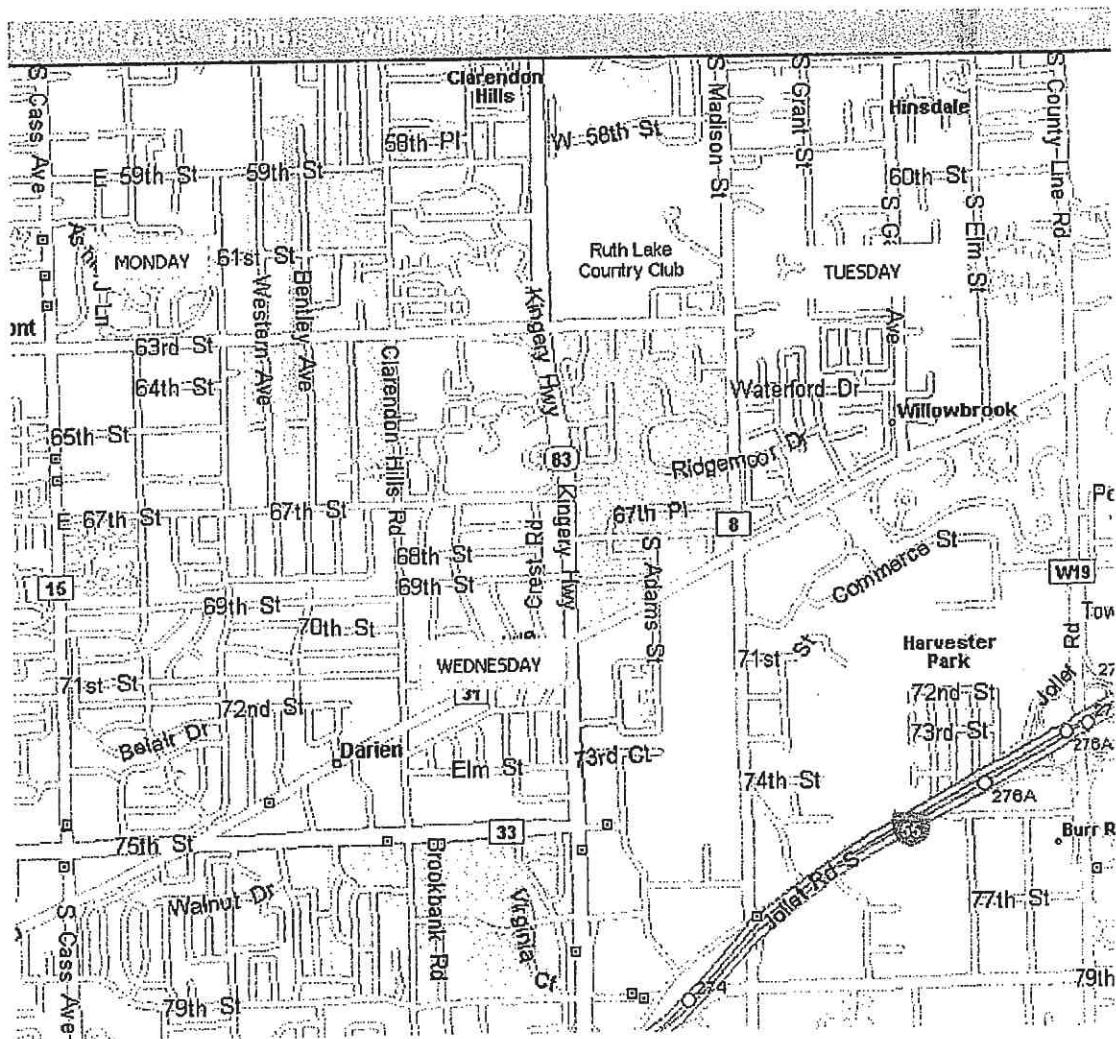
**EXHIBIT A**  
**GENERAL PRICE QUOTATION SHEET**

<b>Cart Services*</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Year 4</b>
35 gallon (per month) garbage cart	\$19.33	\$19.81	\$20.31	\$20.82
65 gallon (per month) garbage cart	\$20.49	\$21.00	\$21.53	\$22.07
95 gallon (per month) garbage cart	\$21.18	\$21.71	\$22.25	\$22.81
35 gallon (per month) garbage cart-Senior rate	\$15.44	\$15.83	\$16.22	\$16.63
Refuse/yard waste Sticker (per sticker)	\$3.00	\$3.00	\$3.00	\$3.00
<b>Optional Yard Waste Cart Service</b>				
35 gallon cart (per month during yard waste season)	\$19.62	\$20.31	\$21.02	\$21.75
65 gallon cart (per month during yard waste season)	\$23.00	\$23.81	\$24.64	\$25.50
95 gallon cart (per month during yard waste season)	\$25.89	\$26.80	\$27.73	\$28.70
White Goods (cost per item)	\$30.00	\$30.00	\$30.00	\$30.00
Special Collection Charge (per cubic yard)	\$18.00	\$19.00	\$20.00	\$21.00
Charge to exchange carts **	\$25.00	\$25.00	\$25.00	\$25.00
Rental of Compactor Truck	\$150.00	\$150.00	\$150.00	\$160.00

\* includes recycling cart

\*\* after initial exchange within first 90 days

EXHIBIT B  
SERVICE SCHEDULE



STATE OF ILLINOIS )  
 ) SS  
COUNTY OF DUPAGE )

I, the undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Frank A. Trilla, Mayor of the Village of Willowbrook and Leroy Hansen, Village Clerk of said Village, whose names are subscribed to the foregoing instrument as such Mayor and Village Clerk, respectively appeared before me this day in person and acknowledged that they signed and delivered the said instrument, as their own free and voluntary act and as the free and voluntary act of said Village, for the uses and purposes therein set forth; and the said Village Clerk, as custodian of the corporate seal of said Village, then and there did affix the corporate seal of said Village to said instrument, as his own free and voluntary act and as the free and voluntary act of said Village, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 26<sup>th</sup> day of October, 2015

Cynthia A. Steele  
Notary Public



STATE OF ILLINOIS      )  
                            ) SS  
COUNTY OF DUPAGE      )

I, the undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that John C. Lutz, General Manager of Allied Waste Services of North America, LLC., and John C. Lutz, Comptroller of its Melrose Park, Illinois division, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such General Manager and Comptroller, respectively appeared before me this day in person and acknowledged that they signed and delivered the said instrument, as their own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth; and the said General Manager, as custodian of the corporate seal of said corporation, did affix the corporate seal of said corporation to said instrument, as his own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 25 day of November, 2015

Debbie A. Aguilar  
Notary Public



**MUNICIPAL SERVICES COMMITTEE MEETING**  
**AGENDA ITEM SUMMARY SHEET**

AGENDA ITEM DESCRIPTION	COMMITTEE REVIEW
<b>DISCUSSION – Proposal for Professional Engineering Services – Village of Willowbrook Stormwater Master Plan for Executive Plaza Drainage Area</b>	<input type="checkbox"/> Finance/Administration <input checked="" type="checkbox"/> Municipal Services <input type="checkbox"/> Public Safety <u>Meeting Date:</u> July 8, 2019
<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Seeking Feedback <input type="checkbox"/> Regular Report	<input type="checkbox"/> Approval of Staff Recommendation (for consideration by Village Board at a later date) <input type="checkbox"/> Approval of Staff Recommendation (for <u>immediate</u> consideration by Village Board) <input type="checkbox"/> Report/documents requested by Committee
<b>BACKGROUND</b>	
<p>Staff advised the Municipal Services Committee on May 13, 2019 about on-going drainage / flooding concerns within the Executive Plaza area during very heavy rain events. The Executive Plaza office and light industrial area was developed in the 1970s. At that time the drainage design standards included secondary overflow storage in the public streets and in private parking lots within the Executive Plaza area. The stormwater overflow into the streets can cause temporary street closures until the stormwater system can release the overflow into the downstream system. The business owners within the area would like the Village to review the system and try to incorporate enhancements to alleviate the overflow drainage.</p>	
<p>Christopher B. Burke Engineering has provided a professional engineering service proposal to review the stormwater master plan for the Executive Plaza drainage area. The proposal for this service has a cost of \$48,400.00. Our current Village Budget does not have dollars allocated for this type of engineering review. The Village would need to consider shifting budgeted dollars from another project or consider this proposal as part of the 2020 / 2021 budget should the Committee see a need to move forward with this proposal. The Village could also consider establishing a special service area to help fund the cost of the engineering study and any proposed improvements within the area.</p>	
<p>Dan Lynch from Christopher B. Burke Engineering will attend the Municipal Service Committee to review the proposal and discuss the drainage system within the Executive Plaza Area.</p>	
<b>REQUEST FOR FEEDBACK</b>	
Staff is requesting feedback on this proposal.	





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

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

June 12, 2019

Village of Willowbrook  
835 Midway Drive  
Willowbrook, IL 60527

Attention: Michael Mertens

Subject: Proposal for Professional Engineering Services  
Village of Willowbrook Stormwater Master Plan  
for Executive Plaza Drainage Area

Dear Mr. Mertens:

Christopher B. Burke Engineering, Ltd. (CBBEL) is pleased to provide this proposal for professional engineering services related to the preparation of a Stormwater Master Plan (SMP) for the Executive Plaza area. Included in this proposal is our Understanding of the Assignment, Scope of Services, and Estimated Fee.

**UNDERSTANDING OF THE ASSIGNMENT**

It is our understanding that the Village of Willowbrook (Village) would like a SMP prepared for the Village's drainage system of the 200-acre area tributary to Executive Plaza.

CBBEL completed a study of the same area in 1993. We understand some of the undeveloped area has been developed since 1993 and other improvements have taken place such as raising Madison Street and the building at the southwest corner of Madison Street and Executive Drive. We also understand that heavy rains have continued to plague the area with long draindown times from significant street flooding.

CBBEL will create a new hydrologic and hydraulic model of the tributary area. We will use all available data including aerial topography, previous survey data of storm sewers and overland flow paths, information from our modeling efforts from nearly 26 years ago and as-built plans of developments completed in the study area since 1993. The SMP will include all the latest information available to establish our existing conditions model. We will run several recent storm events, such as the October 2017 event, to be sure our model reflects the flooding levels and draindown times experienced.

Based on the results of the modeling, we will look at various alternatives to help alleviate the flooding. The alternatives may vary from creating storage to rerouting flows. We will look at several alternatives that may provide varying degrees of benefits. We will create a stormwater table summarizing the alternatives and benefits. A conceptual cost estimate will be provided for each alternative along with a summary report.



We have assumed that no survey information will be needed for this study.

We are recommending the following Scope of Services for the Village's SMP.

### **SCOPE OF SERVICES**

CBBEL has identified the tasks that will lead to a successful completion of the SMP:

**Task 1 – Data Collection & Analysis:** CBBEL will collect, review and analyze the following data for use in the initial phases of the drainage analysis. A GIS database will be developed using the spatially oriented data.

- DuPage County 1-foot aerial topographic mapping and LIDAR data
- Village GIS mapping and database information
- CBBEL 1993 Stormwater Study
- As-built surveys of development constructed in the area since 1993
- Historic rainfall data from the Village that resulted in flooding will be reviewed and analyzed
- Storm sewer televising tapes
- Relevant DuPage County, FEMA and IDNR-OWR data for the Village, including draft floodplain maps

**Task 2 – Existing Conditions Hydrologic and Hydraulic Analysis:** The hydrologic and hydraulic modeling is the backbone of the technical analysis in the study. To evaluate the Village's current drainage system, existing storm event level of service and protection, we will utilize the XP-SWMM hydrologic and hydraulic models. We will utilize all available information, including previous modeling, gathered as part of Task 1 for the existing conditions modeling. DuPage County 1-foot topography as well as the Village's as-built storm sewer data will be used to delineate subbasins throughout the study area. NRCS hydrologic methods will be utilized to calculate a unique runoff curve number and time of concentration for each subbasin. We will input these subbasins and storm sewer network into XP-SWMM modeling software.

Once the model is developed for the study area, we will calibrate the model to historical storm events, where possible, and the results will be compared with historic flooding information. CBBEL will analyze both the free outfall condition and tailwater conditions to determine the effect on the sewer system. Design storm events will be utilized to run a critical duration analysis for each drainage problem area to determine the level of service and protection for the existing stormwater conveyance system.

Our detailed hydrologic and hydraulic analysis will identify the cause of flooding in the study area, whether it is limitations in capacity of the local sewers, the trunk system or overland flow routes. The model results will identify the existing level of service and guide the design of the proposed stormwater improvement projects.



**Task 3 – Proposed Conditions XP-SWMM Analysis:** Based on our experiences with similar projects, CBBEL will develop proposed drainage improvement projects to reduce the risk of future flooding. This will include all of the identified drainage problem locations where existing detention basins are in the vicinity, these will be specifically analyzed to determine if they can be expanded to provide drainage benefits. Similarly, if Village owned property is located within the drainage basin (or property that could be acquired by the Village) it will be evaluated to see if it can provide floodwater storage that would benefit drainage at the flood problem area.

A range of projects will be investigated for the study area to determine what would be necessary to provide varying levels of flood protection for each area. This could include new storm sewers, stormwater storage basins, overland flow paths, green infrastructure, and other drainage improvements.

**Task 4 – Concept Plan Preparation:** We will prepare a concept plan for each of the proposed drainage improvement alternatives. The concept plan will be based on the hydrologic and hydraulic model results and will utilize the DuPage County aerial topography, aerial photos, site visits and available utility information from the Village. It is envisioned that each concept plan will be on an 11x17 exhibit.

**Task 5 – Engineer’s Estimate of Probable Cost:** We will prepare an engineer’s estimate of probable cost for the concept plans. The cost estimates will be broken down into unit costs and quantities for the different pay items. The unit costs will be based on recent bid openings where possible. The engineer’s estimate of probable cost will include design engineering, permitting and construction engineering costs.

**Task 6 – Benefit Analysis:** The benefits of a particular drainage improvement project can be measured in a variety of ways including; reduction in street flooding (duration and elevation), flood protection provided to structures, reduction in property flooding, and other metrics. We envision the metric used to quantify benefits in this study will be roadway inundation reduction and properties benefited. We will work with the Village to determine any additional benefits to be quantified. CBBEL will complete a benefits analysis for the various projects. The benefits will be based on the design level service event(s).

**Task 7 – Stormwater Project Summary Matrix:** A GIS database is a key foundational component of the SMP. This also helps create clear exhibits that can be easily understood by a non-technical audience. The benefits and costs for each project area must also be clearly presented in a way that allows a decision of what project should be completed. The matrix will include:

- Project costs
- Number of structures protected
- Reduction in roadway inundation
- Level of protection provided (10-year, 100-year, etc.)
- Number of properties protected
- If easements or land acquisition is required.



- Utility conflicts that require significant relocation
- Permitting challenges

The matrix will allow for easy comparison of projects for the Village. We will work with the Village on the ranking system within the matrix, and we understand that priority shall be given to projects based on the benefits for the design level service event.

**Task 8 – Plan Report:** We will summarize the SMP in a written report. The report will include the following:

- plan purpose,
- past flooding events within the Village and floodplain maps,
- comprehensive summary of flooding reports from Village staff,
- existing drainage problem areas and evaluation of level of service,
- procedure for developing drainage projects and summary of drainage projects,
- project matrix with separate sections for each drainage problem area and associated projects with exhibit, costs, benefit/cost ratio.

**Task 9 – Village Meetings:** In addition to the meetings outlined above, additional meetings will be required with the Village to finalize the SMP.

#### FEE ESTIMATE

<b>TASK</b>	<b>DESCRIPTION</b>	<b>FEE</b>
1	Data Collection & Analysis	\$ 2,600
2	Existing Conditions Hydrologic and Hydraulic Analysis	\$ 8,500
3	Proposed Conditions XP-SWMM Analysis	\$12,000
4	Concept Plan Preparation	\$ 6,000
5	Engineer's Estimate of Probable Cost	\$ 4,000
6	Benefit Analysis	\$ 5,000
7	Stormwater Project Summary Matrix	\$ 1,500
8	Plan Report	\$ 7,000
9	Village Meetings	\$ 1,800
		<b>TOTAL</b>
		<b>\$48,400</b>

We will bill you at the hourly rates specified on the attached Schedule of Charges and establish our contract in accordance with the attached General Terms and Conditions. Direct costs for blueprints, photocopying, mailing, mileage, overnight delivery, permit fees, data collection fees, 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 meetings or additional services are not included in the preceding fee estimate and will be billed at the attached hourly rates.



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,

 for

Christopher B. Burke, PhD, PE, D.WRE, Dist.M.ASCE  
President

Encl. Schedule of Charges  
General Terms and Conditions

THIS PROPOSAL, SCHEDULE OF CHARGES AND GENERAL TERMS AND CONDITIONS  
ACCEPTED FOR VILLAGE OF WILLOWBROOK:

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

TTB/sll  
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**CHRISTOPHER B. BURKE ENGINEERING, LTD.**  
**STANDARD CHARGES FOR PROFESSIONAL SERVICES**  
JANUARY, 2019

	<u>Charges*</u> <u>(\$/Hr)</u>
<u>Personnel</u>	
Principal	265
Engineer VI	241
Engineer V	200
Engineer IV	163
Engineer III	146
Engineer I/II	116
Survey V	220
Survey IV	188
Survey III	165
Survey II	121
Survey I	96
Engineering Technician V	190
Engineering Technician IV	155
Engineering Technician III	140
Engineering Technician I/II	65
CAD Manager	170
Assistant CAD Manager	147
CAD II	130
GIS Specialist III	142
GIS Specialist I/II	90
Landscape Architect	163
Environmental Resource Specialist V	208
Environmental Resource Specialist IV	163
Environmental Resource Specialist III	134
Environmental Resource Specialist I/II	90
Environmental Resource Technician	110
Administrative	100
Engineering Intern	61
Information Technician III	125
Information Technician I/II	112

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, 2019.



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



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

CHRISTOPHER B. BURKE ENGINEERING, LTD.  
GENERAL TERMS AND CONDITIONS

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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

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.



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**.

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.

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".



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.



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



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:



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



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.

