

CLERK'S CONTRACT and AGREEMENT COVER PAGE

Legistar File ID#: 2019-0680

Innoprise Contract #: C19-0140

Year: 2019-20

Amount: \$653,670.00

Department: Public Works - Ken Dado

Contract Type: Construction

Contractors Name: Era-Valdivia Contractors, Inc.

Contract Description: Elevated Tank No.5 Rehabilitation

MAYOR
Keith Pekau

VILLAGE CLERK
John C. Mehalek

14700 S. Ravinia Avenue
Orland Park, IL 60462
708.403.6100
OrlandPark.org



TRUSTEES
Kathleen M. Fenton
James V. Dodge
Daniel T. Calandriello
William R. Healy
Cynthia Nelson Katsenes
Michael R. Milani

October 23, 2019

Mr. Greg Bairaktaris
Senior Project Manager
Era-Valdivia Contractors, Inc.
11909 S. Avenue O
Chicago, Illinois 60617

NOTICE TO PROCEED – Elevated tank No. 5 Rehabilitation

Dear Mr. Bairaktaris:

This notification is to inform you that the Village of Orland Park has received all necessary contracts, certifications, insurance documents and bonds in order for work to commence on the above stated project as of October 15, 2019. Please find enclosed, your bid bond, which is hereby released as we have received the payment and performance bonds.

Please contact Ken Dado at 708-403-6107 to arrange the commencement of the work.

The Village will be processing a Purchase Order for this contract and it will be emailed to your company. It is imperative that this number on the Purchase Order be noted on all invoices, correspondence, etc. All invoices should be sent directly to the Accounts Payable Department at 14700 S. Ravinia Ave. Orland Park, IL 60462 or emailed to accountspayable@orlandpark.org. Also, your final invoice for this contract should state that it is the final invoice pertaining to that Purchase Order.

For your records, I have enclosed one (1) original executed contract dated October 4, 2019 in an amount not to exceed Six Hundred Fifty Three Thousand Six Hundred Seventy and No/100 (\$653,670.00) Dollars. If you have any questions, please call me at 708-403-6173.

Sincerely,


Denise Domalewski
Purchasing & Contract Administrator

Encl:

CC: Bill Cunningham
Ken Dado
Rich Rittenbacher

MAYOR
Keith Pekau

VILLAGE CLERK
John C. Mehalek

14700 S. Ravinia Avenue
Orland Park, IL 60462
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TRUSTEES

Kathleen M. Fenton
James V. Dodge
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Cynthia Nelson Katsenes
Michael R. Milani

October 4, 2019

Mr. Jose G. Valdivia
Era-Valdivia Contractors, Inc.
11909 South Avenue O
Chicago, Illinois 60617

NOTICE OF AWARD – Elevated Tank No. 5 Rehabilitation

Dear Mr. Valdivia:

This notification is to inform you that on September 16, 2019, the Village of Orland Park Board of Trustees approved awarding Era-Valdivia Contractors, Inc. the contract in accordance with the bid you submitted dated August 1, 2019 for Elevated Tank No. 5 Rehabilitation for an amount not to exceed Six Hundred Fifty Three Thousand Six Hundred Seventy and No/100 (\$653,670.00) Dollars.

In order to begin this project, you must comply with the following within ten business days of the date of this Notice of Award, which is by October 18, 2019.

- Attached is the Contract for Elevated Tank No. 5 Rehabilitation. Please sign and return directly to me. I will obtain signatures to fully execute the Contract and one fully executed Contract will be returned to you.
- Please submit a Certificate of Insurance from your insurance company in accordance with all of the Insurance Requirements listed and agreed to in the bid at minimum and endorsements for a) the additional insured status, b) the waiver of subrogation for General Liability and c) the waiver of subrogation for Workers Compensation.
- In order to properly document your vendor relationship with the Village of Orland Park, your company must provide the Village with a completed W-9 Form.
- I've also included an Electronic Funds Transfer (EFT) Authorization Form. Enrollment is optional, and by authorizing EFTs, you will receive payments from the Village faster and more securely. Additionally, the Village will be able to send you a detailed email notification when payment has been remitted. If you'd like to enroll in EFT payments, complete, sign and return the EFT Authorization Form along with the other documents.
- Please submit Performance and Payment Bonds, dated October 4, 2019. Your Bid Bond will be returned upon receipt of the Performance and Payment Bonds.

Deliver this information directly to me, Denise Domalewski, Purchasing & Contract Administrator, at Village Hall located at 14700 S. Ravinia Ave., Orland Park, IL 60462. The signed Contracts, Insurance Certificate and Endorsements, Performance & Payment Bonds, and completed W-9 are required to be in place and received at my office prior to the commencement of work on this project. You will be issued a Notice to Proceed letter and a purchase order when you are in full compliance with this process. Failure to comply with these conditions within the time specified will entitle the Village to consider your bid abandoned and to annul this Notice of Award. If you have any questions, please do not hesitate to call me at 708-403-6173 or e-mail me at ddomalewski@orlandpark.org.

Sincerely,



Denise Domalewski
Purchasing & Contract Administrator

cc: Bill Cunningham
Ken Dado
Rich Rittenbacher

 **ORLAND PARK**
Elevated Tank No. 5 Rehabilitation
(Contract for Small Construction or Installation Project)



This Contract is made this **4th day of October, 2019** by and between the VILLAGE OF ORLAND PARK (hereinafter referred to as the “VILLAGE”) and ERA-VALDIVIA CONTRACTORS, INC. (hereinafter referred to as the “CONTRACTOR”).

WITNESSETH

In consideration of the promises and covenants made herein by the VILLAGE and the CONTRACTOR (hereinafter referred to collectively as the “PARTIES”), the PARTIES agree as follows:

SECTION 1: THE CONTRACT DOCUMENTS: This Contract shall include the following documents (hereinafter referred to as the “CONTRACT DOCUMENTS”) however this Contract takes precedence and controls over any contrary provision in any of the CONTRACT DOCUMENTS. The Contract, including the CONTRACT DOCUMENTS, expresses the entire agreement between the PARTIES and where it modifies, adds to or deletes provisions in other CONTRACT DOCUMENTS, the Contract’s provisions shall prevail. Provisions in the CONTRACT DOCUMENTS unmodified by this Contract shall be in full force and effect in their unaltered condition.

- The Contract
- The Terms and General Conditions pertaining to the Contract
- The VILLAGE’S Project Manual for the Work as described in Section 2 hereunder
 - o The Invitation to Bid
 - o The Instructions to the Bidders
 - o Any addenda issued
- The Bid Proposal as it is responsive to the VILLAGE’s bid requirements
- Certificate of Compliance
- Certificates of Insurance
- Performance and Payment Bonds required by the VILLAGE

SECTION 2: SCOPE OF THE WORK AND PAYMENT: The CONTRACTOR agrees to provide labor, equipment and materials necessary to perform the following:

Repair and repainting of the 300,000 gallon single pedestal water spheroid elevated water storage tank located at 7200 Wheeler Drive, Orland Park, IL 60462 (Tank No. 5). Additionally, there shall be some electrical and natural gas work, as well as, miscellaneous concrete, steel and site restoration work. The WORK shall include Base Bid work, Bid Alternatives #1- 4 (Addenda 1 issued July 5, 2019) plus subsequent Alternative No.5 which is the omission of the red brick band and beige band from the sphere and the addition of a second logo and village name. Essentially, the tower will be all white with the logo and name on 2 sides of the sphere

(hereinafter referred to as the “WORK”) as described in the VILLAGE’S Project Manual (ITB 19-018 Documents) and the VILLAGE agrees to pay the CONTRACTOR pursuant to the provisions of the Local Government Prompt Payment Act (50 ILCS 505/1 *et seq.*) the following amounts for the WORK:

Lump Sum Base Bid	\$547,870.00
Bid Alternate No. 1 – 3 coat exterior coating	\$131,800.00
Bid Alternate No. 2 – omission of color fade	(\$5,000.00)
Bid Alternate No. 3 – omission of trees at base	(\$5,000.00)
Bid Alternate No. 4 – omission of grass details	(\$10,000.00)
Alternate No. 5 - omission of red brick/beige band	(\$20,000.00)
Addition of 2 nd Logo and Name	\$14,000.00

TOTAL: an amount not to exceed Six Hundred Fifty Three Thousand Six Hundred Seventy and No/100 (\$653,670.00) Dollars

(hereinafter referred to as the “CONTRACT SUM”). The CONTRACT SUM shall not be increased without the express written consent of the VILLAGE.

10% retention will be withheld for this project. When final acceptance is obtained the retention will be released in its entirety.

SECTION 3: ASSIGNMENT: CONTRACTOR shall not assign the duties and obligations involved in the performance of the WORK except to the list of Subcontractors approved by the Village, which approval shall not be unreasonably withheld.

SECTION 4: TERM OF THE CONTRACT: The CONTRACTOR shall commence WORK of the CONTRACT upon receipt of a Notice to Proceed; however, WORK on site shall not occur prior to February 1, 2020, and shall substantially complete performance of the WORK on this Contract by July 31, 2020, (hereinafter referred to as the “CONTRACT TIME”). Failure to meet the CONTRACT TIME shall be considered an occasion of default under the CONTRACT DOCUMENTS. The CONTRACT TIME shall not be increased without the express written consent of the VILLAGE. Final payment shall be made by the VILLAGE upon inspection of the WORK, completion of any punch list items and after receipt of final release and waiver of liens in accordance with the requirements of the CONTRACT DOCUMENTS. This Contract may be terminated by the VILLAGE for convenience or by either of the PARTIES for default in the performance of the duties of the PARTIES as described in the CONTRACT DOCUMENTS upon thirty (30) day’s written notice provided as required herein.

SECTION 5: INDEMNIFICATION AND INSURANCE: The CONTRACTOR shall indemnify, defend and hold harmless the VILLAGE, its trustees, officers, directors, agents, employees and representatives and assigns, from lawsuits, actions, costs (including attorneys' fees), claims or liability of any character, incurred due to the alleged negligence of the CONTRACTOR, brought because of any injuries or damages received or sustained by any person, persons or property on account of any act or omission, neglect or misconduct of said CONTRACTOR, its officers, agents and/or employees arising out of, or in performance of any of the provisions of the CONTRACT DOCUMENTS, including any claims or amounts recovered for any infringements of patent, trademark or copyright; or from any claims or amounts arising or recovered under the "Worker's Compensation Act" or any other law, ordinance, order or decree. In connection with any such claims, lawsuits, actions or liabilities, the VILLAGE, its trustees, officers, directors, agents, employees, representatives and their assigns shall have the right to defense counsel of their choice. The CONTRACTOR shall be solely liable for all costs of such defense and for all expenses, fees, judgments, settlements and all other costs arising out of such claims, lawsuits, actions or liabilities.

The Contractor shall not make any settlement or compromise of a lawsuit or claim, or fail to pursue any available avenue of appeal of any adverse judgment, without the approval of the Village and any other indemnified party. The Village or any other indemnified party, in its or their sole discretion, shall have the option of being represented by its or their own counsel. If this option is exercised, then the Contractor shall promptly reimburse the Village or other indemnified party, upon written demand, for any expenses, including but not limited to court costs, reasonable attorneys' and witnesses' fees and other expenses of litigation incurred by the Village or other indemnified party in connection therewith.

The indemnification obligation under this paragraph shall not be limited in any way by any limitations on the amount or type of damages, compensation or benefits payable by or for the benefit of Subcontractor or any indemnities under any Worker's Compensation Act, Occupational Disease Act, Disability Benefits Act, or any other employee benefits act. The Subcontractor further agrees to waive any and all liability limitations based upon the Worker's Compensation Act court interpretations or otherwise.

Execution of this Contract by the VILLAGE is contingent upon receipt of Insurance Certificates provided by the CONTRACTOR in compliance with the CONTRACT DOCUMENTS.

SECTION 6: COMPLIANCE WITH LAWS: CONTRACTOR agrees to comply with all federal, state and local laws, ordinances, statutes, rules and regulations including but not limited to all applicable provisions of the Illinois Human Rights Act (775 ILCS 5/1-101 *et seq.*) and the Illinois Prevailing Wage Act (820 ILCS 130/1 *et seq.*)

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

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

SECTION 8: NOTICE: Where notice is required by the CONTRACT DOCUMENTS, it shall be considered received if it is 1) delivered in person, 2) sent by registered United States mail, return receipt requested, 3) delivered by messenger or mail service with a signed receipt, 4) sent by facsimile with an acknowledgment of receipt, or 4) by e-mail with an acknowledgment of receipt. Notice shall be sent to the following:

To the VILLAGE:

Denise Domalewski
Purchasing & Contract Administrator
Village of Orland Park
14700 South Ravinia Avenue
Orland Park, Illinois 60462
Telephone: 708-403-6173
Facsimile: 708-403-9212
e-mail: ddomalewski@orlandpark.org

To the CONTRACTOR:

Jose G. Valdivia
President
Era-Valdivia Contractors, Inc.
11909 South Avenue O
Chicago, Illinois 60617
Telephone: 773-721-9350
Facsimile: 773-721-8027
e-mail: gbairaktaris@eravaldivia.com
Greg Bairaktaris

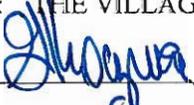
or to such other persons or to such other addresses as may be provided by one party to the other party under the requirements of this Section.

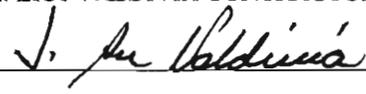
SECTION 9: LAW AND VENUE: The law of the State of Illinois shall apply to this Agreement and venue for legal disputes shall be Cook County, Illinois.

SECTION 10: MODIFICATION: This Contract may be modified only by a written amendment signed by both PARTIES.

SECTION 11: COUNTERPARTS: This Contract may be executed in two (2) or more counterparts, each of which taken together, shall constitute one and the same instrument.

This Contract shall become effective on the date first shown herein and upon execution by duly authorized agents of the PARTIES.

FOR: THE VILLAGE
By: 
Print Name: George Koczwas
Title: Village Manager
Date: 10-22-19

FOR: ERA-VALDIVIA CONTRACTORS, INC.
By: 
Print Name: Jose G. Valdivia
Title: President
Date: 10/7/19



ORLAND PARK

SMALL CONSTRUCTION AND INSTALLATION CONTRACT Terms and General Conditions

Terms and General Conditions for the CONTRACT between the VILLAGE OF ORLAND PARK (the “VILLAGE”) and ERA-VALDIVIA CONTRACTORS, INC (the “CONTRACTOR”) for **Elevated Tank No. 5 Rehabilitation** (the “WORK”) dated **October 4, 2019** (the “CONTRACT”).

ARTICLE 1: DUTIES OF THE PARTIES

1.1. VILLAGE’S RIGHTS AND DUTIES

- 1.1.1. Upon request of CONTRACTOR the VILLAGE shall furnish in a timely and agreed upon schedule and manner, information relevant to the project or project site as requested by the CONTRACTOR and deemed by the CONTRACTOR and the Village to be necessary for the performance of the WORK of the CONTRACT.
- 1.1.2. The VILLAGE shall furnish access to its buildings and the site of the WORK, as is necessary and in the best interests of the VILLAGE, for the performance of the WORK and shall provide, at its own expense as needed, temporary or permanent easements, zoning and other remedy as may be requested by the CONTRACTOR to remove or reduce restrictions or limitations that negatively affect the CONTRACTOR’S ability to perform the WORK as outlined in the bidding documents and the CONTRACT.
- 1.1.3. The VILLAGE shall have the right to immediately stop the WORK by providing written notice to the CONTRACTOR should the CONTRACTOR fail to correct WORK not in accordance with the CONTRACT Documents which stoppage will remain in effect until the WORK is corrected without giving rise to any duty on the part of the VILLAGE to stop the WORK for the benefit of the CONTRACTOR or any other entity.
- 1.1.4. The VILLAGE may, at the CONTRACTOR’S expense, correct deficiencies in the WORK to make it conform to the CONTRACT.
- 1.1.5. If the CONTRACTOR does not correct or cure a default, with reasonable promptness after receiving a written notice from the VILLAGE, the VILLAGE may, at its option, correct the default and deduct the VILLAGE’S cost of the correction or cure from the amounts owed to the CONTRACTOR.

1.2. CONTRACTOR’S RIGHTS AND DUTIES

- 1.2.1. The CONTRACTOR shall perform the WORK in accordance with the CONTRACT documents.

- 1.2.2. The CONTRACTOR shall examine existing conditions and take field measurements to facilitate the performance of the WORK throughout the duration of the CONTRACT and shall report to the VILLAGE any errors, inconsistencies or omissions discovered during the performance of the CONTRACT.
- 1.2.3. CONTRACTOR shall pay for all material, labor and incidental costs necessary for the completion of the WORK.
- 1.2.4. CONTRACTOR warrants that the WORK performed/provided shall be fully compliant with the plans, specifications and bid documents for the WORK. The CONTRACTOR warrants that the WORK shall be free from defects for one (1) year after the final acceptance of the WORK by the VILLAGE, or the length of time guaranteed under the warranty provided by the manufacturer for materials used in the WORK, whichever is greater. Where there are defects and/or deficiencies, following notice of said defects or deficiencies provided to the CONTRACTOR by the VILLAGE, the CONTRACTOR agrees to promptly correct them to the VILLAGE's satisfaction. All manufacturers' guarantees and warranties shall be delivered without variance to the VILLAGE prior to final acceptance.
- 1.2.5. The CONTRACTOR shall perform the work per the terms of the approved schedule and complete the WORK within the terms and time limits of the CONTRACT.
- 1.2.6. The CONTRACTOR shall obtain and pay for all required permits, licenses, fees, inspections and certifications required of or by the WORK.
- 1.2.7. CONTRACTOR shall comply with all local, state and federal statutes, ordinances, codes, rules, and regulations governing the performance of the CONTRACTOR for the completion of the WORK, including but not limited to all of the applicable provisions of the Illinois Prevailing Wage Act (820 ILCS 130/1 et seq.) and the Illinois Human Rights Act (775 ILCS 5/1-01 et seq.) The CONTRACTOR shall obtain and preserve per the terms of the Document Retention Laws of the State of Illinois, certified payroll records for all work performed to complete the WORK, including that work performed by all those contractors subordinate to the CONTRACTOR or Subcontractor.
- 1.2.7.1. This CONTRACT calls for the construction of a "public work," within the meaning of the Illinois Prevailing Wage Act, 820 ILCS 130/.01 et seq. ("the Act"). The Act requires CONTRACTORS and Subcontractors to pay laborers, workers and mechanics performing services on public works projects no less than the "prevailing rate of wages" (hourly cash wages plus fringe benefits) in the county where the work is performed. For information regarding current prevailing wage rates, please refer to the Illinois Department of Labor's website at: <https://www2.illinois.gov/idol/Laws-Rules/CONMED/Pages/2019-Rates.aspx>. All CONTRACTORS and Subcontractors rendering services under this CONTRACT must comply with all requirements of the Act, including but not limited to, all wage, notice and record keeping duties. Each CONTRACTOR and Subcontractor participating on this project shall make and keep those records required under Section 5 of the Prevailing Wage Act (820 ILCS 130/5). In conformance with the Act, each CONTRACTOR and/or Subcontractor participating on this Project shall maintain records of all laborers, mechanics and other workers employed by them on this Project, including the following information on each worker: (1) name; (2) address; (3) telephone number when available; (4) social security number; (5) classification or classifications; (6) hourly wages paid in each pay period; (7) number of hours worked each day; and (8) starting and ending times of each

day. These records shall be kept by the participating CONTRACTOR and Subcontractor for a period of not less than three (3) years. Each participating CONTRACTOR and Subcontractor shall submit a monthly certified payroll to the VILLAGE consisting of the above-referenced information as well as a statement signed by the participating CONTRACTOR or Subcontractor that certifies: (a) the records are true and accurate; (b) the hourly rates paid to each worker is not less than the general prevailing rate of hourly wages required under the Prevailing Wage Act; and (c) the CONTRACTOR or Subcontractor is aware that filing a certified payroll that he or she knows to be false is a Class B misdemeanor.

1.2.7.2. Neither the CONTRACTOR nor its Subcontractors shall tolerate or engage in any prohibited form of discrimination in employment as defined in the Illinois Human Rights Act. The CONTRACTOR shall maintain, and require that its Subcontractors maintain, policies of equal employment opportunity which shall prohibit discrimination against any employee or applicant for employment on the basis of race, religion, color, sex, national origin, ancestry, citizenship status, age, marital status, physical or mental disability unrelated to the individual's ability to perform the essential functions of the job, association with a person with a disability, or unfavorable discharge from military service. Contractors and all Subcontractors shall comply with all requirements of the Act including maintaining a sexual harassment policy and of the Rules of the Illinois Department of Human Rights with regard to posting information on employees' rights under the Act. Contractors and all Subcontractors shall place appropriate statements identifying their companies as equal opportunity employers in all advertisements for work to be performed under the CONTRACT.

1.2.8. CONTRACTOR will not be relieved of any obligation to the VILLAGE under the CONTRACT due to failure to examine or receive documents, visit or become familiar with conditions or from facts of which CONTRACTOR should have been aware and VILLAGE, as existing law may allow, shall reject all claims related thereto.

ARTICLE 2: CONTRACT DOCUMENTS

2.1. The CONTRACT consists of the following documents and items:

- 2.1.1. Agreement between the parties
- 2.1.2. Terms and General Conditions to the Agreement
- 2.1.3. Special Conditions to the Agreement, if any
- 2.1.4. The Project Manual dated June 10, 2019 which includes
 - Invitation to Bid
 - Instructions to the Bidders
 - Specifications and Drawings, if any
- 2.1.5. Accepted Bid Proposal as it conforms to the bid requirements
- 2.1.6. Addenda, if any
- 2.1.7. Certificate of Compliance required by the VILLAGE
- 2.1.8. Required Certifications and documents as may be required by other project funding agencies
- 2.1.9. Required Certificates of Insurance
- 2.1.10. Performance and Payment Bonds

ARTICLE 3: PAYMENTS AND COMPLETION

- 3.1. The VILLAGE requires for each Request for Payment, a properly completed Contractor's Affidavit setting out, under oath, the name, address and amount due or to become due, of each subcontractor, vendor, supplier or other appropriate party included in that payment. For every party listed the CONTRACTOR shall also provide a full or partial waiver of lien, as appropriate, before a payment will be made to the CONTRACTOR. The CONTRACTOR's partial or final waiver of lien must be included. Payments shall not be made by the VILLAGE without such lien waivers and contractors' sworn statements unless they are conditioned upon receipt of such waivers and statements.
- 3.2. No certificate shall be issued in favor of the CONTRACTOR and no payment will be made by the VILLAGE for material not installed or built into the WORK without written authorization from the VILLAGE.
- 3.3. Each participating CONTRACTOR and Subcontractor shall submit a monthly certified payroll to the VILLAGE consisting of the requirements as referenced above in Section 1.2.7.1.
- 3.4. Upon satisfaction of the terms and conditions of the CONTRACT, the CONTRACTOR agrees to provide the VILLAGE with a final release and waiver of all liens covering all of the WORK performed under the CONTRACT relative to the project prior to issuance of final payment. Said final waiver of lien shall identify and state that all Subcontractors have been paid in full and there are no contract balances outstanding and owed to any Subcontractor.
- 3.5. All payments shall be made to Contractor by Village pursuant to the provisions of the Local Government Prompt Payment Act (50 ILCS 505/1 et seq.).

ARTICLE 4: TAXES

- 4.1. The VILLAGE is a public body and is exempt from excise, sales and use taxes and will furnish CONTRACTOR with exemption numbers as required. This shall also apply to Subcontractors, and subcontractors of the Subcontractor. No Requests for Payments associated with the WORK may include any such taxes.

ARTICLE 5: INSPECTION OF MATERIALS

- 5.1. The VILLAGE shall have a right to inspect any materials, equipment or processes used during the performance of this CONTRACT. The CONTRACTOR shall be responsible for the Quality Assurance / Quality Control standards for all materials, equipment, components or completed WORK finished under this CONTRACT, including through the expiration of the warranty period. Materials, equipment, components or completed WORK not complying therewith may be rejected by the VILLAGE and shall be removed and replaced by the CONTRACTOR to the satisfaction of the VILLAGE, at no cost to the VILLAGE within the agreed-upon time period. All material replaced shall be fully warranted as new material

ARTICLE 6: ASSIGNMENT

- 6.1. The CONTRACTOR's duties and obligations under the CONTRACT shall not be assigned without the express written consent of the VILLAGE.
- 6.2. WORK not performed by the CONTRACTOR with its own forces shall be performed by Subcontractors or Sub-subcontractors. The CONTRACTOR shall be responsible for management of

the Subcontractors in the performance of their work.

- 6.3. The CONTRACTOR shall not contract with anyone for performance of the WORK hereunder to whom the VILLAGE has a reasonable objection.
- 6.4. The CONTRACTOR shall prepare all Subcontracts and shall have full discretion to negotiate their terms, subject to the VILLAGE's reasonable requirements or objections as to form and content.
- 6.5. By appropriate agreement, written where legally required for validity, the CONTRACTOR shall require each Subcontractor, to the extent of the WORK to be performed by the Subcontractor, to be bound to the CONTRACTOR by terms of the CONTRACT, and to assume toward the CONTRACTOR all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's work, which the CONTRACTOR, by these documents, assumes toward the VILLAGE. Each subcontract agreement shall preserve and protect the rights of the VILLAGE under the CONTRACT documents with respect to the work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the CONTRACTOR that the CONTRACTOR, by the CONTRACT, has against the VILLAGE. Where appropriate, the CONTRACTOR shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The CONTRACTOR shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the contract to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement which may be at variance with the CONTRACT documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

ARTICLE 7: GUARANTEES AND WARRANTIES

- 7.1. All guarantees and warranties required shall be furnished by the CONTRACTOR and shall be delivered to the VILLAGE before the final payment or payment retention will be paid to the CONTRACTOR.
- 7.2. The CONTRACTOR shall supply the VILLAGE with "as-built" plans bearing the signature and seal or stamp, of an Illinois-licensed Professional Engineer prior to the VILLAGE making the final payment.

ARTICLE 8: DEFAULT

- 8.1. If the CONTRACTOR fails to begin the WORK under this CONTRACT within the time specified, or fails to perform the WORK in accordance with the terms of the approved schedule or performs the WORK in a manner unacceptable to the VILLAGE, or neglects or refuses to remove materials or perform anew such WORK as has been rejected by the VILLAGE, or if the CONTRACTOR shall become insolvent or be declared bankrupt, or shall make an assignment for the benefit of creditors, or from any other cause whatsoever shall fail to carry on the WORK in a manner required by the CONTRACT, the VILLAGE shall give notice as hereinafter provided to the CONTRACTOR and its surety in writing specifying such failure, delay, neglect, refusal or default, and if the CONTRACTOR, within a period of ten (10) calendar days after the giving of such notice, shall not proceed in accordance therewith, then the VILLAGE shall have full power and authority to declare this CONTRACT and the CONTRACTOR in default, and to forfeit the rights of the CONTRACTOR in this CONTRACT.

- 8.2. Upon declaration of CONTRACTOR's default, the VILLAGE may, at its option, call upon the surety to complete the WORK in accordance with the terms of this CONTRACT or may take over the WORK, including any materials on the WORK site as may be suitable and acceptable to the VILLAGE and may complete the WORK by its own forces or on its own account, or may enter into a new contract or contracts for the completion of the WORK, or may use such other methods as shall be required for the completion of the WORK in an acceptable manner as the VILLAGE may in its discretion determine.
- 8.3. All costs and charges incurred by the VILLAGE, together with the cost of completing the WORK shall be deducted from any moneys due or which may become due on this to the CONTRACTOR under this CONTRACT. Following any payment due and received by the VILLAGE from the CONTRACTOR's surety following default, if the expense so incurred by the VILLAGE is less than the sum paid to the Village by the surety under this CONTRACT for work remaining, the surety shall be entitled to receive the excess difference paid to the VILLAGE. When such CONTRACTOR default costs incurred by the VILLAGE exceeds the sum paid to the VILLAGE for the work remaining under the CONTRACT, the CONTRACTOR and the surety shall be liable and shall pay to the VILLAGE the full cost of such additional expenses.

ARTICLE 9: DISPUTES AND VENUE

- 9.1. Disputes between the VILLAGE and the CONTRACTOR shall be handled according to the terms of the CONTRACT (including all subsequent approved Change Orders) and applicable Law, with the final decision regarding disputes resting with the Village Manager or his or her designee. All disputes concerning a question of fact under the CONTRACT shall be expressed in writing by the parties and, if within seven (7) days after receipt of such notice the parties have not disposed of the dispute by agreement, the dispute, as it was expressed in writing by the parties, shall be subject to mediation under terms agreed to by the parties. Pending final decision of a dispute hereunder, the parties shall proceed diligently with the performance of the CONTRACT.
- 9.2. Any legal action taken by either party shall be decided based upon and governed by the laws of the State of Illinois and venue for such disputes shall be Cook County, Illinois.

ARTICLE 10: CONTRACT TIME

- 10.1. Time is of the essence with respect to all performance time schedules and timely completion of the WORK under the CONTRACT. VILLAGE shall not grant, and CONTRACTOR shall not seek damages for delays. However, VILLAGE shall review a CONTRACTOR's request for additional time, and may at VILLAGE's option and as conditions warrant, grant an increase in the CONTRACT time for delays beyond CONTRACTOR's control and not caused by CONTRACTOR, its Subcontractors or others for whose actions CONTRACTOR is liable.

ARTICLE 11: INSURANCE AND INDEMNIFICATION

11.1. Insurance Requirements

- 11.1.1. The successful bidder shall, within ten (10) business days of said receipt of notice of award of the CONTRACT, furnish to the VILLAGE a certificate of insurance showing the VILLAGE, its trustees, officers, directors, agents, employees, representatives and assigns as additional insureds to the General Liability and Automobile Liability policies by appropriate endorsement. Such coverages shall be placed with a provider acceptable to the

VILLAGE, which is licensed to do business in the State of Illinois, and that maintains a minimum A. M. Best rating of A VII. The insurance coverages afforded under the CONTRACTOR's General Liability insurance policies shall be primary and non-contributory to any insurance carried independently by the Indemnitees. A Waiver of Subrogation in favor of the Additional Insureds shall apply to General liability and Worker's Compensation. Certificates of insurance must state that the insurer shall provide the VILLAGE with thirty (30) days prior written notice of any change in, or cancellation of required insurance policies. All required insurance shall be maintained by the CONTRACTOR in full force and effect during the life of the CONTRACT, and until such time as all WORK has been approved and accepted by the VILLAGE. This provision constitutes the VILLAGE's continuing demand for such certificates and endorsement(s) or true and correct copies thereof and the obligation to provide such insurance coverage shall be in full force and effect during the life of the CONTRACT. Failure of the VILLAGE to request such certificates and endorsements shall not relieve the CONTRACTOR of these obligations to provide insurance.

11.1.2. The amounts and types of insurance required are defined in Exhibit I, a copy of which is attached hereto and made a part hereof.

11.1.3. CONTRACTOR shall cause each Subcontractor to maintain insurance of the type specified in Exhibit I. Prior to CONTRACT acceptance, and at any time when requested by the VILLAGE, CONTRACTOR shall furnish copies of certificates of insurance evidencing coverage for each Subcontractor and Sub-subcontractor.

11.2. Indemnification

11.2.1. The CONTRACTOR shall indemnify, defend, and hold harmless the VILLAGE, its trustees, officers, directors, agents, employees and representatives and assigns, from lawsuits, actions, costs (including attorneys' fees), claims or liability of any character, incurred due to the alleged negligence of the CONTRACTOR, brought because of any injuries or damages received or sustained by any person, persons or property on account of any act or omission, neglect or misconduct of said CONTRACTOR, its officers, agents and/or employees arising out of, or in performance of any of the provisions of the CONTRACT DOCUMENTS, including any claims or amounts recovered for any infringements of patent, trademark or copyright; or from any claims or amounts arising or recovered under the "Worker's Compensation Act" or any other law, ordinance, order or decree. In connection with any such claims, lawsuits, actions or liabilities, the VILLAGE, its trustees, officers, directors, agents, employees, representatives and their assigns shall have the right to defense counsel of their choice. The CONTRACTOR shall be solely liable for all costs of such defense and for all expenses, fees, judgments, settlements and all other costs arising out of such claims, lawsuits, actions or liabilities.

11.2.2. The CONTRACTOR shall not make any settlement or compromise of a lawsuit or claim, or fail to pursue any available avenue of appeal of any adverse judgment, without the approval of the VILLAGE and any other indemnified party. The VILLAGE or any other indemnified party, in its or their sole discretion, shall have the option of being represented by its or their own counsel. If this option is exercised, then the CONTRACTOR shall promptly reimburse the VILLAGE or other indemnified party, upon written demand, for any expenses, including but not limited to court costs, reasonable attorneys' and witnesses' fees and other expenses of litigation incurred by the VILLAGE or other indemnified party in connection therewith.

ARTICLE 12: PERFORMANCE AND PAYMENT BONDS

12.1 The CONTRACTOR shall furnish Performance and Payment Bonds acceptable to the VILLAGE in the full amount of the CONTRACT. Bonds shall be from a surety licensed to do business in Illinois and said surety shall have a minimum A.M. Best rating of A-V. Each Bond shall require a time period during which the Bond can be called limited only to the extent required by Illinois law.

ARTICLE 13: EXECUTION OF CONTRACT

13.1 Execution of the CONTRACT between VILLAGE and CONTRACTOR is contingent upon receipt of required Certificates of Insurance, required signed certifications and required Performance and Payment Bonds.

ARTICLE 14: CHANGES IN THE WORK

14.1. All changes in the WORK must be requested by CONTRACTOR and approved by the VILLAGE via an Authorization to Proceed document bearing the signature of the Project Principle for VILLAGE. Any change order or series of change orders that increase or decrease the CONTRACT value by \$10,000 or more, or that increases or decreases the CONTRACT duration beyond the approved project schedule must be accompanied by a written request from CONTRACTOR justifying the additional cost or change in schedule. Within an agreed upon period of time, VILLAGE will provide a response to CONTRACTOR's Change Order or Time request by providing a determination signed by the VILLAGE or its designee finding that the change requested was not reasonably foreseeable at the time the CONTRACT was signed, the change is germane to the CONTRACT or the change is in the best interest of VILLAGE. Any change increasing the original CONTRACT value by fifty percent (50%) or more must be re-bid by VILLAGE as required by law.

ARTICLE 15: TERMINATION

15.1. VILLAGE may, at any time, terminate the CONTRACT for the VILLAGE's convenience and without cause upon written notice to the CONTRACTOR and payment for all WORK directed to be performed prior to the effective date of termination along with agreed upon reasonable overhead and profit.

BY SIGNATURE BELOW (WHICH MAY BE IN ELECTRONIC FORM), THE ABOVE GENERAL TERMS AND CONDITIONS ARE ACCEPTED BY THE VILLAGE AND CONTRACTOR:

ERA-VALDIVIA CONTRACTORS, INC

By: J. Valdivia Date: 10/7/19
Print Name: Jose G. Valdivia, President

VILLAGE OF ORLAND PARK

By: [Signature] Date: 10/22/19
Print Name: George Koczwar

EXHIBIT I

Insurance Requirements

WORKERS COMPENSATION & EMPLOYER LIABILITY

\$500,000 – Each Accident \$500,000 – Policy Limit

\$500,000 – Each Employee

Waiver of Subrogation in favor of the Village of Orland Park

AUTOMOBILE LIABILITY

\$1,000,000 – Combined Single Limit

Additional Insured Endorsement in favor of the Village of Orland Park

GENERAL LIABILITY (Occurrence basis)

\$1,000,000 – Each Occurrence \$2,000,000 – General Aggregate Limit

\$1,000,000 – Personal & Advertising Injury

\$2,000,000 – Products/Completed Operations Aggregate

Additional Insured Endorsement & Waiver of Subrogation in favor of the Village of Orland Park

EXCESS LIABILITY (Umbrella-Follow Form Policy)

\$3,000,000 – Each Occurrence \$3,000,000 – Aggregate

EXCESS MUST COVER: General Liability, Automobile Liability, Workers Compensation

Any insurance policies providing the coverages required of the Contractor shall be specifically endorsed to identify “The Village of Orland Park, and their respective officers, trustees, directors, employees and agents as Additional Insureds on a primary/non-contributory basis with respect to all claims arising out of operations by or on behalf of the named insured.” If the named insureds have other applicable insurance coverage, that coverage shall be deemed to be on an excess or contingent basis. The policies shall also contain a Waiver of Subrogation in favor of the Additional Insureds in regards to General Liability and Workers Compensation coverage’s.

Elevated Tank 5 Rehabilitation & Design Options



A

Total cost for rehabilitation and paint:
\$659,670.00

B

Total cost for rehabilitation and paint:
\$639,670.00



**ORLAND
PARK**

Thank you for your interest in the Village of Orland Park. Please be sure to review and comply with all specifications and requirements listed in the provided documents. Failure to comply with the stated requirements may deem your submittal non-responsive.

Please be sure to "Follow" a solicitation to ensure notification of all subsequent related correspondence issued (addenda, clarifications, etc).

Addendum Description

Change to Bid Opening date and change to muralist requirement.

Notice Modifications

Notice Information	From Value	To Value
Closing Date	07/11/2019 11:00 AM CST/CDT	08/01/2019 11:00 AM CST/CDT

Category Modifications

Added Categories
No Categories Added

Removed Categories
No Categories Removed

Added Documents

Document	Size	Uploaded Date	Language
ITB 19-018 Addendum 1.pdf [pdf]	177 Kb	07/05/2019 11:16 AM EDT	English

ADDENDUM NO. 1

PROJECT MANUAL

ITB 19-018
ELEVATED TANK NO. REHABILITATION
CONTRACT 1-2018
VILLAGE OF ORLAND PARK, ILLINOIS

Note: Change in Bid Date.

Bids will be received until **11:00 A.M., local time, August 1, 2019.**

This Addendum to the Project Manual is issued to modify, explain, or correct the original Project Manual and is hereby made part of the Contract Documents.

A. SECTION I—INSTRUCTION TO BIDDERS

1. BID SPECIFICATIONS

a. Page 3, Special Conditions

REPLACE this section in its entirety with the following:

"Bid Alternative No. 1: Recoat the exterior of the tank with a three-coat exterior coating system with HydroFlon Finish Coat, or equivalent, in lieu of Base Bid overcoat exterior coating system, as indicated in Exhibit C—Technical Specifications and Exhibit E—Amendment to Exhibit C, Section 09 67 16—Steel Water Storage Tank Painting.

Bid Alternative No. 2: Remove the color fade between the tank white tank stem and red brick underbelly color scheme as currently shown on Sheet 4—PAINTING SCHEME AND DETAILS. Provide a sharp line demarking the line between the stem and base cone color of 15 BL Tank White, and Brick color of 07 RD Terra Cotta in lieu of the color fade as shown on Sheet 04—PAINTING SCHEME AND DETAILS.

Bid Alternative No. 3: Remove the trees as currently shown on Sheet 4—PAINTING SCHEME AND DETAILS. Paint the tank bell in 15 BL Tank White in lieu of the trees.

Bid Alternative No. 4: Remove the grass details from the finish coat as currently shown on Sheet 4—PAINTING SCHEME AND DETAILS. Paint the area of the tank bowl currently shown as grass details in 22BL Spring Rain in lieu of the grass details.

The Bid Specifications for this ITB #19-018 were prepared by Strand Associates, Inc.® and are attached as:

Exhibit C—Technical Specifications

Exhibit D—Drawings

Exhibit E—Amendment to Exhibit C Technical Specifications"

2. BID SUBMISSION REQUIREMENTS

a. Page 5, Paragraph 3 References

REPLACE this paragraph to read as follows:

"3. **References** – Section II includes the references form that must be completed and submitted with the Bid. In addition, Bidders shall submit photographic records of three projects of a similar graphical complexity that shall prove the ability of Bidder to apply the desired final coat color scheme, lettering, and logo shown in the documents. FAILURE TO PROVIDE PHOTOGRAPHIC RECORDS OF PROJECTS OF SIMILAR COMPLEXITY MAY RESULT IN A BID BEING DEEMED AS NON-RESPONSIVE. By providing this information, Bidders grant the Village permission to contact said references and ask questions regarding prior work performance. Village may use the information gained from Bidder's submission and references to further evaluate Bidder responsibility."

3. GENERAL TERMS AND CONDITIONS

a. Page 5, Bid Price

DELETE from the table, the cash allowance line item for Eric Henn Murals, Inc. Coating Application in its entirety.

b. Page 10, Evaluation of Bids

REPLACE the second paragraph with the following:

"The Village reserves the right to accept or reject any Bid Alternatives to the Lump Sum Base Bid. If a Bid Alternative is selected by the Village, the award Contract price will include the selected Bid Alternative(s). In determining the responsive and responsible Bidder with either the lowest lump sum base bid, or the lowest lump sum base bid plus or minus any Bid Alternative(s) selected by the Village whose evaluation indicates to the Village that the award will be in the best interest of the Project, consideration will be given to several factors including, but not limited to, price, financial responsibility of the bidder, completion date, responsiveness to the specifications, demonstrated ability of the bidder to perform the work to the level of quality indicated in the specifications, and the experience of the Village and other purchasers with the Bidders."

B. SECTION II: REQUIRED BID SUBMISSION DOCUMENTS

1. BIDDER SUMMARY SHEET

a. Page 13, BIDDER SUMMARY SHEET

REPLACE this sheet with the attached replacement REVISED BIDDER SUMMARY SHEET

C. SECTION III: EXHIBITS

1. EXHIBIT B–SAMPLE AGREEMENT

a. Page 24, SECTION 4: TERM OF THE CONTRACT

REPLACE the first sentence with the following:

"CONTRACTOR shall commence WORK of the CONTRACT upon receipt of a Notice to

Proceed; however, WORK on site shall not occur prior to February 1, 2020, and shall substantially complete performance of the WORK on this Contract by July 31, 2020, (hereinafter referred to as the "CONTRACT TIME".)

2. EXHIBIT C--TECHNICAL SPECIFICATIONS

- a. Page 09 67 16-1, SECTION 09 67 16--STEEL WATER STORAGE TANK PAINTING, PART 1--GENERAL, 1.01.E.2.

DELETE Paragraph 1.01.E.2. in its entirety.

- b. Page 09 67 16-1, SECTION 09 67 16--STEEL WATER STORAGE TANK PAINTING, PART 1--GENERAL, 1.01.G

ADD the following after Paragraph 1.01.F.:

"G. Bid Alternatives No. 2 through 4 will be taken for slight alterations to the paint scheme identified on Sheet 4--PAINTING SCHEME AND DETAILS. These alterations are identified as follows: Bid Alternative No. 2 will be taken to remove the color fade between the tank white tank stem and red brick underbelly color scheme as currently shown on Sheet 4--PAINTING SCHEME AND DETAILS. Provide a sharp line demarking the line between the stem and base cone color of 15 BL Tank White and Brick color of 07 RD Terra Cotta, in lieu of the color fade as shown on Sheet 4--PAINTING SCHEME AND DETAILS.

H. Bid Alternative No. 3 will be taken to remove the trees as currently shown on Sheet 4--PAINTING SCHEME AND DETAILS. Paint the tank bell in 15 BL Tank White in lieu of the trees.

I. Bid Alternative No. 4 will be taken to remove the grass details from the finish coat as currently shown on Sheet 4--PAINTING SCHEME AND DETAILS. Paint the area of the tank bowl currently shown as grass details in 22BL Spring Rain, in lieu of the grass details."

- c. Page 09 67 16-4, SECTION 09 67 16--STEEL WATER STORAGE TANK PAINTING, PART 2--PRODUCTS, 2.02.B.1.c.

DELETE the last sentence in Paragraph 2.02.B.1.c.

- d. Page 09 67 16-5, SECTION 09 67 16--STEEL WATER STORAGE TANK PAINTING, PART 2--PRODUCTS, 2.02.

DELETE the last sentence in Paragraph 2.02.B.1.d.

DELETE the last sentence in Paragraph 2.02.C.3.

DELETE the last sentence in Paragraph 2.02.C.4.

- e. Page 09 67 16-13, SECTION 09 67 16--STEEL WATER STORAGE TANK PAINTING, PART 3--EXECUTION 3.02.

CLARIFICATION: The second sentence of Paragraph 3.02.B.3. indicates that brush-off blast cleaning with a fine dry abrasive at low pressure is the preferred method to uniformly and thoroughly scarify all clear-coated surfaces. Other methods are available to CONTRACTOR provided that these methods provide a uniformly and thoroughly scarified surface.

- f. Page 09 67 16-13, SECTION 09 67 16-STEEL WATER STORAGE TANK PAINTING, PART 3-EXECUTION 3.02.C.3

REPLACE Paragraph 3.02.C.3. with the following:

"3. Abrasive blasting to Commercial Blast Cleaning SSPC-SP6 using vacuum recovery equipment will be allowed. Abrasive blasting all welds to Near White Blast SSPC-SP10 using vacuum recovery equipment will be allowed. No visible dust emissions shall occur."

- g. Page 09 67 16-16, SECTION 09 67 16-STEEL WATER STORAGE TANK PAINTING, PART 3-EXECUTION 3.04.B.1.

DELETE "(applied by Eric Henn Murals, Inc.)" from the table.

- h. Page 09 67 16-17, SECTION 09 67 16-STEEL WATER STORAGE TANK PAINTING, PART 3-EXECUTION 3.04.C.1.b.

DELETE Paragraph 3.04.C.1.b.5. in its entirety.

- i. Page 09 67 16-17, SECTION 09 67 16-STEEL WATER STORAGE TANK PAINTING, PART 3-EXECUTION 3.04.C.1.b.

DELETE from Paragraph 3.04.C.1.b.6, "Lettering and logo shall be applied by Eric Henn Murals, Inc."

D. EXHIBIT D-DRAWINGS

1. SHEET NO. 4-PAINTING SCHEME AND DETAILS

DELETE General Note. 4 in its entirety.

Bidders are required to acknowledge receipt of any formal Addendum by signing the Addendum and including it with the bid submission.

Business Name: Era-Valdivia Contractors, Inc.
Name of Authorized Signee: Jose G. Valdivia
Signature of Authorized Signee: 
Title: President Date: 8-1-2019

Dated at Joliet, Illinois
July 3, 2019

STRAND ASSOCIATES, INC.®
IDFPR No. 184-001273
1170 South Houbolt Road
Joliet, IL 60431

**REVISED
 BIDDER SUMMARY SHEET
 Bid #19-018
 Elevated Tank No. 5 Rehabilitation**

Business Name: Era-Valdivia Contractors, Inc.
 Street Address: 11909 South Avenue O
 City: Chicago State IL ZIP 60617
 Contact Name: Jose G. valdivia
 Title: President
 Phone: 773-721-9350 Fax: 773-721-8027
 E-Mail address: gbairaktaris@eravaldivia.com - Send to Estimating Dept.

Lump Sum Base Bid Price	\$ <u>547,870.00</u>
Bid Alternate No. 1	\$ <u>+ 131,800.00</u> <input type="checkbox"/> DEDUCTED from Base Bid <input checked="" type="checkbox"/> ADDED to Base Bid
Bid Alternate No. 2	\$ <u>- 5,000.00</u> <input checked="" type="checkbox"/> DEDUCTED from Base Bid <input type="checkbox"/> ADDED to Base Bid
Bid Alternate No. 3	\$ <u>- 5,000.00</u> <input checked="" type="checkbox"/> DEDUCTED from Base Bid <input type="checkbox"/> ADDED to Base Bid
Bid Alternate No. 4	\$ <u>- 10,000.00</u> <input checked="" type="checkbox"/> DEDUCTED from Base Bid <input type="checkbox"/> ADDED to Base Bid

The Price for all Base Bid Equipment items shall be included in the Lump Sum Base Bid. Bid Alternatives will be added to or deducted from the Lump Sum Base Bid, if they are accepted, prior to Notice of Award being made.

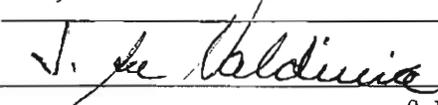
CASH ALLOWANCES

The following Cash Allowances shall be included in the Lump Sum Base Bid. The Cash Allowances will be adjusted in the event that estimated quantities to be included in the Lump Sum Base Bid are different from final measured quantities. A single unit price shall be bid for each item. Failure to include one or more of the following Unit Price items may result in rejection of the entire Bid as nonconforming.

See Section 01 29 00-Contract Considerations of Exhibit C – Technical Specifications for discussion of cash allowances to include in the Bid.

Item No.	Description	Unit	Total bid Price Included in the Lump Sum Base Bid
1	Structural Engineering Allowance Section 09 67 16-Steel Water Storage Tank Painting	Lump Sum	\$10,000.00
2	Electrical Service Section 26 21 00-Electrical Service System	Lump Sum	\$5,000.00

AUTHORIZATION & SIGNATURE

Name of Authorized Signee: Jose G. Valdivia
Signature of Authorized Signee: 
Title: President Date: 8-1-2019

 **ORLAND PARK**
CERTIFICATE OF COMPLIANCE

Bidders shall complete this Certificate of Compliance. Failure to comply with all submission requirements may result in a determination that the Bidder is not responsible.

The undersigned Jose G. Valdivia
(Enter Name of Person Making Certification)

as President
(Enter Title of Person Making Certification)

and on behalf of Era-Valdivia Contractors, Inc.
(Enter Name of Business Organization)

certifies that Bidder is:

1) **A BUSINESS ORGANIZATION:** Yes No

Federal Employer I.D. #: 36-3526376
(or Social Security # if a sole proprietor or individual)

The form of business organization of the Bidder is (check one):

Sole Proprietor

Independent Contractor (Individual)

Partnership

LLC

Corporation Illinois 1987
(State of Incorporation) (Date of Incorporation)

2) **AUTHORIZED TO DO BUSINESS IN ILLINOIS:** Yes No

The Bidder is authorized to do business in the State of Illinois.

3) **ELIGIBLE TO ENTER INTO PUBLIC CONTRACTS:** Yes No

The Bidder is eligible to enter into public contracts, and is not barred from contracting with any unit of state or local government as a result of a violation of either Section 33E-3, or 33E-4 of the Illinois Criminal Code, or of any similar offense of "bid-rigging" or "bid-rotating" of any state or of the United States.

4) SEXUAL HARRASSMENT POLICY COMPLIANT: Yes [] No []

Please be advised that Public Act 87-1257, effective July 1, 1993, 775 ILCS 5/2-105 (A) has been amended to provide that every party to a public contract must have a written sexual harassment policy in place in full compliance with 775 ILCS 5/2-105 (A) (4) and includes, at a minimum, the following information:

(I) the illegality of sexual harassment; (II) the definition of sexual harassment under State law; (III) a description of sexual harassment, utilizing examples; (IV) the vendor's internal complaint process including penalties; (V) the legal recourse, investigative and complaint process available through the Department of Human Rights (the "Department") and the Human Rights Commission (the "Commission"); (VI) directions on how to contact the Department and Commission; and (VII) protection against retaliation as provided by Section 6-101 of the Act. (Illinois Human Rights Act). (emphasis added). Pursuant to 775 ILCS 5/1-103 (M) (2002), a "public contract" includes "...every contract to which the State, any of its political subdivisions or any municipal corporation is a party."

5) EQUAL EMPLOYMENT OPPORTUNITY COMPLIANT: Yes [] No []

During the performance of this Project, Bidder agrees to comply with the "Illinois Human Rights Act", 775 ILCS Title 5 and the Rules and Regulations of the Illinois Department of Human Rights published at 44 Illinois Administrative Code Section 750, et seq.

The Bidder shall:

(I) not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status, national origin or ancestry, age, or physical or mental handicap unrelated to ability, or an unfavorable discharge from military service; (II) examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization; (III) ensure all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, marital status, national origin or ancestry, age, or physical or mental handicap unrelated to ability, or an unfavorable discharge from military service; (IV) send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the Vendor's obligations under the Illinois Human Rights Act and Department's Rules and Regulations for Public Contract; (V) submit reports as required by the Department's Rules and Regulations for Public Contracts, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Illinois Human Rights Act and Department's Rules and Regulations for Public Contracts; (VI) permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and Department for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and Department's Rules and Regulations for Public Contracts; and (VII) include verbatim or by reference the provisions of this Equal Employment Opportunity Clause in every subcontract it awards under which any portion of this Agreement obligations are undertaken or assumed, so that such provisions will be binding upon such subcontractor.

In the same manner as the other provisions of this Agreement, the Bidder will be liable for compliance with applicable provisions of this clause by such subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or

refuses to comply therewith. In addition, the Bidder will not utilize any subcontractor declared by the Illinois Human Rights Department to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

Subcontract" means any agreement, arrangement or understanding, written or otherwise, between the Bidder and any person under which any portion of the Bidder's obligations under one or more public contracts is performed, undertaken or assumed; the term "subcontract", however, shall not include any agreement, arrangement or understanding in which the parties stand in the relationship of an employer and an employee, or between a Bidder or other organization and its customers.

In the event of the Bidder's noncompliance with any provision of this Equal Employment Opportunity Clause, the Illinois Human Right Act, or the Rules and Regulations for Public Contracts of the Department of Human Rights the Bidder may be declared non-responsible and therefore ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and this agreement may be canceled or avoided in whole or in part, and such other sanctions or penalties may be imposed or remedies involved as provided by statute or regulation.

6) PREVAILING WAGE COMPLIANCE: Yes No []

In the manner and to the extent required by law, this bid is subject to the Illinois Prevailing Wage Act and to all laws governing the payment of wages to laborers, workers and mechanics of a Bidder or any subcontractor of a Bidder bound to this agreement who is performing services covered by this contract. If awarded the Contract, per 820 ILCS 130 et seq. as amended, Bidder shall pay not less than the prevailing hourly rate of wages, the generally prevailing rate of hourly wages for legal holiday and overtime work, and the prevailing hourly rate for welfare and other benefits as determined by the Illinois Department of Labor or the Village and as set forth in the schedule of prevailing wages for this contract to all laborers, workers and mechanics performing work under this contract (available at <https://www2.illinois.gov/idol/Laws-Rules/CONMED/pages/2018-rates.aspx>).

The undersigned Bidder further stipulates and certifies that it has maintained a satisfactory record of Prevailing Wage Act compliance with no significant Prevailing Wage Act violations for the past three (3) years.

In accordance with Public Act 94-0515, the Bidder will submit to the Village certified payroll records (to include for every worker employed on the project the name, address, telephone number, social security number, job classification, hourly wages paid in each pay period, number of hours worked each day and starting and ending time of work each day) on a monthly basis, along with a statement affirming that such

records are true and accurate, that the wages paid to each worker are not less than the required prevailing rate and that the Bidder is aware that knowingly filing false records is a Class B Misdemeanor.

7) PARTICIPATION IN APPRENTICESHIP AND TRAINING PROGRAM: Yes No []

Bidder participates in apprenticeship and training programs applicable to the work to be performed on the project, which are approved by and registered with the United States Department of Labor's Office of Apprenticeship.

Name of A&T Program: Painters of Allied Trades

Brief Description of Program: Joint App. Fund

DC 30 + DC 14

8) TAX COMPLIANT: Yes No

Bidder is current in the payment of any tax administered by the Illinois Department of Revenue, or if it is not: (a) it is contesting its liability for the tax or the amount of tax in accordance with procedures established by the appropriate Revenue Act; or (b) it has entered into an agreement with the Department of Revenue for payment of all taxes due and is currently in compliance with that agreement.

AUTHORIZATION & SIGNATURE:

I certify that I am authorized to execute this Certificate of Compliance on behalf of the Bidder set forth on the Bidder Summary Sheet, that I have personal knowledge of all the information set forth herein and that all statements, representations, that the bid is genuine and not collusive, and information provided in or with this Certificate are true and accurate.

The undersigned, having become familiar with the Project specified in this bid, proposes to provide and furnish all of the labor, materials, necessary tools, expendable equipment and all utility and transportation services necessary to perform and complete in a workmanlike manner all of the work required for the Project.

ACKNOWLEDGED AND AGREED TO:

J. de Valdivia
Signature of Authorized Officer

Jose G. Valdivia
Name of Authorized Officer

President
Title

8/1/2019
Date

REFERENCES

Provide three (3) references for which your organization has performed similar work.

Bidder's Name: Era-Valdivia Contractors, Inc.
(Enter Name of Business Organization)

Please See

1. ORGANIZATION _____
ADDRESS Attached List
CONTACT PERSON of all Tank work
PHONE NUMBER _____
YEAR OF PROJECT _____

2. ORGANIZATION _____
ADDRESS _____
CONTACT PERSON _____
PHONE NUMBER _____
YEAR OF PROJECT _____

3. ORGANIZATION _____
ADDRESS _____
CONTACT PERSON _____
PHONE NUMBER _____
YEAR OF PROJECT _____

INSURANCE REQUIREMENTS

Please submit a policy Specimen Certificate of Insurance showing bidder's current coverage's

WORKERS COMPENSATION & EMPLOYER LIABILITY

\$500,000 – Each Accident

\$500,000 – Policy Limit

\$500,000 – Each Employee

Waiver of Subrogation in favor of the Village of Orland Park

AUTOMOBILE LIABILITY

\$1,000,000 – Combined Single Limit

Additional Insured Endorsement in favor of the Village of Orland Park

GENERAL LIABILITY (Occurrence basis)

\$1,000,000 – Each Occurrence

\$2,000,000 – General Aggregate Limit

\$1,000,000 – Personal & Advertising Injury

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Additional Insured Endorsement & Waiver of Subrogation in favor of the Village of Orland Park

EXCESS LIABILITY (Umbrella-Follow Form Policy)

\$3,000,000 – Each Occurrence

\$3,000,000 – Aggregate

EXCESS MUST COVER: General Liability, Automobile Liability, Workers Compensation

Any insurance policies providing the coverages required of the successful Bidder, shall be specifically endorsed to identify "The Village of Orland Park, and their respective officers, trustees, directors, employees and agents as Additional Insureds on a primary/non-contributory basis with respect to all claims arising out of operations by or on behalf of the named insured." If the named insureds have other applicable insurance coverage, that coverage shall be deemed to be on an excess or contingent basis. The policies shall also contain a Waiver of Subrogation in favor of the Additional Insureds in regards to General Liability and Workers Compensation coverage's. The certificate of insurance shall also state this information on its face. Any insurance company providing coverage must hold an A VII rating according to Best's Key Rating Guide. Permitting the successful Bidder, or any subcontractor, to proceed with any work prior to our receipt of the foregoing certificate and endorsement however, shall not be a waiver of the successful Bidder's obligation to provide all of the above insurance.

Bidders agree that if they are the successful Bidder, within ten (10) days after the date of notice of the award of the contract and prior to the commencement of any work, you will furnish evidence of Insurance coverage providing for at minimum the coverages and limits described above directly to the Village of Orland Park, Denise Domalewski, Contract Administrator, 14700 S. Ravinia Avenue, Orland Park, IL 60462. Failure to provide this evidence in the time frame specified and prior to beginning of work may result in the termination of the Village's relationship with the selected bidder and the bid will be awarded to the next lowest bidder or result in creation of a new bid.

ACCEPTED & AGREED THIS 1 DAY OF August, 2017

J. G. Valdivia
Signature

Authorized to execute agreements for:

Jose G. Valdivia
Printed Name & Title

President Era-Valdivia Contractors Inc
Name of Company

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
THE OWNER AND CONTRACTOR, IF REQUIRED BY THE TERMS OF A WRITTEN CONTRACT WAS FULLY EXECUTED PRIOR TO THE DATE OF THE "OCCURRENCE", AND ANY OTHER PERSONS OR ENTITIES SPECIFICALLY REQUIRED BY, AND IDENTIFIED BY NAME IN, THAT SAME CONTRACT.	LOCATIONS AS REQUIRED BY AN EXECUTED WRITTEN CONTRACT
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or

2. Available under the applicable Limits of Insurance shown in the Declarations;
whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location And Description Of Completed Operations
THE OWNER AND CONTRACTOR, IF REQUIRED BY THE TERMS OF A WRITTEN CONTRACT THAT WAS FULLY EXECUTED PRIOR TO THE DATE OF THE "OCCURRENCE", AND ANY OTHER PERSONS OR ENTITIES SPECIFICALLY REQUIRED BY, AND IDENTIFIED BY NAME IN, THAT SAME CONTRACT.	LOCATIONS AS REQUIRED BY AN EXECUTED WRITTEN CONTRACT
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
 2. Available under the applicable Limits of Insurance shown in the Declarations;
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

BUSINESS AUTO COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V – Definitions.

SECTION I – COVERED AUTOS

Item Two of the Declarations shows the "autos" that are covered "autos" for each of your coverages. The following numerical symbols describe the "autos" that may be covered "autos". The symbols entered next to a coverage on the Declarations designate the only "autos" that are covered "autos".

A. Description Of Covered Auto Designation Symbols

Symbol	Description Of Covered Auto Designation Symbols	
1	Any "Auto"	
2	Owned "Autos" Only	Only those "autos" you own (and for Covered Autos Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" you acquire ownership of after the policy begins.
3	Owned Private Passenger "Autos" Only	Only the private passenger "autos" you own. This includes those private passenger "autos" you acquire ownership of after the policy begins.
4	Owned "Autos" Other Than Private Passenger "Autos" Only	Only those "autos" you own that are not of the private passenger type (and for Covered Autos Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" not of the private passenger type you acquire ownership of after the policy begins.
5	Owned "Autos" Subject To No-fault	Only those "autos" you own that are required to have no-fault benefits in the state where they are licensed or principally garaged. This includes those "autos" you acquire ownership of after the policy begins provided they are required to have no-fault benefits in the state where they are licensed or principally garaged.
6	Owned "Autos" Subject To A Compulsory Uninsured Motorists Law	Only those "autos" you own that because of the law in the state where they are licensed or principally garaged are required to have and cannot reject Uninsured Motorists Coverage. This includes those "autos" you acquire ownership of after the policy begins provided they are subject to the same state uninsured motorists requirement.
7	Specifically Described "Autos"	Only those "autos" described in Item Three of the Declarations for which a premium charge is shown (and for Covered Autos Liability Coverage any "trailers" you don't own while attached to any power unit described in Item Three).
8	Hired "Autos" Only	Only those "autos" you lease, hire, rent or borrow. This does not include any "auto" you lease, hire, rent or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households.
9	Non-owned "Autos" Only	Only those "autos" you do not own, lease, hire, rent or borrow that are used in connection with your business. This includes "autos" owned by your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households but only while used in your business or your personal affairs.

19	Mobile Equipment Subject To Compulsory Or Financial Responsibility Or Other Motor Vehicle Insurance Law Only	Only those "autos" that are land vehicles and that would qualify under the definition of "mobile equipment" under this policy if they were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where they are licensed or principally garaged.
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B. Owned Autos You Acquire After The Policy Begins

1. If Symbols 1, 2, 3, 4, 5, 6 or 19 are entered next to a coverage in Item Two of the Declarations, then you have coverage for "autos" that you acquire of the type described for the remainder of the policy period.
2. But, if Symbol 7 is entered next to a coverage in Item Two of the Declarations, an "auto" you acquire will be a covered "auto" for that coverage only if:
 - a. We already cover all "autos" that you own for that coverage or it replaces an "auto" you previously owned that had that coverage; and
 - b. You tell us within 30 days after you acquire it that you want us to cover it for that coverage.

C. Certain Trailers, Mobile Equipment And Temporary Substitute Autos

If Covered Autos Liability Coverage is provided by this Coverage Form, the following types of vehicles are also covered "autos" for Covered Autos Liability Coverage:

1. "Trailers" with a load capacity of 2,000 pounds or less designed primarily for travel on public roads.
2. "Mobile equipment" while being carried or towed by a covered "auto".
3. Any "auto" you do not own while used with the permission of its owner as a temporary substitute for a covered "auto" you own that is out of service because of its:
 - a. Breakdown;
 - b. Repair;
 - c. Servicing;
 - d. "Loss"; or
 - e. Destruction.

SECTION II – COVERED AUTOS LIABILITY COVERAGE

A. Coverage

We will pay all sums an "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of a covered "auto".

We will also pay all sums an "insured" legally must pay as a "covered pollution cost or expense" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of covered "autos". However, we will only pay for the "covered pollution cost or expense" if there is either "bodily injury" or "property damage" to which this insurance applies that is caused by the same "accident".

We have the right and duty to defend any "insured" against a "suit" asking for such damages or a "covered pollution cost or expense". However, we have no duty to defend any "insured" against a "suit" seeking damages for "bodily injury" or "property damage" or a "covered pollution cost or expense" to which this insurance does not apply. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends when the Covered Autos Liability Coverage Limit of Insurance has been exhausted by payment of judgments or settlements.

1. Who Is An Insured

The following are "insureds":

- a. You for any covered "auto".
- b. Anyone else while using with your permission a covered "auto" you own, hire or borrow except:
 - (1) The owner or anyone else from whom you hire or borrow a covered "auto".

This exception does not apply if the covered "auto" is a "trailer" connected to a covered "auto" you own.

- (2) Your "employee" if the covered "auto" is owned by that "employee" or a member of his or her household.
- (3) Someone using a covered "auto" while he or she is working in a business of selling, servicing, repairing, parking or storing "autos" unless that business is yours.
- (4) Anyone other than your "employees", partners (if you are a partnership), members (if you are a limited liability company) or a lessee or borrower or any of their "employees", while moving property to or from a covered "auto".
- (5) A partner (if you are a partnership) or a member (if you are a limited liability company) for a covered "auto" owned by him or her or a member of his or her household.

c. Anyone liable for the conduct of an "insured" described above but only to the extent of that liability.

2. Coverage Extensions

a. Supplementary Payments

We will pay for the "insured":

- (1) All expenses we incur.
- (2) Up to \$2,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (3) The cost of bonds to release attachments in any "suit" against the "insured" we defend, but only for bond amounts within our Limit of Insurance.
- (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$250 a day because of time off from work.
- (5) All court costs taxed against the "insured" in any "suit" against the "insured" we defend. However, these payments do not include attorneys' fees or attorneys' expenses taxed against the "insured".
- (6) All interest on the full amount of any judgment that accrues after entry of the judgment in any "suit" against the "insured" we defend, but our duty to pay interest ends when we have paid, offered to pay or deposited in court the part of the judgment that is within our Limit of Insurance.

These payments will not reduce the Limit of Insurance.

b. Out-of-state Coverage Extensions

While a covered "auto" is away from the state where it is licensed, we will:

- (1) Increase the Limit of Insurance for Covered Autos Liability Coverage to meet the limits specified by a compulsory or financial responsibility law of the jurisdiction where the covered "auto" is being used. This extension does not apply to the limit or limits specified by any law governing motor carriers of passengers or property.
- (2) Provide the minimum amounts and types of other coverages, such as no-fault, required of out-of-state vehicles by the jurisdiction where the covered "auto" is being used.

We will not pay anyone more than once for the same elements of loss because of these extensions.

B. Exclusions

This insurance does not apply to any of the following:

1. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the "insured".

2. Contractual

Liability assumed under any contract or agreement.

But this exclusion does not apply to liability for damages:

- a. Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement; or
- b. That the "insured" would have in the absence of the contract or agreement.

3. Workers' Compensation

Any obligation for which the "insured" or the "insured's" insurer may be held liable under any workers' compensation, disability benefits or unemployment compensation law or any similar law.

4. Employee Indemnification And Employer's Liability

"Bodily injury" to:

- a. An "employee" of the "insured" arising out of and in the course of:
 - (1) Employment by the "insured"; or
 - (2) Performing the duties related to the conduct of the "insured's" business; or
- b. The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph a. above.

This exclusion applies:

- (1) Whether the "insured" may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

But this exclusion does not apply to "bodily injury" to domestic "employees" not entitled to workers' compensation benefits or to liability assumed by the "insured" under an "insured contract". For the purposes of the Coverage Form, a domestic "employee" is a person engaged in household or domestic work performed principally in connection with a residence premises.

5. Fellow Employee

"Bodily injury" to:

- a. Any fellow "employee" of the "insured" arising out of and in the course of the fellow "employee's" employment or while performing duties related to the conduct of your business; or
- b. The spouse, child, parent, brother or sister of that fellow "employee" as a consequence of Paragraph a. above.

6. Care, Custody Or Control

"Property damage" to or "covered pollution cost or expense" involving property owned or transported by the "insured" or in the "insured's" care, custody or control. But this exclusion does not apply to liability assumed under a sidetrack agreement.

7. Handling Of Property

"Bodily injury" or "property damage" resulting from the handling of property:

- a. Before it is moved from the place where it is accepted by the "insured" for movement into or onto the covered "auto"; or

- b. After it is moved from the covered "auto" to the place where it is finally delivered by the "insured".

8. Movement Of Property By Mechanical Device

"Bodily injury" or "property damage" resulting from the movement of property by a mechanical device (other than a hand truck) unless the device is attached to the covered "auto".

9. Operations

"Bodily injury" or "property damage" arising out of the operation of:

- a. Any equipment listed in Paragraphs 6.b. and 6.c. of the definition of "mobile equipment"; or
- b. Machinery or equipment that is on, attached to or part of a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

10. Completed Operations

"Bodily injury" or "property damage" arising out of your work after that work has been completed or abandoned.

In this exclusion, your work means:

- a. Work or operations performed by you or on your behalf; and
- b. Materials, parts or equipment furnished in connection with such work or operations.

Your work includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in Paragraph a. or b. above.

Your work will be deemed completed at the earliest of the following times:

- (1) When all of the work called for in your contract has been completed;
- (2) When all of the work to be done at the site has been completed if your contract calls for work at more than one site; or
- (3) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

11. Pollution

"Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- a. That are, or that are contained in any property that is:
 - (1) Being transported or towed by, handled or handled for movement into, onto or from the covered "auto";
 - (2) Otherwise in the course of transit by or on behalf of the "insured"; or
 - (3) Being stored, disposed of, treated or processed in or upon the covered "auto";
- b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or
- c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraph a. above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts if:

- (1) The "pollutants" escape, seep, migrate or are discharged, dispersed or released directly from an "auto" part designed by its manufacturer to hold, store, receive or dispose of such "pollutants"; and
- (2) The "bodily injury", "property damage" or "covered pollution cost or expense" does not arise out of the operation of any equipment listed in Paragraphs 6.b. and 6.c. of the definition of "mobile equipment".

Paragraphs b. and c. above of this exclusion do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

- (a) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and
- (b) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

12. War

"Bodily injury" or "property damage" arising directly or indirectly out of:

- a. War, including undeclared or civil war;
- b. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- c. Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.

13. Racing

Covered "autos" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. This insurance also does not apply while that covered "auto" is being prepared for such a contest or activity.

C. Limit Of Insurance

Regardless of the number of covered "autos", "insureds", premiums paid, claims made or vehicles involved in the "accident", the most we will pay for the total of all damages and "covered pollution cost or expense" combined resulting from any one "accident" is the Limit Of Insurance for Covered Autos Liability Coverage shown in the Declarations.

All "bodily injury", "property damage" and "covered pollution cost or expense" resulting from continuous or repeated exposure to substantially the same conditions will be considered as resulting from one "accident".

No one will be entitled to receive duplicate payments for the same elements of "loss" under this Coverage Form and any Medical Payments Coverage endorsement, Uninsured Motorists Coverage endorsement or Underinsured Motorists Coverage endorsement attached to this Coverage Part.

SECTION III – PHYSICAL DAMAGE COVERAGE

A. Coverage

1. We will pay for "loss" to a covered "auto" or its equipment under:

a. Comprehensive Coverage

From any cause except:

- (1) The covered "auto's" collision with another object; or
- (2) The covered "auto's" overturn.

b. Specified Causes Of Loss Coverage

Caused by:

- (1) Fire, lightning or explosion;
- (2) Theft;
- (3) Windstorm, hail or earthquake;
- (4) Flood;
- (5) Mischief or vandalism; or
- (6) The sinking, burning, collision or derailment of any conveyance transporting the covered "auto".

c. Collision Coverage

Caused by:

- (1) The covered "auto's" collision with another object; or
- (2) The covered "auto's" overturn.

2. Towing

We will pay up to the limit shown in the Declarations for towing and labor costs incurred each time a covered "auto" of the private passenger type is disabled. However, the labor must be performed at the place of disablement.

3. Glass Breakage – Hitting A Bird Or Animal – Falling Objects Or Missiles

If you carry Comprehensive Coverage for the damaged covered "auto", we will pay for the following under Comprehensive Coverage:

- a. Glass breakage;
- b. "Loss" caused by hitting a bird or animal; and
- c. "Loss" caused by falling objects or missiles.

However, you have the option of having glass breakage caused by a covered "auto's" collision or overturn considered a "loss" under Collision Coverage.

4. Coverage Extensions

a. Transportation Expenses

We will pay up to \$20 per day, to a maximum of \$600, for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes Of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

b. Loss Of Use Expenses

For Hired Auto Physical Damage, we will pay expenses for which an "insured" becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver under a written rental contract or agreement. We will pay for loss of use expenses if caused by:

- (1) Other than collision only if the Declarations indicates that Comprehensive Coverage is provided for any covered "auto";
- (2) Specified Causes Of Loss only if the Declarations indicates that Specified Causes Of Loss Coverage is provided for any covered "auto"; or

- (3) Collision only if the Declarations indicates that Collision Coverage is provided for any covered "auto".

However, the most we will pay for any expenses for loss of use is \$20 per day, to a maximum of \$600.

B. Exclusions

1. We will not pay for "loss" caused by or resulting from any of the following. Such "loss" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the "loss".

a. Nuclear Hazard

- (1) The explosion of any weapon employing atomic fission or fusion; or
- (2) Nuclear reaction or radiation, or radioactive contamination, however caused.

b. War Or Military Action

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.

2. We will not pay for "loss" to any covered "auto" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. We will also not pay for "loss" to any covered "auto" while that covered "auto" is being prepared for such a contest or activity.

3. We will not pay for "loss" due and confined to:
 - a. Wear and tear, freezing, mechanical or electrical breakdown.
 - b. Blowouts, punctures or other road damage to tires.

This exclusion does not apply to such "loss" resulting from the total theft of a covered "auto".

4. We will not pay for "loss" to any of the following:
 - a. Tapes, records, discs or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment.

- b. Any device designed or used to detect speed-measuring equipment, such as radar or laser detectors, and any jamming apparatus intended to elude or disrupt speed-measuring equipment.

- c. Any electronic equipment, without regard to whether this equipment is permanently installed, that reproduces, receives or transmits audio, visual or data signals.

- d. Any accessories used with the electronic equipment described in Paragraph c. above.

5. Exclusions 4.c. and 4.d. do not apply to equipment designed to be operated solely by use of the power from the "auto's" electrical system that, at the time of "loss", is:

- a. Permanently installed in or upon the covered "auto";

- b. Removable from a housing unit which is permanently installed in or upon the covered "auto";

- c. An integral part of the same unit housing any electronic equipment described in Paragraphs a. and b. above; or

- d. Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system.

6. We will not pay for "loss" to a covered "auto" due to "diminution in value".

C. Limits Of Insurance

1. The most we will pay for:

- a. "Loss" to any one covered "auto" is the lesser of:

- (1) The actual cash value of the damaged or stolen property as of the time of the "loss"; or

- (2) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

- b. All electronic equipment that reproduces, receives or transmits audio, visual or data signals in any one "loss" is \$1,000, if, at the time of "loss", such electronic equipment is:

- (1) Permanently installed in or upon the covered "auto" in a housing, opening or other location that is not normally used by the "auto" manufacturer for the installation of such equipment;

- (2) Removable from a permanently installed housing unit as described in Paragraph **b.(1)** above; or
 - (3) An integral part of such equipment as described in Paragraphs **b.(1)** and **b.(2)** above.
2. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total "loss".
 3. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of the betterment.

D. Deductible

For each covered "auto", our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Declarations. Any Comprehensive Coverage deductible shown in the Declarations does not apply to "loss" caused by fire or lightning.

SECTION IV – BUSINESS AUTO CONDITIONS

The following conditions apply in addition to the Common Policy Conditions:

A. Loss Conditions

1. Appraisal For Physical Damage Loss

If you and we disagree on the amount of "loss", either may demand an appraisal of the "loss". In this event, each party will select a competent appraiser. The two appraisers will select a competent and impartial umpire. The appraisers will state separately the actual cash value and amount of "loss". If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If we submit to an appraisal, we will still retain our right to deny the claim.

2. Duties In The Event Of Accident, Claim, Suit Or Loss

We have no duty to provide coverage under this policy unless there has been full compliance with the following duties:

- a. In the event of "accident", claim, "suit" or "loss", you must give us or our authorized representative prompt notice of the "accident" or "loss". Include:
 - (1) How, when and where the "accident" or "loss" occurred;

- (2) The "insured's" name and address; and
 - (3) To the extent possible, the names and addresses of any injured persons and witnesses.
- b. Additionally, you and any other involved "insured" must:
 - (1) Assume no obligation, make no payment or incur no expense without our consent, except at the "insured's" own cost.
 - (2) Immediately send us copies of any request, demand, order, notice, summons or legal paper received concerning the claim or "suit".
 - (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit".
 - (4) Authorize us to obtain medical records or other pertinent information.
 - (5) Submit to examination, at our expense, by physicians of our choice, as often as we reasonably require.

c. If there is "loss" to a covered "auto" or its equipment, you must also do the following:

- (1) Promptly notify the police if the covered "auto" or any of its equipment is stolen.
- (2) Take all reasonable steps to protect the covered "auto" from further damage. Also keep a record of your expenses for consideration in the settlement of the claim.
- (3) Permit us to inspect the covered "auto" and records proving the "loss" before its repair or disposition.
- (4) Agree to examinations under oath at our request and give us a signed statement of your answers.

3. Legal Action Against Us

No one may bring a legal action against us under this Coverage Form until:

- a. There has been full compliance with all the terms of this Coverage Form; and
- b. Under Covered Autos Liability Coverage, we agree in writing that the "insured" has an obligation to pay or until the amount of that obligation has finally been determined by judgment after trial. No one has the right under this policy to bring us into an action to determine the "insured's" liability.

4. Loss Payment – Physical Damage Coverages

At our option, we may:

- a. Pay for, repair or replace damaged or stolen property;
- b. Return the stolen property, at our expense. We will pay for any damage that results to the "auto" from the theft; or
- c. Take all or any part of the damaged or stolen property at an agreed or appraised value.

If we pay for the "loss", our payment will include the applicable sales tax for the damaged or stolen property.

5. Transfer Of Rights Of Recovery Against Others To Us

If any person or organization to or for whom we make payment under this Coverage Form has rights to recover damages from another, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after "accident" or "loss" to impair them.

B. General Conditions

1. Bankruptcy

Bankruptcy or insolvency of the "insured" or the "insured's" estate will not relieve us of any obligations under this Coverage Form.

2. Concealment, Misrepresentation Or Fraud

This Coverage Form is void in any case of fraud by you at any time as it relates to this Coverage Form. It is also void if you or any other "insured", at any time, intentionally conceals or misrepresents a material fact concerning:

- a. This Coverage Form;
- b. The covered "auto";
- c. Your interest in the covered "auto"; or
- d. A claim under this Coverage Form.

3. Liberalization

If we revise this Coverage Form to provide more coverage without additional premium charge, your policy will automatically provide the additional coverage as of the day the revision is effective in your state.

4. No Benefit To Bailee – Physical Damage Coverages

We will not recognize any assignment or grant any coverage for the benefit of any person or organization holding, storing or transporting property for a fee regardless of any other provision of this Coverage Form.

5. Other Insurance

- a. For any covered "auto" you own, this Coverage Form provides primary insurance. For any covered "auto" you don't own, the insurance provided by this Coverage Form is excess over any other collectible insurance. However, while a covered "auto" which is a "trailer" is connected to another vehicle, the Covered Autos Liability Coverage this Coverage Form provides for the "trailer" is:

(1) Excess while it is connected to a motor vehicle you do not own; or

(2) Primary while it is connected to a covered "auto" you own.

- b. For Hired Auto Physical Damage Coverage, any covered "auto" you lease, hire, rent or borrow is deemed to be a covered "auto" you own. However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

- c. Regardless of the provisions of Paragraph a. above, this Coverage Form's Covered Autos Liability Coverage is primary for any liability assumed under an "insured contract".

- d. When this Coverage Form and any other Coverage Form or policy covers on the same basis, either excess or primary, we will pay only our share. Our share is the proportion that the Limit of Insurance of our Coverage Form bears to the total of the limits of all the Coverage Forms and policies covering on the same basis.

6. Premium Audit

- a. The estimated premium for this Coverage Form is based on the exposures you told us you would have when this policy began. We will compute the final premium due when we determine your actual exposures. The estimated total premium will be credited against the final premium due and the first Named Insured will be billed for the balance, if any. The due date for the final premium or retrospective premium is the date shown as the due date on the bill. If the estimated total premium exceeds the final premium due, the first Named Insured will get a refund.
- b. If this policy is issued for more than one year, the premium for this Coverage Form will be computed annually based on our rates or premiums in effect at the beginning of each year of the policy.

7. Policy Period, Coverage Territory

Under this Coverage Form, we cover "accidents" and "losses" occurring:

- a. During the policy period shown in the Declarations; and
- b. Within the coverage territory.

The coverage territory is:

- (1) The United States of America;
- (2) The territories and possessions of the United States of America;
- (3) Puerto Rico;
- (4) Canada; and
- (5) Anywhere in the world if a covered "auto" of the private passenger type is leased, hired, rented or borrowed without a driver for a period of 30 days or less,

provided that the "insured's" responsibility to pay damages is determined in a "suit" on the merits, in the United States of America, the territories and possessions of the United States of America, Puerto Rico or Canada, or in a settlement we agree to.

We also cover "loss" to, or "accidents" involving, a covered "auto" while being transported between any of these places.

8. Two Or More Coverage Forms Or Policies Issued By Us

If this Coverage Form and any other Coverage Form or policy issued to you by us or any company affiliated with us applies to the same "accident", the aggregate maximum Limit of Insurance under all the Coverage Forms or policies shall not exceed the highest applicable Limit of Insurance under any one Coverage Form or policy. This condition does not apply to any Coverage Form or policy issued by us or an affiliated company specifically to apply as excess insurance over this Coverage Form.

SECTION V – DEFINITIONS

- A. "Accident" includes continuous or repeated exposure to the same conditions resulting in "bodily injury" or "property damage".
- B. "Auto" means:
 1. A land motor vehicle, "trailer" or semitrailer designed for travel on public roads; or

2. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

- C. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these.

- D. "Covered pollution cost or expense" means any cost or expense arising out of:

1. Any request, demand, order or statutory or regulatory requirement that any "insured" or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
2. Any claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

"Covered pollution cost or expense" does not include any cost or expense arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- a. That are, or that are contained in any property that is:
 - (1) Being transported or towed by, handled or handled for movement into, onto or from the covered "auto";
 - (2) Otherwise in the course of transit by or on behalf of the "insured"; or
 - (3) Being stored, disposed of, treated or processed in or upon the covered "auto";
- b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or
- c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraph **a.** above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts, if:

- (1) The "pollutants" escape, seep, migrate or are discharged, dispersed or released directly from an "auto" part designed by its manufacturer to hold, store, receive or dispose of such "pollutants"; and
- (2) The "bodily injury", "property damage" or "covered pollution cost or expense" does not arise out of the operation of any equipment listed in Paragraph **6.b.** or **6.c.** of the definition of "mobile equipment".

Paragraphs **b.** and **c.** above do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

- (a) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and
- (b) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

E. "Diminution in value" means the actual or perceived loss in market value or resale value which results from a direct and accidental "loss".

F. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

G. "Insured" means any person or organization qualifying as an insured in the Who Is An Insured provision of the applicable coverage. Except with respect to the Limit of Insurance, the coverage afforded applies separately to each insured who is seeking coverage or against whom a claim or "suit" is brought.

H. "Insured contract" means:

1. A lease of premises;
2. A sidetrack agreement;
3. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
4. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;

5. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another to pay for "bodily injury" or "property damage" to a third party or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement; or

6. That part of any contract or agreement entered into, as part of your business, pertaining to the rental or lease, by you or any of your "employees", of any "auto". However, such contract or agreement shall not be considered an "insured contract" to the extent that it obligates you or any of your "employees" to pay for "property damage" to any "auto" rented or leased by you or any of your "employees".

An "insured contract" does not include that part of any contract or agreement:

- a. That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
- b. That pertains to the loan, lease or rental of an "auto" to you or any of your "employees", if the "auto" is loaned, leased or rented with a driver; or
- c. That holds a person or organization engaged in the business of transporting property by "auto" for hire harmless for your use of a covered "auto" over a route or territory that person or organization is authorized to serve by public authority.

I. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

J. "Loss" means direct and accidental loss or damage.

K. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

1. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
2. Vehicles maintained for use solely on or next to premises you own or rent;
3. Vehicles that travel on crawler treads;

- 4. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - a. Power cranes, shovels, loaders, diggers or drills; or
 - b. Road construction or resurfacing equipment such as graders, scrapers or rollers;
- 5. Vehicles not described in Paragraph 1., 2., 3. or 4. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - a. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well-servicing equipment; or
 - b. Cherry pickers and similar devices used to raise or lower workers; or
- 6. Vehicles not described in Paragraph 1., 2., 3. or 4. above maintained primarily for purposes other than the transportation of persons or cargo. However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":
 - a. Equipment designed primarily for:
 - (1) Snow removal;
 - (2) Road maintenance, but not construction or resurfacing; or
 - (3) Street cleaning;
 - b. Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
 - c. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting or well-servicing equipment.

However, "mobile equipment" does not include land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

- L. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
- M. "Property damage" means damage to or loss of use of tangible property.
- N. "Suit" means a civil proceeding in which:
 - 1. Damages because of "bodily injury" or "property damage"; or
 - 2. A "covered pollution cost or expense";
 to which this insurance applies, are alleged.

"Suit" includes:

 - a. An arbitration proceeding in which such damages or "covered pollution costs or expenses" are claimed and to which the "insured" must submit or does submit with our consent; or
 - b. Any other alternative dispute resolution proceeding in which such damages or "covered pollution costs or expenses" are claimed and to which the insured submits with our consent.
- O. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.
- P. "Trailer" includes semitrailer.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Person Or Organization:

WHERE REQUIRED BY AN EXECUTED WRITTEN CONTRACT.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph **8. Transfer Of Rights Of Recovery Against Others To Us** of **Section IV – Conditions**:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

WI BLANKET

WHERE REQUIRED BY AN EXECUTED WRITTEN CONTRACT IN ALL STATES WHERE APPLICABLE.

This endorsement changes the policy to which it is attached effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective 04/01/2019 Policy No. A5CW37781812 Endorsement No. 000

Insured ERA VALDIVIA CONTRACTORS, INC. Premium \$

Insurance Company Countersigned by _____

OLD REPUBLIC GENERAL INSURANCE CORPORATION

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: ERA VALDIVIA CONTRACTORS, INC.

Endorsement Effective Date: 04/01/2019

SCHEDULE

Name(s) Of Person(s) Or Organization(s):
WHERE REQUIRED BY AN EXECUTED WRITTEN CONTRACT

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The **Transfer Of Rights Of Recovery Against Others To Us** condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.

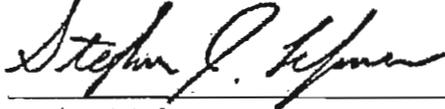
PAINTERS AND ALLIED TRADES DISTRICT COUNCIL 30

Joint Apprenticeship & Training Fund

November 25, 2013

This letter is to confirm that ERA Valdivia Contractors, Inc. is a signatory contractor of Painters District Council No.30 and is participating in PDC #30's Joint Apprenticeship & Training Fund. Below is a copy of PDC #30 JATF's Apprenticeship Program Certificate of Registration with the United States Department of Labor for the trades of Painters, Glaziers and Drywall Finishers.

For Additional Information please call our office at 630-966-1451.



Stephen J. Lefaver
Director of Apprenticeship & Training

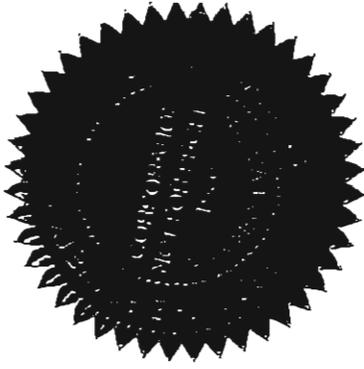
*****VOID 90 DAYS FROM ISSUE DATE*****

The United States Department of Labor
Office of Apprenticeship Training, Employer and Labor Services
Bureau of Apprenticeship and Training
Certificate of Registration
PAINTERS & ALLIED TRADES DISTRICT COUNCIL #30
Joint Apprenticeship Training Fund
For the Trades of: Painter, Glazier, & Taper (Drywall Finisher)
*Registered as part of the National Apprenticeship Program
in accordance with the basic standards of apprenticeship
established by the Secretary of Labor*

April 7, 1945
No. 11,004780094
Registration No.



L. L. Chao
Secretary of Labor
Anthony S. Savage
Administrator, Apprenticeship Training, Employer and Labor Services



Era Valdivia Contractors, Inc.

of

Chicago, IL

*has met or exceeded the requirements set forth in the
SSPC Painting Contractor Certification Program for*

**FIELD APPLICATION OF COATINGS
COMPLEX STRUCTURES
SSPC - QP1**



Larry D. Manono

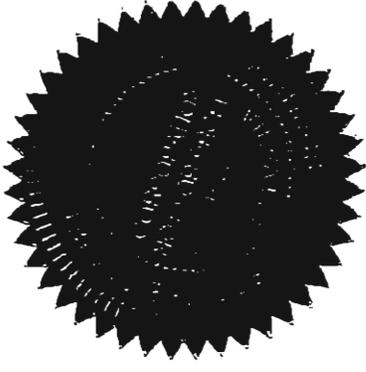
President, SSPC

March 31, 2019 – March 31, 2020

Validation Period



Owners are advised to contact SSPC at 412-281-2331 ext. 2235 or ext. 2209 to verify authenticity of certification.



Era Valdivia Contractors, Inc.

of
Chicago, IL

*has met or exceeded the requirements set forth in the
SSPC Painting Contractor Certification Program for*

INDUSTRIAL HAZARDOUS PAINT REMOVAL SSPC-QP2



"A"

Category

Gary D. Manono
President, SSPC

March 31, 2019 – March 31, 2020

Validation Period



Owners are advised to contact SSPC at 412-281-2331 ext. 2235 or ext. 2209 to verify authenticity of certification.



Illinois Department of Transportation

Certificate of Eligibility

Contractor No 1604

ERA Valdivia Contractors, Inc.
11909 South Avenue O Chicago, IL 60617

WHO HAS FILED WITH THE DEPARTMENT AN APPLICATION FOR PREQUALIFICATION STATEMENT OF EXPERIENCE, EQUIPMENT AND FINANCIAL CONDITION IS HEREBY QUALIFIED TO BID AT ANY OF DEPARTMENT OF TRANSPORTATION LETTINGS IN THE CLASSES OF WORK AND WITHIN THE AMOUNT AND OTHER LIMITATIONS OF EACH CLASSIFICATION, AS LISTED BELOW, FOR SUCH PERIOD AS THE UNCOMPLETED WORK FROM ALL SOURCES DOES NOT EXCEED UNLIMITED

010	STRUCTURE REPAIR	\$5,950,000
017	CONCRETE CONSTRUCTION	\$700,000
022	FENCING	\$25,000
025	PAINTING & CLEANING	\$33,675,000

THIS CERTIFICATE OF ELIGIBILITY IS VALID FROM 5/28/2019 TO 4/30/2020 INCLUSIVE, AND SUPERSEDES ANY CERTIFICATE PREVIOUSLY ISSUED, BUT IS SUBJECT TO REVISION OR REVOCATION, IF AND WHEN CHANGES IN THE FINANCIAL CONDITION OF THE CONTRACTING FIRM OR OTHER FACTS JUSTIFY SUCH REVISIONS OR REVOCATION. ISSUED AT SPRINGFIELD, ILLINOIS ON 5/30/2019.

Tim Bell
Engineer of Construction

Document A310™ – 2010

Conforms with The American Institute of Architects AIA Document 310

Bid Bond

CONTRACTOR:

(Name, legal status and address)

Era Valdivia Contractors, Inc.
11909 South Avenue O
Chicago, IL 60617

OWNER:

(Name, legal status and address)

Village of Orland Park
147000 S. Ravinia Avenue
Orland Park, IL 60462

SURETY:

(Name, legal status and principal place of business)

Great American Insurance Company

301 East Fourth Street
Cincinnati, OH 45202

Mailing Address for Notices

Same As Above

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

BOND AMOUNT: 10% Ten Percent of Amount Bid

PROJECT:

(Name, location or address, and Project number, if any)

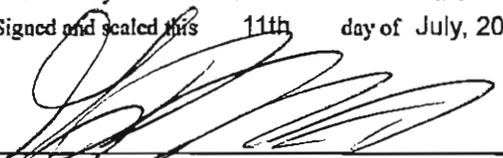
Bid #19-018 Elevated Tank No. 5 Rehabilitation

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this 11th day of July, 2019.



(Witness) Jeffrey S. Ciecko

Era Valdivia Contractors, Inc.

(Principal)

(Seal)

By: 

(Title) J. Valdivia, president

Great American Insurance Company

(Surety)

(Seal)

By: 

(Title) Stephanie C. Anderson, Attorney-in-Fact

GREAT AMERICAN INSURANCE COMPANY®

Administrative Office: 301 E 4TH STREET • CINCINNATI, OHIO 45202 • 513-369-5000 • FAX 513-723-2740

The number of persons authorized by this power of attorney is not more than **FOUR**

No. 0 20195

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the GREAT AMERICAN INSURANCE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Ohio, does hereby nominate, constitute and appoint the person or persons named below, each individually if more than one is named, its true and lawful attorney-in-fact, for it and in its name, place and stead to execute on behalf of the said Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; provided that the liability of the said Company on any such bond, undertaking or contract of suretyship executed under this authority shall not exceed the limit stated below.

Name	Address	Limit of Power
PETER S. FORKER	ALL OF	ALL
JEFFREY S. CIECKO	CHICAGO, ILLINOIS	\$100,000,000
TAMMY L. WHICKER		
STEPHANIE C. ANDERSON		

This Power of Attorney revokes all previous powers issued on behalf of the attorney(s)-in-fact named above.

IN WITNESS WHEREOF the GREAT AMERICAN INSURANCE COMPANY has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 5TH day of APRIL, 2019.



Stephanie C. Anderson

Assistant Secretary

GREAT AMERICAN INSURANCE COMPANY

Mark V. Vicario

Divisional Senior Vice President

STATE OF OHIO, COUNTY OF HAMILTON - ss:

MARK VICARIO (877-377-2405)

On this 5TH day of APRIL, 2019, before me personally appeared MARK VICARIO, to me known, being duly sworn, deposes and says that he resides in Cincinnati, Ohio, that he is a Divisional Senior Vice President of the Bond Division of Great American Insurance Company, the Company described in and which executed the above instrument; that he knows the seal of the said Company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by authority of his office under the By-Laws of said Company, and that he signed his name thereto by like authority.



Susan A. Kohorst
Notary Public, State of Ohio
My Commission Expires 05-18-2020

Susan A. Kohorst

This Power of Attorney is granted by authority of the following resolutions adopted by the Board of Directors of Great American Insurance Company by unanimous written consent dated June 9, 2008.

RESOLVED: That the Divisional President, the several Divisional Senior Vice Presidents, Divisional Vice Presidents and Divisional Assistant Vice Presidents, or any one of them, be and hereby is authorized, from time to time, to appoint one or more Attorneys-in-Fact to execute on behalf of the Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; to prescribe their respective duties and the respective limits of their authority; and to revoke any such appointment at any time.

RESOLVED FURTHER: That the Company seal and the signature of any of the aforesaid officers and any Secretary or Assistant Secretary of the Company may be affixed by facsimile to any power of attorney or certificate of either given for the execution of any bond, undertaking, contract of suretyship, or other written obligation in the nature thereof, such signature and seal when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

CERTIFICATION

I, STEPHEN C. BERAHA, Assistant Secretary of Great American Insurance Company, do hereby certify that the foregoing Power of Attorney and the Resolutions of the Board of Directors of June 9, 2008 have not been revoked and are now in full force and effect.

Signed and sealed this

11th day of July 2019



Stephanie C. Anderson

Assistant Secretary

Bond No. 2556576

Document A312™ – 2010

Conforms with The American Institute of Architects AIA Document 312

Payment Bond

CONTRACTOR:

(Name, legal status and address)

Era Valdivia Contractors, Inc.
11909 South Avenue O
Chicago, IL 60617

SURETY:

(Name, legal status and principal place of business)

Great American Insurance Company
301 East Fourth Street
Cincinnati, OH 45202
Mailing Address for Notices

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

OWNER:

(Name, legal status and address)

Village of Orland Park
147000 S. Ravinia Avenue
Orland Park, IL 60462

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

Same As Above

CONSTRUCTION CONTRACT

Date: October 4, 2019

Amount: \$653,670.00 Six Hundred Fifty Three Thousand Six Hundred Seventy Dollars and 00/100

Description:

(Name and location)

Elevated Tank No. 5 Rehabilitation

BOND

Date: October 7, 2019

(Not earlier than Construction Contract Date)

Amount: \$653,670.00 Six Hundred Fifty Three Thousand Six Hundred Seventy Dollars and 00/100

Modifications to this Bond:

None

See Section 18

CONTRACTOR AS PRINCIPAL

Company: *(Corporate Seal)*

Era Valdivia Contractors, Inc.

Signature: *Era Valdivia*

Name and Title:

SURETY

Company: *(Corporate Seal)*

Great American Insurance Company

Signature: *Stephanie C. Anderson*

Name and Title: Attorney-in-Fact

(Any additional signatures appear on the last page of this Payment Bond.)

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

Arthur J Gallagher Risk Management Services, Inc.
2850 Golf Road
Rolling Meadows, IL 60008
630-773-3800

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

§ 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

§ 4 When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

§ 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:

§ 5.1 Claimants, who do not have a direct contract with the Contractor,

- .1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- .2 have sent a Claim to the Surety (at the address described in Section 13).

§ 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

§ 6 If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

§ 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

§ 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

§ 7.2 Pay or arrange for payment of any undisputed amounts.

§ 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

§ 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

§ 9 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

§ 10 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

§ 11 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 12 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 13 Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

§ 14 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 15 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

§ 16 Definitions

§ 16.1 Claim. A written statement by the Claimant including at a minimum:

- .1 the name of the Claimant;
- .2 the name of the person for whom the labor was done, or materials or equipment furnished;
- .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
- .4 a brief description of the labor, materials or equipment furnished;
- .5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
- .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
- .7 the total amount of previous payments received by the Claimant; and
- .8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

§ 16.2 Claimant. An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

§ 16.3 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

§ 16.4 **Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 16.5 **Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

§ 17 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 18 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

Company: _____
(Corporate Seal)

SURETY

Company: _____
(Corporate Seal)

Signature: _____
Name and Title:
Address

Signature: _____
Name and Title:
Address

Bond No. 2556576

Document A312™ – 2010

Conforms with The American Institute of Architects AIA Document 312

Performance Bond

CONTRACTOR:

(Name, legal status and address)

Era Valdivia Contractors, Inc.
11909 South Avenue O
Chicago, IL 60617

SURETY:

(Name, legal status and principal place of business)

Great American Insurance Company
301 East Fourth Street
Cincinnati, OH 45202
Mailing Address for Notices

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

Same As Above

OWNER:

(Name, legal status and address)

Village of Orland Park
147000 S. Ravinia Avenue
Orland Park, IL 60462

CONSTRUCTION CONTRACT

Date: October 4, 2019

Amount: \$ 653,670.00 Six Hundred Fifty Three Thousand Six Hundred Seventy Dollars and 00/100

Description:

(Name and location)

Elevated Tank No. 5 Rehabilitation

BOND

Date: October 7, 2019

(Not earlier than Construction Contract Date)

Amount: \$ 653,670.00 Six Hundred Fifty Three Thousand Six Hundred Seventy Dollars and 00/100

Modifications to this Bond: None See Section 16

CONTRACTOR AS PRINCIPAL

Company: *(Corporate Seal)*

Era Valdivia Contractors, Inc.

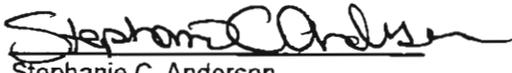
Signature: 

Name and Title:

SURETY

Company: *(Corporate Seal)*

Great American Insurance Company

Signature: 

Name and Title: Stephanie C. Anderson
Attorney-in-Fact

(Any additional signatures appear on the last page of this Performance Bond.)

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

Arthur J Gallagher Risk Management Services, Inc.
2850 Golf Road
Rolling Meadows, IL 60008
630-773-3800

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

§ 2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after

- .1 the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
- .2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
- .3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

§ 4 Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

§ 5 When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

§ 5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

§ 5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

§ 5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

§ 5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

- .1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
- .2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

§ 6 If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

§ 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

- .1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- .2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and
- .3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

§ 8 If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

§ 9 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

§ 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 11 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

§ 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 14 Definitions

§ 14.1 Balance of the Contract Price. The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

§ 14.2 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

§ 14.3 Contractor Default. Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

§ 14.4 Owner Default. Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 14.5 Contract Documents. All the documents that comprise the agreement between the Owner and Contractor.

§ 15 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 16 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

SURETY

Company: _____
(Corporate Seal)

Company: _____
(Corporate Seal)

Signature: _____
Name and Title:
Address

Signature: _____
Name and Title:
Address

GREAT AMERICAN INSURANCE COMPANY®

Administrative Office: 301 E 4TH STREET • CINCINNATI, OHIO 45202 • 513-369-5000 • FAX 513-723-2740

The number of persons authorized by this power of attorney is not more than **FOUR**

No. 0 20195

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the GREAT AMERICAN INSURANCE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Ohio, does hereby nominate, constitute and appoint the person or persons named below, each individually if more than one is named, its true and lawful attorney-in-fact, for it and in its name, place and stead to execute on behalf of the said Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; provided that the liability of the said Company on any such bond, undertaking or contract of suretyship executed under this authority shall not exceed the limit stated below.

Name	Address	Limit of Power
PETER S. FORKER	ALL OF	ALL
JEFFREY S. CIECKO	CHICAGO, ILLINOIS	\$100,000,000
TAMMY L. WHICKER		
STEPHANIE C. ANDERSON		

This Power of Attorney revokes all previous powers issued on behalf of the attorney(s)-in-fact named above.

IN WITNESS WHEREOF the GREAT AMERICAN INSURANCE COMPANY has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this **5TH** day of **APRIL**, 2019.

Attest

GREAT AMERICAN INSURANCE COMPANY



Atty L C. B.

Assistant Secretary

Mark V Vicario

Divisional Senior Vice President

STATE OF OHIO, COUNTY OF HAMILTON - ss:

MARK VICARIO (877-377-2405)

On this **5TH** day of **APRIL**, 2019, before me personally appeared **MARK VICARIO**, to me known, being duly sworn, deposes and says that he resides in Cincinnati, Ohio, that he is a Divisional Senior Vice President of the Bond Division of Great American Insurance Company, the Company described in and which executed the above instrument; that he knows the seal of the said Company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by authority of his office under the By-Laws of said Company, and that he signed his name thereto by like authority.



Susan A. Kohorst
Notary Public, State of Ohio
My Commission Expires 05-18-2020

Susan A Kohorst

This Power of Attorney is granted by authority of the following resolutions adopted by the Board of Directors of Great American Insurance Company by unanimous written consent dated June 9, 2008.

RESOLVED: That the Divisional President, the several Divisional Senior Vice Presidents, Divisional Vice Presidents and Divisional Assistant Vice Presidents, or any one of them, be and hereby is authorized, from time to time, to appoint one or more Attorneys-in-Fact to execute on behalf of the Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; to prescribe their respective duties and the respective limits of their authority; and to revoke any such appointment at any time.

RESOLVED FURTHER: That the Company seal and the signature of any of the aforesaid officers and any Secretary or Assistant Secretary of the Company may be affixed by facsimile to any power of attorney or certificate of either given for the execution of any bond, undertaking, contract of suretyship, or other written obligation in the nature thereof, such signature and seal when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

CERTIFICATION

I, **STEPHEN C. BERAHA**, Assistant Secretary of Great American Insurance Company, do hereby certify that the foregoing Power of Attorney and the Resolutions of the Board of Directors of June 9, 2008 have not been revoked and are now in full force and effect.

Signed and sealed this **7th** day of **October**, 2019.



Atty L C. B.

Assistant Secretary

Bond No. 2556576

Document A312™ – 2010

Conforms with The American Institute of Architects AIA Document 312

Performance Bond

CONTRACTOR:
(Name, legal status and address)

Era Valdivia Contractors, Inc.
11909 South Avenue O
Chicago, IL 60617

SURETY:
(Name, legal status and principal place of business)

Great American Insurance Company
301 East Fourth Street
Cincinnati, OH 45202
Mailing Address for Notices

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

OWNER:
(Name, legal status and address)

Village of Orland Park
147000 S. Ravinia Avenue
Orland Park, IL 60462

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

Same As Above

CONSTRUCTION CONTRACT
Date: October 4, 2019

Amount: \$ 653,670.00 Six Hundred Fifty Three Thousand Six Hundred Seventy Dollars and 00/100

Description:

(Name and location)

Elevated Tank No. 5 Rehabilitation

BOND

Date: October 7, 2019

(Not earlier than Construction Contract Date)

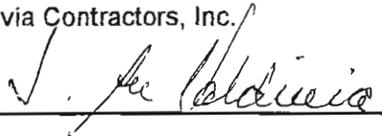
Amount: \$ 653,670.00 Six Hundred Fifty Three Thousand Six Hundred Seventy Dollars and 00/100

Modifications to this Bond: None See Section 16

CONTRACTOR AS PRINCIPAL

Company: *(Corporate Seal)*

Era Valdivia Contractors, Inc.

Signature: 

Name and Title:

SURETY

Company: *(Corporate Seal)*

Great American Insurance Company

Signature: 

Name and Title: Stephanie C. Anderson
Attorney-in-Fact

(Any additional signatures appear on the last page of this Performance Bond.)

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

Arthur J Gallagher Risk Management Services, Inc.
2850 Golf Road
Rolling Meadows, IL 60008
630-773-3800

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

§ 2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after

- .1 the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
- .2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
- .3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

§ 4 Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

§ 5 When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

§ 5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

§ 5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

§ 5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

§ 5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

- .1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
- .2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

§ 6 If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

§ 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

- .1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- .2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and
- .3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

§ 8 If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

§ 9 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

§ 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 11 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

§ 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 14 Definitions

§ 14.1 Balance of the Contract Price. The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

§ 14.2 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

§ 14.3 Contractor Default. Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

§ 14.4 Owner Default. Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 14.5 Contract Documents. All the documents that comprise the agreement between the Owner and Contractor.

§ 15 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 16 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

SURETY

Company: _____
(Corporate Seal)

Company: _____
(Corporate Seal)

Signature: _____
Name and Title:
Address

Signature: _____
Name and Title:
Address

Bond No. 2556576

Document A312™ – 2010

Conforms with The American Institute of Architects AIA Document 312

Payment Bond

CONTRACTOR:
(Name, legal status and address)

Era Valdivia Contractors, Inc.
11909 South Avenue O
Chicago, IL 60617

SURETY:
(Name, legal status and principal place of business)

Great American Insurance Company
301 East Fourth Street
Cincinnati, OH 45202
Mailing Address for Notices

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

OWNER:
(Name, legal status and address)

Village of Orland Park
147000 S. Ravinia Avenue
Orland Park, IL 60462

Same As Above

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONSTRUCTION CONTRACT

Date: October 4, 2019

Amount: \$653,670.00 Six Hundred Fifty Three Thousand Six Hundred Seventy Dollars and 00/100

Description:

(Name and location)

Elevated Tank No. 5 Rehabilitation

BOND

Date: October 7, 2019

(Not earlier than Construction Contract Date)

Amount: \$653,670.00 Six Hundred Fifty Three Thousand Six Hundred Seventy Dollars and 00/100

Modifications to this Bond: None See Section 18

CONTRACTOR AS PRINCIPAL

Company: *(Corporate Seal)*

Era Valdivia Contractors, Inc.

SURETY

Company: *(Corporate Seal)*

Great American Insurance Company

Signature: 

Name and Title:

Signature: 

Name and Title: Stephanie C. Anderson
Attorney-in-Fact

(Any additional signatures appear on the last page of this Payment Bond.)

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

Arthur J Gallagher Risk Management Services, Inc.
2850 Golf Road
Rolling Meadows, IL 60008
630-773-3800

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

§ 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

§ 4 When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

§ 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:

§ 5.1 Claimants, who do not have a direct contract with the Contractor,

- .1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- .2 have sent a Claim to the Surety (at the address described in Section 13).

§ 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

§ 6 If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

§ 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

§ 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

§ 7.2 Pay or arrange for payment of any undisputed amounts.

§ 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

§ 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

§ 9 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

§ 10 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

§ 11 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 12 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 13 Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

§ 14 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 15 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

§ 16 Definitions

§ 16.1 Claim. A written statement by the Claimant including at a minimum:

- .1 the name of the Claimant;
- .2 the name of the person for whom the labor was done, or materials or equipment furnished;
- .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
- .4 a brief description of the labor, materials or equipment furnished;
- .5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
- .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
- .7 the total amount of previous payments received by the Claimant; and
- .8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

§ 16.2 Claimant. An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

§ 16.3 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

§ 16.4 **Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 16.5 **Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

§ 17 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 18 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL
Company: _____
(Corporate Seal)

SURETY
Company: _____
(Corporate Seal)

Signature: _____
Name and Title: _____
Address _____

Signature: _____
Name and Title: _____
Address _____

GREAT AMERICAN INSURANCE COMPANY®

Administrative Office: 301 E 4TH STREET • CINCINNATI, OHIO 45202 • 513-369-5000 • FAX 513-723-2740

The number of persons authorized by this power of attorney is not more than **FOUR**

No. 0 20195

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the GREAT AMERICAN INSURANCE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Ohio, does hereby nominate, constitute and appoint the person or persons named below, each individually if more than one is named, its true and lawful attorney-in-fact, for it and in its name, place and stead to execute on behalf of the said Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof, provided that the liability of the said Company on any such bond, undertaking or contract of suretyship executed under this authority shall not exceed the limit stated below.

Name	Address	Limit of Power
PETER S. FORKER	ALL OF	ALL
JEFFREY S. CIECKO	CHICAGO, ILLINOIS	\$100,000,000
TAMMY L. WHICKER		
STEPHANIE C. ANDERSON		

This Power of Attorney revokes all previous powers issued on behalf of the attorney(s)-in-fact named above.

IN WITNESS WHEREOF the GREAT AMERICAN INSURANCE COMPANY has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this **5TH** day of **APRIL**, 2019.

Attest

GREAT AMERICAN INSURANCE COMPANY



My L C. B.

Assistant Secretary

Mark V Vicario

Divisional Senior Vice President

STATE OF OHIO, COUNTY OF HAMILTON - ss:

MARK VICARIO (877-377-2405)

On this **5TH** day of **APRIL**, 2019, before me personally appeared **MARK VICARIO**, to me known, being duly sworn, deposes and says that he resides in Cincinnati, Ohio, that he is a Divisional Senior Vice President of the Bond Division of Great American Insurance Company, the Company described in and which executed the above instrument; that he knows the seal of the said Company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by authority of his office under the By-Laws of said Company, and that he signed his name thereto by like authority.



Susan A. Kohorst
Notary Public, State of Ohio
My Commission Expires 05-18-2020

Susan A Kohorst

This Power of Attorney is granted by authority of the following resolutions adopted by the Board of Directors of Great American Insurance Company by unanimous written consent dated June 9, 2008.

RESOLVED: That the Divisional President, the several Divisional Senior Vice Presidents, Divisional Vice Presidents and Divisional Assistant Vice Presidents, or any one of them, be and hereby is authorized, from time to time, to appoint one or more Attorneys-in-Fact to execute on behalf of the Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; to prescribe their respective duties and the respective limits of their authority; and to revoke any such appointment at any time.

RESOLVED FURTHER: That the Company seal and the signature of any of the aforesaid officers and any Secretary or Assistant Secretary of the Company may be affixed by facsimile to any power of attorney or certificate of either given for the execution of any bond, undertaking, contract of suretyship, or other written obligation in the nature thereof, such signature and seal when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

CERTIFICATION

L STEPHEN C. BERAHA, Assistant Secretary of Great American Insurance Company, do hereby certify that the foregoing Power of Attorney and the Resolutions of the Board of Directors of June 9, 2008 have not been revoked and are now in full force and effect.

Signed and sealed this **7th** day of **October 2019**.



My L C. B.

Assistant Secretary