

Contract #407

**Clerk's Contract and Agreement Cover Page**

**Year:** 2008

**Legistar File ID#:** 2008-0028

**Multi Year:**

**Amount** \$18,000.00

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**Contract Type:**

Small Construction/Inst

**Contractor's Name:**

Thornton equipment Services

**Contractor's AKA:**

**Execution Date:**

1/22/2008

**Termination Date:**

4/1/2008

**Renewal Date:**

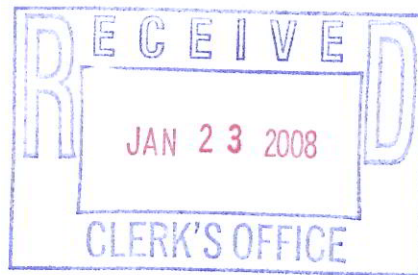
**Department:**

Public Works/Water & Sewer

**Originating Person:**

John Ingram

**Contract Description:** Evergreen View Wetland Ditch Clearing



MAYOR  
Daniel J. McLaughlin

VILLAGE CLERK  
David P. Maher

14700 S. Ravinia Ave.  
Orland Park, IL 60462  
(708) 403-6100

January 22, 2008



VILLAGE HALL

TRUSTEES  
Bernard A. Murphy  
Kathleen M. Fenton  
Brad S. O'Halloran  
James V. Dodge  
Edward G. Schussler III  
Patricia Gira

Ms. Sue Hering  
Thornton Equipment Services, Inc.  
12515 West Frontage Road  
Mokena, Illinois 60448

**RE: *NOTICE TO PROCEED***  
***Evergreen View Ditch Clearing***

Dear Ms. Hering:

This notification is to inform you that the Village of Orland Park has received all necessary contracts, certifications, and insurance documents in order for work to commence on the above stated project as of January 22, 2008.

Please contact John Ingram at 708-403-6104 to arrange the commencement of the work.

The Village will be processing a Purchase Order for this contract/service and it will be faxed 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. Also, your final invoice for this contract/service 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 January 22, 2008 in an amount not to exceed Eighteen Thousand and No/100 (\$18,000.00) Dollars. John and I appreciate you working with us to get this executed so quickly. If you have any questions, please call me at 708-403-6173.

Sincerely,

Denise Domalewski  
Contract Administrator

cc: John Ingram  
Judy Konow

**VILLAGE OF ORLAND PARK**  
**(Contract for Small Construction or Installation Project)**

This Contract is made this **22nd day of January, 2008** by and between the Village of Orland Park (hereinafter referred to as the "VILLAGE") and Thornton Equipment Services, 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 Proposal with rate sheet submitted by Contractor on December 19, 2007 to the extent it does not conflict with this contract.  
All Certifications required by the VILLAGE  
Certificates of Insurance  
Aerial Photograph

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

*Re-establish flow line of existing ditch as indicated on aerial photograph (approximately 1100 lineal feet of ditch through wetlands north of 140<sup>th</sup> Street). Temporarily stockpile spoil for de-watering. Reload on Village truck for removal*

(hereinafter referred to as the "WORK") as described in the CONTRACTOR'S Proposal 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:

To be paid on a time and material basis with rates based on the attached rate sheet for a total cost not to exceed eighteen thousand dollars (\$18,000.00).

**TOTAL:** Eighteen Thousand and No/100 (\$ 18,000.00) Dollars

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

**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:** This Contract shall commence on the date of its execution. The WORK shall commence upon receipt of a Notice to Proceed and continue expeditiously from that date until final completion or by April 1, 2008 ("CONTRACT TIME"), whichever occurs first. The CONTRACT TIME shall not be increased without the express written consent of the VILLAGE. This Contract shall terminate upon completion of the WORK or April 1, 2008, whichever occurs first, but may be terminated by either of the PARTIES for default upon failure to cure after ten (10) days prior written notice of said default from the aggrieved PARTY. 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. The VILLAGE, for its convenience, may terminate this Contract with thirty (30) days prior written notice.

**SECTION 5: INDEMNIFICATION AND INSURANCE:** The CONTRACTOR shall indemnify 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.

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: 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 only if the PARTIES agree separately to use e-mail for providing notice. Notice shall be sent to the following:

To the VILLAGE:  
Denise Domalewski, 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@orland-park.il.us](mailto:ddomalewski@orland-park.il.us)

To the CONTRACTOR:  
Susan Hering  
Thornton Equipment Services, Inc.  
12515 West Frontage Road  
Mokena, Illinois 60448  
Telephone: 708-479-7531  
Facsimile: 708-479-7591  
e-mail: [susanrose3@earthlink.net](mailto:susanrose3@earthlink.net)

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 8: 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.



## VILLAGE OF ORLAND PARK

Terms and General Conditions for the Contract between THE VILLAGE OF ORLAND PARK (the "VILLAGE") and THORNTON EQUIPMENT SERVICES, INC. (the "CONTRACTOR") for Evergreen View Ditch Cleaning (the "WORK") dated January 22, 2008 (the "CONTRACT").

### ARTICLE 1: DUTIES OF THE PARTIES

#### 1.1 VILLAGE'S RIGHTS AND DUTIES

- 1.1.1 Upon request of the Contractor the Village shall furnish, with reasonable promptness, information necessary for the performance of the Work of the Contract including, where needed, land surveys showing boundaries, topography, the location of utilities and a legal description of the site where the Work is to be performed.
- 1.1.2 The Village shall furnish access to its buildings and the site of the Work as is necessary for the performance of the Work and shall provide, at its own expense, as needed, temporary or permanent easements, zoning and other requirements including removal of encumbrances on the land needed to permit performance of the Work.
- 1.1.3 The Village shall have the right to stop the Work by a written order should the Contractor fail to correct Work not in accordance with the Contract Documents which 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, if the Contractor does not correct Work to make it conform to the Contract Documents, or cure a default, with reasonable promptness after receiving a written notice from the Village, correct the default itself and deduct the reasonable 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 and shall report to the Village or, where applicable, to the Architect, any errors, inconsistencies or omissions discovered. Contractor is not required to determine whether the Contract Documents conform to applicable local, state or federal statutes, ordinances, codes, rules or regulations, but where such nonconformity is found, Contractor shall report such to the Village, or where applicable, to the Architect.
- 1.2.3 Contractor shall pay for all material and labor necessary for the performance of the Work and, unless agreed otherwise with the Village in a separate written document, for all utilities required such as light, heat and water.
- 1.2.4 Contractor warrants that the Work shall contain material and equipment of good quality that is new and that the Work and workmanship shall be free from defects for one (1) year after final payment or the length of time guaranteed under the warranty provided by the Contractor, whichever is greater. Where there are deficiencies, Contractor agrees to correct them with reasonable promptness after receiving notice of said deficiencies from the Village. All manufacturers' guarantees and warranties shall be delivered to the Village prior to the issuance of final payment.
- 1.2.5 Contractor shall work expeditiously to complete the Work by the agreed upon date and, where necessary to accomplish that goal, shall work overtime without additional

compensation.

- 1.2.6 Contractor shall seek, obtain and pay for all required building permits, licenses, and governmental inspections of the Work.
- 1.2.7 Contractor shall comply with all local, state and federal statutes, ordinances, codes, rules, regulations and all case law pertaining to the performance 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.*) Neither the Contractor nor its Subcontractors shall 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 workers to be employed in work to be performed under the Contract.
- 1.2.8 Contractor will not be relieved of any obligation to the Village 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 Documents consist of the following items:

- .1 Agreement between the parties
- .2 General Conditions to the Agreement
- .3 The Proposal with rate sheet submitted by Contractor on December 19, 2007 to the extent it does not conflict with this contract.
- .5 Aerial photograph
- .6 Required Certifications
- .7 Required Certificates of Insurance
- .8 ~~Performance and Payment Bonds, if required~~



## **ARTICLE 3: PAYMENTS AND COMPLETION**

3.1 The Village requires for each Application 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. Payment certificates shall not be issued by Architect or payment shall not be made by the Village without such mechanics' 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 actually installed and built into the Work without written authorization for the Village.

3.3 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.

3.4 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. Contractor shall not include any such taxes in its cost figures.

## **ARTICLE 5: INSPECTION OF MATERIALS**

5.1 The Village shall have a right to inspect any materials or equipment to be used in carrying out this contract. The Contractor shall be responsible for the contracted quality and standards of all materials, equipment, components or completed work finished under this contract up to the time of final acceptance by the Village. Materials, equipment, components or completed work not complying therewith may be rejected by the Village and shall be removed and replaced by the Contractor at no cost to the Village.

## **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 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 Documents, 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 Documents, 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 Documents 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 final voucher on the contract is issued.

7.2 Contractor shall supply the Village with "as-built" plans 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 with sufficient workmen, equipment or materials to insure the completion of said Work within the specified time, or shall perform the work in an unsatisfactory manner, or shall neglect or refuse to remove materials or perform anew such work as shall be rejected as defective or unsuitable by reason of defect in material or workmanship or by reason of noncompliance with the specifications, or shall discontinue the prosecution of the Work, 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 an acceptable manner, the Village shall give notice to the Contractor and his surety in writing specifying such failure, delay, neglect, refusal or default, and if the Contractor, within a period of ten (10) calendar days after such notice, shall not proceed in accordance therewith, then the Village shall have full power and authority to declare the forfeiture of this contract, and to forfeit the rights of the Contractor in this contract.

8.2 Upon declaration of Contractor's default, the Village may, at his 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 and equipment on the work site as may be suitable and acceptable to the Village and may complete the Work by or on its own force account, or may enter into a new contract 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.

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 contract. In case the expense so incurred by the Village shall be less than the sum which would have been payable under this contract if it had been completed by the Contractor and had not been forfeited by the Village, then the Contractor shall be entitled to receive the difference, and in case such expense shall exceed the sum which would have been payable under this contract, the Contractor and the surety shall be liable and shall pay to the Village the amount of

such excess.

## **ARTICLE 9: DISPUTES AND VENUE**

9.1 If an Architect or Engineer has contracted with the Village to administer the Contract between Village and Contractor, disputes shall be handled with the involvement of the Architect or Engineer according to the terms of the contract between the Village and the Architect or Engineer and any reference made herein to "Architect" shall be read as "Engineer" where applicable. In any other case, 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 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 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 of the Contract. Village shall not grant, and Contractor shall not seek damages for delays; however, Village shall grant an increase in the Contract Time for delay 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 proposer shall, within ten (10) 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, Automobile liability and Umbrella/Excess Liability insurance policies by appropriate endorsement by Contractor's insurer and evidencing the coverages listed below. 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, Automobile Liability and Umbrella/Excess Liability insurance policies shall be primary and non-contributory to any insurance carried independently by the Indemnitees. The policy(ies) shall contain a Waiver of Subrogation in favor of the Additional Insureds as it applies to General liability and Worker's Compensation. Each policy shall bear an endorsement precluding the cancellation, non-renewal, material modification or reduction of said policies without providing the Village at least thirty (30) days prior notice thereof in writing. 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.

The amounts and types of insurance required are:

.1 Worker's Compensation: STATUTORY coverage for all persons whom the Contractor may employ directly or through subcontractors in carrying out the work under this contract. Such

insurance shall hold the Village free and harmless of all personal injuries of all persons whom the Contractor may employ directly or through Subcontractors.

.2 Employers Liability: \$500,000 minimum liability.

.3 Comprehensive General Liability; including Bodily Injury and Property Damage.

\$1,000,000 Each Occurrence - Combined Single Limit

\$2,000,000 Aggregate - Completed Operations

\$2,000,000 Each Occurrence - Blanket Contractual Liability

.4 Comprehensive Automobile Liability, Owned, Non-owned and Hired:

\$1,000,000 for Combined Single Limit.

.5 Umbrella/Excess Liability:

\$2,000,000 Each Occurrence

11.1.2 Contractor shall cause each Subcontractor to maintain insurance of the type specified above. When requested by the Village, Contractor shall furnish copies of certificates of insurance evidencing coverage for each Subcontractor.

## 11.2 Indemnification

11.2.1 The CONTRACTOR shall indemnify 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**

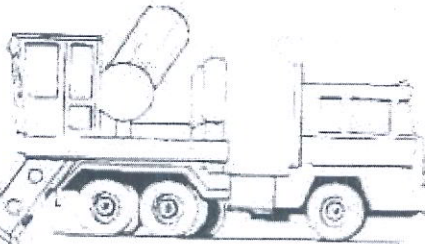
13.1 Execution of the Contract between Village and Contractor is contingent upon receipt of required Certificates of Insurance, required signed certifications and required Performance and Payment Bonds.

## **ARTICLE 14: CHANGES IN THE WORK**

14.1 All changes in the Work must be approved by the Village in a written document. Any change order or series of change orders that increase or decrease the Contract Sum by a total of \$10,000 or more or that increase or decrease the Contract Time by thirty (30) days or more must be accompanied by a written determination signed by the Village or its designee finding that the change 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 the Village. New Requests for Proposals must be issued by the Village as required by law for any change increasing the original Contract Sum by fifty percent (50%) or more.

## **ARTICLE 15: TERMINATION**

15.1 The 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 reasonable overhead and profit.



**THORNTON EQUIPMENT SERVICES, INC.**

(708) 479-7531

Fax (708) 479-7591

Gradall Rental • Specialized Excavating

December 19, 2007

Village of Orland Park

Attn: John Ingram

We are pleased to submit our proposal to reestablish flow line for approximately 1100 lineal feet of ditch through a wetlands area, north of 140th St.

Ditch spoil to be loaded and removed from wetland and reloaded to off-site location.

Total price for labor, mobilization, swamp mats and barrier walls, equipment and supervision.

\$18,000.00

Alt. (A) Time and material for same project.

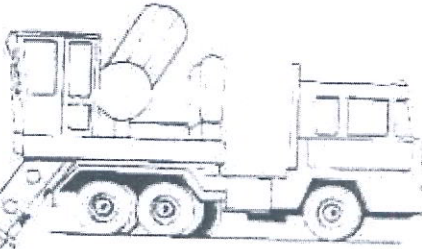
Rate sheet, attached.

Not to exceed \$18,000.00

Thank you for your consideration.

Sincerely,

*Susan Hering*  
Susan Hering



# THORNTON EQUIPMENT SERVICES, INC.

(708) 479-7531

Fax (708) 479-7591

Gradall Rental • Specialized Excavating

## Price Quotes for Equipment Rental with Operator as of January 2007

<u>2200, 3200, 4200 Track Gradall With Aux Hydraulics</u>	<u>175.00 Per hr</u>
<u>4100 Truck Mounted Gradall</u>	<u>175.00 Per hr</u>
<u>Komatsu Track Mounted Dump</u>	<u>155.00 Per hr</u>
<u>Manit Mac</u>	<u>185.00 Per hr</u>
<u>Boom extensions: 4', 8', 10', 12', 16' (maximum reach 55')</u>	<u>30.00 Per hr</u>
<u>Boom extension Assembly</u>	<u>165.00 Per hr</u>
<u>Boom extension Disassembly</u>	<u>165.00 Per hr</u>
<u>Clam Bucket</u>	<u>30.00 Per hr</u>
<u>5' Mower Deck</u>	<u>30.00 Per hr</u>
<u>Wide Track 480G Dozer 11' Blade</u>	<u>165.00 Per hr</u>
<u>AEV 100 w/ attachments</u>	<u>155.00 Per hr</u>
<u>Swinger 3/4 yard</u>	<u>145.00 Per hr</u>
<u>Operator Over Time (Includes all night work)</u>	<u>42.50 Per hr</u>
<u>10 Yard Dump Truck w/Driver</u>	<u>75.00 Per hr</u>
<u>Mobilization</u>	<u>In and out</u>
<u>Service Truck</u>	<u>255.00 Per day</u>
<u>Operator Straight Time</u>	<u>88.00 Per hr</u>
<u>Operator Show up time</u>	<u>2 Hours</u>

All equipment manned and maintained by Thornton Equipment with an 8 hour a day minimum





**BUSINESS ORGANIZATION:**

\_\_\_\_\_ Sole Proprietor: An individual whose signature is affixed to this proposal.

\_\_\_\_\_ Partnership: Attach sheet and state full names, titles and address of all responsible principals and/or partners. Provide percent of ownership and a copy of partnership agreement.

X Corporation: State of incorporation: IL.  
Provide a disclosure of all officers and principals by name and business address, date of incorporation and indicate if the corporation is authorized to do business in Illinois.

In submitting this proposal, it is understood that the Village of Orland Park reserves the right to reject any or all proposals, to accept an alternate proposal, and to waive any informalities in any proposal.

In compliance with your Request for Proposals, and subject to all conditions thereof, the undersigned offers and agrees, if this proposal is accepted, to furnish the services as outlined.

THORNTON EQUIPMENT  
Business Name

(Corporate Seal)

Susan Hering  
Signature

SUSAN HERING  
Print or type name

PRES.  
Title

1-21-08  
Date

**CERTIFICATION OF ELIGIBILITY  
TO ENTER INTO PUBLIC CONTRACTS**

**IMPORTANT: THIS CERTIFICATION MUST BE EXECUTED.**

I, SUSAN HERING, being first duly sworn certify  
and say that I am PRESIDENT  
(insert "sole owner," "partner," "president," or other proper title)

of THORNTON EQUIPMENT, the Prime  
Contractor submitting this proposal, and that the Prime Contractor 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.

Susan Hering  
Signature of Person Making Certification

Subscribed and Sworn To  
Before Me This 21st Day  
of Jan., 2008.

Marietta K. Glass  
Notary Public



TAX CERTIFICATION

I, SUSAN HERING, having been first duly sworn depose and state as follows:

I, SUSAN HERING, am the duly authorized agent for THORNTON EQUIPMENT, which has submitted a proposal to the Village of Orland Park for

Wetlands ditching and I hereby certify  
(Name of Project)

that THORNTON EQUIPMENT is not

delinquent in the payment of any tax administered by the Illinois Department of Revenue, or if it is:

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.

By: Susan Hering  
Title: Pres.

Subscribed and Sworn to  
Before me this 21st  
Day of Jan, 2008

Marietta K. Glass



**SEXUAL HARASSMENT POLICY**

Please be advised that pursuant to 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 written sexual harassment policies that shall include, 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 contractor's internal complaint process including penalties; (V) the legal recourse, investigative and complaint process available through the Department (of Human Rights) and the Commission (Human Rights 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."

I, SUSAN HERING, having submitted a proposal for THORNTON EQUIPMENT  
(Name) (Name of Contractor)  
for WETLANDS DITCHING (General Description of Work Proposed on) to  
the Village of Orland Park, hereby certifies that said contractor has a written sexual  
harassment policy in place in full compliance with 775 ILCS 5/2-105 (A) (4).

By: Susan Hering  
Authorized Agent of Contractor

Subscribed and sworn to before  
me this 21st day of JAN., 2008

Marietta K. Glass  
Notary Public



## EQUAL EMPLOYMENT OPPORTUNITY

**Section I.** This EQUAL EMPLOYMENT OPPORTUNITY CLAUSE is required by the Illinois Human Rights Act and the Rules and Regulations of the Illinois Department of Human Rights published at 44 Illinois Administrative Code Section 750, et seq.

**Section II.** In the event of the Contractor'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 (hereinafter referred to as the Department) the Contractor 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.

During the performance of this Agreement, the Contractor agrees:

- A. That it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin or ancestry; and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.
- B. That, if it hires additional employees in order to perform this Agreement, or any portion hereof, it will determine the availability (in accordance with the Department's Rules and Regulations for Public Contracts) of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.
- C. That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination 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.
- D. That it will send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the Contractor's obligations under the Illinois Human Rights Act and Department's Rules and Regulations for Public Contract.
- E. That it will 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.
- F. That it will 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.**

**G.** That it will 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 Contractor 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 Contractor 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.

**Section III.** For the purposes of subsection G of Section II, "subcontract" means any agreement, arrangement or understanding, written or otherwise, between the Contractor and any person under which any portion of the Contractor'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 Contractor or other organization and its customers.

**ACKNOWLEDGED AND AGREED TO:**

**BY:** Susan Spring  
**ATTEST:** Jama R. King  
**DATE:** 10-21-08

**CERTIFICATION OF COMPLIANCE WITH THE  
ILLINOIS PREVAILING WAGE ACT  
(820 ILCS 130/0.01, et seq.)**

It is hereby stipulated and certified to the Village of Orland Park, that the undersigned Contractor 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 and as set forth in the schedule of prevailing wages for this contract to all laborers, workers and mechanics performing work under this contract. The undersigned Contractor further stipulates and certifies that he/she/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 Contractor 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 Contractor is aware that knowingly filing false records is a Class B Misdemeanor.

Contractor:

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

*Susan Herung*  
(Authorized Officer)

Subscribed and Sworn to  
before me this 21st day  
of Jan, 2008

*Marietta K. Glass*  
Notary Public



**CERTIFICATION OF COMPLIANCE WITH THE  
SUBSTANCE ABUSE PREVENTION PROGRAM  
(Public Act 95-0635, effective 01/01/2008)**

I, SUSAN HERING, having been first duly sworn depose and state as follows:

I, SUSAN HERING, am the duly authorized agent for THORNTON EQUIPMENT, which has submitted a proposal to the Village of Orland Park for Wetlands Ditching and I hereby  
(Name of Project)

certify that THORNTON EQUIPMENT have in place either  
(Name of Company)

- a) a written Substance Abuse Prevention Program for the prevention of substance abuse among its employees which meets or exceeds the requirements in Public Act 95-0635, and has provided a written copy thereof to the Village of Orland Park; or
- b) a collective bargaining agreement in effect dealing with the subject matter of the Substance Abuse Prevention (Public Act 95-0635).

Contractor:

By: Susan Hering  
(Authorized Officer)

Title: Pres.

Subscribed and Sworn to before me this

21st day of JAN., 2008

Marietta K. Glass  
Notary Public





**APPRENTICESHIP AND TRAINING PROGRAM CERTIFICATION**

I, SUSAN HERING, having been first duly sworn depose and state as follows:

I, SUSAN HERING, am the duly authorized agent for THORNTON EQUIPMENT, which has submitted a proposal to the Village of Orland Park for

Wetlands ditching and I hereby certify  
(Name of Project)

that THORNTON EQUIPMENT  
(Name of Company)

participates in apprenticeship and training programs approved and registered with OPERATING ENGINEERS-LOCAL 150 the United States Department of Labor Bureau of Apprenticeship and Training.

By: Susan Hering  
Title: Pres.

Subscribed and Sworn to  
Before me this 21st  
Day of JAN, 2008

Marietta K. Glass



## REFERENCES

(Please type)

ORGANIZATION Metropolitan Water Reclamation District  
 ADDRESS 100 E. Erie  
 CITY, STATE, ZIP Chicago, Il. 606  
 PHONE NUMBER 312-505-7604  
 CONTACT PERSON Tom Starr  
 DATE OF PROJECT 4-1-07 ---- 12-31-07

ORGANIZATION Village of Mokena  
 ADDRESS 11004 Carpenter St.  
 CITY, STATE, ZIP Mokena, Il. 60448  
 PHONE NUMBER 707-479-3900  
 CONTACT PERSON \_\_\_\_\_  
 DATE OF PROJECT \_\_\_\_\_

ORGANIZATION Conservation Land Stewardship  
 ADDRESS 375 West First  
 CITY, STATE, ZIP Elmhurst, Il. 60126  
 PHONE NUMBER 630-559-2040  
 CONTACT PERSON Ken Willis  
 DATE OF PROJECT 5-07-07

Proposer's Name: Thornton Equipment Services, Inc.

Signature: Susan String

### 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

#### 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

Waiver of Subrogation in favor of the Village of Orland Park

#### EXCESS LIABILITY (Umbrella-Follow Form Policy)

\$2,000,000 – Each Occurrence

\$2,000,000 – 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." The certificate of insurance shall also state this information on its face. 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. The words "endeavor to" and "but failure to do so shall impose no obligation or liability of any kind upon the insurer, its agents or representatives" must be stricken from all Certificates of Insurance submitted to the Village. Any insurance company providing coverage must hold an A VII rating according to Best's Key Rating Guide. Permitting the contractor, 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 contractor's obligation to provide all of the above insurance.

The proposer agrees that if they are the selected contractor, within ten 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 proposer and the contract may be awarded to another proposer.

ACCEPTED & AGREED THIS 21<sup>st</sup> DAY OF January, 2008

Susan Hering  
Signature  
SUSAN HERING, PRES  
Printed Name & Title

Authorized to execute agreements for:  
THORNTON EQUIPMENT  
Name of Company



# SCHEER'S

601 Oakmont Lane, Suite 400, Westmont, IL 60559-5570  
Main #: 630-468-5600

Bond Department	(630) 468-5695 (Fax)
P & C and Accounting Department	(630) 468-5696 (Fax)
Sales and Marketing Department	(630) 468-5697 (Fax)

## ***FACSIMILE TRANSMISSION FORM***

**Confidentiality Note:** Information in this facsimile is confidential and intended for use by the individual or entity named above.  
If you received this teletcopy in error, please immediately telephone us and return the original via U.S. Postal Service

**DATE:** 1/22/2008

**# OF PAGES:** 10

**TO:** Denise Domalewski

**COMPANY:** Village of Orland Park

**FAX #:** 708-403-9212

**PHONE #:** 708-403-6173

**FROM:** Diane Weller

**REGARDING:** Certificate of Insurance

**MESSAGE:** Hi Denise: Enclosed is certificate of insurance for Thornton Equipment Services, Inc. I have included their general liability extension form CG 72 02 07 04. The blanket additional insured is on page 5 and continues to page 6 for the primary and non-contributory wording. The waiver of subrogation is located on page 7. I have requested waiver of subrogation on the workers compensation.

Regards,  
Diane

**PLEASE DELIVER THIS DOCUMENT IMMEDIATELY TO ADDRESSEE. PLEASE CONTACT  
US IF YOU EXPERIENCE ANY PROBLEMS RECEIVING THIS TRANSMISSION**

# ACORD CERTIFICATE OF LIABILITY INSURANCE

OP ID DW  
THOREQ1

DATE (MM/DD/YYYY)  
01/21/08


<b>PRODUCER</b>  SCHEER'S INCORPORATED 601 Oakmont Lane, Suite 400 Westmont IL 60559 Phone: 630-468-5600 Fax: 630-468-5695	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
	<b>INSURERS AFFORDING COVERAGE</b>	<b>NAIC #</b>
<b>INSURED</b>  Thornton Equipment Service Inc 12515 W. Frontage Rd. Mokena IL 60448	INSURER A: <b>Selective Insurance</b>	
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A X	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	\$1745423	04/30/07	04/30/08	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000
A	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	\$1745423	04/30/07	04/30/08	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
A	<b>EXCESS/UMBRELLA LIABILITY</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$ 0	\$1745423	04/30/07	04/30/08	EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000 \$ \$
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	WC7252558	04/30/07	04/30/08	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
A	<b>OTHER</b> Leased/Rented	\$1745423	04/30/07	04/30/08	L/R \$15,000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS**  
 The Village of Orland Park, and their respective officers, trustees, directors, employees, and agents are added as additional insured to the general liability coverage, on a primary & non-contributory basis subject to terms and conditions of the policy. A waiver of subrogation applies to the general liability and workers compensation policies. Umbrella follows form.

<b>CERTIFICATE HOLDER</b>  Village of Orland Park Contract Administrator Denise Domalewski 14700 S. Ravinia Ave. Orland Park IL 60462	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL <del>SEND BY MAIL</del> <b>30</b> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT <del>SEND BY MAIL</del> SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.  AUTHORIZED REPRESENTATIVE 
---	--

## ElitePac General Liability Extension

COMMERCIAL GENERAL LIABILITY  
CG 72 02 07 04

### SUMMARY OF COVERAGES (including index)

This is a summary of the various additional coverages and coverage modifications provided by this endorsement. No coverage is provided by this summary. Refer to the actual endorsement (Pages 3-through-8) for changes affecting your insurance protection.

DESCRIPTION	PAGE FOUND
Additional Insured - Primary and Not Contributory	Page 5
Blanket Additional Insureds - Broad Form Vendors — As Required By Contract	Page 5
Not-for-profit Members - Including Club Members	
Not-for-profit Members - as additional insureds	Page 4
Not-for-profit Members Medical Payments	Page 4
Not-for-profit Members - defined	Page 8
Damage To Premises Rented To You (\$100,000)	Page 4
Golf Amendments	
Golfing Facilities - defined	Page 7
Golf and Tennis Pros - as additional insureds	Page 6
Limited Property Damage - caused by golf balls	Page 4
Members Medical Payments	Page 4
Products Amendment - Medical Payments - limited on premises coverage	Page 4
Recreational Medical Payments - limited amateur golf coverage	Page 4
Waiver of Rights of Recovery - members and guests	Page 7
Incidental Malpractice	
Exclusion modified	Page 6
Definition amendment	Page 7
Knowledge of Occurrence, Claim, Suit or Loss	Page 6
Liberalization Clause	Page 7
Medical Payments - increased limit (\$10,000)	Page 6
Mental Anguish Amendment (not applicable to New York)	Page 8
Mobile Equipment Definition Amended (not applicable in New York or Virginia)	Page 8
Newly Formed or Acquired Organizations	Page 5

DESCRIPTION	PAGE FOUND
Non-Owned Aircraft	Page 3
Non-Owned Watercraft (under 51 feet)	Page 3
Personal And Advertising Injury	
Contractual Exclusion Amended (Excludes Advertisement)	Page 4
Discrimination and Humiliation Amendment (not applicable in New York; Excludes Advertisement)	Page 7
Products Amendment - Not-for-profit and Golf	Page 4
Product Recall Expense (\$25,000)	
Covered Recall Definition	Page 7
Insuring Agreement	Page 3
Product Recall Expense Definition	Page 8
Product Recall Limit	Page 6
Product Recall Conditions	Page 6
Supplementary Payments Amended - Bail Bonds (\$2,500) and Loss of Earnings (\$500)	Page 4
Temporary Workers	
Employee Definition Amended (including status as an insured)	Page 7
Employer's Liability Exclusion Amended	Page 3
Injuries or Damages by Certain Employees (co-employee damages)	Page 4
Unintentional Failure to Disclose Hazards	Page 7
Waiver of Transfer of Rights of Recovery (subrogation)	Page 7
When Two or More Coverage Parts of this Policy Apply to a Loss	Page 3

## ElitePac General Liability Extension

COMMERCIAL GENERAL LIABILITY  
CG 72 02 07 04

### THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies the insurance provided under the following:

#### COMMERCIAL GENERAL LIABILITY COVERAGE PART

The **SECTIONS** of the Commercial General Liability Coverage Part identified in this endorsement will be amended as shown below. But, **when two or more Coverage Parts of this policy apply to a loss**, only the broadest coverage of this policy will apply, unless specifically stated otherwise within the particular amendment covering that loss.

#### COVERAGES - Amendments

##### COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY

##### EXCLUSIONS

- **Employer's Liability Amendment**

The following will be added to the Employer's Liability exclusion:

This exclusion also does not apply to any "temporary worker".

- **Non-Owned Watercraft**

The Aircraft, Auto or Watercraft Exclusion is amended as follows:

This exclusion does not apply to a watercraft you do not own that is less than 51 feet long, and not being used to carry persons or property for a charge. Any person is an insured who uses or is responsible for the use of such watercraft with your expressed or implied consent. But, if the insured has any other valid and collectible insurance for "bodily injury" or "property damage" that would be covered under this provision, or on any other basis, this coverage is then excess, and subject to the **Other Insurance** provisions of this policy for Excess Insurance.

- **Non-Owned Aircraft**

The Aircraft, Auto or Watercraft Exclusion is amended as follows:

This exclusion does not apply to any aircraft, not owned or operated by any insured, that is hired, chartered or loaned with a paid crew. But, if the insured has any other valid and collectible insurance for "bodily injury" or "property damage" that would be covered under this provision, or on any other basis, this coverage is then excess, and subject to the **Other Insurance** provisions of this policy for Excess Insurance.

- **Product Recall Expense**

The exclusion for the Recall of Products, Work or Impaired Property is replaced by the following:

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of "your product", "your work" or "impaired property" if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it. But, this exclusion does not apply to "product recall expenses" that you incur for the "covered recall" of "your product".

The following additional exclusions apply to this amendment:

1. Failure of any products to accomplish their intended purpose;
2. Breach of warranties of fitness, quality, durability or performance;
3. Loss of customer approval, or any cost incurred to regain customer approval;
4. Redistribution or replacement of "your product" which has been recalled by like products or substitutes;
5. Caprice or whim of the insured;
6. A condition likely to cause loss of which any insured knew or had reason to know at the inception of this insurance;
7. Asbestos, including loss, damage or clean up resulting from asbestos or asbestos containing materials;
8. Recall of "your products" that have no known or suspected defect solely because a known or suspected defect in another of "your products" has been found;



9. "Bodily Injury" or "Property Damage";
10. Any actual or alleged violation of any copyright, patent, trade dress, trademark, trade name, trade secrets, or any other intellectual property right laws; or
11. "Product Recall Expense" you incur for "your products" which are excluded from any other insurance written by this company.
- Fire, Lightning Or Explosion Damage

The provision of **COVERAGE A** dealing with Damage to premises while rented to you or temporarily occupied by you with the permission of the owner is amended as follows:

As used in this extension (only, including its use in **LIMITS OF INSURANCE**, the Declarations and the Other Insurance provisions), the term Damage shall include fire, lightning or explosion.

The Damage to Premises Rented to You Limit of **LIMITS OF INSURANCE** is amended as follows:

The Damage to Premises Rented to You Limit, for covered fire, lightning or explosion, is the higher of \$100,000, or the amount shown in the Declarations for the Damage to Premises Rented to You Limit. This limit is the most we will pay under **COVERAGE A** for damages because of "property damage" to any one premises rented to you or temporarily occupied by you with permission of the owner, for all such "property damage" proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of the three. This Damage to Premises Rented to You Limit is subject to the Each Occurrence Limit.

- Property Damage - "Golfing Facilities"

If you operate a "golfing facility" **COVERAGE A** is extended to "property damage" to any property not owned by you, caused by golf balls originating from your premises, regardless of your legal liability for the damage. The most we will pay under this extension is \$500 per "occurrence" subject to an annual aggregate of \$2,500 per policy term. No deductible applies to loss under this extension.

## **COVERAGE B. PERSONAL AND ADVERTISING INJURY LIABILITY**

### **EXCLUSIONS**

The exclusion of relating to liability assumed in a contract or agreement only applies to damages arising out of advertisement.

## **COVERAGE C. MEDICAL PAYMENTS**

### **EXCLUSIONS**

- Any Insured Amendment

The following is added to this section:

The exclusion applicable to any insured does not apply to:

1. "Golfing facility" members who are not paid a fee, salary, or other compensation; or
2. "Not-for-profit members".

- Product Amendment

The exclusion applicable to the "products-completed operations hazard" does not apply to "your products" sold for use or consumption on your premises, while such products are still on your premises, if you are a not-for-profit operation or a "golfing facility".

- Recreational Medical Payments - Amateur Golf

If you are a "golfing facility", the exclusion applicable to a person while taking part in athletics does not apply to a person as a result of their participation in amateur athletics that are recreational in nature.

## **SUPPLEMENTARY PAYMENTS - COVERAGES A AND B**

- Expenses For Bail Bonds And Loss Of Earnings

The provisions of **SUPPLEMENTARY PAYMENTS - COVERAGES A AND B** are amended as follows:

Subject to all other provisions of this section, the limitations for expenses for bail bonds and loss of earnings are increased as follows: we will pay up to \$2,500 for the cost of bail bonds, and up to \$500 a day for loss of earnings because of time off from work.

## **WHO IS AN INSURED - Amendments**

- Not-for-Profit Organization Members

If you are an organization other than a partnership, joint venture, or a limited liability company, and you are a not-for-profit organization, **WHO IS AN INSURED** is amended to include as additional insureds your officials, trustees, board members, insurance managers, and "not-for-profit members", but only with respect to their liability for your activities or activities they perform on your behalf.

• **Employees As Insureds Modified**

The exclusion relating to injury to a co-"employee" does not apply to injury to, or property damage to the property of, a "temporary worker" caused by a co-"employee" who is not a "temporary worker".

• **Newly Formed Or Acquired Organizations**

The following amendments are made to the insured provision relating to newly acquired or formed organizations, as granted under **WHO IS AN INSURED**:

Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier. But, **COVERAGE A** does not apply to "product recall expense" arising out of any withdrawal or recall that occurred before you acquired or formed any organization under this provision.

If you are engaged in the business of construction of dwellings three stories or less in height, or other buildings three stories or less in height and less than 25,000 square feet in area, you will also be an insured with respect to "your work" only, for the period of time described above, for your liability arising out of the conduct of any partnership or joint venture of which you are or were a member, even if that partnership or joint venture is not shown as a Named Insured. But, this provision only applies if you maintain or maintained an interest of at least fifty percent in that partnership or joint venture for the period of that relationship. This provision does not apply to any partnership or joint venture that has been dissolved or otherwise ceased to function for more than thirty-six months. This coverage extension will be excess over any other coverage, on any basis, available to the insured, and will be subject to the Other Insurance provisions of this policy for Excess Insurance.

(All other provisions of this section continue unchanged.)

• **Blanket Additional Insureds - Broad Form Vendors — As Required By Contract**

**WHO IS AN INSURED** is amended to include as an additional insured any person or organization with whom you have agreed in writing in a contract, agreement or permit that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by:

1. Your ongoing operations performed for that person or organization, "your product," or premises owned or used by you; but this provision does not include any architects, engineers, or surveyors with respect to any injury or damage arising out of the rendering or failure to render any professional services by or for you, including:
  - a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
  - b. Supervisory, inspection, architectural or engineering activities.
2. Your maintenance, operation or use of equipment, other than aircraft, "auto" or watercraft, leased to you by such person or organization. A person or organization's status as an additional insured under this endorsement ends when their contract or agreement with you for such leased equipment ends. With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.
3. "Bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, but the insurance afforded the vendor does not apply to:
  - a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement; but this exclusion does not apply to liability for damages that the vendor would have in the absence of the contract, agreement;
  - b. any express warranty unauthorized by you;
  - c. any physical or chemical change in the product made intentionally by the vendor;
  - d. repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
  - e. any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business in connection with the sale of the product; or

- f. products which, after distribution or sale by you, have been labeled or re-labeled or used as a container, part of ingredient of any other thing or substance by or for the vendor; but this insurance does not apply to any insured person or organization, from who you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

This coverage shall be excess with respect to the person or organization included as an additional insured by its provisions; any other insurance that person or organization has shall be primary with respect to this insurance, unless this coverage is required to be primary and not contributory in the contract, agreement or permit referred to above.

The provisions of this coverage extension do not apply unless the written contract or agreement has been executed (executed means signed by the named insured and additional insured) or permit issued prior to the "bodily injury" or "property damage".

• **Incidental Malpractice**

With respect to the section of **WHO IS AN INSURED** dealing with employees as insureds, the exclusion relating to providing or failing to provide professional health care services does not apply to nurses, emergency medical technicians or paramedics. But this exception does not apply if you are in the business or occupation of providing any such professional services.

• **"Golfing Facilities" - Golf or Tennis Pros**

The following are also additional insureds under **WHO IS AN INSURED**:

If you operate a "golfing facility", any golf or tennis pros. Golf or tennis pros means any person, other than your "employees", whose primary responsibilities include golf or tennis instruction or operation of a golf or tennis pro shop, but only with respect to their liability for your activities, or activities they perform on your behalf, or their liability for the maintenance, use or operation of golf or tennis pro shop premises you lease to them.

**LIMITS OF INSURANCE**

• **Product Recall Amendment**

The provision relating to the Products-Completed Operations Aggregate Limit is replaced by the following:

The Products-Completed Operations Aggregate Limit is the most we will pay for the sum of:

- a. Damages under **COVERAGE A** because of "bodily injury" and "property damage" included in the "products-completed operations hazard"; and
- b. "Product recall expenses".

The following paragraph is added to this section:

Subject to the application of the Each Occurrence Limit, as described in this section, \$25,000 is the most we will pay for all "product recall expenses" arising out of the same defect or deficiency.

• **Increased Medical Payments**

The following is added to **LIMITS OF INSURANCE**:

The Medical Expense Limit under **COVERAGE C** will be \$10,000, or the amount shown in the Declarations for Medical Expense Limit, whichever is higher.

All other terms and conditions of **COVERAGE C. MEDICAL PAYMENTS** remain unchanged.

**COMMERCIAL GENERAL LIABILITY CONDITIONS - Amendments**

• **Knowledge Of Occurrence, Claim, Suit Or Loss**

The requirements for reporting and sending claim or "suit" information to us, including provisions related to the subsequent investigation of such claims or "suits", under **Duties In The Event Of Occurrence, Offense, Claim Or Suit** do not apply until after the "occurrence" or offense is known to:

1. You, if you are an individual;
2. A partner, if you are a partnership;
3. An "executive officer" or insurance manager, if you are a corporation;
4. Your members, managers or insurance manager, if you are a limited liability company; or
5. Your elected or appointed officials, trustees, board members, or your insurance manager if you are an organization other than a partnership, joint venture, or limited liability company.

• **Product Recall Amendments**

The following is added under **Duties In The Event Of Occurrence, Offense, Claim Or Suit**:

You must see to it that the following are done in the event of an actual or anticipated "covered recall" that may result in "product recall expense":

- (1) Give us prompt notice of any discovery or notification that "your product" must be withdrawn or recalled. Include a description of "your product" and the reason for the withdrawal or recall;
- (2) Cease any further release, shipment, consignment or any other method of distribution of like or similar products until it has been determined that all such products are free from defects that could be a cause of loss under this insurance;
- (3) As often as may be reasonably required, permit us to inspect "your product" and examine your books and records to prove the loss. Also permit us to take damaged and undamaged samples of "your product" for inspection, testing, and analysis, and let us make copies of your books and records.
- (4) Send us a signed, sworn, proof of loss containing the information we requested to settle the claim. You must do this within 60 days after our request. We will supply you with the necessary forms; and
- (5) Permit us to examine under oath, away from the presence of other insureds, at such times as may reasonably be required, about any matter, relating to this insurance or your claim, including any insured's books and records in the event of an examination. An insured's answers must be signed.
- (6) Cooperate with us in the investigation or settlement of the claim.

• **Unintentional Failure To Disclose Hazards**

The following is added to **Representations**:

But, if you should unintentionally fail to disclose any existing hazards in your representations to us at the inception date of the policy, or during the policy period in connection with any additional hazards, we shall not deny coverage under this Coverage Part based upon such failure.

• **Waiver Of Transfer Of Rights Of Recovery**

We will amend the **Transfer Of Rights Of Recovery Against Others To Us** Condition to waive any right of recovery we may have against a person or organization 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", if:

1. The waiver of such rights is required in a written contract or agreement with that person or organization; and
2. The provisions of the **Blanket Additional Insureds - Broad Form Vendors — As Required By Contract** section of this form also apply to that same contract; and
3. You have assumed the liability of that person or organization in that same contract, and it is an "insured contract".

The section above only applies to that person or organization identified above, and only if the injury or damage occurs subsequent to the execution of the written contract, agreement.

If you are a "golfing facility", we will also waive any right of recovery we may have against any of your members or their guests because of payments we make for injury or damage arising out of their actions at your premises to which this Coverage Part applies. But, this provision does not apply to injury or damage that is expected or intended by your member or their guest.

• **Liberalization**

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

**DEFINITIONS**

• **Covered Recall**

"Covered recall" means a recall made necessary because you or a government body has determined that a known or suspected defect, deficiency, inadequacy, or dangerous condition in "your product" has resulted or will result in "bodily injury" or "property damage".

• **Discrimination And Humiliation**

(This provision does not apply in the state of New York.) The definition of "personal and advertising injury" is amended by the addition of the following offense:

Discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is:

1. Not done intentionally by or at the direction of:
  - a. The insured; or
  - b. Any "executive officer" director, stockholder, partner, manager or member of the insured; and
2. Not directly or indirectly related to the employment, prospective employment or termination of employment of any person or persons by any insured.
3. Not arising out of any advertisement by the insured.

• **Employee Amendment**

The definition of "employee" is replaced by the following:

"Employee" includes a "leased worker", or a "temporary worker".

• **Incidental Malpractice Amendment**

The definition of "bodily injury" is amended to include injury arising out of the rendering or failure to render medical or paramedical services to persons by any physician, dentist, nurse, emergency medical technician or paramedic who is employed by you to provide these services.

• **Golfing Facility**

The following definition is added:

"Golfing facility" or "golfing facilities" means a golf course, golf club, driving range, or miniature golf course.

• **Mental Anguish Amendment**

(This provision does not apply in New York.) The definition of "bodily injury" is amended to include mental anguish resulting from any bodily injury, sickness or disease sustained by a person. (In New York, mental anguish has been determined to be "bodily injury".)

• **Mobile Equipment Amendment**

(This provision does not apply in the states of New York or Virginia.) The following is added to the part of the "mobile equipment" definition dealing with equipment designed primarily for snow removal, road maintenance, or street cleaning:

But, this section does not apply to self-propelled vehicles of less than 1,000 pounds gross vehicle weight.

• **Not-for-profit Members**

"Not-for-profit members" means a person who is a member of a not-for-profit organization, including clubs and churches, who receive no financial or other compensation.

• **Product Recall Expense**

"Product recall expense" means necessary and reasonable expenses for:

- (1) Communications, including radio or television announcements or printed advertisements including stationery, envelopes and postage;
- (2) Shipping the recalled products from any purchaser, distributor or user to the place or places designated by you;
- (3) Remuneration paid to your regular "employees" for necessary overtime;
- (4) Hiring additional persons other than your regular "employees";
- (5) Expenses incurred by "employees" including transportation and accommodations;
- (6) Expense to rent additional warehouse or storage space;
- (7) Disposal of "your product", but only to the extent that specific methods of destruction other than those employed for trash discarding or disposal are required to avoid "bodily injury" or "property damage" as a result of such disposal; you incur exclusively for the purpose of recalling "your product"; and
- (8) Transportation expenses incurred to replace recalled products.