

**CLERK'S CONTRACT and AGREEMENT COVER PAGE**

**Legistar File ID#:** 2021-0353

**Innoprise Contract #:** C21-0085

**Year:** 2021

**Amount:** \$123,565.00

**Department:** Engineering, Programs & Services

**Contract Type:** Contractor

**Contractors Name:** Schwartz Excavating, Inc.

**Contract Description:** Grassland Grading Improvements



**AGREEMENT BETWEEN THE VILLAGE OF ORLAND PARK AND  
SCHWARTZ EXCAVATING, INC. FOR GRASSLANDS GRADING IMPROVEMENTS**

THIS AGREEMENT (hereinafter, the "Agreement" or the "Contract") is made this 28 day of May, 2021, by and between Village of Orland Park (hereinafter referred to as "VILLAGE") and Schwartz Excavating, Inc. (hereinafter referred to as "Contractor") to furnish all materials, supplies, tools, equipment, labor, and perform other services necessary to commence and complete the Work in connection with the Grasslands Grading Improvements (hereinafter referred to as "Project", the "Work", or the "Services").

WITNESSETH:

In consideration of these premises and the mutual covenants set forth herein by the Village and the Contractor (hereinafter referred to collectively as the "Parties"), the Parties agree as follows:

1. **Scope of Work:** The Contractor agrees to and shall timely perform and fully complete the "Scope of Work" as set forth in:

- The Contractor's Proposal/Bid No. \_\_\_\_\_, and dated \_\_\_\_\_ 20\_\_;
- Village of Orland Park ITB/RFP/Purchase Order No. 21-020.

which is/are attached hereto and made a part of this Agreement as Exhibit A (the "Work" or the "Project"). The terms, conditions and specifications set forth in Village's Request for Proposal ("RFP"), Invitation To Bid ("ITB") and/or Purchase Order and any other Village document shall supersede, govern, and prevail over any inconsistent terms, conditions, and/or specifications on any other documents submitted by the Contractor. Any provisions in the Contractor's Proposal or Bid or other submittals which are in conflict with or inconsistent with any of the same provisions in the Village's RFP, ITB, and/or Purchase Order shall be void to the extent of such conflict or inconsistency and the terms of the Village's RFP, ITB, and/or Purchase Order shall control.

2. **Payment:**

A. **Compensation:** The Village agrees to pay the Contractor as compensation for all Work required by this Agreement as follows:

- the amount(s) set forth on Exhibit A (the "Contractor's Proposal");
- the amount(s) based upon the Schedule of Fees or Prices set forth on Exhibit B attached hereto and thereby made a part hereof; and
- a not-to-exceed amount of \$123,565.00 ("Contract Price")

B. **Invoices:** The Contractor agrees to and shall prepare and submit:

- an invoice to the Village upon completion of and approval by the Village of the Work; or
- invoices for progress payments to the Village as hereinafter set forth for Services completed to date. Invoices shall be prepared monthly and shall document the time/hours expended as the Work is completed to date by the Contractor.

C. **Payment:** Notwithstanding any provision of the Illinois Local Government Prompt Act (50 ILCS 505/1, et seq.) (the "Act") to the contrary, the Parties agree that any bill approved for payment by the Corporate Authorities shall be paid within sixty (60) days after the date of approval. If payment is not made within such sixty (60) day period, an interest penalty of 1% of any amount approved and unpaid shall be added for each full thirty (30) day period, without proration, after the expiration of the aforementioned sixty (60) day payment period, until final payment is made. No other provision of the Act shall apply to this contract.

D. **Withholding Payment:** Notwithstanding anything to the contrary herein contained, no compensation will be paid to or claimed by the Contractor for services required to correct deficiencies attributable to errors

or omissions of the Contractor t, and all such errors or omissions must be corrected by the Contractor at their sole cost and expense. Notwithstanding anything to the contrary herein contained, the Village has the right to withhold from payment due the Contractor such sums as are reasonably necessary to protect the Village against any loss or damage which may result from: (i) the negligence of or unsatisfactory Services of the Contractor; (ii) the failure by the Contractor to perform the Contractor's obligations hereunder; or (iii) claims filed against the Village relating to the Services. Any sums withheld from the Contractor as provided in this section, and subsequently determined to be due and owing to the Contractor, will be paid to the Contractor.

- E. Appropriation of Funds: The Parties hereto agree that, if the term of this Agreement extends beyond the current fiscal year of the Village (the current fiscal year being the year in which the first date of the term of this Agreement falls), this Agreement is subject to the appropriation of funds by the Village Board of Trustees and/or any other funding agencies for each subsequent year. If the Village, and/or any other governmental agency providing funding for this Service, fails to make such an appropriation, the Village may terminate this Agreement and the Contractor will be entitled to receive, as its sole and exclusive remedy, compensation for Services properly performed to the date of termination to the extent the Village has funds available and appropriated to pay the Contractor such amount. Upon the request of the Contractor, the Village will inform the Contractor as to whether any governmental agency other than the Village is providing funding to pay all or a portion of the Services.
- F. Records: The Contractor's records relating to the Services must be kept in accordance with generally accepted principles of accounting consistently applied and must be retained by the Contractor for a period of not less than five (5) years following the completion of the Services. Such records must be available to the Village or any authorized representative of the Village, upon reasonable prior notice, for audit and review during normal business hours at the Village offices, 14700 S. Ravinia Ave. Orland Park, IL 60462. In addition, such records must be available, upon reasonable prior notice, for audit and review by any other governmental agency providing funding for all or any portion of this Service.
3. Performance and Payment Bond: If the Contract Price is over \$50,000.00, prior to commencement of any Work on the Project, the Contractor shall provide to the Village a Performance and Payment Bond in compliance with the Public Construction Bond Act (30 ILCS 550/1, et seq.) and the Contract Documents.
4. Contract Documents: The term "Contract Documents" means and includes, but is not limited to, this Agreement and the following, which are each attached hereto and thereby made a part hereof:  
 Scope of Services as set forth in the Contractor's proposal dated April 21, 2021 excluding Alternate 1 and the Village's RFP, ITB, and/or Purchase Order Exhibit A)  
 Schedule of Fees (Exhibit B)  
In the event of any conflict between this Agreement and any other Contract Document, this Agreement shall prevail and control over the terms and conditions set forth in such other Contract Documents.
5. Time is of the Essence: Dates of Commencement and Completion: Progress Reports:  
A. Time is of the essence in this Contract. The Services to be performed by the Contractor under the Contract Documents shall commence no later than June 7, 2021 (hereinafter the "Commencement Date"), and shall be completed no later than August 31, 2021 (hereinafter the "Completion Date"), barring only Acts of God, due to which the Completion Date may be modified in writing with the prior approval of the Village. If the Contractor fails to complete the Services by the Completion Date, the Village shall thereafter have the right to have the Services completed by another independent contractor, and in such event, the Village shall have the right to deduct the cost of such completion so incurred by the Village from payments otherwise due to the Contractor for the Services and/or the right to recover any excess cost of completion from the Contractor to the extent that the total cost incurred by the Village for the completion of the Work which is the subject of the Contract Documents exceeds the Contract Price.  
B. Progress Reports: The Contractor must prepare and submit monthly progress reports describing the Services performed in the prior month and anticipated to be performed in the following one-month period.

The Services schedule shall insure that each of the Services provided being completed within a timeframe that does not negatively impact the Village's compliance any federal, state, or local regulations (if applicable).

6. Venue and Choice of Law: The Contractor and the Village agree that the venue for any and all disputes shall solely be in Cook County, Illinois, in which the Village's Village Hall is located. This Contract and all other Contract Documents shall be construed and interpreted in accordance with the laws of the State of Illinois.
7. Nonassignability: The Contractor shall not assign this Contract, or any part thereof, to any other person, firm, or corporation without the prior written consent of the Village, and in no case shall such consent relieve the Contractor or its surety from the obligations herein entered into by the same or change the terms of this Contract.
8. Notices: All notices required by the Contract Documents shall be given in writing and shall be served by one party to the other party via email (effective when transmitted), facsimile (effective when transmitted), personal delivery (effective when delivered), commercial overnight delivery (effective when delivered), or by mail (effective when mailed).
9. Right to Alter Scope of Services Reserved: The Village reserves the right to alter the plans, extend or shorten the Scope of Services, add to the Scope of Services as may be necessary, and increase or decrease the scope and/or quantity of the Services, including the deduction or cancellation of any one or more of the unit price items, or to cancel the Contract and the Services in their entirety for any reason.
10. Timely Written Response and Written Report(s) of Resolution Relative to Certain Incident(s), Claim(s) and/or Complaint(s):
  - A. All alleged incident(s), claim(s), or complaint(s) related to any alleged death, injury and/or damage to persons and/or to public or private property related to the Contractor's work or services provided pursuant to this Contract shall be reported to the Village and resolved by the Contractor and/or its agent in a timely manner.
  - B. Within three (3) business days after receipt by Contractor of an initial written or verbal notice of any such incident, claim, or complaint, the Contractor shall also provide to the Village, and to any third-party making such claim or complaint, the name, telephone number, and cellular number of the Contractor's officer or employee who will be responsible for managing the resolution thereof until its final resolution by the Contractor and/or by the Contractor's insurer or agent.
  - C. Within ten (10) business days after the Contractor's receipt of the first notice of an alleged incident, claim, or complaint related to any alleged death, injury, and/or damage to persons and/or to public or private property (the "incident, claim, or complaint"), the Contractor or its agent(s) shall provide to the Village and to any third-party person making such claim or complaint an initial written response relative to such incident, claim or complaint, and the efforts and current progress of the Contractor and/or its agents to date toward the resolution of such incident, claim or complaint.
  - D. If complete resolution of the incident, claim, or complaint has not been reached within the aforesaid ten (10) business day period, the Contractor or its agent shall continue to use all reasonable efforts to fully resolve the incident, claim, or complaint, and to that end, further updated written status reports of resolution, or progress toward resolution, as the case may be, of such incident, claim, or complaint shall be provided to the Village by the Contractor not less than monthly until such incident, claim, or complaint is fully resolved.
  - E. The Contractor or its agents will be expected to fully resolve most incident(s), claim(s), or complaint(s) involving minor damage to public or private property within said initial ten (10) business day period after the Contractor receives its initial verbal or written notice of such incident, claim, or complaint.

11. Control and Inspection of Work or Services: Unless otherwise specified in the Contract Documents, inspection, acceptance or rejection of Work, and/or Services, including but not limited to goods, materials, and/or equipment which are part thereof, shall be made after delivery. Final inspection, acceptance and/or rejection of the Work and/or Services, including but not limited to goods, materials, and/or equipment which are part thereof, shall not impose liability on the Village for Work, and/or Services not in accordance with the Contract Documents as determined solely by the Village. Payment shall not be due on rejected Work and/or Services until and unless fully corrected and/or replaced as determined by the Village. All Work or Services performed by the Contractor shall be done in conformance with the Contract Documents.
12. Permits and Licenses: The Contractor shall obtain, at its own expense, all permits and licenses which may be required to complete the Project and all related Work as contemplated by the Contract Documents.
13. Insurance:
- A. Prior to Commencement of Work:
- (i) Prior to commencement of any Work under the Contract Documents, Contractor shall supply to the Village certificates of insurance as specified below, provided, however, these insurance requirements shall not be applicable to any Contract which is only for the purchase of goods by the Village, but which does not include the installation thereof by the Contractor. Contractor shall not start the Work under the related Contract until Contractor has obtained all insurance required under this Paragraph 13, and all such insurance coverage has been obtained and approved by the Village Manager, or his designee.
- (ii) Minimum Scope of Insurance:  
 Coverage shall be at least as broad as Insurance Services Office (“ISO”) Commercial General Liability occurrence form CG 00 01 04 13 with the “Village of Orland Park and its officers, officials, employees, agents and volunteers” named as additional insureds on a primary and non-contributory basis. This primary, non-contributory additional insured coverage shall be confirmed through the following required policy endorsements: ISO Additional Insured Endorsement CG 20 10 04 13 or CG 20 26 04 13, and CG 20 01 04 13.  
 If this box is checked, a Completed Operations Endorsement (CG 20 37 04 13) is also required.
- B. Insurance Required: The Contractor shall procure and maintain, for the duration of the Contract, insurance against claims for injuries to persons or damage to property, which may arise from or in connection with the performance of the Work hereunder by the Contractor, its employees, subcontractors, and other agents, and:
- (i) Commercial General Liability:
- (a) \$1,000,000 combined single limit per occurrence for bodily injury, and property damage and \$1,000,000 per occurrence for personal injury. The general aggregate shall be \$2,000,000.
- (b) The Village of Orland Park, and its officers, officials, employees, agents and volunteers, are to be named and covered as additional insureds as respects: liability arising out of the Contractor’s work, including activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, leased or used by the Contractor, or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the Village of Orland Park and its officers, officials, employees, agents and/or volunteers.
- (c) The Contractor’s insurance coverage shall be primary and non-contributory as respects the Village of Orland Park and its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the Village of Orland Park and/or on behalf of its officers, officials, employees, agents and/or volunteers shall be excess of Contractor’s insurance and shall not contribute with it.
- (d) Any failure to comply with reporting provisions of any applicable insurance policies shall not affect coverage provided to the Village of Orland Park and/or its officers, officials, employees, agents and/or its volunteers.

- (e) The Contractor's insurance shall contain a Severability of Interests/Cross-Liability clause or language stating that Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
  - (f) If any commercial general liability insurance is being provided under an excess or umbrella liability policy that does not "follow form", then the Contractor shall be required to name the "Village of Orland Park, and its officers, officials, employees, agents and volunteers" as additional insureds.
  - (g) All general liability coverages shall be provided on an occurrence policy form. Claims-made general liability policies will not be accepted.
  - (h) The Contractor and all subcontractors hereby agree to waive any limitation as to the amount of contribution recoverable against them by the Village of Orland Park, and/or by its officers, officials, employees, agents and/or its volunteers. This specifically includes any limitation imposed by any state statute, regulation, or case law including any Workers' Compensation Act provision that applies a limitation to the amount recoverable.
  - (ii)  Owners and Contractors Protective Liability (OCP) Policy: The OCP Policy shall name the "Village of Orland Park, and its officers, officials, employees, agents and volunteers" as insured or as additional insured and shall include coverage of \$1,000,000 combined single limit per occurrence for bodily injury and property damage;  
(Required for large construction projects; applicable if box is checked)
  - (iii) ISO Business Auto Liability coverage form number CA 00 01, Symbol 01 "Any Auto": \$1,000,000 combined single limit per accident for bodily injury, and property damage and \$1,000,000 per occurrence for personal injury.
  - (iv) Workers' Compensation insurance as required by the Workers' Compensation Act of the State of Illinois with coverage of statutory limits and Employers' Liability Insurance with limits of \$500,000 per accident:
    - (a) The insurer shall agree to waive all rights of subrogation against the "Village of Orland Park, its officers, officials, employees, agents and volunteers" for losses arising from work performed by the Contractor for the Village.
    - (b) NCCI Alternate Employer Endorsement (WC 00 03 01 A) in place to insure that workers' compensation coverage applies under Contractor's coverage rather than under the coverage of the Village of Orland Park, and/or of its officers, officials, employees, agents and/or its volunteers (if the Village of Orland Park, its officers, officials, employees, agents and/or its volunteers are borrowing, leasing or in day to day control of Contractor's employee).
  - (v)  Builder's Risk Property Coverage with "Village of Orland Park" named as the loss payee: insurance shall be provided against "all risk" of physical damage, including water damage (flood and hydrostatic pressure not excluded) on a completed replacement cost basis;  
(Required for a general contractor on a building construction project; applicable if box is checked)
  - (vi)  Environmental Impairment/Pollution Liability Coverage: \$1,000,000 combined single limit per occurrence for bodily injury, property damage and remediation costs, including but not limited to, for pollution incidents as a result of a claim for bodily injury, property damage or remediation costs from an incident at, on or migrating beyond the contracted work site. Coverage shall be extended to Non-Owned Disposal sites resulting from a pollution incident at, on or mitigating beyond the site; and also provide coverage for incidents occurring during transportation of pollutants; and  
(Required if the project involves an exposure to or risk of environmental impairment and/or pollution liability from a worksite; applicable if box is checked)
  - (vii) Umbrella Policy: If the general aggregate limit for Commercial General Liability coverage provided is less than \$2,000,000, pursuant to Section 13(B)(i) above, then a \$2,000,000 Umbrella Policy shall also be provided, which policy shall follow all required coverages as set forth above, other than Worker's Compensation and Professional Liability.
- C. Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by the Village of Orland Park.

D. All Coverages:

- (i) No Waiver. Under no circumstances shall the Village, or its officers, officials, employees, agents or volunteers be deemed to have waived any of the insurance requirements of this Contract by any act or omission, including, but not limited to:
  - (a) Allowing work by Contractor or any subcontractor to start before receipt of Certificates of Insurance and Additional Insured Endorsements.
  - (b) Failure to examine, or to demand correction of any deficiency, of any Certificate of Insurance and Additional Insured Endorsement received.
- (ii) Each insurance policy required shall have the Village of Orland Park expressly endorsed onto the policy as a Cancellation Notice Recipient. Should any of the policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.
- (iii) When requested by the Village Manager, or his designee, Contractor shall promptly provide the respective original insurance policies for review and approval by the Village Manager, or his designee.

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

F. Verification of Coverage: Contractor shall furnish the Village of Orland Park with certificates of insurance naming the "Village of Orland Park, its officers, officials, employees, agents and volunteers", as additional insureds, and with original endorsements affecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be received and approved by the Village Manager, or his designee, before any work commences. The following additional insured endorsements may be utilized: ISO Additional Insured Endorsements CG 20 10 04 13 or CG 20 26 04 13. The Village reserves the right to request full certified copies of the insurance policies and endorsements.

If this box is checked, a Completed Operations Endorsement (CG 20 37 04 13) is also required.

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

H. Assumption of Liability: Contractor assumes liability for all injury to or death of any person or persons including employees of the Contractor, any subcontractor, any supplier or any other person and assumes liability for all damage to property sustained by any person or persons occasioned by or in any way arising out of any work performed pursuant to this Contract.

I. Insurance Certifications: In addition to providing Certificates of Insurance as required by the contract documents, the Contractor shall submit to the Village a signed certification with each Request for Payment, stating that all the insurance required of the Contractor remains in force. Failure to submit such a certification shall be grounds to withhold payment in full or in part.

J. Insurance Requirements Cannot Be Waived by Village: Under no circumstances shall the Village be deemed to have waived any of the insurance requirements of the related Contract by any act or omission, including, but not limited to: (1) allowing the Work to commence by the Contractor or any subcontractor of any tier before receipt of Certificates of Insurance; (2) failing to review any Certificates of Insurance received; (3) failing to advise the Contractor or any subcontractor of any tier that any Certificate of Insurance fails to contain all the required insurance provisions, or is otherwise deficient in any manner; or (4) issuing any payment without receipt of a Sworn Statement from the Contractor and all subcontractors of any tier stating that all the required insurance is in force. The Contractor agrees that the obligation to provide the insurance required by this Agreement or any of the contract documents is solely its responsibility and that this is a requirement which cannot be waived by any conduct, action, inaction or omission by the Village. Contractor shall also protect the Village by specifically incorporating this Paragraph into every subcontract entered into relative to the Work contemplated herein and also requiring that every subcontractor incorporate this Paragraph into every sub-subcontract it enters into relative to the Work contemplated herein.

- K. Liability of Contractor and Subcontractor is Not Limited by Purchase of Insurance: Nothing contained in the insurance requirements of this Agreement or any Contract Documents is to be construed as limiting the liability of the Contractor or the liability of any subcontractor of any tier, or either of their respective insurance carriers. The Village does not, in any way, represent that the coverages or limits of insurance specified is sufficient or adequate to protect the Village, the Contractor, or any subcontractor's interest or liabilities, but are merely required minimums. The obligation of the Contractor and every subcontractor of any tier to purchase insurance shall not, in any way, limit their obligations to the Village in the event that the Village should suffer an injury or loss in excess of the amount recoverable through insurance, or any loss or portion of the loss which is not covered by either the insurance of the Contractor or any subcontractor's insurance.
- L. Notice of Bodily Injury or Property Damage: The Contractor shall notify the Village, in writing, of any actual or possible claim for personal injury or property damage relating to the Work, or of any occurrence which might give rise to such claim, promptly upon obtaining first knowledge of same.
- M. Updated Proof Required: The Contractor agrees that at any time upon the demand of the Village, updated proof of such insurance coverage will be submitted to the Village. There shall be no additional charge to the Village for said insurance.
- N. Safety/Loss Prevention Program Requirements: The Contractor shall provide written confirmation that a safety/loss prevention program was in place at least 90 days prior to submitting the bid proposal and is continuing. Evidence of completed employee safety training shall be provided to the Village and approved by the Village Manager, or his designee.
- O. Higher and More Expansive Standard Applicable: To the extent other insurance requirements of the contract documents contradict this Paragraph 13, the more expansive and higher standard, in terms of type and amount of coverage, shall govern.

14. Indemnity:

- A. To the fullest extent permitted by law, the Contractor hereby agrees to defend, indemnify and hold harmless the Village, its elected and appointed officials, employees and agents against all injuries, deaths, loss, damages, claims, patent claims, suits, liabilities, judgments, costs and expenses, which may in anyway accrue against the Village, its elected and appointed officials, employees, and agents arising in whole or in part or in consequence of the performance of the Work by the Contractor, its employees, or subcontractors, or which may in anyway result therefrom, except that arising out of the sole legal cause of the Village, its elected and appointed officials, employees or agents, the Contractor shall, at its own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith, and, if any judgment shall be rendered against the Village, its elected and appointed officials, employees or agents, in any such action, the Contractor shall, at its own expense, satisfy and discharge the same.
- B. Contractor expressly understands and agrees that any performance bond or insurance policies required by this Contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Village, its elected and appointed officials, employees or agents as herein provided.
- C. Contractor further agrees that to the extent that money is due the Contractor by virtue of this Contract as shall be considered necessary in the judgment of the Village, such funds may be retained by the Village to protect itself against said loss until such claims, suits, or judgments shall have been settled or discharged and/or evidence to that effect shall have been furnished to the satisfaction of the Village.
- D. In the event that the Village is not immune from liability under any applicable law, and only in such event, the Village hereby agrees to indemnify and hold harmless the Contractor, its officers, directors, employees and subcontractors (collectively, Contractor) against all damages, liabilities or costs, including reasonable attorney's fees and defense costs, to the extent caused by the Village's negligent acts in connection with the Project and the acts of the Village, and/or any of its officers, trustees and/or employees.



- E. Neither the Village nor the Contractor shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence, or for the acts of their respective officers, trustees, employees and/or agents.
- F. The provisions of this Paragraph 14 shall survive any termination of the Contract.
15. Village Confidential Information:
- A. Contractor warrants that it shall not disclose, use, sell, rent, trade, or otherwise provide Village Confidential Information to any person, firm, or entity for any purpose outside of the specific purposes of the Contract Documents, except as necessary to comply with applicable State or Federal laws.
- B. The provisions of this Paragraph 15 shall survive any termination of the Contract.
16. Professional Standard: The Contractor hereby covenants and agrees that the Contractor will perform all Services described in this Agreement in accordance with the Professional Standard. In connection with the execution of this Agreement, the Contractor warrants and represents as follows:
- A. Feasibility of Performance. The Contractor (i) has carefully examined and analyzed the provisions and requirements of this Agreement, including all Exhibits hereto; (ii) understands the nature of the Services required; (iii) from its own analysis has satisfied itself, to the extent reasonably possible, as to the nature of all things needed for the performance of this Agreement and all other matters that in any way may affect this Agreement or its performance; (iv) represents that this Agreement is feasible of performance in accordance with all of its provisions and requirements; and (v) can and will perform, or cause to be performed, the Services in accordance with the provisions and requirements of this Agreement.
- B. Ability to Perform: The Contractor hereby represents and warrants to the Village, with the intention that the Village rely thereon in entering into this Agreement, that: (a) the Contractor is financially solvent; (b) the Contractor, and each has the training, capability, experience, expertise, and licensing necessary to perform the Services in accordance with the requirements of this Agreement and the Professional Standard; (c) the Contractor possesses and will keep in force all required licenses, permits and accreditations to perform the Services; (d) the Contractor has full power to execute, deliver and perform this Agreement and has taken all necessary action to authorize such execution, delivery and performance; (e) the individual(s) executing this Agreement are duly authorized to sign the same on the Contractor's behalf and to bind the Contractor hereto; and (f) the Contractor will perform the Services described herein promptly, diligently and continuously with an adequate number of qualified personnel to ensure such performance.
- C. Authorized to do Business in Illinois: The Contractor certifies that it is a legal entity authorized to do business in Illinois, 30 ILCS 500/1.15.8, 20-43.
- D. Certification to Enter into Public Contracts: The Contractor certifies that it 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 violating the prohibition set forth in Section 50-10.5(e) of the Illinois Procurement Code, 30 ILCS 500/50-10.5e or any similar offense of any State of the United States which contains the same elements as the Illinois offenses of bid-rigging or bid rotating.
- E. Payment to the Illinois Department of Revenue: Contractor certifies that it is not delinquent in payment of any taxes to Illinois Department of Revenue.
- F. Debarment. The Contractor certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the Agreement by any federal department or agency. The Contractor will not knowingly use the services of any related party barred or ineligible for contracts by any federal, state or local governmental agency or applicable Laws for any purpose in the performance of the Services.
- G. Interest of members of the Village: Contractor certifies that no member of the governing body of the Village and no other officer, employee, or agent of the Village who exercises any functions or responsibilities in connection with the planning or carrying out of the Services, has any personal

financial interest, direct or indirect, in this Agreement; and the Contractor shall take appropriate steps to assure compliance.

H. Interest of Professional Services Provider and Employees: Contractor certifies that it presently has no interest and shall not acquire interest, direct or indirect, in the various project areas or any parcels therein or any other interest which would conflict in any manner or degree with the performance of Contractor Services hereunder. The Contractor further covenants that in the performance of this Agreement, no person having such interest shall be employed.

17. No Conflicts of Interest: The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, brokerage fee, gift(s), or any other consideration, contingent upon or resulting from the award or the making of this Contract.
18. Compliance with Laws: Contractor shall comply with all federal, state, and local laws, ordinances, rules and regulations, and any and all orders and decrees of any court, administrative body or tribunal applicable to the performance of the Contract. Contractor shall comply with all applicable laws, regulations, and rules promulgated by any Federal, State, County, Municipal and/or other governmental unit or regulatory body now in effect or which may be in effect during the performance of the Work. Included within the scope of the laws, regulations, and rules referred to in this paragraph, but in no way to operate as a limitation, are: Occupational Safety & Health Act ("OSHA"); Illinois Department of Labor (IDOL), Department of Transportation, and all forms of traffic regulations; public utility, Intrastate and Interstate Commerce Commission regulations; Workers' Compensation Laws, the Employment of Illinois Workers on Public Works Act, the Social Security Act of the Federal Government and any of its titles, the Illinois Human Rights Act, and EEOC statutory provisions and rules and regulations. Evidence of specific regulatory compliance will be provided by the Contractor if requested by the Village.
19. Equal Employment Opportunity: The Contractor shall be an "equal opportunity employer" as defined in the United States Code Annotated. The Contractor shall be required to comply with the President's Executive Order No. 11246, as amended, and the requirements for Bidders and Contractors under this order are explained in 41 CFR 60-4. The Contractor shall fully comply with all applicable provisions of the Illinois Human Rights Act.
20. Certifications: By the execution of this Agreement, the Contractor certifies that: (1) the Contractor is not delinquent in the payment of any tax administered by the Illinois Department of Revenue as required by 65 ILCS 5/11-42.1-1; (2) the Contractor has a written sexual harassment policy as required by and shall otherwise comply in all respects with the Illinois Human Rights Act (775 ILCS 5/2-105(A)(4)); (3) the Contractor shall provide a drug-free workplace as required by and shall otherwise comply with the Illinois Drug-Free Workplace Act (30 ILCS 580/1, et seq.); (4) the Contractor has in place a written policy as required by and that it does and shall otherwise comply with the Illinois Substance Abuse Prevention on Public Works Projects Act (820 ILCS 265/1, et seq.); and (5) the Contractor is not and/or was not barred from bidding on this contract pursuant to Section 33E-3 or 33E-4 of the Illinois Criminal Code (720 ILCS 5/33E-3 and 5/33E-4).
21. Project Documentation: Upon execution of this Agreement relative to the Project, notwithstanding anything contained in any other Contract Documents to the contrary, the Contractor and its subcontractors agree to and shall release to the Village any and all right, title, and interest in and to any and all Project Documentation depicting, documenting, or recording the Services, and/or the Work, and/or the Project which is the subject of the Contract Documents, prepared or created by the Contractor and/or its subcontractors, including but not limited to any and all drawings, plans, specifications, photos, reports, videos, and/or other recordings on any electronic media (sometimes collectively referred to as "Project Documentation"), and any and all of such

Project Documentation shall become the property of the Village. The Contractor and its subcontractors further warrant to the Village that they have the legal right to convey said Project Documentation to the Village. The Work contemplated by the Contract Documents shall not be considered complete until and unless legible and complete physical and electronic copies of all such Project Documentation have been delivered to the Village. The Village may reuse Project Documentation without the prior written authorization of the Contractor, but the Village agrees to waive any claim against the Contractor arising from any unauthorized reuse or modification of the Project Documentation.

22. Independent Contractor: It is mutually understood and agreed that the Contractor shall have full control of the ways and means of performing the Professional Services referred to above and/or which is the subject of this Agreement and the related Contract and that the Contractor or his/its employees, representatives or Subcontractor's are in no sense employees of the Village, it being specifically agreed that in respect to the Village, the Contractor and any party employed by the Contractor bears the relationship to the Village of an independent contractor.

23. Prevailing Wage Act Notice [Check box that applies]:

- The Illinois Prevailing Wage Act (820 ILCS 130/01, et seq.) does not apply to this Contract.  
 The Illinois Prevailing Wage Act (820 ILCS 130/01, et seq.) does apply to this Contract.

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 current "prevailing rate of wages" (hourly cash wages plus amount for fringe benefits) in the county where the work is performed. The Illinois Department of Labor ("IDOL") publishes the prevailing wage rates on its website at <http://labor.illinois.gov/>. The IDOL may revise the prevailing wage rates from time to time and the contractor/subcontractor has an obligation to check the IDOL's website for revisions to prevailing wage rates and comply with the most current prevailing wage rates. For information regarding current prevailing wage rates, please refer to the IDOL website. All contractors and subcontractors rendering services under this contract must comply with all requirements of the Act, including but not limited to, all wage requirements and notice and record keeping duties, including but not limited to each contractor and subcontractor who participates in public works to file with the Illinois Department of Labor (IDOL) certified payroll for those calendar months during which work on a public works project has occurred. The Act requires certified payroll to be filed with IDOL no later than the 15th day of each calendar month for the immediately preceding month through the Illinois Prevailing Wage Portal—an electronic database IDOL has established for collecting and retaining certified payroll. The Portal may be accessed using this link: <https://www2.illinois.gov/idol/Laws-Rules/CONMED/Pages/Prevailing-Wage-Portal.aspx>. The Village reserves the right to withhold payment due to Contractor until Contractor and its subcontractors display compliance with this provision of the Act. The Contractor shall also pay prevailing wages at rates not less than those prevailing under Davis-Bacon Wage Act Provisions as determined by the U.S. Department of Labor to all laborers, workmen and mechanics performing work under this Contract, if such Act is applicable, and, in such event, the more restrictive (i.e., higher) prevailing wage requirements shall be applicable.

24. Warranty and Guarantee: In addition to any manufacturer's warranty(ies) on materials, parts and/or equipment to be supplied pursuant to the Contract Documents, the Contractor warrants and guarantees that for a period of two (2) years from the date of substantial completion of the Project that the completed Project shall be free from all defects and deficiencies due to faulty equipment, materials or workmanship, and/or because they do not comply with the Contract Documents, all as shall be determined solely by the Village, and the Contractor shall promptly correct, repair, and/or replace any and all such equipment, materials and/or Work which has been determined by the Village to be defective, deficient, and/or not in compliance with the Contract Documents including, but not limited to, the repairs of any resulting damage to other parts of the Project. In the event that the Contractor should fail to make such correction(s), repair(s), and/or replacement(s) ("remedial work") that the Village has determined to be necessary to remedy such defects,

deficiencies, and/or non-compliance with the Contract Documents, the Village may do so, and the Contractor shall be liable for all damages as provided by law, including but not limited to any costs incurred by the Village for any such remedial work. The Performance and Payment Bond, if one is applicable, shall remain in full force and effect through the warranty/guarantee period.

25. Standard Specifications:

- A. If applicable, all Work performed by Contractor that is associated with the fulfillment of this Agreement and/or the related Purchaser Order/Contract shall conform to the terms of the latest edition of the Illinois Department of Transportation (“IDOT”) Standard Specifications for Road and Bridge Construction where this document is otherwise silent. The applicable Standard Specifications, as herein specified, shall apply to all work and materials performed under this Contract unless revised by the Specifications, also herein included as part of the Contract Documents.
- B. If applicable, through the course of the Project, the Contractor shall be responsible for the maintenance of traffic through and around the zone of work consistent with Section 648 of the IDOT Standard Specifications for Road and Bridge Construction. The cost for this activity shall be considered incidental to the cost of the improvement.
- C. If applicable, all traffic control measures employed during the term of this contract shall be in accordance with the applicable sections of the IDOT Standard Specifications, the Supplemental Specifications, and the “Illinois Manual Uniform Traffic Control Devices for Streets and Highways”.

26. Permitted Hours of Work: All construction activity shall be permitted only during the following work hours: a ten (10) hour period from 7:00 A.M. until 5:00 P.M. on weekdays; Saturday work is permitted after 8:00 A.M. until 5:00 P.M., provided that the Contractor has made prior arrangements with representatives of the Village; and work shall not occur on Sundays or Holidays, except s specifically authorized by the Village in writing,

27. Restoration of Work Site: The Contractor shall be obligated to remove all debris from the Work site at the Contractor’s expense. The Contractor shall, at its sole cost and expense, as part of the Work required by this Agreement and the related Contract, replace and restore any grass, vegetation or plantings disturbed or removed by the Contractor, to their condition before the performance of the Work, and such removal shall only occur after approval in advance in writing by the Village’s designee. Without limiting the generality of the foregoing, the Contractor shall be obligated to: (1) re-grade and re-seed the ground surface, (2) replace any damaged vegetation, other than trees and bushes removed pursuant to the authority of the Village’s designee, with new plantings of good health and quality with species consistent with the recommendation of the Village’s designee, and (3) repair any damage to any paved surfaces disturbed by the Work. While the Work is in progress and until all required restoration work is completed, the Contractor shall comply with customary and usual initial erosion practices consistent with good engineering procedures and the requirements of all applicable ordinances.

28. Right to Alter Plans and Scope Reserved: The Village reserves the right to alter the plans, extend or shorten the improvements, add to the Work as may be necessary, and increase or decrease the scope and/or quantity of the Work, including the deduction or cancellation of any one or more of the unit price items, or to cancel the Contract and the Work in its entirety for any reason.

29. Duration: This Contract shall be in effect from the date of this Contract until the completion of the Work, but the obligations of the Contractor under the Paragraphs 14 and 15 hereof shall continue after such termination.

30. Advertisement: The Contractor is specifically denied the right to use in any form or medium the name of the Village for public advertising unless express permission is granted by the Village.

31. Amendments: No agreement or understanding to modify the Contract or the related Contract Documents shall be binding upon the Village unless such amendment is in writing and signed by the Village's authorized agent. All specifications, drawings, and data submitted to the Contractor with this Agreement or the related Contract Documents are hereby incorporated and made part thereof.

32. Termination: The following shall constitute events of default under this Agreement and the related Contract: a) any material misrepresentation made by the Contractor to the Village, b) any failure by the Contractor to perform any of its obligations under this Contract including, but not limited to, the following: (i) failure to commence performance of this Contract at the time specified in the Contract due to a reason or circumstance within the reasonable control of the Contractor, (ii) failure to perform this Contract with sufficient personnel and equipment or with sufficient material to ensure the completion of this Contract within the specified time due (i.e., by the Completion Date) to a reason or circumstance within the Contractor's reasonable control, (iii) failure to perform this Contract in a manner reasonably satisfactory to the Village, (iv) failure to promptly re-do or re-perform within reasonable time the services that were rejected by the Village as erroneous or unsatisfactory, (v) failure to comply with a material term of this Contract, (vi) failure of the Contractor to completely furnish the contracted goods or services to the Village within the time period specified by the Contract Documents; (vii) any breach or violation of Contractor or its employees, or agents, of its obligations under the Village Confidential Information provisions of Paragraph 15 of this Agreement; and (viii) any other acts specifically and expressly stated in this Contract as constituting a basis for termination for cause. At least ten (10) days prior to the date that the Contractor shall be declared in default of the Contract, the Village shall give written notice by certified mail to the Contractor. This notice shall state the reasons that the Contractor is being declared in default of the Contract. Failure by the Contractor to correct the stated deficiencies within the notice period shall result in the Contractor being declared in default of the Contract. Issuance of the notice by the Village shall be an indication of the intentions of the Village to take the work out of the hands of the Contractor and to hire others to complete the defaulted work. Upon default, the Contractor shall be liable for all damages sustained by the Village as provided by law as a result of such default, including but not limited to all costs incurred by the Village to fully complete all the work specified in the Contract Documents and all expense of every kind incurred by the Village in remedying any defect(s) and/or deficiency(ies), or failure by the Contractor to conform to the Contract Documents and any such costs incurred by the Village may also be paid by the Village out of such monies as otherwise may be due or otherwise may become due to said Contractor pursuant to the Contract Documents. Notwithstanding any other provision hereof, the Village may terminate the Agreement in the event of a default by the Contractor or without cause at any time upon fifteen (15) days prior written notice to the Contractor. In the event that the Agreement is so terminated and the Contractor is not in default or breach of this Agreement, the Contractor shall be paid for Services actually performed and reimbursable expenses actually incurred, if any, prior to termination, not exceeding the value of the Services completed which shall be determined on the basis of the rates set forth in the Contractor's Proposal.

33. Notices and Communications: Where notice is required by the Agreement it shall be considered received if it is delivered in person, sent by registered United States mail, return receipt requested, delivered by messenger or mail service with a signed receipt, sent by facsimile or e-mail with an acknowledgment of receipt, to the following:

**To the Village:**

Name: Sean Marquez  
Village of Orland Park  
14700 South Ravinia Avenue  
Orland Park, Illinois 60462  
Telephone: (708) 403-6171  
Facsimile:  
e-mail: smarquez@orlandpark.org

**To the Contractor:**

Name: Patricia A Schwartz  
Company: Schwartz Excavating, Inc.  
Address: 7023 Willow Springs Road, Suite 103  
City, State, Zip: Countryside, IL 60525  
Telephone: 708-639-4145  
Facsimile: 708-639-4138  
e-mail: pat@schwartzexcavating.com

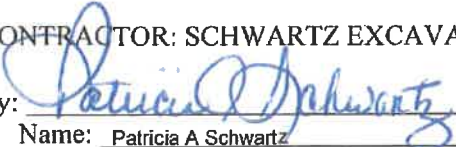
or to such other person or persons or to such other address or addresses as may be provided by either party to the other party.

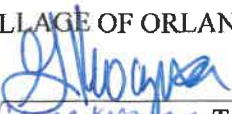
34. Illinois Freedom of Information Act: The Contractor agrees to maintain all records and documents for projects of the Village of Orland Park in compliance with the Freedom of Information Act (FOIA), 5ILCS 140/4 et seq. In addition, Contractor shall produce, without cost to the Village, records which are responsive to a request received by the Village under the FOIA so that the Village may provide records to those requesting them within the timeframes required. If additional time is necessary to compile records in response to a request, then Contractor shall so notify the Village and if possible, the Village shall request an extension so as to comply with the FOIA. In the event that the Village is found to have not complied with the FOIA, based upon Contractor's failure to produce documents or otherwise appropriately respond to a request under the FOIA, then Contractor shall indemnify and hold harmless, and pay all amounts determined to be due including but not limited to fines, costs, attorney fees and penalties
35. Supersede: The terms, conditions and specifications set forth in this Agreement shall supersede, govern, and prevail over any inconsistent terms, conditions, and/or specifications on any other Contract Documents.
36. Severability: In the event any section, subsection, paragraph, sentence, clause, phrase or provision of this instrument or part thereof shall be deemed unlawful, invalid, unenforceable or ineffective by any court of competent jurisdiction, such decision shall not affect the validity, enforceability or effectiveness of the remaining portions of this instrument.
37. Facsimile or Digital Signatures: Facsimile or digital signatures shall be sufficient for purposes of executing, negotiating, and finalizing this Contract; and this Contract shall be deemed delivered as if containing original signatures if such delivery is made by emailing a PDF of a scanned copy of the original, hand-signed document, and/or by use of a qualified, established electronic security procedure mutually agreed upon by the Parties.
38. Counterparts: This Agreement may be executed in one or more counterparts, which counterparts when affixed together, shall constitute one and the same original document.
39. No Third Party Beneficiaries: The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto.
40. Entire Agreement: The Contract Documents (including all Exhibits attached thereto which by reference are made a part of the Agreement) and all other written agreements signed by all of the parties hereto which by their express terms are a part of the Contract Documents, are the final expression of, and contain the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior understandings with respect thereto. The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officer in quadruplicate counterparts, each of which shall be considered as an original

CONTRACTOR: SCHWARTZ EXCAVATING, INC.

VILLAGE OF ORLAND PARK

By:   
Name: Patricia A. Schwartz  
Its President and Authorized Agent

By:   
Name: George Koczvara, Title: Village Manager

ATTEST: 

EXHIBIT A

[ATTACH]

Scope of Work as set forth in Contractor's Proposal dated April 21, 2021  
or Village RFP, ITB, and/or Purchase Order No. ITB 21-020 dated March 31, 2021

EXHIBIT B

[ATTACH IF REQUIRED]

Schedule of Fees

Exhibit A

" ORIGINAL "

BIDDER SUMMARY SHEET  
ITB #21-020  
Grasslands Grading Improvements

Business Name: Schwartz Excavating, Inc.  
Street Address: 7023 Willow Springs Road, Suite 103  
City, State, Zip: Countryside, IL 60525  
Contact Name: Garrett Schwartz  
Title: Estimator/Project Superintendent  
Phone: 708-639-4145 ext 16 Fax: 708-639-4138  
E-Mail address: garrett@schwartzexcavating.com

Price Proposal

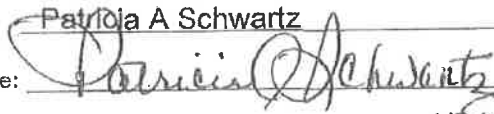
The pricing should be all inclusive to the costs for the installation of the storm structures, disconnecting and connecting reinforced concrete pipe, and other related items necessary to complete work.

Excavation and grading for swales	\$	<u>100,820.00</u>
Landscape restoration for swales	\$	<u>12,545.00</u>
Layout	\$	<u>10,200.00</u>
Storm structure installation (Alternate 1)	\$	<u>17,365.00</u>
Asphalt restoration for storm structure (Alternate 1)	\$	<u>1.00</u>
Landscape restoration for storm structure (Alternate 1)	\$	<u>8,175.00</u>
Structure installation for 21" pipe (all inclusive) (Alternate 1)	\$	<u>6,630.00</u>
Structure installation for 27" pipe (all inclusive) (Alternate 1)	\$	<u>6,630.00</u>
Structure installation for 36" pipe (all inclusive) (Alternate 1)	\$	<u>6,630.00</u>

GRAND TOTAL BID PRICE \$ 168,996.00 \$123,565.00

Approved by the  
Village Board  
5/17/2021

AUTHORIZATION & SIGNATURE

Name of Authorized Signee: Patricia A Schwartz  
Signature of Authorized Signee:   
Title: President Date: 4/21/2021





# ORLAND PARK

ITB #21-020

Grasslands Grading Improvements

## PROJECT DETAILS

### Scope of Work

The project is located in the southwest area of Orland Park in the Grasslands Subdivision. The project is proposing the installation of a series of drainage swales to provide safe overland flow routes for land to the west as shown in exhibits 1 and 2. As shown in exhibits 3-13, the dimension of the proposed swales will be two (2) feet wide at the bottom with 4:1 side slopes and three-quarters (0.75) of foot depth and will be installed between homes centered along the property line as shown in exhibit 2. Constructing the layout to ensure the swale is installed per the exhibits will be the responsibility of the contractor. All locations are to be restored with four (4) inches of sod. Removal and replacement of existing vegetation will be the responsibility of the Contractor. Excavated material will be hauled away by the Contractor to a site of their choosing. Coordination with property owners will be the responsibility of the Village.

~~Prospective bidders can choose to include the work as shown in Exhibit 14 (ALTERNATE 1). Alternate 1 scope includes the installation of a manhole with an open grate connecting to an existing pipe near 11353/11345 Steeplechase Parkway. Unit pricing is requested for this work and the pricing should be all inclusive to the costs for the installation of the storm structures, disconnecting and connecting reinforced concrete pipe, and other related items necessary to complete work.~~

### LOCATION OF WORK AND SPECIFICATIONS:

The Bid Specifications for this ITB #21-020 are attached as:

- Exhibit 1 – Tributary Area Map
- Exhibit 2 – Proposed Swales Map
- Exhibit 3 – 16802/16806 Rainbow Circle swale
- Exhibit 4 – 16806/16812 Rainbow Circle swale
- Exhibit 5 – 16812/16818 Rainbow Circle swale
- Exhibit 6 – 16818 Steeplechase Parkway swale
- Exhibit 7 – 16838/16844 Steeplechase Parkway swale
- Exhibit 8 – 16844/16852 Steeplechase Parkway swale
- Exhibit 9 – 16852/16860 Steeplechase Parkway swale
- Exhibit 10 – 16860/16904 Steeplechase Parkway swale
- Exhibit 11 – 16904/16912 Steeplechase Parkway swale
- Exhibit 12 – 16912/16920 Steeplechase Parkway swale
- Exhibit 13 – 16920 Steeplechase Parkway swale
- ~~Exhibit 14 – Steeplechase Parkway inlet installation~~
- Exhibit 15 – Regional Location Map

Specifications – Illinois Department of Transportation Standard Specifications for Road and Bridge Construction.

 **ORLAND PARK**  
**INSURANCE REQUIREMENTS**

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

**WORKERS' COMPENSATION & EMPLOYERS' LIABILITY**

Workers' Compensation – Statutory Limits  
Employers' Liability  
\$1,000,000 – Each Accident    \$1,000,000 – Policy Limit  
\$1,000,000 – Each Employee  
Waiver of Subrogation in favor of the Village of Orland Park

**AUTOMOBILE LIABILITY**

\$1,000,000 – Combined Single Limit for Bodily Injury & Property Damage  
Additional Insured Endorsement in favor of the Village of Orland Park

**GENERAL LIABILITY (Occurrence basis)**

\$1,000,000 – Each Occurrence for Bodily Injury & Property Damage  
\$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)**

\$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 successful Bidder, shall be specifically endorsed to identify "The Village of Orland Park, and their respective officers, trustees, directors, officials, employees, volunteers 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 regard to General Liability and Workers' Compensation coverages. 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, Nicole Merced, Purchasing Coordinator, 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 21st DAY OF April, 2021

  
\_\_\_\_\_  
Signature  
Patricia A Schwartz, President  
\_\_\_\_\_  
Printed Name & Title

Authorized to execute agreements for:  
Schwartz Excavating, Inc.  
\_\_\_\_\_  
Name of Company



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
06/01/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).


<b>PRODUCER</b> Brown & Brown of Illinois 263 Shuman Blvd., Suite 110  Naperville IL 60563		<b>CONTACT NAME:</b> Karen Ryan CRIS, CISR, MLIS <b>PHONE (A/C, No, Ext):</b> (630) 245-4600 <b>FAX (A/C, No):</b> (630) 245-4601 <b>E-MAIL ADDRESS:</b> k.ryan@bbofillinois.com	
<b>INSURED</b> Schwartz Excavating Inc 7023 Willow Springs Road  Countryside IL 60525-4841		<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> The Continental Insurance Company NAIC # 35289 <b>INSURER B:</b> Valley Forge Insurance Company 20508 <b>INSURER C:</b> Transportation Insurance Company 20494 <b>INSURER D:</b> Illinois Union Insurance Company 27960 <b>INSURER E:</b> <b>INSURER F:</b>	

**COVERAGES**      **CERTIFICATE NUMBER:** 20/21 Gen Master      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT 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. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> XCU Included  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			6018549119	09/01/2020	09/01/2021	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000 LMPOL \$ 1,000,000
B	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			6018549105	09/01/2020	09/01/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			6018549072	09/01/2020	09/01/2021	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$ <input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER
C	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) if yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	618549055	09/01/2020	09/01/2021	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	<b>CONTRACTORS POLLUTION LIABILITY</b>			CPY G28116603 005	09/01/2020	09/01/2021	Per Pollution Incident \$2,000,000 Policy Aggregate \$2,000,000 Deductible \$10,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
RE: Grasslands Grading Improvements  
Primary and Non-Contributory Additional Insured on General Liability and Auto Liability and Waiver of Subrogation on General Liability and Workers Compensation: Village of Orland Park and its officers, officials, employees, agents and volunteers

<b>CERTIFICATE HOLDER</b>  Village of Orland Park 14700 S. Ravinia Avenue  Orland Park IL 60462	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE  

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**Blanket Additional Insured - Owners, Lessees or Contractors - with Products-Completed Operations Coverage Endorsement**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

It is understood and agreed as follows:

- I. The **WHO IS AN INSURED** section is amended to add as an **Insured** any person or organization whom the **Named Insured** is required by **written contract** to add as an additional insured on this **coverage part**, including any such person or organization, if any, specifically set forth on the Schedule attachment to this endorsement. However, such person or organization is an **Insured** only with respect to such person or organization's liability for:
  - A. unless paragraph **B.** below applies,
    - 1. **bodily injury, property damage, or personal and advertising injury** caused in whole or in part by the acts or omissions by or on behalf of the **Named Insured** and in the performance of such **Named Insured's** ongoing operations as specified in such **written contract**; or
    - 2. **bodily injury or property damage** caused in whole or in part by **your work** and included in the **products-completed operations hazard**, and only if
      - a. the **written contract** requires the **Named Insured** to provide the additional insured such coverage; and
      - b. this **coverage part** provides such coverage.
  - B. **bodily injury, property damage, or personal and advertising injury** arising out of **your work** described in such **written contract**, but only if:
    - 1. this **coverage part** provides coverage for **bodily injury or property damage** included within the **products completed operations hazard**; and
    - 2. the **written contract** specifically requires the **Named Insured** to provide additional insured coverage under the 11-85 or 10-01 edition of CG2010 or the 10-01 edition of CG2037.
- II. Subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:
  - A. coverage broader than required by the **written contract**; or
  - B. a higher limit of insurance than required by the **written contract**.
- III. The insurance granted by this endorsement to the additional insured does not apply to **bodily injury, property damage, or personal and advertising injury** arising out of:
  - A. the rendering of, or the failure to render, any professional architectural, engineering, or surveying services, including:
    - 1. the preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
    - 2. supervisory, inspection, architectural or engineering activities; or
  - B. any premises or work for which the additional insured is specifically listed as an additional insured on another endorsement attached to this **coverage part**.
- IV. Notwithstanding anything to the contrary in the section entitled **COMMERCIAL GENERAL LIABILITY CONDITIONS**, the Condition entitled **Other Insurance**, this insurance is excess of all other insurance available to the additional insured whether on a primary, excess, contingent or any other basis. However, if this insurance is required by **written**

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**Blanket Additional Insured - Owners, Lessees or  
Contractors - with Products-Completed  
Operations Coverage Endorsement**

**contract** to be primary and non-contributory, this insurance will be primary and non-contributory relative solely to insurance on which the additional insured is a named insured.

**V. Solely with respect to the insurance granted by this endorsement, the section entitled COMMERCIAL GENERAL LIABILITY CONDITIONS is amended as follows:**

The Condition entitled **Duties In The Event of Occurrence, Offense, Claim or Suit** is amended with the addition of the following:

Any additional insured pursuant to this endorsement will as soon as practicable:

1. give the Insurer written notice of any **claim**, or any **occurrence** or offense which may result in a **claim**;
2. except as provided in Paragraph IV. of this endorsement, agree to make available any other insurance the additional insured has for any loss covered under this **coverage part**;
3. send the Insurer copies of all legal papers received, and otherwise cooperate with the Insurer in the investigation, defense, or settlement of the **claim**; and
4. tender the defense and indemnity of any **claim** to any other insurer or self insurer whose policy or program applies to a loss that the Insurer covers under this **coverage part**. However, if the **written contract** requires this insurance to be primary and non-contributory, this paragraph (4) does not apply to insurance on which the additional insured is a named insured.

The Insurer has no duty to defend or indemnify an additional insured under this endorsement until the Insurer receives written notice of a **claim** from the additional insured.

**VI. Solely with respect to the insurance granted by this endorsement, the section entitled DEFINITIONS is amended to add the following definition:**

**Written contract** means a written contract or written agreement that requires the **Named Insured** to make a person or organization an additional insured on this **coverage part**, provided the contract or agreement:

- A. is currently in effect or becomes effective during the term of this policy; and
- B. was executed prior to:
  1. the **bodily injury** or **property damage**; or
  2. the offense that caused the **personal and advertising injury**for which the additional insured seeks coverage.

Any coverage granted by this endorsement shall apply solely to the extent permissible by law.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

**Contractors' General Liability Extension Endorsement**

It is understood and agreed that this endorsement amends the **COMMERCIAL GENERAL LIABILITY COVERAGE PART** as follows. If any other endorsement attached to this policy amends any provision also amended by this endorsement, then that other endorsement controls with respect to such provision, and the changes made by this endorsement with respect to such provision do not apply.

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**Contractors' General Liability Extension Endorsement****1. ADDITIONAL INSUREDS**

- a. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization described in paragraphs **A. through H.** below whom a **Named Insured** is required to add as an additional insured on this **Coverage Part** under a written contract or written agreement, provided such contract or agreement:

(1) is currently in effect or becomes effective during the term of this **Coverage Part**; and

(2) was executed prior to:

(a) the **bodily injury or property damage**; or

(b) the offense that caused the **personal and advertising injury**,

for which such additional insured seeks coverage.

- b. However, subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:

(1) a higher limit of insurance than required by such contract or agreement; or

(2) coverage broader than required by such contract or agreement, and in no event broader than that described by the applicable paragraph **A. through H.** below.

Any coverage granted by this endorsement shall apply only to the extent permissible by law.

**A. Controlling Interest**

Any person or organization with a controlling interest in a **Named Insured**, but only with respect to such person or organization's liability for **bodily injury, property damage or personal and advertising injury** arising out of:

1. such person or organization's financial control of a **Named Insured**; or

2. premises such person or organization owns, maintains or controls while a **Named Insured** leases or occupies such premises;

provided that the coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**B. Co-owner of Insured Premises**

A co-owner of a premises co-owned by a **Named Insured** and covered under this insurance but only with respect to such co-owner's liability for **bodily injury, property damage or personal and advertising injury** as co-owner of such premises.

**C. Lessor of Equipment**

Any person or organization from whom a **Named Insured** leases equipment, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** caused, in whole or in part, by the **Named Insured's** maintenance, operation or use of such equipment, provided that the **occurrence** giving rise to such **bodily injury, property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease.

**D. Lessor of Land**

Any person or organization from whom a **Named Insured** leases land but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of the ownership, maintenance or use of such land, provided that the **occurrence** giving rise to such **bodily injury, property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease. The



**Contractors' General Liability Extension Endorsement**

coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**E. Lessor of Premises**

An owner or lessor of premises leased to the **Named Insured**, or such owner or lessor's real estate manager, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of the ownership, maintenance or use of such part of the premises leased to the **Named Insured**, and provided that the **occurrence** giving rise to such **bodily injury or property damage**, or the offense giving rise to such **personal and advertising injury**, takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**F. Mortgagee, Assignee or Receiver**

A mortgagee, assignee or receiver of premises but only with respect to such mortgagee, assignee or receiver's liability for **bodily injury, property damage or personal and advertising injury** arising out of the **Named Insured's** ownership, maintenance, or use of a premises by a **Named Insured**.

The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**G. State or Governmental Agency or Subdivision or Political Subdivisions – Permits**

A state or governmental agency or subdivision or political subdivision that has issued a permit or authorization but only with respect to such state or governmental agency or subdivision or political subdivision's liability for **bodily injury, property damage or personal and advertising injury** arising out of:

1. the following hazards in connection with premises a **Named Insured** owns, rents, or controls and to which this insurance applies:
  - a. the existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistaway openings, sidewalk vaults, street banners, or decorations and similar exposures; or
  - b. the construction, erection, or removal of elevators; or
  - c. the ownership, maintenance or use of any elevators covered by this insurance; or
2. the permitted or authorized operations performed by a **Named Insured** or on a **Named Insured's** behalf.

The coverage granted by this paragraph does not apply to:

- a. **Bodily injury, property damage or personal and advertising injury** arising out of operations performed for the state or governmental agency or subdivision or political subdivision; or
- b. **Bodily injury or property damage** included within the **products-completed operations hazard**.

With respect to this provision's requirement that additional insured status must be requested under a written contract or agreement, the Insurer will treat as a written contract any governmental permit that requires the **Named Insured** to add the governmental entity as an additional insured.

**H. Trade Show Event Lessor**

1. With respect to a **Named Insured's** participation in a trade show event as an exhibitor, presenter or displayer, any person or organization whom the **Named Insured** is required to include as an additional insured, but only with respect to such person or organization's liability for **bodily injury, property damage or personal and advertising injury** caused by:

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**Contractors' General Liability Extension Endorsement**

- a. the **Named Insured's** acts or omissions; or
  - b. the acts or omissions of those acting on the **Named Insured's** behalf,  
in the performance of the **Named Insured's** ongoing operations at the trade show event premises during the trade show event.
2. The coverage granted by this paragraph does not apply to **bodily injury** or **property damage** included within the **products-completed operations hazard**.

**2. ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY TO ADDITIONAL INSURED'S INSURANCE**

The **Other Insurance** Condition in the **COMMERCIAL GENERAL LIABILITY CONDITIONS** Section is amended to add the following paragraph:

If the **Named Insured** has agreed in writing in a contract or agreement that this insurance is primary and non-contributory relative to an additional insured's own insurance, then this insurance is primary, and the Insurer will not seek contribution from that other insurance. For the purpose of this Provision 2., the additional insured's own insurance means insurance on which the additional insured is a named insured. Otherwise, and notwithstanding anything to the contrary elsewhere in this Condition, the insurance provided to such person or organization is excess of any other insurance available to such person or organization.

**3. BODILY INJURY – EXPANDED DEFINITION**

Under **DEFINITIONS**, the definition of **bodily injury** is deleted and replaced by the following:

**Bodily injury** means physical injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury sustained by that person at any time which results as a consequence of the physical injury, sickness or disease.

**4. BROAD KNOWLEDGE OF OCCURRENCE/ NOTICE OF OCCURRENCE**

Under **CONDITIONS**, the condition entitled **Duties in The Event of Occurrence, Offense, Claim or Suit** is amended to add the following provisions:

**A. BROAD KNOWLEDGE OF OCCURRENCE**

The **Named Insured** must give the Insurer or the Insurer's authorized representative notice of an **occurrence**, offense or **claim** only when the **occurrence**, offense or **claim** is known to a natural person **Named Insured**, to a partner, executive officer, manager or member of a **Named Insured**, or an **employee** designated by any of the above to give such notice.

**B. NOTICE OF OCCURRENCE**

The **Named Insured's** rights under this **Coverage Part** will not be prejudiced if the **Named Insured** fails to give the Insurer notice of an **occurrence**, offense or **claim** and that failure is solely due to the **Named Insured's** reasonable belief that the **bodily injury** or **property damage** is not covered under this **Coverage Part**. However, the **Named Insured** shall give written notice of such **occurrence**, offense or **claim** to the Insurer as soon as the **Named Insured** is aware that this insurance may apply to such **occurrence**, offense or **claim**.

**5. BROAD NAMED INSURED**

**WHO IS AN INSURED** is amended to delete its Paragraph 3. in its entirety and replace it with the following:

3. Pursuant to the limitations described in Paragraph 4. below, any organization in which a **Named Insured** has management control:
  - a. on the effective date of this **Coverage Part**; or

**Contractors' General Liability Extension Endorsement**

b. by reason of a **Named Insured** creating or acquiring the organization during the **policy period**,

qualifies as a **Named Insured**, provided that there is no other similar liability insurance, whether primary, contributory, excess, contingent or otherwise, which provides coverage to such organization, or which would have provided coverage but for the exhaustion of its limit, and without regard to whether its coverage is broader or narrower than that provided by this insurance.

But this **BROAD NAMED INSURED** provision does not apply to:

- (a) any partnership, limited liability company or joint venture; or
- (b) any organization for which coverage is excluded by another endorsement attached to this **Coverage Part**.

For the purpose of this provision, management control means:

- A. owning interests representing more than 50% of the voting, appointment or designation power for the selection of a majority of the Board of Directors of a corporation; or
- B. having the right, pursuant to a written trust agreement, to protect, control the use of, encumber or transfer or sell property held by a trust.

4. With respect to organizations which qualify as **Named Insureds** by virtue of Paragraph 3. above, this insurance does not apply to:

- a. **bodily injury** or **property damage** that first occurred prior to the date of management control, or that first occurs after management control ceases; nor
- b. **personal or advertising injury** caused by an offense that first occurred prior to the date of management control or that first occurs after management control ceases.

5. The insurance provided by this **Coverage Part** applies to **Named Insureds** when trading under their own names or under such other trading names or doing-business-as names (dba) as any **Named Insured** should choose to employ.

**6. BROADENED LIABILITY COVERAGE FOR DAMAGE TO YOUR PRODUCT AND YOUR WORK**

A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete exclusions k. and l. and replace them with the following:

This insurance does not apply to:

**k. Damage to Your Product**

**Property damage to your product** arising out of it, or any part of it except when caused by or resulting from:

- (1) fire;
- (2) smoke;
- (3) collapse; or
- (4) explosion.

**l. Damage to Your Work**

**Property damage to your work** arising out of it, or any part of it and included in the **products-completed operations hazard**.

This exclusion does not apply:

- (1) If the damaged work, or the work out of which the damage arises, was performed on the **Named Insured's** behalf by a subcontractor; or



**Contractors' General Liability Extension Endorsement**

(2) If the cause of loss to the damaged work arises as a result of:

- (a) fire;
- (b) smoke;
- (c) collapse; or
- (d) explosion.

**B.** The following paragraph is added to **LIMITS OF INSURANCE**:

Subject to 5. above, \$100,000 is the most the Insurer will pay under **Coverage A** for the sum of **damages** arising out of any one **occurrence** because of **property damage to your product and your work** that is caused by fire, smoke, collapse or explosion and is included within the **product-completed operations hazard**. This sublimit does not apply to **property damage to your work** if the damaged work, or the work out of which the damage arises, was performed on the **Named Insured's** behalf by a subcontractor.

**C.** This **Broadened Liability Coverage For Damage To Your Product And Your Work** Provision does not apply if an endorsement of the same name is attached to this policy.

## 7. CONTRACTUAL LIABILITY – RAILROADS

With respect to operations performed within 50 feet of railroad property, the definition of **Insured contract** is replaced by the following:

**Insured Contract** means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** with permission of the owner is not an **Insured contract**;
- b. A sidetrack agreement;
- c. Any easement or license agreement;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to the **Named Insured's** business (including an indemnification of a municipality in connection with work performed for a municipality) under which the **Named Insured** assumes the tort liability of another party to pay for **bodily injury** or **property damage** to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph **f.** does not include that part of any contract or agreement:

(1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

- (a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage;

(2) Under which the **Insured**, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.

## 8. ELECTRONIC DATA LIABILITY

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The Continental Insurance Co.

Insured Name: SCHWARTZ EXCAVATING INC

Policy No: 6018549119

Endorsement No: 2

Effective Date:



## Contractors' General Liability Extension Endorsement

- A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete exclusion **p. Electronic Data** and replace it with the following:

This insurance does not apply to:

**p. Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability**

Damages arising out of:

- (1) any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
- (2) the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate **electronic data** that does not result from physical injury to tangible property.

However, unless Paragraph (1) above applies, this exclusion does not apply to **damages** because of **bodily injury**.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relation expenses or any other loss, cost or expense incurred by the **Named Insured** or others arising out of that which is described in Paragraph (1) or (2) above.

- B. The following paragraph is added to **LIMITS OF INSURANCE**:

Subject to 5. above, \$100,000 is the most the Insurer will pay under **Coverage A** for all **damages** arising out of any one **occurrence** because of **property damage** that results from physical injury to tangible property and arises out of **electronic data**.

- C. The following definition is added to **DEFINITIONS**:

**Electronic data** means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

- D. For the purpose of the coverage provided by this **ELECTRONIC DATA LIABILITY** Provision, the definition of **property damage** in **DEFINITIONS** is replaced by the following:

**Property damage** means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it;
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the **occurrence** that caused it; or
- c. Loss of, loss of use of, damage to, corruption of, inability to access, or inability to properly manipulate **electronic data**, resulting from physical injury to tangible property. All such loss of **electronic data** shall be deemed to occur at the time of the **occurrence** that caused it.

For the purposes of this insurance, **electronic data** is not tangible property.

- E. If Electronic Data Liability is provided at a higher limit by another endorsement attached to this policy, then the \$100,000 limit provided by this **ELECTRONIC DATA LIABILITY** Provision is part of, and not in addition to, that higher limit.

## 9. ESTATES, LEGAL REPRESENTATIVES, AND SPOUSES

The estates, heirs, legal representatives and **spouses** of any natural person **Insured** shall also be insured under this policy; provided, however, coverage is afforded to such estates, heirs, legal representatives, and **spouses** only for

CNA74705XX (1-15)

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The Continental Insurance Co.

Insured Name: SCHWARTZ EXCAVATING INC

Policy No: 6018549119

Endorsement No: 2

Effective Date:



**Contractors' General Liability Extension Endorsement**

**claims** arising solely out of their capacity or status as such and, in the case of a **spouse**, where such **claim** seeks **damages** from marital community property, jointly held property or property transferred from such natural person **Insured** to such **spouse**. No coverage is provided for any act, error or omission of an estate, heir, legal representative, or **spouse** outside the scope of such person's capacity or status as such, provided however that the **spouse** of a natural person **Named Insured** and the **spouses** of members or partners of joint venture or partnership **Named Insureds** are **Insureds** with respect to such **spouses'** acts, errors or omissions in the conduct of the **Named Insured's** business.

**10. EXPECTED OR INTENDED INJURY – EXCEPTION FOR REASONABLE FORCE**

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Expected or Intended Injury** and replace it with the following:

This insurance does not apply to:

**Expected or Intended Injury**

**Bodily Injury** or **property damage** expected or intended from the standpoint of the **Insured**. This exclusion does not apply to **bodily injury** or **property damage** resulting from the use of reasonable force to protect persons or property.

**11. GENERAL AGGREGATE LIMITS OF INSURANCE - PER PROJECT**

**A.** For each construction project away from premises the **Named Insured** owns or rents, a separate Construction Project General Aggregate Limit, equal to the amount of the General Aggregate Limit shown in the Declarations, is the most the Insurer will pay for the sum of:

1. All **damages** under **Coverage A**, except **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard**; and
2. All medical expenses under **Coverage C**,

that arise from **occurrences** or accidents which can be attributed solely to ongoing operations at that construction project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations, nor the Construction Project General Aggregate Limit of any other construction project.

**B.** All:

1. **Damages** under **Coverage B**, regardless of the number of locations or construction projects involved;
2. **Damages** under **Coverage A**, caused by **occurrences** which cannot be attributed solely to ongoing operations at a single construction project, except **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard**; and
3. Medical expenses under **Coverage C** caused by accidents which cannot be attributed solely to ongoing operations at a single construction project,

will reduce the General Aggregate Limit shown in the Declarations.

**C.** The limits shown in the Declarations for Each Occurrence, for Damage To Premises Rented To You and for Medical Expense continue to apply, but will be subject to either the Construction Project General Aggregate Limit or the General Aggregate Limit shown in the Declarations, depending on whether the **occurrence** can be attributed solely to ongoing operations at a particular construction project.

**D.** When coverage for liability arising out of the **products-completed operations hazard** is provided, any payments for **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard** will reduce the Products-Completed Operations Aggregate Limit shown in the Declarations, regardless of the number of projects involved.



Contractors' General Liability Extension Endorsement

- E. If a single construction project away from premises owned by or rented to the **Insured** has been abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.
- F. The provisions of **LIMITS OF INSURANCE** not otherwise modified by this endorsement shall continue to apply as stipulated.

12. IN REM ACTIONS

A quasi in rem action against any vessel owned or operated by or for the **Named Insured**, or chartered by or for the **Named Insured**, will be treated in the same manner as though the action were in personam against the **Named Insured**.

13. INCIDENTAL HEALTH CARE MALPRACTICE COVERAGE

Solely with respect to **bodily injury** that arises out of a **health care incident**:

A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Insuring Agreement** is amended to replace Paragraphs **1.b.(1)** and **1.b.(2)** with the following:

- b. This insurance applies to **bodily injury** provided that the professional health care services are incidental to the **Named Insured's** primary business purpose, and only if:
  - (1) such **bodily injury** is caused by an **occurrence** that takes place in the **coverage territory**.
  - (2) the **bodily injury** first occurs during the **policy period**. All **bodily injury** arising from an **occurrence** will be deemed to have occurred at the time of the first act, error, or omission that is part of the **occurrence**; and

B. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to:

- i. add the following to the **Employers Liability** exclusion:

This exclusion applies only if the **bodily injury** arising from a **health care incident** is covered by other liability insurance available to the **Insured** (or which would have been available but for exhaustion of its limits).

- ii. delete the exclusion entitled **Contractual Liability** and replace it with the following:

This insurance does not apply to:

**Contractual Liability**

the **Insured's** actual or alleged liability under any oral or written contract or agreement, including but not limited to express warranties or guarantees.

- iii. add the following additional exclusions:

This insurance does not apply to:

**Discrimination**

any actual or alleged discrimination, humiliation or harassment, including but not limited to **claims** based on an individual's race, creed, color, age, gender, national origin, religion, disability, marital status or sexual orientation.

**Dishonesty or Crime**

Any actual or alleged dishonest, criminal or malicious act, error or omission.

**Medicare/Medicaid Fraud**

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**Contractors' General Liability Extension Endorsement**

any actual or alleged violation of law with respect to Medicare, Medicaid, Tricare or any similar federal, state or local governmental program.

**Services Excluded by Endorsement**

Any **health care incident** for which coverage is excluded by endorsement.

**C. DEFINITIONS** is amended to:

i. add the following definitions:

**Health care incident** means an act, error or omission by the **Named Insured's employees** or **volunteer workers** in the rendering of:

- a. **professional health care services** on behalf of the **Named Insured** or
- b. Good Samaritan services rendered in an emergency and for which no payment is demanded or received.

**Professional health care services** means any health care services or the related furnishing of food, beverages, medical supplies or appliances by the following providers in their capacity as such but solely to the extent they are duly licensed as required:

- a. Physician;
- b. Nurse;
- c. Nurse practitioner;
- d. Emergency medical technician;
- e. Paramedic;
- f. Dentist;
- g. Physical therapist;
- h. Psychologist;
- i. Speech therapist;
- j. Other allied health professional; or

**Professional health care services** does not include any services rendered in connection with human clinical trials or product testing.

ii. delete the definition of **occurrence** and replace it with the following:

**Occurrence** means a **health care incident**. All acts, errors or omissions that are logically connected by any common fact, circumstance, situation, transaction, event, advice or decision will be considered to constitute a single **occurrence**;

iii. amend the definition of **Insured** to:

a. add the following:

the **Named Insured's employees** are **Insureds** with respect to:

- (1) **bodily injury** to a co-**employee** while in the course of the co-**employee's** employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business; and



Contractors' General Liability Extension Endorsement

(2) bodily injury to a volunteer worker while performing duties related to the conduct of the Named Insured's business;

when such bodily injury arises out of a health care incident.

the Named Insured's volunteer workers are Insureds with respect to:

(1) bodily injury to a co-volunteer worker while performing duties related to the conduct of the Named Insured's business; and

(2) bodily injury to an employee while in the course of the employee's employment by the Named Insured or while performing duties related to the conduct of the Named Insured's business;

when such bodily injury arises out of a health care incident.

b. delete Subparagraphs (a), (b), (c) and (d) of Paragraph 2.a.(1) of WHO IS AN INSURED.

D. The Other Insurance condition is amended to delete Paragraph b.(1) in its entirety and replace it with the following:

Other Insurance

b. Excess Insurance

(1) To the extent this insurance applies, it is excess over any other insurance, self insurance or risk transfer instrument, whether primary, excess, contingent or on any other basis, except for insurance purchased specifically by the Named Insured to be excess of this coverage.

14. JOINT VENTURES / PARTNERSHIP / LIMITED LIABILITY COMPANIES

WHO IS AN INSURED is amended to delete its last paragraph and replace it with the following:

No person or organization is an Insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations, except that if the Named Insured was a joint venturer, partner, or member of a limited liability company and such joint venture, partnership or limited liability company terminated prior to or during the policy period, such Named Insured is an Insured with respect to its interest in such joint venture, partnership or limited liability company but only to the extent that:

- a. any offense giving rise to personal and advertising injury occurred prior to such termination date, and the personal and advertising injury arising out of such offense first occurred after such termination date;
b. the bodily injury or property damage first occurred after such termination date; and
c. there is no other valid and collectible insurance purchased specifically to insure the partnership, joint venture or limited liability company; and

If the joint venture, partnership or limited liability company is or was insured under a consolidated (wrap-up) insurance program, then such insurance will always be considered valid and collectible for the purpose of paragraph c. above. But this provision will not serve to exclude bodily injury, property damage or personal and advertising injury that would otherwise be covered under the Contractors General Liability Extension Endorsement provision entitled WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS. Please see that provision for the definition of consolidated (wrap-up) insurance program.

15. LEGAL LIABILITY - DAMAGE TO PREMISES / ALIENATED PREMISES / PROPERTY IN THE NAMED INSURED'S CARE, CUSTODY OR CONTROL

A. Under COVERAGES, Coverage A - Bodily Injury and Property Damage Liability, the paragraph entitled Exclusions is amended to delete exclusion j. Damage to Property in its entirety and replace it with the following:

This insurance does not apply to:

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**Contractors' General Liability Extension Endorsement****j. Damage to Property****Property damage to:**

- (1) Property the **Named Insured** owns, rents, or occupies, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises the **Named Insured** sells, gives away or abandons, if the **property damage** arises out of any part of those premises;
- (3) Property loaned to the **Named Insured**;
- (4) Personal property in the care, custody or control of the **Insured**;
- (5) That particular part of real property on which the **Named Insured** or any contractors or subcontractors working directly or indirectly on the **Named Insured's** behalf are performing operations, if the **property damage** arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because **your work** was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to **property damage** (other than damage by fire) to premises rented to the **Named Insured** or temporarily occupied by the **Named Insured** with the permission of the owner, nor to the contents of premises rented to the **Named Insured** for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in **LIMITS OF INSURANCE**.

Paragraph (2) of this exclusion does not apply if the premises are **your work**.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to **property damage** included in the **products-completed operations hazard**.

Paragraphs (3) and (4) of this exclusion do not apply to **property damage** to:

- I. tools, or equipment the **Named Insured** borrows from others, nor
- II. other personal property of others in the **Named Insured's** care, custody or control while being used in the **Named Insured's** operations away from any **Named Insured's** premises.

However, the coverage granted by this exception to Paragraphs (3) and (4) does not apply to:

- a. property at a job site awaiting or during such property's installation, fabrication, or erection;
- b. property that is **mobile equipment** leased by an **Insured**;
- c. property that is an **auto**, aircraft or watercraft;
- d. property in transit; or
- e. any portion of **property damage** for which the **Insured** has available other valid and collectible insurance, or would have such insurance but for exhaustion of its limits, or but for application of one of its exclusions.

A separate limit of insurance and deductible apply to such property of others. See **LIMITS OF INSURANCE** as amended below.



Contractors' General Liability Extension Endorsement

B. Under COVERAGES, Coverage A – Bodily Injury and Property Damage Liability, the paragraph entitled Exclusions is amended to delete its last paragraph and replace it with the following:

Exclusions c. through n. do not apply to damage by fire to premises while rented to a Named Insured or temporarily occupied by a Named Insured with permission of the owner, nor to damage to the contents of premises rented to a Named Insured for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to this coverage as described in LIMITS OF INSURANCE.

C. The following paragraph is added to LIMITS OF INSURANCE:

Subject to 5. above, \$25,000 is the most the Insurer will pay under Coverage A for damages arising out of any one occurrence because of the sum of all property damage to borrowed tools or equipment, and to other personal property of others in the Named Insured's care, custody or control, while being used in the Named Insured's operations away from any Named Insured's premises. The Insurer's obligation to pay such property damage does not apply until the amount of such property damage exceeds \$1,000. The Insurer has the right but not the duty to pay any portion of this \$1,000 in order to effect settlement. If the Insurer exercises that right, the Named Insured will promptly reimburse the Insurer for any such amount.

D. Paragraph 6., Damage To Premises Rented To You Limit, of LIMITS OF INSURANCE is deleted and replaced by the following:

6. Subject to Paragraph 5. above, (the Each Occurrence Limit), the Damage To Premises Rented To You Limit is the most the Insurer will pay under Coverage A for damages because of property damage to any one premises while rented to the Named Insured or temporarily occupied by the Named Insured with the permission of the owner, including contents of such premises rented to the Named Insured for a period of 7 or fewer consecutive days. The Damage To Premises Rented To You Limit is the greater of:

- a. \$500,000; or
b. The Damage To Premises Rented To You Limit shown in the Declarations.

E. Paragraph 4.b.(1)(a)(ii) of the Other Insurance Condition is deleted and replaced by the following:

(ii) That is property insurance for premises rented to the Named Insured, for premises temporarily occupied by the Named Insured with the permission of the owner; or for personal property of others in the Named Insured's care, custody or control;

16. LIQUOR LIABILITY

Under COVERAGES, Coverage A – Bodily Injury and Property Damage Liability, the paragraph entitled Exclusions is amended to delete the exclusion entitled Liquor Liability.

This LIQUOR LIABILITY provision does not apply to any person or organization who otherwise qualifies as an additional insured on this Coverage Part.

17. MEDICAL PAYMENTS

A. LIMITS OF INSURANCE is amended to delete Paragraph 7. (the Medical Expense Limit) and replace it with the following:

7. Subject to Paragraph 5. above (the Each Occurrence Limit), the Medical Expense Limit is the most the Insurer will pay under Coverage C – Medical Payments for all medical expenses because of bodily injury sustained by any one person. The Medical Expense Limit is the greater of:

- (1) \$15,000 unless a different amount is shown here: \$N,NNN,NNN,NNN; or
(2) the amount shown in the Declarations for Medical Expense Limit.

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**Contractors' General Liability Extension Endorsement**

B. Under **COVERAGES**, the **Insuring Agreement of Coverage C – Medical Payments** is amended to replace Paragraph **1.a.(3)(b)** with the following:

(b) The expenses are incurred and reported to the Insurer within three years of the date of the accident; and

**18. NON-OWNED AIRCRAFT**

Under **COVERAGES**, **Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended as follows:

The exclusion entitled **Aircraft, Auto or Watercraft** is amended to add the following:

This exclusion does not apply to an aircraft not owned by any **Named Insured**, provided that:

1. the pilot in command holds a currently effective certificate issued by the duly constituted authority of the United States of America or Canada, designating that person as a commercial or airline transport pilot;
2. the aircraft is rented with a trained, paid crew to the **Named Insured**; and
3. the aircraft is not being used to carry persons or property for a charge.

**19. NON-OWNED WATERCRAFT**

Under **COVERAGES**, **Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete subparagraph (2) of the exclusion entitled **Aircraft, Auto or Watercraft**, and replace it with the following.

This exclusion does not apply to:

(2) a watercraft that is not owned by any **Named Insured**, provided the watercraft is:

- (a) less than 75 feet long; and
- (b) not being used to carry persons or property for a charge.

**20. PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION**

A. Under **DEFINITIONS**, the definition of **personal and advertising injury** is amended to add the following tort:

Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.

B. Under **COVERAGES**, **Coverage B – Personal and Advertising Injury Liability**, the paragraph entitled **Exclusions** is amended to:

1. delete the Exclusion entitled **Knowing Violation Of Rights Of Another** and replace it with the following:

This insurance does not apply to:

**Knowing Violation of Rights of Another**

**Personal and advertising injury** caused by or at the direction of the **Insured** with the knowledge that the act would violate the rights of another and would inflict **personal and advertising injury**. This exclusion shall not apply to discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is not done intentionally by or at the direction of:

- (a) the **Named Insured**; or
- (b) any **executive officer**, director, stockholder, partner, member or manager (if the **Named Insured** is a limited liability company) of the **Named Insured**.

2. add the following exclusions:



Contractors' General Liability Extension Endorsement

This insurance does not apply to:

Employment Related Discrimination

Discrimination or humiliation directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person by any Insured.

Premises Related Discrimination

discrimination or humiliation arising out of the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any Insured.

Notwithstanding the above, there is no coverage for fines or penalties levied or imposed by a governmental entity because of discrimination.

The coverage provided by this PERSONAL AND ADVERTISING INJURY -DISCRIMINATION OR HUMILIATION Provision does not apply to any person or organization whose status as an Insured derives solely from

- Provision 1. ADDITIONAL INSURED of this endorsement; or
attachment of an additional insured endorsement to this Coverage Part.

This PERSONAL AND ADVERTISING INJURY -DISCRIMINATION OR HUMILIATION Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this Coverage Part.

21. PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY

A. Under COVERAGES, Coverage B -Personal and Advertising Injury Liability, the paragraph entitled Exclusions is amended to delete the exclusion entitled Contractual Liability.

B. Solely for the purpose of the coverage provided by this PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY provision, the following changes are made to the section entitled SUPPLEMENTARY PAYMENTS - COVERAGES A AND B:

1. Paragraph 2.d. is replaced by the following:

d. The allegations in the suit and the information the Insurer knows about the offense alleged in such suit are such that no conflict appears to exist between the interests of the Insured and the interests of the indemnitee;

2. The first unnumbered paragraph beneath Paragraph 2.f.(2)(b) is deleted and replaced by the following:

So long as the above conditions are met, attorneys fees incurred by the Insurer in the defense of that indemnitee, necessary litigation expenses incurred by the Insurer, and necessary litigation expenses incurred by the indemnitee at the Insurer's request will be paid as defense costs. Such payments will not be deemed to be damages for personal and advertising injury and will not reduce the limits of insurance.

C. This PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY Provision does not apply if Coverage B -Personal and Advertising Injury Liability is excluded by another endorsement attached to this Coverage Part.

This PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this Coverage Part.

22. PROPERTY DAMAGE - ELEVATORS

A. Under COVERAGES, Coverage A - Bodily Injury and Property Damage Liability, the paragraph entitled Exclusions is amended such that the Damage to Your Product Exclusion and subparagraphs (3), (4) and (6) of the Damage to Property Exclusion do not apply to property damage that results from the use of elevators.

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**Contractors' General Liability Extension Endorsement**

- B.** Solely for the purpose of the coverage provided by this **PROPERTY DAMAGE – ELEVATORS** Provision, the **Other Insurance** conditions is amended to add the following paragraph:

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis that is Property insurance covering property of others damaged from the use of elevators.

**23. SUPPLEMENTARY PAYMENTS**

The section entitled **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** is amended as follows:

- A.** Paragraph **1.b.** is amended to delete the \$250 limit shown for the cost of bail bonds and replace it with a \$5,000. limit; and
- B.** Paragraph **1.d.** is amended to delete the limit of \$250 shown for daily loss of earnings and replace it with a \$1,000. limit.

**24. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS**

If the **Named Insured** unintentionally fails to disclose all existing hazards at the inception date of the **Named Insured's Coverage Part**, the Insurer will not deny coverage under this **Coverage Part** because of such failure.

**25. WAIVER OF SUBROGATION - BLANKET**

Under **CONDITIONS**, the condition entitled **Transfer Of Rights Of Recovery Against Others To Us** is amended to add the following:

The Insurer waives any right of recovery the Insurer may have against any person or organization because of payments the Insurer makes for injury or damage arising out of:

1. the **Named Insured's** ongoing operations; or
2. **your work** included in the **products-completed operations hazard**.

However, this waiver applies only when the **Named Insured** has agreed in writing to waive such rights of recovery in a written contract or written agreement, and only if such contract or agreement:

1. is in effect or becomes effective during the term of this **Coverage Part**; and
2. was executed prior to the **bodily injury, property damage or personal and advertising injury** giving rise to the **claim**.

**26. WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS**

**Note:** The following provision does not apply to any public construction project in the state of Oklahoma, nor to any construction project in the state of Alaska, that is not permitted to be insured under a **consolidated (wrap-up) insurance program** by applicable state statute or regulation.

If the endorsement **EXCLUSION – CONSTRUCTION WRAP-UP** is attached to this policy, or another exclusionary endorsement pertaining to Owner Controlled Insurance Programs (O.C.I.P.) or Contractor Controlled Insurance Programs (C.C.I.P.) is attached, then the following changes apply:

- A.** The following wording is added to the above-referenced endorsement:

With respect to a **consolidated (wrap-up) insurance program** project in which the **Named Insured** is or was involved, this exclusion does not apply to those sums the **Named Insured** become legally obligated to pay as **damages** because of:

1. **Bodily injury, property damage, or personal or advertising injury** that occurs during the **Named Insured's** ongoing operations at the project, or during such operations of anyone acting on the **Named Insured's** behalf; nor



Contractors' General Liability Extension Endorsement

2. Bodily injury or property damage included within the products-completed operations hazard that arises out of those portions of the project that are not residential structures.

B. Condition 4. Other Insurance is amended to add the following subparagraph 4.b.(1)(c):

This insurance is excess over:

(c) Any of the other insurance whether primary, excess, contingent or any other basis that is insurance available to the Named Insured as a result of the Named Insured being a participant in a consolidated (wrap-up) insurance program, but only as respects the Named Insured's involvement in that consolidated (wrap-up) insurance program.

C. DEFINITIONS is amended to add the following definitions:

Consolidated (wrap-up) insurance program means a construction, erection or demolition project for which the prime contractor/project manager or owner of the construction project has secured general liability insurance covering some or all of the contractors or subcontractors involved in the project, such as an Owner Controlled Insurance Program (O.C.I.P.) or Contractor Controlled Insurance Program (C.C.I.P.).

Residential structure means any structure where 30% or more of the square foot area is used or is intended to be used for human residency, including but not limited to:

- 1. single or multifamily housing, apartments, condominiums, townhouses, co-operatives or planned unit developments; and
2. the common areas and structures appurtenant to the structures in paragraph 1. (including pools, hot tubs, detached garages, guest houses or any similar structures).

However, when there is no individual ownership of units, residential structure does not include military housing, college/university housing or dormitories, long term care facilities, hotels or motels. Residential structure also does not include hospitals or prisons.

This WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this Coverage Part.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

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Workers Compensation And Employers Liability Insurance  
Policy Endorsement

**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

Any Person or Organization on whose behalf you are required to obtain this waiver of our right to recover from under a written contract or agreement.

The premium charge for the endorsement is reflected in the Schedule of Operations.

All other terms and conditions of the policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective Date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy unless another expiration date is shown below.

19

INSURED

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Form No: WC 00 03 13 (04-1984)

Endorsement Effective Date:

Endorsement Expiration Date:

Policy No: WC 6 18549055

Policy Effective Date:

Endorsement No: 5; Page: 1 of 1

Policy Page:

Underwriting Company: Transportation Insurance Company, 151 N Franklin St, Chicago, IL 60606

Bond No. 2319656

# Document A312™ – 2010

Conforms with The American Institute of Architects AIA Document 312

## Performance Bond

**CONTRACTOR:**

*(Name, legal status and address)*

Schwartz Excavating, Inc.  
7023 Willow Spring Road, Suite 103  
Countryside, IL 60525

**SURETY:**

*(Name, legal status and principal place of business)*

North American Specialty Insurance Company  
1200 Main Street, Suite 800  
Kansas City, MO 64105  
**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.

**OWNER:**

*(Name, legal status and address)*

Village of Orland Park  
14700 S. Ravinia Avenue  
Orland Park, IL 60462

**CONSTRUCTION CONTRACT**

Date: May 26, 2021

Amount: \$ 123,565.00

One Hundred Twenty Three Thousand Five Hundred Sixty Five Dollars and 00/100

Description:

*(Name and location)*

Grasslands Grading Improvements

**BOND**

Date: June 1, 2021

*(Not earlier than Construction Contract Date)*

Amount: \$ 123,565.00

One Hundred Twenty Three Thousand Five Hundred Sixty Five Dollars and 00/100

Modifications to this Bond:

None

See Section 16

**CONTRACTOR AS PRINCIPAL**

Company:

*(Corporate Seal)*

Schwartz Excavating, Inc.

Signature:

*Patricia A. Schwartz*  
PATRICIA A. SCHWARTZ  
PRESIDENT

Name and Title:

**SURETY**

Company:

*(Corporate Seal)*

North American Specialty Insurance Company

Signature:

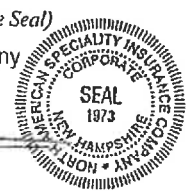
*Kimberly R. Holmes*

Name

Kimberly R. Holmes

and Title:

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:**

Brown & Brown of Illinois  
263 Shuman Blvd., Suite 110  
Naperville, IL 60563  
630-245-4600

**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**

Company: \_\_\_\_\_  
*(Corporate Seal)*

**SURETY**

Company: \_\_\_\_\_  
*(Corporate Seal)*

Signature: \_\_\_\_\_  
Name and Title: \_\_\_\_\_  
Address \_\_\_\_\_

Signature: \_\_\_\_\_  
Name and Title: \_\_\_\_\_  
Address \_\_\_\_\_

Bond No. 2319656

# Document A312™ – 2010

Conforms with The American Institute of Architects AIA Document 312

## Payment Bond

**CONTRACTOR:**

*(Name, legal status and address)*

Schwartz Excavating, Inc.  
7023 Willow Spring Road, Suite 103  
Countryside, IL 60525

**SURETY:**

*(Name, legal status and principal place of business)*

North American Specialty Insurance Company  
1200 Main Street, Suite 800  
Kansas City, MO 64105  
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.

**OWNER:**

*(Name, legal status and address)*

Village of Orland Park  
14700 S. Ravinia Avenue  
Orland Park, IL 60462

**CONSTRUCTION CONTRACT**

Date: May 26, 2021

Amount: \$ 123,565.00                      One Hundred Twenty Three Thousand Five Hundred Sixty Five Dollars and 00/100

**Description:**

*(Name and location)*

Grasslands Grading Improvements

**BOND**

Date: June 1, 2021

*(Not earlier than Construction Contract Date)*

Amount: \$ 123,565.00                      One Hundred Twenty Three Thousand Five Hundred Sixty Five Dollars and 00/100

Modifications to this Bond:     None             See Section 18

**CONTRACTOR AS PRINCIPAL**

Company:                                              *(Corporate Seal)*

Schwartz Excavating, Inc.

Signature: *Patricia A. Schwartz*

Name: **PATRICIA A SCHWARTZ**  
and Title: **PRESIDENT**

**SURETY**

Company:                                              *(Corporate Seal)*

North American Specialty Insurance Company

Signature: *Kimberly R. Holmes*

Name: **Kimberly R. Holmes**  
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:**

Brown & Brown of Illinois  
263 Shuman Blvd., Suite 110  
Naperville, IL 60563  
630-245-4600

**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 \_\_\_\_\_

ss

STATE OF ILLINOIS

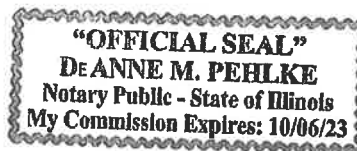
COUNTY OF DuPAGE

I, DeAnne M. Pehlke Notary Public of WILL County, in the State of Illinois, do hereby certify that Kimberly R. Holmes Attorney-in-Fact, of the Northern American Specialty Insurance Company who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that she signed, sealed and delivered said instrument, for and on behalf of the Northern American Specialty Insurance Company for the used and purposes therein set forth.

Given under my hand and notarial seal at my office in the City of Naperville in said County, this 15<sup>th</sup> day of JUNE A.D., 2021.

DeAnne M. Pehlke  
(Notary Public) DeAnne M. Pehlke  
My Commission expires: 10/06/2023

Notary Seal:





SWISS RE CORPORATE SOLUTIONS

NORTH AMERICAN SPECIALTY INSURANCE COMPANY  
WASHINGTON INTERNATIONAL INSURANCE COMPANY

GENERAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, THAT North American Specialty Insurance Company, a corporation duly organized and existing under laws of the State of New Hampshire, and having its principal office in the City of Kansas City, Missouri, and Washington International Insurance Company, a corporation organized and existing under the laws of the State of New Hampshire and having its principal office in the City of Kansas City, Missouri, each does hereby make, constitute and appoint: Kimberly R. Holmes

Principal: Schwartz Excavating, Inc. Bond Number: 2319656  
Obligee: Village of Orland Park Bond Amount: See Bond Form  
Bond Description: Grasslands Grading Improvements

Its true and lawful Attorney(s)-in-Fact, to make, execute, seal and deliver, for and on its behalf and as its act and deed, bonds or other writings obligatory in the nature of a bond on behalf of each of said Companies, as surety, on contracts of suretyship as are or may be required or permitted by law, regulation, contract or otherwise, provided that no bond or undertaking or contract or suretyship executed under this authority shall exceed the amount of: FIFTY MILLION (\$50,000,000.00) DOLLARS

This Power of Attorney is granted and is signed by facsimile under and by the authority of the following Resolutions adopted by the Boards of Directors of both North American Specialty Insurance Company and Washington International Insurance Company at meetings duly called and held on the 9<sup>th</sup> of May, 2012:

"RESOLVED, that any two of the Presidents, any Managing Director, any Senior Vice President, any Vice President, any Assistant Vice President, the Secretary or any Assistant Secretary be, and each or any of them hereby is authorized to execute a Power of Attorney qualifying the attorney named in the given Power of Attorney to execute on behalf of the Company bonds, undertakings and all contracts of surety, and that each or any of them hereby is authorized to attest to the execution of any such Power of Attorney and to attach therein the seal of the Company; and it is

FURTHER RESOLVED, that the signature of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be binding upon the Company when so affixed and in the future with regard to any bond, undertaking or contract of surety to which it is attached."



By [Signature]  
Steven P. Anderson, Senior Vice President of Washington International Insurance Company  
& Senior Vice President of North American Specialty Insurance Company



By [Signature]  
Michael A. Ito, Senior Vice President of Washington International Insurance Company  
& Senior Vice President of North American Specialty Insurance Company

IN WITNESS WHEREOF, North American Specialty Insurance Company and Washington International Insurance Company have caused their official seals to be hereunto affixed, and these presents to be signed by their authorized officers this 1st day of February, 2019.

North American Specialty Insurance Company  
Washington International Insurance Company

State of Illinois ss:  
County of Cook

On this 1st day of February, 2019, before me, a Notary Public personally appeared Steven P. Anderson, Senior Vice President of Washington International Insurance Company and Senior Vice President of North American Specialty Insurance Company and Michael A. Ito, Senior Vice President of Washington International Insurance Company and Senior Vice President of North American Specialty Insurance Company, personally known to me, who being by me duly sworn, acknowledged that they signed the above Power of Attorney as officers of and acknowledged said instrument to be the voluntary act and deed of their respective companies.



[Signature]  
M. Kenny, Notary Public

I, Jeffrey Goldberg, the duly elected Assistant Secretary of North American Specialty Insurance Company and Washington International Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney given by said North American Specialty Insurance Company and Washington International Insurance Company, which is still in full force and effect.

IN WITNESS WHEREOF, I have set my hand and affixed the seals of the Companies this 1st day of June, 2021.

[Signature]  
Jeffrey Goldberg, Vice President & Assistant Secretary of  
Washington International Insurance Company & North American Specialty Insurance Company

 **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 Patricia A Schwartz,  
*(Enter Name of Person Making Certification)*

as President  
*(Enter Title of Person Making Certification)*

and on behalf of Schwartz Excavating, Inc.,  
*(Enter Name of Business Organization)*

certifies that Bidder is:

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

Federal Employer I.D. #: 36-3441498  
*(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 March, 1986  
*(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/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.

Certified Payroll. The Illinois Prevailing Wage Act requires any contractor and each subcontractor who participates in public works to file with the Illinois Department of Labor (IDOL) certified payroll for those calendar months during which work on a public works project has occurred. The Act requires certified payroll to be filed with IDOL no later than the 15th day of each calendar month for the immediately preceding month through the Illinois Prevailing Wage Portal—an electronic database IDOL has established for collecting and retaining certified payroll. The Portal may be accessed using this link: <https://www2.illinois.gov/idol/Laws-Rules/CONMED/Pages/certifiedtranscriptofpayroll.aspx>. The Village reserves the right to withhold payment due to Contractor until Contractor and its subcontractors display compliance with this provision of the Act.

**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:** Operating Engineers Local 150, Laborer's Union

**Brief Description of Program:** Operating Engineers-Indoor training area, 30 classrooms,

construction material testing lab, welding facility, equipment simulator lab.

Laborers Union-2400 hours of on the job work training, 360 hours of classroom  
training over a 2 year period to become a journeyman.

8) **TAX COMPLIANT:** Yes [] No [ ]

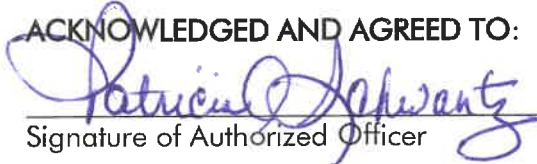
Bidder is current in the payment of any tax administered by the Illinois Department of Revenue, or if it is not: (a) it is contesting its liability for the tax or the amount of tax in accordance with procedures established by the appropriate Revenue Act; or (b) it has entered into an agreement with the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

  
\_\_\_\_\_  
Signature of Authorized Officer

**Patricia A Schwartz**  
\_\_\_\_\_  
Name of Authorized Officer

**President**  
\_\_\_\_\_  
Title

**4/21/2021**  
\_\_\_\_\_  
Date

## REFERENCES

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

**Bidder's Name:** Schwartz Excavating, Inc.  
*(Enter Name of Business Organization)*

1. ORGANIZATION Gallagher & Henry  
ADDRESS 6280 Joliet Road, Countryside, IL  
PHONE NUMBER 708-482-8900  
CONTACT PERSON Steve Henry  
YEAR OF PROJECT 1984-Current
  
2. ORGANIZATION City Of Countryside (Municipal Complex)  
ADDRESS 903 Joliet Road, Countryside, IL  
PHONE NUMBER 630-675-5651 (Adam Slotkus)  
CONTACT PERSON Adam Slotkus (Frederick Quinn Corporation)  
YEAR OF PROJECT 2018-2019
  
3. ORGANIZATION Stonebridge Woods Development  
ADDRESS 13907 W. 159th Street, Homer Glen, IL  
PHONE NUMBER 708-243-2267  
CONTACT PERSON Tom Hahn  
YEAR OF PROJECT 2009-2020