

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

**Legistar File ID#:** 2013-0308

**Innoprise Contract #:** C13-0062

**Year:** 2013

**Amount:** \$121,150.00

**Department:** Frank Stec - Parks

**Contract Type:** Construction

**Contractors Name:** The Kenneth Co.

**Contract Description:** Dog Park ("Dogout") Construction

MAYOR  
Daniel J. McLaughlin  
VILLAGE CLERK  
John C. Mehalek  
14700 S. Ravinia Ave.  
Orland Park, IL 60462  
(708) 403-6100  
[www.orland-park.il.us](http://www.orland-park.il.us)



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

**VILLAGE HALL**

June 27, 2013

Mr. Ken Maloney  
The Kenneth Company  
16W064 Jeans Road  
Lemont, Illinois 60439

**RE: NOTICE TO PROCEED**  
**Dog Park "Dogout" Construction**

Dear Mr. Maloney:

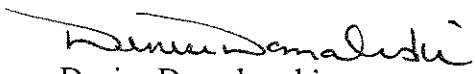
This notification is to inform you that the Village of Orland Park has received all necessary contracts, insurance documents and bonds in order for work to commence on the above stated project as of June 17, 2013. Please find enclosed, your bid bond, which is hereby released as we have received the payment and performance bonds.

It is my understanding that construction has begun with expected completion on or before July 10, 2013.

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

For your records, I have enclosed one (1) original executed contract dated June 4, 2013 in an amount not to exceed One Hundred Twenty One Thousand One Hundred Fifty and No/100 (\$121,150.00) Dollars. If you have any questions, please call me at 708-403-6173.

Sincerely,

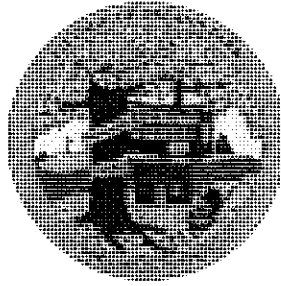
  
Denise Domalewski  
Contract Administrator

Encl:  
CC: Frank Stec

MAYOR  
Daniel J. McLaughlin

VILLAGE CLERK  
John C. Mehalek

14700 S. Ravinia Ave.  
Orland Park, IL 60462  
(708) 403-6100  
www.orland-park.il.us



VILLAGE HALL

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

June 4, 2013

Mr. Kenneth Maloney  
The Kenneth Company  
16W064 Jeans Road  
Lemont, Illinois 60439

**NOTICE OF AWARD – DOG PARK CONSTRUCTION**

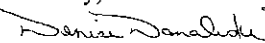
Dear Mr. Maloney:

This notification is to inform you that on June 3, 2013, the Village of Orland Park Board of Trustees approved awarding The Kenneth Company the contract in accordance with the bid you submitted dated May 13, 2013, for new Dog Park Construction for an amount not to exceed One Hundred Twenty One thousand One Hundred Fifty and No/100 (\$121,150.00) Dollars.

In order to begin this project), you must comply with the following within ten business days of the date of this Notice of Award, which is by June 18, 2013.

1. I am attaching the Contract for Dog Park ("Dogout") Construction. Please sign two (2) copies and return them both directly to me. I will obtain signatures to fully execute the Contract and one original executed Contract will be returned to you.
2. Please submit a Certificate of Insurance from your insurance company in accordance with all of the Insurance Requirements listed and agreed to in the bid at minimum and endorsements for a) the additional insured status, b) the waiver of subrogation for General Liability and c) the waiver of subrogation for Workers Compensation. The sample certificate provided indicated a \$1,000,000 Excess Liability. The Village requests \$2,000,000 excess liability.
3. Please submit Performance and Payment Bonds, dated June 4, 2013. Your Bid Bond will be returned upon receipt of the Performance and Payment Bonds.

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

Sincerely,  
  
Contract Administrator

cc: Frank Stec

**VILLAGE OF ORLAND PARK**  
**Dog Park “Dogout” Construction**  
**(Contract for Small Construction or Installation Project)**

This Contract is made this **4th day of June, 2013** by and between the Village of Orland Park (hereinafter referred to as the “VILLAGE”) and The Kenneth Company (hereinafter referred to as the “CONTRACTOR”).

**WITNESSETH**

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

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

The Contract  
The Terms and General Conditions pertaining to the Contract  
The VILLAGE’S Project Manual for the Work as described in Section 2 hereunder

- o The Invitation to Bid issued April 26, 2013
- o The Instructions to the Bidders

The Bid Proposal as it is responsive to the VILLAGE’s bid requirements  
All Certifications required by the VILLAGE  
Certificates of Insurance  
Performance and Payment Bonds required by the VILLAGE

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

Construction of a new Dog Park (“Dugout”) located at Centennial Park,  
15600 West Avenue, Orland Park, Illinois

(hereinafter referred to as the “WORK”) as described in the VILLAGE’S Project Manual (Bid Documents) and the VILLAGE agrees to pay the CONTRACTOR pursuant to the provisions of the Local Government Prompt Payment Act (50 ILCS 505/1 *et seq.*) the following amounts for the TOTAL: an amount not to exceed One Hundred Twenty One Thousand One Hundred Fifty

and No/100 (\$121,150.00) Dollars

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

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

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

**SECTION 4: TERM OF THE CONTRACT:** The CONTRACTOR shall commence the WORK of this Contract upon receipt of a Notice to Proceed and shall complete performance of the WORK of this Contract on or before July 10, 2013, (hereinafter referred to as the "CONTRACT TIME"). Failure to meet the CONTRACT TIME shall be considered an occasion of default under the CONTRACT DOCUMENTS. The CONTRACT TIME shall not be increased without the express written consent of the VILLAGE. Final payment shall be made by the VILLAGE upon inspection of the WORK, completion of any punch list items and after receipt of final release and waiver of liens in accordance with the requirements of the CONTRACT DOCUMENTS. This Contract may be terminated by the VILLAGE for convenience or by either of the PARTIES for default in the performance of the duties of the PARTIES as described in the CONTRACT DOCUMENTS upon thirty (30) day's written notice provided as required herein.

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

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

witnesses' fees and other expenses of litigation incurred by the Village or other indemnified party in connection therewith.

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

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

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

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

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

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

**To the VILLAGE:**

Denise Domalewski, Contract Administrator  
Village of Orland Park  
14700 South Ravinia Avenue  
Orland Park, Illinois 60462  
Telephone: 708-403-6173  
Facsimile: 708-403-9212  
e-mail: ddomalewski@orland-park.il.us

**To the CONTRACTOR:**

Ken Maloney  
The Kenneth Company  
16W064 Jeans Road  
Lemont, IL 60439  
Telephone: 630-679-2750  
Facsimile: 630-325-2780  
e-mail: kcooffice@aol.com

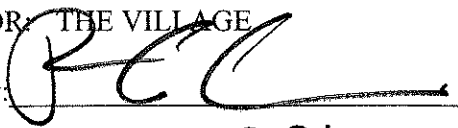
or to such other persons or to such other addresses as may be provided by one party to the other party under the requirements of this Section.

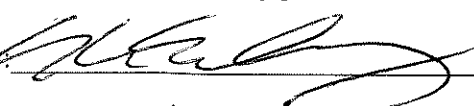
**SECTION 9: LAW AND VENUE:** The law of the State of Illinois shall apply to this Agreement and venue for legal disputes shall be Cook County, Illinois.

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

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

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

FOR: THE VILLAGE  
By:   
Print name: Paul G. Grimes  
Village Manager  
Its: \_\_\_\_\_  
Date: 6/19/13

FOR: THE CONTRACTOR  
By:   
Print name: Kenneth Maloney  
Its: Resident  
Date: 6/6/13

**VILLAGE OF ORLAND PARK  
CONSTRUCTION CONTRACT  
TERMS AND GENERAL CONDITIONS**

Terms and General Conditions for the CONTRACT between the Village of Orland Park (the “VILLAGE”) and The Kenneth Company (the “CONTRACTOR”) for Dog Park Construction (the “WORK”) dated **June 4, 2013** (the “CONTRACT”).

**ARTICLE 1: DUTIES OF THE PARTIES**

1.1 VILLAGE’S RIGHTS AND DUTIES

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



## 1.2 CONTRACTOR'S RIGHTS AND DUTIES

- 1.2.1 The CONTRACTOR shall perform the WORK in accordance with the CONTRACT documents.
- 1.2.2 The CONTRACTOR shall examine existing conditions and take field measurements to facilitate the performance of the WORK throughout the duration of the CONTRACT and shall report to the VILLAGE any errors, inconsistencies or omissions discovered during the performance of the CONTRACT.
- 1.2.3 CONTRACTOR shall pay for all material, labor and incidental costs necessary for the completion of the WORK.
- 1.2.4 CONTRACTOR warrants that the WORK performed/provided shall be fully compliant with the plans, specifications and bid documents for the WORK. The CONTRACTOR warrants that the WORK shall be free from defects for one (1) year after the final acceptance of the WORK by the VILLAGE, or the length of time guaranteed under the warranty provided by the manufacturer for materials used in the WORK, whichever is greater. Where there are defects and/or deficiencies, following notice of said defects or deficiencies provided to the CONTRACTOR by the VILLAGE, the CONTRACTOR agrees to promptly correct them to the VILLAGE's satisfaction. All manufacturers' guarantees and warranties shall be delivered without variance to the VILLAGE prior to final acceptance.
- 1.2.5 The CONTRACTOR shall perform the work per the terms of the approved schedule and complete the WORK within the terms and time limits of the CONTRACT.
- 1.2.6 The CONTRACTOR shall obtain and pay for all required permits, licenses, fees, inspections and certifications required of or by the WORK.
- 1.2.7 CONTRACTOR shall comply with all local, state and federal statutes, ordinances, codes, rules, and regulations governing the performance of the CONTRACTOR for the completion of the WORK, including but not limited to all of the applicable provisions of the Illinois Prevailing Wage Act (820 ILCS 130/1 *et seq.*) and the Illinois Human Rights Act (775 ILCS 5/1-01 *et seq.*) The CONTRACTOR shall obtain and preserve per the terms of the Document Retention Laws of the State of Illinois, certified payroll records for all work performed to complete the WORK, including that work performed by all those contractors subordinate to the CONTRACTOR or Subcontractor.

1.2.7.1 This CONTRACT calls for the construction/maintenance of a “public work,” within the meaning of the Illinois Prevailing Wage Act, 820 ILCS 130/.01 et seq. (“the Act”). The Act requires CONTRACTORS and Subcontractors to pay laborers, workers and mechanics performing services on public works projects no less than the “prevailing rate of wages” (hourly cash wages plus fringe benefits) in the county where the work is performed. For information regarding current prevailing wage rates, please refer to the Illinois Department of Labor’s website at: <http://www.state.il.us/agency/idol/rates/rates.HTM>. All CONTRACTORS and Subcontractors rendering services under this CONTRACT must comply with all requirements of the Act, including but not limited to, all wage, notice and record keeping duties. Each CONTRACTOR and Subcontractor participating on this project shall make and keep those records required under Section 5 of the Prevailing Wage Act (820 ILCS 130/5). In conformance with the Act, each CONTRACTOR and/or Subcontractor participating on this Project shall maintain records of all laborers, mechanics and other workers employed by them on this Project, including the following information on each worker: (1) name; (2) address; (3) telephone number when available; (4) social security number; (5) classification or classifications; (6) hourly wages paid in each pay period; (7) number of hours worked each day; and (8) starting and ending times of each day. These records shall be kept by the participating CONTRACTOR and Subcontractor for a period of not less than three (3) years. Each participating CONTRACTOR and Subcontractor shall submit a monthly certified payroll to the VILLAGE consisting of the above-referenced information as well as a statement signed by the participating CONTRACTOR or Subcontractor that certifies: (a) the records are true and accurate; (b) the hourly rates paid to each worker is not less than the general prevailing rate of hourly wages required under the Prevailing Wage Act; and (c) the CONTRACTOR or Subcontractor is aware that filing a certified payroll that he or she knows to be false is a Class B misdemeanor.

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

Department of Human Rights with regard to posting information on employees' rights under the Act. Contractors and all Subcontractors shall place appropriate statements identifying their companies as equal opportunity employers in all advertisements for work to be performed under the CONTRACT.

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

## **ARTICLE 2: CONTRACT DOCUMENTS**

2.1 The CONTRACT consists of the following documents and items:

- .1 Agreement between the parties
- .2 General Conditions to the Agreement
- .3 Special Conditions to the Agreement, if any
- .4 The Project Manual which includes
  - Instructions to the Bidders
  - Invitation to Bid
  - Specifications and Drawings, if any
- .5 Accepted Bid Proposal as it conforms to the bid requirements
- .6 Addenda, if any
- .7 Required Certificates of Insurance
- .8 Required Certifications and documents as may be required by other project funding agencies
- .9 Performance and Payment Bonds
- .10 All Certifications required by the VILLAGE

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

3.1 The VILLAGE requires for each Request for Payment, a properly completed Contractor's Affidavit setting out, under oath, the name, address and amount due or to become due, of each subcontractor, vendor, supplier or other appropriate party included in that payment. For every party listed the CONTRACTOR shall also provide a full or partial waiver of lien, as appropriate, before a payment will be made to the CONTRACTOR. The CONTRACTOR's partial or final waiver of lien must be included. Payments shall not be made by the VILLAGE without such lien waivers and contractors' sworn statements unless they are conditioned upon receipt of such waivers and statements.

3.2 No certificate shall be issued in favor of the CONTRACTOR and no payment will be made by the VILLAGE for material not installed or built into the WORK without written authorization from the VILLAGE.

3.3 Upon satisfaction of the terms and conditions of the CONTRACT, the CONTRACTOR agrees to provide the VILLAGE with a full and final release and waiver of all liens covering all of the WORK performed under the CONTRACT prior to issuance of final payment. Said final waiver of lien shall identify and state that all Subcontractors and material suppliers have been paid in full and there are no contract balances outstanding and owed to any Subcontractor or material supplier.

3.4 All payments shall be made to CONTRACTOR by VILLAGE pursuant to the provisions of the Local Government Prompt Payment Act (50 ILCS 505/1 *et seq.*)

#### **ARTICLE 4: TAXES**

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

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

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

#### **ARTICLE 6: ASSIGNMENT**

6.1 The CONTRACTOR's duties and obligations under the CONTRACT shall not be assigned without the express written consent of the VILLAGE.

6.2 WORK not performed by the CONTRACTOR with its own forces shall be performed by Subcontractors or Sub-subcontractors. The CONTRACTOR shall be responsible for management of the Subcontractors in the performance of their work.

6.3 The CONTRACTOR shall not contract with anyone for performance of the WORK hereunder to whom the VILLAGE has a reasonable objection.

6.4 The CONTRACTOR shall prepare all Subcontracts and shall have full discretion to negotiate their terms, subject to the VILLAGE's reasonable requirements or objections as to form and content.

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

#### **ARTICLE 7: GUARANTEES AND WARRANTIES**

7.1 All guarantees and warranties required shall be furnished by the CONTRACTOR and shall be delivered to the VILLAGE before the final payment or payment retention will be paid to the CONTRACTOR.

7.2 The CONTRACTOR shall supply the VILLAGE with "as-built" plans bearing the signature and seal or stamp, of an Illinois-licensed Professional Engineer prior to the VILLAGE making the final payment.

#### **ARTICLE 8: DEFAULT**

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

8.2 Upon declaration of CONTRACTOR's default, the VILLAGE may, at its option, call upon the surety to complete the WORK in accordance with the terms of this CONTRACT or may take over the WORK, including any materials on the WORK site as may be suitable and acceptable to the VILLAGE and may complete the WORK by its own forces or on its own account, or may enter into a new contract or contracts for the completion of the WORK, or may use such other methods as shall be required for the completion of the WORK in an acceptable manner as the VILLAGE may in its discretion determine.

8.3 All costs and charges incurred by the VILLAGE, together with the cost of completing the WORK shall be deducted from any moneys due or which may become due on this to the CONTRACTOR under this CONTRACT. Following any payment due and received by the VILLAGE from the CONTRACTOR's surety following default, if the expense so incurred by the VILLAGE is less than the sum paid to the Village by the surety under this CONTRACT for work remaining, the surety shall be entitled to receive the excess difference paid to the VILLAGE. When such CONTRACTOR default costs incurred by the VILLAGE exceeds the sum paid to the VILLAGE for the work remaining under the CONTRACT, the CONTRACTOR and the surety shall be liable and shall pay to the VILLAGE the full cost of such additional expenses.

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

9.1 Disputes between the VILLAGE and the CONTRACTOR shall be handled according to the terms of the CONTRACT (including all subsequent approved Change Orders) and applicable Law, with the final decision regarding disputes resting with the Village Manager or his or her designee. All disputes concerning a question of fact under the CONTRACT shall be expressed in writing by the parties and, if within seven (7) days after receipt of such notice the parties have not disposed of the dispute by agreement, the dispute, as it was expressed in writing by the parties, shall be subject to mediation under terms agreed to by the parties. Pending final decision of a dispute hereunder, the parties shall proceed diligently with the performance of the CONTRACT.

9.2 Any legal action taken by either party shall be decided based upon and governed by the laws of the State of Illinois and venue for such disputes shall be Cook County, Illinois.

#### **ARTICLE 10: CONTRACT TIME**

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

## ARTICLE 11: INSURANCE AND INDEMNIFICATION

### 11.1 Insurance Requirements

11.1.1 The successful bidder shall, within ten (10) business days of said receipt of notice of award of the CONTRACT, furnish to the VILLAGE a certificate of insurance showing the VILLAGE, its trustees, officers, directors, agents, employees, representatives and assigns as additional insureds to the General Liability and Automobile Liability policies by appropriate endorsement. Such coverages shall be placed with a provider acceptable to the VILLAGE, which is licensed to do business in the State of Illinois, and that maintains a minimum A. M. Best rating of A VII. The insurance coverages afforded under the CONTRACTOR's General Liability insurance policies shall be primary and non-contributory to any insurance carried independently by the Indemnitees. A Waiver of Subrogation in favor of the Additional Insureds shall apply to General liability and Worker's Compensation. Certificates of insurance must state that the insurer shall provide the VILLAGE with thirty (30) days prior written notice of any change in, or cancellation of required insurance policies. All required insurance shall be maintained by the CONTRACTOR in full force and effect during the life of the CONTRACT, and until such time as all WORK has been approved and accepted by the VILLAGE. This provision constitutes the VILLAGE's continuing demand for such certificates and endorsement(s) or true and correct copies thereof and the obligation to provide such insurance coverage shall be in full force and effect during the life of the CONTRACT. Failure of the VILLAGE to request such certificates and endorsements shall not relieve the CONTRACTOR of these obligations to provide insurance.

The amounts and types of insurance required are defined in Exhibit 1, a copy of which is attached hereto and made a part hereof.

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

### 11.2 Indemnification

11.2.1 The CONTRACTOR shall indemnify and hold harmless the VILLAGE, its trustees, officers, directors, agents, employees and representatives and assigns, from lawsuits, actions, costs (including attorneys' fees), claims or liability of any character, incurred due to the alleged negligence of the CONTRACTOR, brought because of any injuries or damages received or sustained by any person, persons or property on account of any act or omission, neglect or misconduct of said CONTRACTOR, its officers, agents and/or employees arising out of, or in

performance of any of the provisions of the CONTRACT DOCUMENTS, including any claims or amounts recovered for any infringements of patent, trademark or copyright; or from any claims or amounts arising or recovered under the "Worker's Compensation Act" or any other law, ordinance, order or decree. In connection with any such claims, lawsuits, actions or liabilities, the VILLAGE, its trustees, officers, directors, agents, employees, representatives and their assigns shall have the right to defense counsel of their choice. The CONTRACTOR shall be solely liable for all costs of such defense and for all expenses, fees, judgments, settlements and all other costs arising out of such claims, lawsuits, actions or liabilities.

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

## **ARTICLE 12: PERFORMANCE AND PAYMENT BONDS**

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

## **ARTICLE 13: EXECUTION OF CONTRACT**

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

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

14.1 All changes in the WORK must be requested by CONTRACTOR and approved by the VILLAGE via an Authorization to Proceed document bearing the signature of the Project Principle for VILLAGE. Any change order or series of change orders that increase or decrease the CONTRACT value by \$10,000 or more, or that increases or decreases the CONTRACT duration beyond the approved project schedule must be accompanied by a written request from CONTRACTOR justifying the additional cost or change in schedule. Within an agreed upon period of time, VILLAGE will provide a response to



CONTRACTOR's Change Order or Time request by providing a determination signed by the VILLAGE or its designee finding that the change requested was not reasonably foreseeable at the time the CONTRACT was signed, the change is germane to the CONTRACT or the change is in the best interest of VILLAGE. Any change increasing the original CONTRACT value by fifty percent (50%) or more must be re-bid by VILLAGE as required by law.

#### **ARTICLE 15: TERMINATION**

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

## EXHIBIT 1

### Insurance Requirements

Worker's Compensation:

STATUTORY coverage for all persons whom the CONTRACTOR may employ directly or through subcontractors in carrying out the WORK under this CONTRACT. Such insurance shall hold the VILLAGE free and harmless of all personal injuries of all persons whom the CONTRACTOR may employ directly or through Subcontractors.

Employers Liability:

\$500,000 minimum liability

Comprehensive General Liability; including Bodily Injury and Property Damage:

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

\$2,000,000 Aggregate - Completed Operations

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

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

\$1,000,000 for Combined Single Limit

.5 Umbrella/Excess Liability:

\$2,000,000 Each Occurrence

**BIDDER SUMMARY SHEET**  
**Dog Park Construction**

IN WITNESS WHEREOF, the parties hereto have executed this Bid as of date shown below.

Firm Name: The Kenneth Company

Address: 16W064 Jeans Rd

City, State, Zip Code: Lemont IL 60439

Contact Person: Ken Maloney

FEIN #: XXXXXXXXXX

Phone: (630) 679-2750 Fax: (630) 325-2780

E-mail Address: kcoffice@aol.com

**RECEIPT OF ADDENDA:** The receipt of the following addenda is hereby acknowledged:

Addendum No. \_\_\_\_\_ Dated \_\_\_\_\_; Addendum No. \_\_\_\_\_ Dated \_\_\_\_\_

<b>#</b>	<b>Item/Description</b>	<b>Sub-Total</b>
----------	-------------------------	------------------

**A. Removals**

The following items are to be removed and hauled from the site as shown, noted and detailed on plan.

1.	Existing asphalt walk including aggregate base material.	\$ <u>526.00</u>
----	--	------------------

**B. Grading and Excavation**

1.	Strip and stockpile all existing topsoil encountered within grading limits. Perform all cuts and fills as shown on plan to establish sub-grades for concrete walks and decomposed granite walks. Compact sub-grades in all areas in accordance with the specifications. Re-spread existing topsoil to a minimum depth of 6" over all disturbed areas within the grading limits. Haul all excess soils to a location as determined within the Village of Orland Park. (includes \$6521.00 in General Conds).	\$ <u>20,373.00</u>
----	---	---------------------

**C. Concrete and Decomposed Granite Walks**

Furnish and install the following as shown, noted and detailed on plan, and in accordance with the specifications.

1.	Concrete Core Area Walks, including aggregate base.	\$ <u>13,823.00</u>
----	---	---------------------

- 2. Concrete Maintenance Access Aprons, including aggregate base. \$ 2508.00
- 3. Concrete Baseball Themed Plaza including aggregate base. \$ 2793.00
- 4. Decomposed Granite Walks, including soil separator fabric. \$ 9344.00

**D. Fencing**

Furnish, assemble and install the following as shown, noted and detailed on plan, and in accordance with the specifications.

- 1. 4' High Chain Link Transition Area Fencing. \$ 3366.00
- 2. 4' High Chain Link Entry Gates. \$ 1568.00
- 3. 4' High Chain Link Maintenance Access Gates. \$ 1925.00
- 4. 6' High Chain Link Transition Area Fencing. \$ 3564.00
- 5. 6' High Chain Link Entry Gates. \$ 1800.00
- 6. 6' High Chain Link Maintenance Access Gates. \$ 2123.00
- 7. 4' High Perimeter Wire Fencing. \$ 13,210.00
- 8. 6' High Perimeter Wire Fencing. \$ 23,562.00

**E. Synthetic Turf**

Furnish and install the following as shown, noted and detailed on plan, and in accordance with the specifications.

- 1. Synthetic Turf including aggregate base, nailer board and sand infill. \$ 20,665.00

**Base Bid Total Amount** \$ 121,150.00

Base Bid Total Amount Written ONE HUNDRED TWENTY ONE THOUSAND,  
ONE HUNDRED FIFTY AND 00/100 DOLLARS.

Signature of Authorized Signee: 

Title: President Date: 5/13/13

**BUSINESS ORGANIZATION:**

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

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

Corporation: State of incorporation: Illinois 1/1/91  
Provide a disclosure of all officers and principals by name and business address, date of incorporation and indicate if the corporation is authorized to do business in Illinois.

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

In compliance with your Invitation to Bid, and subject to all conditions thereof, the undersigned offers and agrees, if this bid is accepted, to furnish the services as outlined.

The Kenneth Company \_\_\_\_\_ (Corporate Seal)  
Business Name

 \_\_\_\_\_ Kenneth F. Maloney \_\_\_\_\_  
Signature Print or type name

President \_\_\_\_\_ 5/13/13 \_\_\_\_\_  
Title Date

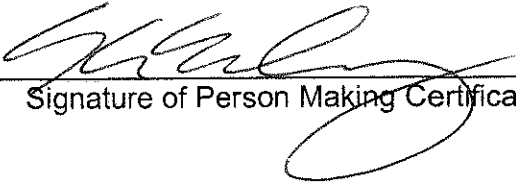
**CERTIFICATION OF ELIGIBILITY  
TO ENTER INTO PUBLIC CONTRACTS**

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

I, Kenneth Maloney, being first duly sworn certify

and say that I am President  
(insert "sole owner," "partner," "president," or other proper title)

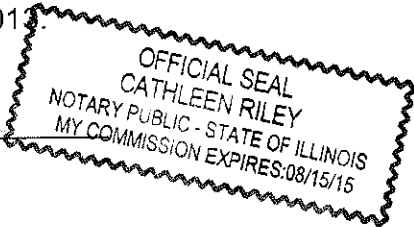
of The Kenneth Maloney Company, the Prime Contractor submitting this proposal, and that the Prime Contractor is not barred from contracting with any unit of state or local government as a result of a violation of either Section 33E-3, or 33E-4 of the Illinois Criminal Code, or of any similar offense of "bid-rigging" or "bid-rotating" of any state or of the United States.

  
\_\_\_\_\_  
Signature of Person Making Certification

Subscribed and Sworn To  
Before Me This 13<sup>th</sup> Day

of May, 2013.

  
\_\_\_\_\_  
Notary Public



## EQUAL EMPLOYMENT OPPORTUNITY

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

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

During the performance of this Agreement, the Contractor agrees:

**A.** That it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin or ancestry; and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.

**B.** That, if it hires additional employees in order to perform this Agreement, or any portion hereof, it will determine the availability (in accordance with the Department's Rules and Regulations for Public Contracts) of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.

**C.** That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, marital status, national origin or ancestry, age, or physical or mental handicap unrelated to ability, or an unfavorable discharge from military service.

**D.** That it will send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the Contractor's obligations under the Illinois Human Rights Act and Department's Rules and Regulations for Public Contract.

**E.** That it will submit reports as required by the Department's Rules and Regulations for Public Contracts, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Illinois Human Rights Act and Department's Rules and Regulations for Public Contracts.

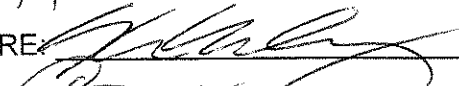
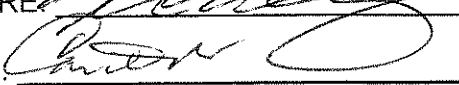
**F.** That it will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and Department for purposes of investigation to

ascertain compliance with the Illinois Human Rights Act and Department's Rules and Regulations for Public Contracts.

**G.** That it will include verbatim or by reference the provisions of this Equal Employment Opportunity Clause in every subcontract it awards under which any portion of this Agreement obligations are undertaken or assumed, so that such provisions will be binding upon such subcontractor. In the same manner as the other provisions of this Agreement, the Contractor will be liable for compliance with applicable provisions of this clause by such subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply therewith. In addition, the Contractor will not utilize any subcontractor declared by the Illinois Human Rights Department to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

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

**ACKNOWLEDGED AND AGREED TO:**

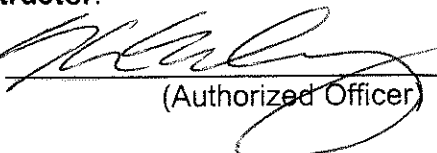
NAME: Kenneth Maloney  
SIGNATURE:   
WITNESS:   
DATE: 5/13/13



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

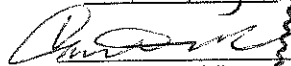
It is hereby stipulated and certified to the Village of Orland Park, that the undersigned Contractor shall pay not less than the prevailing hourly rate of wages, the generally prevailing rate of hourly wages for legal holiday and overtime work, and the prevailing hourly rate for welfare and other benefits as determined by the Illinois Department of Labor and as set forth in the schedule of prevailing wages for this contract to all laborers, workers and mechanics performing work under this contract. The undersigned Contractor further stipulates and certifies that he/she/it has maintained a satisfactory record of Prevailing Wage Act compliance with no significant Prevailing Wage Act violations for the past three (3) years. In accordance with Public Act 94-0515, the Contractor will submit to the Village certified payroll records (to include for every worker employed on the project the name, address, telephone number, social security number, job classification, hourly wages paid in each pay period, number of hours worked each day and starting and ending time of work each day) on a monthly basis, along with a statement affirming that such records are true and accurate, that the wages paid to each worker are not less than the required prevailing rate and that the Contractor is aware that knowingly filing false records is a Class B Misdemeanor.

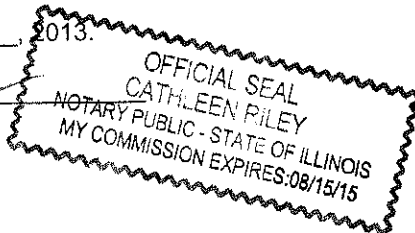
**Contractor:**

By:   
(Authorized Officer)

Subscribed and Sworn To  
Before Me This 13<sup>th</sup> Day

of May, 2013.

  
Notary Public



**VILLAGE OF ORLAND PARK  
CONTRACTOR'S CERTIFICATION  
SEXUAL HARASSMENT, TAX & SUBSTANCE ABUSE**

Kenneth Moloney, having been first duly sworn deposes and states as follows:  
(Officer or Owner of Company)

The Kenneth Company, having submitted a proposal for:  
(Name of Company)

Dog Park Construction at Centennial Park  
(PROJECT)

to the Village of Orland Park, Illinois, hereby certifies that the under signed Contractor:

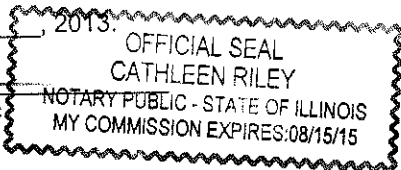
1. has a written sexual harassment policy in place in full compliance with 775 ILCS 5/2-105(A)(4).
2. is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, or if:
  - a. it is contesting its liability for the tax or the amount of tax in accordance with procedures established by the approved 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.
3. is in full compliance with the Federal Highway Administration Rules on Controlled Substances and Alcohol Use and Testing, 49 CFR Parts 40 and 382 and that all employee drivers is/are currently participating  
(Name of employee/driver or "all employee drivers")  
in a drug and alcohol testing program pursuant to the aforementioned rules.
- 4A. has in place a written program which meets or exceeds the program requirements of the Substance Abuse Prevention on Public Works Projects Act (Public Act 95-0635), and has provided a written copy thereof to the Village of Orland Park; or
- 4B. has in place a collective bargaining agreement which deals with the subject matter of the Substance Abuse Prevention on Public Works Projects Act (Public Act 95-0635).

(Check either 4A or 4B, depending upon which certification is correct.)

By: [Signature]  
Officer or Owner of Company named above

Subscribed and Sworn To  
Before Me This 13 Day

of May, 2013.  
[Signature]  
Notary Public



**APPRENTICESHIP AND TRAINING PROGRAM CERTIFICATION**

I, Kenneth Maloney, having been first duly sworn depose and state as follows:

I, Kenneth Maloney, am the duly authorized agent for The Kenneth Company, which has submitted a bid to the Village of Orland Park for

Dog Park Construction Center/retail park and I hereby certify  
(Name of Project)

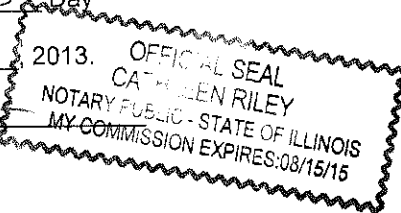
that The Kenneth Company  
(Name of Company)

participates in apprenticeship and training programs approved and registered with the United States Department of Labor Bureau of Apprenticeship and Training.

By: [Signature]  
Title: President

Subscribed and Sworn To  
Before Me This 13 Day

of May  
[Signature]  
Notary Public



**INSURANCE REQUIREMENTS**

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

**WORKERS COMPENSATION & EMPLOYER LIABILITY**

\$500,000 – Each Accident  
\$500,000 – Policy Limit  
\$500,000 – Each Employee  
Waiver of Subrogation in favor of the Village of Orland Park

**AUTOMOBILE LIABILITY**

\$1,000,000 – Combined Single Limit  
Additional Insured Endorsement in favor of the Village of Orland Park

**GENERAL LIABILITY (Occurrence basis)**

\$1,000,000 – Each Occurrence  
\$2,000,000 – General Aggregate Limit  
\$1,000,000 – Personal & Advertising Injury  
\$2,000,000 – Products/Completed Operations Aggregate  
Additional Insured Endorsement & Waiver of Subrogation in favor of the Village of Orland Park

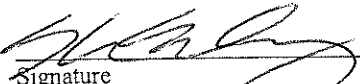
**EXCESS LIABILITY (Umbrella-Follow Form Policy)**

\$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 Contractor, shall be specifically endorsed to identify "The Village of Orland Park, and their respective officers, trustees, directors, employees and agents as Additional Insureds on a primary/non-contributory basis with respect to all claims arising out of operations by or on behalf of the named insured." If the named insureds have other applicable insurance coverage, that coverage shall be deemed to be on an excess or contingent basis. The policies shall also contain a Waiver of Subrogation in favor of the Additional Insureds in regards to General Liability and Workers Compensation coverage's. The certificate of insurance shall also state this information on its face. The words "endeavor to" and "; but failure to do so shall impose no obligation or liability of any kind upon the insurer, its agents or representatives" must be stricken from all Certificates of Insurance submitted to the Village. Any insurance company providing coverage must hold an A VII rating according to Best's Key Rating Guide. Permitting the contractor, or any subcontractor, to proceed with any work prior to our receipt of the foregoing certificate and endorsement however, shall not be a waiver of the contractor's obligation to provide all of the above insurance.

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

ACCEPTED & AGREED THIS 13<sup>th</sup> DAY OF May, 2013

  
\_\_\_\_\_  
Signature  
Kenneth Maloney, President  
Printed Name & Title

Authorized to execute agreements for:  
The Kenneth Company  
Name of Company



# CERTIFICATE OF LIABILITY INSURANCE

KENNE-4

OP ID: JJ

DATE (MM/DD/YYYY)

10/25/12

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 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).

PRODUCER The David Agency Insurance Inc 385 N York Rd Elmhurst, IL 60126 Jim Ellis	630-516-9000	CONTACT NAME:		
	630-516-0700	PHONE (A/C, No, Ext): 630-592-5370	FAX (A/C, No):	630-516-0700
		E-MAIL ADDRESS: jjones@thedavidagency.com		
		INSURER(S) AFFORDING COVERAGE		NAIC #
		INSURER A: EMC Insurance Companies		
INSURED The Kenneth Company Michael Maloney 16W064 Jeans Road Lemont, IL 60439			INSURER B: The Hartford Insurance Co.	38288
			INSURER C:	
			INSURER D:	
			INSURER E:	
			INSURER F:	

## COVERAGES

## CERTIFICATE NUMBER:

## 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 SUBR INSR	WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> GENERAL LIABILITY			4D80683	08/29/12	08/29/13	EACH OCCURRENCE \$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person) \$ 5,000
							PERSONAL & ADV INJURY \$ 1,000,000
							GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						\$
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						\$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY			4E80683	08/29/12	08/29/13	COMBINED SINGLE LIMIT (Ea accident) \$
	<input checked="" type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$ 1,000,000
	<input type="checkbox"/> ALL OWNED AUTOS	<input type="checkbox"/> SCHEDULED AUTOS					BODILY INJURY (Per accident) \$ 1,000,000
	<input type="checkbox"/> HIRED AUTOS	<input type="checkbox"/> NON-OWNED AUTOS					PROPERTY DAMAGE (Per accident) \$ 1,000,000
							\$
X	<input checked="" type="checkbox"/> UMBRELLA LIAB			4J80683	08/29/12	08/29/13	EACH OCCURRENCE \$ 1,000,000
	<input type="checkbox"/> EXCESS LIAB	<input checked="" type="checkbox"/> OCCUR					AGGREGATE \$ 1,000,000
	<input type="checkbox"/> CLAIMS-MADE						\$
	DED <input type="checkbox"/> RETENTION \$						\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			83WECZG6494	08/29/12	08/29/13	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N <input type="checkbox"/>	N/A				E.L. EACH ACCIDENT \$ 500,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$ 500,000
							E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

## CERTIFICATE HOLDER

## CANCELLATION

The Kenneth Company  
16W064 Jeans Road  
Lemont, IL 60439

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

*Jean M Jones*

© 1988-2010 ACORD CORPORATION. All rights reserved.



# CERTIFICATE OF LIABILITY INSURANCE

KENNE-4

OP ID: JJ

DATE (MM/DD/YYYY)

06/17/2013

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 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).

PRODUCER The David Agency Insurance Inc 385 N York Rd Elmhurst, IL 60126 Jim Ellis	Phone: 630-516-9000	CONTACT NAME:
	Fax: 630-516-0700	PHONE (A/C, No, Ext): 630-592-5370
		FAX (A/C, No): 630-516-0700
		E-MAIL ADDRESS: <a href="mailto:jjones@thedavidagency.com">jjones@thedavidagency.com</a>
INSURED The Kenneth Company 16W064 Jeans Road Lemont, IL 60439		INSURER(S) AFFORDING COVERAGE
		INSURER A : EMC Insurance Companies
		INSURER B : The Hartford Insurance Co.
		INSURER C : Great American
		INSURER D :
		INSURER E :
		INSURER F :

COVERAGES CERTIFICATE NUMBER: 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(SUBR) INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> GENERAL LIABILITY	X	4D80683	08/29/2012	08/29/2013	EACH OCCURRENCE \$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY					DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR					MED EXP (Any one person) \$ 5,000
						PERSONAL & ADV INJURY \$ 1,000,000
						GENERAL AGGREGATE \$ 2,000,000
						PRODUCTS - COM/OP AGG \$ 2,000,000
						\$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY		4E80683	08/29/2012	08/29/2013	COMBINED SINGLE LIMIT (Ea accident) \$
	<input checked="" type="checkbox"/> ANY AUTO					BODILY INJURY (Per person) \$ 1,000,000
	<input type="checkbox"/> ALL OWNED AUTOS	<input type="checkbox"/> SCHEDULED AUTOS				BODILY INJURY (Per accident) \$ 1,000,000
	<input type="checkbox"/> HIRED AUTOS	<input type="checkbox"/> NON-OWNED AUTOS				PROPERTY DAMAGE (Per accident) \$ 1,000,000
						\$
X	<input checked="" type="checkbox"/> UMBRELLA LIAB		4J80683	08/29/2012	08/29/2013	EACH OCCURRENCE \$ 1,000,000
	<input type="checkbox"/> EXCESS LIAB					AGGREGATE \$ 1,000,000
	<input type="checkbox"/> CLAIMS-MADE					\$
	<input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$					\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	N/A	83WECZG6494	08/29/2012	08/29/2013	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS   <input type="checkbox"/> OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below					E.L. EACH ACCIDENT \$ 500,000
						E.L. DISEASE - EA EMPLOYEE \$ 500,000
						E.L. DISEASE - POLICY LIMIT \$ 500,000
C	Inland Marine		IMP249054000	08/29/2012	08/29/2013	Limit 50,000
						Ded 1,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Additional insured with respect to General Liability, when required by written contract or agreement: Village of Orland Park

CERTIFICATE HOLDER	CANCELLATION
ORLAND3	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
Village of Orland Park 14700 Ravinia Ave Orland Park, IL 60462	AUTHORIZED REPRESENTATIVE 

© 1988-2010 ACORD CORPORATION. All rights reserved.

 **AIA** Document A310™ – 2010

**Bid Bond**

**CONTRACTOR:**  
*(Name, legal status and address)*

The Kenneth Company  
16W064 Jeans Road  
Lemont, IL 60439

**OWNER:**  
*(Name, legal status and address)*

Village of Orland Park  
14700 South Ravinia Avenue  
Orland Park, IL 60462

**BOND AMOUNT: \*\*\* TEN PERCENT OF AMOUNT BID \*\*\***

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

American Safety Casualty Insurance Company  
100 Galleria Parkway S.E., Suite 700  
Atlanta, GA 30339

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.

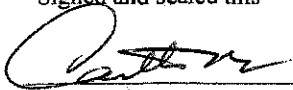
**PROJECT:**  
*(Name, location or address, and Project number, if any)*  
Dog Park Construction at Centennial Park

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

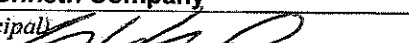
If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

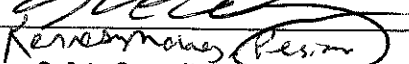
When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement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

Signed and sealed this **13th** day of **May** **2013**

  
*(Witness)*

  
*(Witness)*

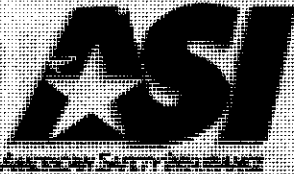
**The Kenneth Company**  
*(Principal)*  *(Seal)*

*(Title)*  *(Seal)*

**American Safety Casualty Insurance Company**  
*(Surety)*  *(Seal)*

*(Title)*  **Thomas Chambers, Attorney-in-Fact**

Init.



# POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that American Safety Casualty Insurance Company has made, executed and approved, and by these presents does make, execute and approve:

**Thomas O. Chambers, Todd Schaap of Franksville, WI**

As true and lawful attorneys-in-fact for it and in name, place, and stead to execute on behalf of the said Company, its heirs, executors, administrators and assigns all contracts of suretyship to be given to:

### ALL COLISEES

provided that no bond or undertaking or contract of suretyship executed under the authority shall exceed in amount the sum of

**\*\*\* THREE MILLION\*\*\* (\$3,000,000.00) DOLLARS\*\*\***

This Power of Attorney is granted and is signed and sealed by the said under and by the authority of the following Resolution adopted by the Board of Directors of the Company of the 28th day of April, 2012:

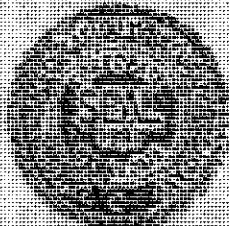
**RESOLVED**, for the President in conjunction with the Secretary or any Assistant Secretary may appoint attorneys-in-fact or agents with authority as defined or limited in the instrument evidencing the appointment in each case, for and on behalf of the Company, to execute and deliver and file the seal of the Company to bonds, undertakings, recognizances, and suretyship obligations of all kinds, and said officers may remove any such attorney in fact or agent and revoke any power of attorney previously granted in such periods.

**RESOLVED FURTHER**, that any bond, undertaking, recognizance, or suretyship obligation shall be valid and binding upon the Company (i) when signed by the President or any Vice-President and attested and sealed if a seal is required by any Secretary or Assistant Secretary or (ii) when signed by the President or any Vice-President or Secretary or Assistant Secretary, and certain signed and sealed if a seal is required by a duly authorized attorney-in-fact or agent, or (iii) when duly executed and sealed (if a seal is required) by one or more attorneys-in-fact or agents pursuant to and within the limits of the authority evidenced by the power of attorney issued by the Company to such person or persons.

**RESOLVED FURTHER**, that the signature of any authorized officer and the seal of the Company may be affixed by facsimile to any power of attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligation of the Company, and such signature and seal when so used shall have the same force and effect as though manually affixed.

IN WITNESS WHEREOF, American Safety Casualty Insurance Company has caused its official seal to be hereunto affixed, and these presents to be signed by its President and attested by its Secretary this 28th day of April, 2012.

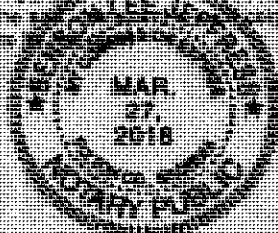
Attest:  
  
Secretary



President

STATE OF GEORGIA  
COUNTY OF COBB

On this 28th day of April, 2012, before me personally came Jason D. Jones, known to me, being by the day sworn, do declare and say that he is the President of American Safety Casualty Insurance Company, and that he has read and understands the above instrument, that he knows the seal of the said corporation, that the seal affixed to the said instrument is the corporate seal, that it was so affixed by order of the Board of Directors of said corporation and that he signed his name therein.

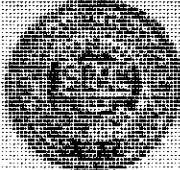


Notary Public

I, the undersigned, Secretary of American Safety Casualty Insurance Company, an Oklahoma corporation, DO HEREBY CERTIFY, that the foregoing and attached Power of Attorney remains in full force and has not been revoked, and furthermore that the Resolution of the Board of Directors, set forth in the said Power of Attorney, is now in force.

Signed and sealed in the City of Atlanta, in the State of Georgia

Dated this 13 day of May, 2012



Secretary

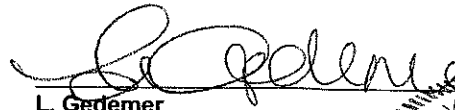


STATE OF WISCONSIN )

COUNTY OF Racine )

ON THIS 13th day of May, 2013,

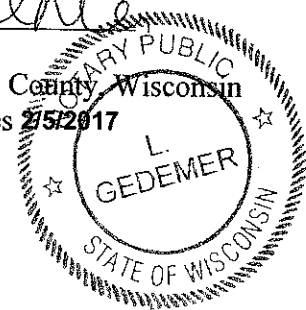
before me, a notary public, within and for said County and State, personally appeared Thomas Chambers to me personally known, who being duly sworn, upon oath did say that he is the Attorney-in-Fact of and for the American Safety Casualty Insurance Company, a corporation of Oklahoma, created, organized and existing under and by virtue of the laws of the State of Oklahoma; that the corporate seal affixed to the foregoing within instrument is the seal of the said Company; that the seal was affixed and the said instrument was executed by authority of its Board of Directors; and the said Thomas Chambers did acknowledge that he/she executed the said instrument as the free act and deed of said Company.



L. Gedemer

Notary Public, Racine County, Wisconsin

My Commission Expires 2/5/2017



 **AIA** Document A312™ – 2010

**Performance Bond**

OKC622518

**CONTRACTOR:**  
*(Name, legal status and address)*  
The Kenneth Company

16W064 Jeans Road  
Lemont, IL 60439  
**OWNER:**  
*(Name, legal status and address)*

Village of Orland Park  
14700 South Ravinia Avenue  
Orland Park, IL 60462

**CONSTRUCTION CONTRACT**  
Date: 6/4/2013

Amount: **ONE HUNDRED TWENTY-ONE THOUSAND ONE HUNDRED FIFTY AND NO/100THS**

Description: **\$121,150.00**  
*(Name and location)* Dog Park Construction at Centennial Park

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

**American Safety Casualty Insurance Company**  
100 Galleria Parkway S.E., Suite 700  
Atlanta, GA 30339

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.

AIA Document A312-2010 combines two separate bonds, a Performance Bond and a Payment Bond, into one form. This is not a single combined Performance and Payment Bond.

**BOND**  
Date: 6/10/2013  
*(Not earlier than Construction Contract Date)*

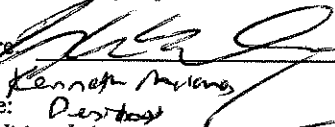
**ONE HUNDRED TWENTY-ONE THOUSAND ONE HUNDRED FIFTY AND NO/100THS**


Amount: **\$121,150.00**

Modifications to this Bond:  None  See Section 16

**CONTRACTOR AS PRINCIPAL**  
Company: *(Corporate Seal)*  
The Kenneth Company

**SURETY**  
Company: *(Corporate Seal)*  
American Safety Casualty Insurance Company

Signature:   
Name: Kenneth Mwangi  
and Title: President  
*(Any additional signatures appear on the last page of this Performance Bond.)*

Signature:   
Name: Thomas Chambers  
and Title: Attorney-in-Fact

*(FOR INFORMATION ONLY — Name, address and telephone)*

**AGENT or BROKER:**  
Shorewest Surety Services, Inc.  
2626 49th Drive  
Franksville, WI 53126  
(262)835-9576

**OWNER'S REPRESENTATIVE:**  
*(Architect, Engineer or other party:)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### § 14 Definitions

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

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

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

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

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

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

§ 16 Modifications to this bond are as follows:

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

**CONTRACTOR AS PRINCIPAL**

**SURETY**

Company:

*(Corporate Seal)*

Company:

*(Corporate Seal)*

Signature: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Address

Signature: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Address

 **AIA** Document A312™ – 2010

**Payment Bond**

OKC622518

CONTRACTOR:

*(Name, legal status and address)*

The Kenneth Company

16W064 Jeans Road

Lemont, IL 60439

OWNER:

*(Name, legal status and address)*

Village of Orland Park

14700 South Ravinia Avenue

Orland Park, IL 60462

CONSTRUCTION CONTRACT

Date: 6/4/2013

ONE HUNDRED TWENTY-ONE THOUSAND ONE HUNDRED FIFTY AND NO/100THS

Amount:

\$121,150.00

Description:

*(Name and location)* Dog Park Construction at Centennial Park

SURETY:

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

American Safety Casualty Insurance Company

100 Galleria Parkway S.E., Suite 700

Atlanta, GA 30339

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.

AIA Document A312-2010 combines two separate bonds, a Performance Bond and a Payment Bond, into one form. This is not a single combined Performance and Payment Bond.

BOND

Date: 6/10/2013

*(Not earlier than Construction Contract Date)*

ONE HUNDRED TWENTY-ONE THOUSAND ONE HUNDRED FIFTY AND NO/100THS

Amount:

\$121,150.00

Modifications to this Bond:  None

See Section 18

CONTRACTOR AS PRINCIPAL

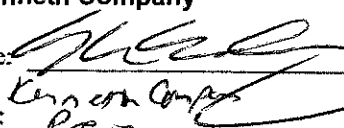
Company: *(Corporate Seal)*

The Kenneth Company

SURETY

Company: *(Corporate Seal)*

American Safety Casualty Insurance Company

Signature: 

Name: Kenneth Company

and Title: *Person*

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

Signature: 

Name:

and Title:

Thomas Chambers

Attorney-in-Fact

*(FOR INFORMATION ONLY — Name, address and telephone)*

AGENT or BROKER:

Shorewest Surety Services, Inc.

2626 49th Drive

Franksville, WI 53126

(262)835-9649

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

SURETY

Company:

*(Corporate Seal)*

Company:

*(Corporate Seal)*

Signature: \_\_\_\_\_

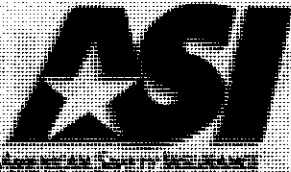
Name and Title: \_\_\_\_\_

Address \_\_\_\_\_

Signature: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Address \_\_\_\_\_



# POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that American Safety Casualty Insurance Company has made, constituted and appointed and by these presents does make, constitute and appoint:

**Thomas G. Chambers, Todd Schaeff of Franksville, WI**

its true and lawful attorney-in-fact, to it and its heirs, executors, administrators, assigns and assigns-in-law, to execute on behalf of the said Company, its surety, bonds, undertakings and contracts of every kind to be given to:

### ALL OBLIGES

provided that no bond or undertaking or contract of surety executed under this authority shall exceed in amount the sum of

**\*\*\* THREE MILLION (\*\*\*) (\$1,000,000.00) DOLLARS \*\*\***

This Power of Attorney is granted and is signed and sealed by faculties legal and by the authority of the following resolution adopted by the Board of Directors of the Company of the 28th day of April, 2012:

**RESOLVED** that the President in conjunction with the Secretary or any Assistant Secretary may appoint attorneys-in-fact or agents with authority as defined or limited in the instrument evidencing the appointment in each case, for and in behalf of the Company, to execute and deliver and affix the seal of the Company to bonds, undertakings, recognizances, and other legal obligations of all kinds, and said officers may terminate any such attorney-in-fact or agent and revoke any power of attorney previously granted to such person.

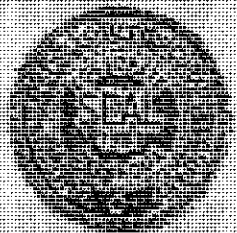
**RESOLVED FURTHER**, that any bond, undertaking, recognizance, or surety obligation shall be valid and binding upon the Company (i) when signed by the President or any Vice-President and attested and sealed (if a seal is required) by any Secretary or Assistant Secretary or (ii) when signed by the President or any Vice-President or Secretary or Assistant Secretary, and countersigned and sealed (if a seal is required) by a duly authorized attorney-in-fact or agent, or (iii) when duly executed and sealed (if a seal is required) by one or more attorneys-in-fact or agents pursuant to and within the limits of the authority evidenced by the power of attorney issued by the Company to such person or persons.

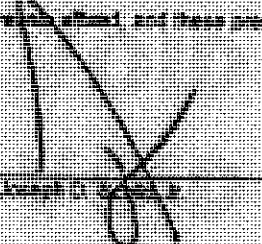
**RESOLVED FURTHER**, that the signature of any authorized officer and the seal of the Company may be affixed by, pursuant to any power of attorney or authorization thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other legal obligation of the Company, and such signature and seal when so used shall have the same force and effect as though personally affixed.

IN WITNESS WHEREOF, American Safety Casualty Insurance Company has caused its official seal to be hereunto affixed, and these presents to be signed by its President and attested by its Secretary this 28th day of April, 2012.

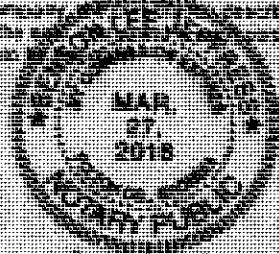
Attest:  
  
Secretary

STATE OF GEORGIA  
COUNTY OF COBB



  
President

On this 28th day of April, 2012, before me personally came Thomas G. Chambers, known to me by the broken line, being by me duly sworn, to the effect and say that he is the President of American Safety Casualty Insurance Company, of the County of COBB and State of GEORGIA, as described in and about recited in and about recited in the above recitation, that he knows the seal of the said corporation, that the seal affixed to the said instrument is the corporate seal, that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereon.

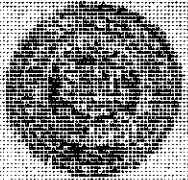


  
Notary Public

I, the undersigned, Secretary of American Safety Casualty Insurance Company, do HEREBY CERTIFY that the foregoing and attached Power of Attorney remains in full force and has not been revoked, and furthermore that the Resolution of the Board of Directors, set forth in the said Power of Attorney is now in force.

Signed and sealed in the City of Atlanta, in the State of Georgia

Done this 12 day of June, 2012.



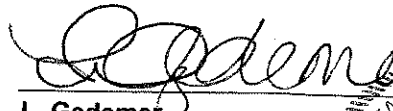
  
Secretary

STATE OF WISCONSIN )

COUNTY OF Racine )

ON THIS 10th day of June, 2013,

before me, a notary public, within and for said County and State, personally appeared Thomas Chambers to me personally known, who being duly sworn, upon oath did say that he is the Attorney-in-Fact of and for the American Safety Casualty Insurance Company, a corporation of Oklahoma, created, organized and existing under and by virtue of the laws of the State of Oklahoma; that the corporate seal affixed to the foregoing within instrument is the seal of the said Company; that the seal was affixed and the said instrument was executed by authority of its Board of Directors; and the said Thomas Chambers did acknowledge that he/she executed the said instrument as the free act and deed of said Company.



L. Gedemer  
Notary Public, Racine County, Wisconsin  
My Commission Expires 2/5/2017 L.

