

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

**Legistar File ID#:** 2021-0168

**Innoprise Contract #:** C21-0102

**Year:** 2021

**Amount:** \$792,000.00

**Department:** Public Works

**Contract Type:** Contractors

**Contractors Name:** Era-Valdivia Contractors, Inc.

**Contract Description:** Elevated Tank 7 Painting



**AGREEMENT BETWEEN THE VILLAGE OF ORLAND PARK AND  
Era-Valdivia Contractors, Inc FOR Elevated Tank 7 Painting**

THIS AGREEMENT (hereinafter, the "Agreement" or the "Contract") is made this 1<sup>st</sup>, day of June, 2021, by and between Village of Orland Park (hereinafter referred to as "VILLAGE") and Era-Valdivia Contractor, Inc. (hereinafter referred to as "Contractor") to furnish all materials, supplies, tools, equipment, labor, and perform other services necessary to commence and complete the Work in connection with the Elevated Tank 7 Painting (hereinafter referred to as "Project" ), the "Work", or the "Services").

WITNESSETH:

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

1. Scope of Work: The Contractor agrees to and shall timely perform and fully complete the "Scope of Work" as set forth in:  
☐ The Contractor's Proposal/Bid No. \_\_\_\_\_, and dated \_\_\_\_\_; and/or  
☒ Village of Orland Park ITB/RFP/Purchase Order No. ITB 21-029.  
which is/are attached hereto and made a part of this Agreement as Exhibit A (the "Work" or the "Project"). The terms, conditions and specifications set forth in Village's Request for Proposal ("RFP"), Invitation To Bid ("ITB") and/or Purchase Order and any other Village document shall supersede, govern, and prevail over any inconsistent terms, conditions, and/or specifications on any other documents submitted by the Contractor. Any provisions in the Contractor's Proposal or Bid or other submittals which are in conflict with or inconsistent with any of the same provisions in the Village's RFP, ITB, and/or Purchase Order shall be void to the extent of such conflict or inconsistency and the terms of the Village's RFP, ITB, and/or Purchase Order shall control.
2. Payment:
  - A. Compensation: The Village agrees to pay the Contractor as compensation for all Work required by this Agreement as follows:  
☒ the amount(s) set forth on Exhibit A (the "Contractor's Proposal");  
☐ the amount(s) based upon the Schedule of Fees or Prices set forth on Exhibit B attached hereto and thereby made a part hereof; and  
☒ a not-to-exceed Bid amount of \$720,000.00, plus \$72,000 contingency which may not be spent without prior written approval by the Village through a Change Order Request, for a total amount not to exceed \$792,000.00 ("Contract Price")
  - B. Invoices: The Contractor agrees to and shall prepare and submit:  
☐ an invoice to the Village upon completion of and approval by the Village of the Work; or  
☒ invoices for progress payments to the Village as hereinafter set forth for Services completed to date.  
Invoices shall be prepared monthly and shall document the time/hours expended as the Work is completed to date by the Contractor.
  - C. Payment: Notwithstanding any provision of the Illinois Local Government Prompt Act (50 ILCS 505/1, et seq.) (the "Act") to the contrary, the Parties agree that any bill approved for payment by the Corporate Authorities shall be paid within sixty (60) days after the date of approval. If payment is not made within such sixty (60) day period, an interest penalty of 1% of any amount approved and unpaid shall be added for each full thirty (30) day period, without proration, after the expiration of the aforementioned sixty (60) day payment period, until final payment is made. No other provision of the Act shall apply to this contract.

- D. Withholding Payment: Notwithstanding anything to the contrary herein contained, no compensation will be paid to or claimed by the Contractor for services required to correct deficiencies attributable to errors or omissions of the Contractor, and all such errors or omissions must be corrected by the Contractor at their sole cost and expense. Notwithstanding anything to the contrary herein contained, the Village has the right to withhold from payment due the Contractor such sums as are reasonably necessary to protect the Village against any loss or damage which may result from: (i) the negligence of or unsatisfactory Services of the Contractor; (ii) the failure by the Contractor to perform the Contractor's obligations hereunder; or (iii) claims filed against the Village relating to the Services. Any sums withheld from the Contractor as provided in this section, and subsequently determined to be due and owing to the Contractor, will be paid to the Contractor.
- E. Appropriation of Funds: The Parties hereto agree that, if the term of this Agreement extends beyond the current fiscal year of the Village (the current fiscal year being the year in which the first date of the term of this Agreement falls), this Agreement is subject to the appropriation of funds by the Village Board of Trustees and/or any other funding agencies for each subsequent year. If the Village, and/or any other governmental agency providing funding for this Service, fails to make such an appropriation, the Village may terminate this Agreement and the Contractor will be entitled to receive, as its sole and exclusive remedy, compensation for Services properly performed to the date of termination to the extent the Village has funds available and appropriated to pay the Contractor such amount. Upon the request of the Contractor, the Village will inform the Contractor as to whether any governmental agency other than the Village is providing funding to pay all or a portion of the Services.
- F. Records: The Contractor's records relating to the Services must be kept in accordance with generally accepted principles of accounting consistently applied and must be retained by the Contractor for a period of not less than five (5) years following the completion of the Services. Such records must be available to the Village or any authorized representative of the Village, upon reasonable prior notice, for audit and review during normal business hours at the Village offices, 14700 S. Ravinia Ave. Orland Park, IL 60462. In addition, such records must be available, upon reasonable prior notice, for audit and review by any other governmental agency providing funding for all or any portion of this Service.
3. Performance and Payment Bond: If the Contract Price is over \$50,000.00, prior to commencement of any Work on the Project, the Contractor shall provide to the Village a Performance and Payment Bond in compliance with the Public Construction Bond Act (30 ILCS 550/1, et seq.) and the Contract Documents.
4. Contract Documents: The term "Contract Documents" means and includes, but is not limited to, this Agreement and the following, which are each attached hereto and thereby made a part hereof:  
☒ Scope of Services as set forth in the Contractor's proposal dated June 1<sup>st</sup>, 2021 and the Village's RFP, ITB, and/or Purchase Order Exhibit A)  
☐ Schedule of Fees (Exhibit B)  
In the event of any conflict between this Agreement and any other Contract Document, this Agreement shall prevail and control over the terms and conditions set forth in such other Contract Documents.
5. Time is of the Essence; Dates of Commencement and Completion; Progress Reports:  
A. Time is of the essence in this Contract. The Services to be performed by the Contractor under the Contract Documents shall commence no later than September 6<sup>th</sup>, 2021 (hereinafter the "Commencement Date"), and shall be completed no later than November 8<sup>th</sup>, 2021 (hereinafter the "Completion Date"), barring only Acts of God, due to which the Completion Date may be modified in writing with the prior approval of the Village. If the Contractor fails to complete the Services by the Completion Date, the Village shall thereafter have the right to have the Services completed by another independent contractor, and in such event, the Village shall have the right to deduct the cost of such completion so incurred by the Village from payments otherwise due to the Contractor for the Services and/or the right to recover any excess cost of completion from the Contractor to the extent that the total cost incurred by the Village for the completion of the Work which is the subject of the Contract Documents exceeds the Contract Price.

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

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

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

- (i) No Waiver. Under no circumstances shall the Village, or its officers, officials, employees, agents or volunteers be deemed to have waived any of the insurance requirements of this Contract by any act or omission, including, but not limited to:
    - (a) Allowing work by Contractor or any subcontractor to start before receipt of Certificates of Insurance and Additional Insured Endorsements.
    - (b) Failure to examine, or to demand correction of any deficiency, of any Certificate of Insurance and Additional Insured Endorsement received.
  - (ii) Each insurance policy required shall have the Village of Orland Park expressly endorsed onto the policy as a Cancellation Notice Recipient. Should any of the policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.
  - (iii) When requested by the Village Manager, or his designee, Contractor shall promptly provide the respective original insurance policies for review and approval by the Village Manager, or his designee.
- E. Acceptability of Insurers: Insurance is to be placed with insurers with a Best's rating of no less than A-, VII and licensed to do business in the State of Illinois.
- F. Verification of Coverage: Contractor shall furnish the Village of Orland Park with certificates of insurance naming the "Village of Orland Park, its officers, officials, employees, agents and volunteers", as additional insureds, and with original endorsements affecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be received and approved by the Village Manager, or his designee, before any work commences. The following additional insured endorsements may be utilized: ISO Additional Insured Endorsements CG 20 10 04 13 or CG 20 26 04 13. The Village reserves the right to request full certified copies of the insurance policies and endorsements.  
☐ If this box is checked, a Completed Operations Endorsement (CG 20 37 04 13) is also required.
- G. Subcontractors: Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.
- H. Assumption of Liability: Contractor assumes liability for all injury to or death of any person or persons including employees of the Contractor, any subcontractor, any supplier or any other person and assumes liability for all damage to property sustained by any person or persons occasioned by or in any way arising out of any work performed pursuant to this Contract.
- I. Insurance Certifications: In addition to providing Certificates of Insurance as required by the contract documents, the Contractor shall submit to the Village a signed certification with each Request for Payment, stating that all the insurance required of the Contractor remains in force. Failure to submit such a certification shall be grounds to withhold payment in full or in part.
- J. Insurance Requirements Cannot Be Waived by Village: Under no circumstances shall the Village be deemed to have waived any of the insurance requirements of the related Contract by any act or omission, including, but not limited to: (1) allowing the Work to commence by the Contractor or any subcontractor of any tier before receipt of Certificates of Insurance; (2) failing to review any Certificates of Insurance received; (3) failing to advise the Contractor or any subcontractor of any tier that any Certificate of Insurance fails to contain all the required insurance provisions, or is otherwise deficient in any manner; or (4) issuing any payment without receipt of a Sworn Statement from the Contractor and all subcontractors of any tier stating that all the required insurance is in force. The Contractor agrees that the obligation to provide the insurance required by this Agreement or any of the contract documents is solely its responsibility and that this is a requirement which cannot be waived by any conduct, action, inaction or omission by the Village. Contractor shall also protect the Village by specifically incorporating this Paragraph into every subcontract entered into relative to the Work contemplated herein and also requiring that every subcontractor incorporate this Paragraph into every sub-subcontract it enters into relative to the Work contemplated herein.
- K. Liability of Contractor and Subcontractor is Not Limited by Purchase of Insurance: Nothing contained in the insurance requirements of this Agreement or any Contract Documents is to be construed as limiting

the liability of the Contractor or the liability of any subcontractor of any tier, or either of their respective insurance carriers. The Village does not, in any way, represent that the coverages or limits of insurance specified is sufficient or adequate to protect the Village, the Contractor, or any subcontractor's interest or liabilities, but are merely required minimums. The obligation of the Contractor and every subcontractor of any tier to purchase insurance shall not, in any way, limit their obligations to the Village in the event that the Village should suffer an injury or loss in excess of the amount recoverable through insurance, or any loss or portion of the loss which is not covered by either the insurance of the Contractor or any subcontractor's insurance.

- L. Notice of Bodily Injury or Property Damage: The Contractor shall notify the Village, in writing, of any actual or possible claim for personal injury or property damage relating to the Work, or of any occurrence which might give rise to such claim, promptly upon obtaining first knowledge of same.
- M. Updated Proof Required: The Contractor agrees that at any time upon the demand of the Village, updated proof of such insurance coverage will be submitted to the Village. There shall be no additional charge to the Village for said insurance.
- N. Safety/Loss Prevention Program Requirements: The Contractor shall provide written confirmation that a safety/loss prevention program was in place at least 90 days prior to submitting the bid proposal and is continuing. Evidence of completed employee safety training shall be provided to the Village and approved by the Village Manager, or his designee.
- O. Higher and More Expansive Standard Applicable: To the extent other insurance requirements of the contract documents contradict this Paragraph 13, the more expansive and higher standard, in terms of type and amount of coverage, shall govern.

14. Indemnity:

- A. To the fullest extent permitted by law, the Contractor hereby agrees to defend, indemnify and hold harmless the Village, its elected and appointed officials, employees and agents against all injuries, deaths, loss, damages, claims, patent claims, suits, liabilities, judgments, costs and expenses, which may in anyway accrue against the Village, its elected and appointed officials, employees, and agents arising in whole or in part or in consequence of the performance of the Work by the Contractor, its employees, or subcontractors, or which may in anyway result therefrom, except that arising out of the sole legal cause of the Village, its elected and appointed officials, employees or agents, the Contractor shall, at its own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith, and, if any judgment shall be rendered against the Village, its elected and appointed officials, employees or agents, in any such action, the Contractor shall, at its own expense, satisfy and discharge the same.
- B. Contractor expressly understands and agrees that any performance bond or insurance policies required by this Contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Village, its elected and appointed officials, employees or agents as herein provided.
- C. Contractor further agrees that to the extent that money is due the Contractor by virtue of this Contract as shall be considered necessary in the judgment of the Village, such funds may be retained by the Village to protect itself against said loss until such claims, suits, or judgments shall have been settled or discharged and/or evidence to that effect shall have been furnished to the satisfaction of the Village.
- D. In the event that the Village is not immune from liability under any applicable law, and only in such event, the Village hereby agrees to indemnify and hold harmless the Contractor, its officers, directors, employees and subcontractors (collectively, Contractor) against all damages, liabilities or costs, including reasonable attorney's fees and defense costs, to the extent caused by the Village's negligent acts in connection with the Project and the acts of the Village, and/or any of its officers, trustees and/or employees.
- E. Neither the Village nor the Contractor shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence, or for the acts of their respective officers, trustees, employees and/or agents.
- F. The provisions of this Paragraph 14 shall survive any termination of the Contract.

15. Village Confidential Information:
- A. Contractor warrants that it shall not disclose, use, sell, rent, trade, or otherwise provide Village Confidential Information to any person, firm, or entity for any purpose outside of the specific purposes of the Contract Documents, except as necessary to comply with applicable State or Federal laws.
  - B. The provisions of this Paragraph 15 shall survive any termination of the Contract.
16. Professional Standard: The Contractor hereby covenants and agrees that the Contractor will perform all Services described in this Agreement in accordance with the Professional Standard. In connection with the execution of this Agreement, the Contractor warrants and represents as follows:
- A. Feasibility of Performance. The Contractor (i) has carefully examined and analyzed the provisions and requirements of this Agreement, including all Exhibits hereto; (ii) understands the nature of the Services required; (iii) from its own analysis has satisfied itself, to the extent reasonably possible, as to the nature of all things needed for the performance of this Agreement and all other matters that in any way may affect this Agreement or its performance; (iv) represents that this Agreement is feasible of performance in accordance with all of its provisions and requirements; and (v) can and will perform, or cause to be performed, the Services in accordance with the provisions and requirements of this Agreement.
  - B. Ability to Perform: The Contractor hereby represents and warrants to the Village, with the intention that the Village rely thereon in entering into this Agreement, that: (a) the Contractor is financially solvent; (b) the Contractor, and each has the training, capability, experience, expertise, and licensing necessary to perform the Services in accordance with the requirements of this Agreement and the Professional Standard; (c) the Contractor possesses and will keep in force all required licenses, permits and accreditations to perform the Services; (d) the Contractor has full power to execute, deliver and perform this Agreement and has taken all necessary action to authorize such execution, delivery and performance; (e) the individual(s) executing this Agreement are duly authorized to sign the same on the Contractor's behalf and to bind the Contractor hereto; and (f) the Contractor will perform the Services described herein promptly, diligently and continuously with an adequate number of qualified personnel to ensure such performance.
  - C. Authorized to do Business in Illinois: The Contractor certifies that it is a legal entity authorized to do business in Illinois, 30 ILCS 500/1.15.8, 20-43.
  - D. Certification to Enter into Public Contracts: The Contractor certifies that it is not barred from contracting with any unit of state or local government as a result of a violation of either Section 33E-3 or 33E-4 of the Illinois Criminal Code or violating the prohibition set forth in Section 50-10.5(e) of the Illinois Procurement Code, 30 ILCS 500/50-10.5e or any similar offense of any State of the United States which contains the same elements as the Illinois offenses of bid-rigging or bid rotating.
  - E. Payment to the Illinois Department of Revenue: Contractor certifies that it is not delinquent in payment of any taxes to Illinois Department of Revenue.
  - F. Debarment. The Contractor certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the Agreement by any federal department or agency. The Contractor will not knowingly use the services of any related party barred or ineligible for contracts by any federal, state or local governmental agency or applicable Laws for any purpose in the performance of the Services.
  - G. Interest of members of the Village: Contractor certifies that no member of the governing body of the Village and no other officer, employee, or agent of the Village who exercises any functions or responsibilities in connection with the planning or carrying out of the Services, has any personal financial interest, direct or indirect, in this Agreement; and the Contractor shall take appropriate steps to assure compliance.
  - H. Interest of Professional Services Provider and Employees: Contractor certifies that it presently has no interest and shall not acquire interest, direct or indirect, in the various project areas or any parcels therein or any other interest which would conflict in any manner or degree with the performance of

Contractor Services hereunder. The Contractor further covenants that in the performance of this Agreement, no person having such interest shall be employed.

17. No Conflicts of Interest: The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, brokerage fee, gift(s), or any other consideration, contingent upon or resulting from the award or the making of this Contract.
18. Compliance with Laws: Contractor shall comply with all federal, state, and local laws, ordinances, rules and regulations, and any and all orders and decrees of any court, administrative body or tribunal applicable to the performance of the Contract. Contractor shall comply with all applicable laws, regulations, and rules promulgated by any Federal, State, County, Municipal and/or other governmental unit or regulatory body now in effect or which may be in effect during the performance of the Work. Included within the scope of the laws, regulations, and rules referred to in this paragraph, but in no way to operate as a limitation, are: Occupational Safety & Health Act ("OSHA"); Illinois Department of Labor (IDOL), Department of Transportation, and all forms of traffic regulations; public utility, Intrastate and Interstate Commerce Commission regulations; Workers' Compensation Laws, the Employment of Illinois Workers on Public Works Act, the Social Security Act of the Federal Government and any of its titles, the Illinois Human Rights Act, and EEOC statutory provisions and rules and regulations. Evidence of specific regulatory compliance will be provided by the Contractor if requested by the Village.
19. Equal Employment Opportunity: The Contractor shall be an "equal opportunity employer" as defined in the United States Code Annotated. The Contractor shall be required to comply with the President's Executive Order No. 11246, as amended, and the requirements for Bidders and Contractors under this order are explained in 41 CFR 60-4. The Contractor shall fully comply with all applicable provisions of the Illinois Human Rights Act.
20. Certifications: By the execution of this Agreement, the Contractor certifies that: (1) the Contractor is not delinquent in the payment of any tax administered by the Illinois Department of Revenue as required by 65 ILCS 5/11-42.1-1; (2) the Contractor has a written sexual harassment policy as required by and shall otherwise comply in all respects with the Illinois Human Rights Act (775 ILCS 5/2-105(A)(4)); (3) the Contractor shall provide a drug-free workplace as required by and shall otherwise comply with the Illinois Drug-Free Workplace Act (30 ILCS 580/1, et seq.); (4) the Contractor has in place a written policy as required by and that it does and shall otherwise comply with the Illinois Substance Abuse Prevention on Public Works Projects Act (820 ILCS 265/1, et seq.); and (5) the Contractor is not and/or was not barred from bidding on this contract pursuant to Section 33E-3 or 33E-4 of the Illinois Criminal Code (720 ILCS 5/33E-3 and 5/33E-4).
21. Project Documentation: Upon execution of this Agreement relative to the Project, notwithstanding anything contained in any other Contract Documents to the contrary, the Contractor and its subcontractors agree to and shall release to the Village any and all right, title, and interest in and to any and all Project Documentation depicting, documenting, or recording the Services, and/or the Work, and/or the Project which is the subject of the Contract Documents, prepared or created by the Contractor and/or its subcontractors, including but not limited to any and all drawings, plans, specifications, photos, reports, videos, and/or other recordings on any electronic media (sometimes collectively referred to as "Project Documentation"), and any and all of such Project Documentation shall become the property of the Village. The Contractor and its subcontractors further warrant to the Village that they have the legal right to convey said Project Documentation to the Village. The Work contemplated by the Contract Documents shall not be considered complete until and unless legible and complete physical and electronic copies of all such Project Documentation have been delivered to the Village. The Village may reuse Project Documentation without the prior written

authorization of the Contractor, but the Village agrees to waive any claim against the Contractor arising from any unauthorized reuse or modification of the Project Documentation.

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

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

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

☒ The Illinois Prevailing Wage Act (820 ILCS 130/01, et seq.) does apply to this Contract.

This Contract calls for the construction of a "public work", within the meaning of the Illinois Prevailing Wage Act, 820 ILCS 130/01, et seq. ("the Act"). The Act requires contractors and subcontractors to pay laborers, workers and mechanics performing services on public works projects no less than the current "prevailing rate of wages" (hourly cash wages plus amount for fringe benefits) in the county where the work is performed. The Illinois Department of Labor ("IDOL") publishes the prevailing wage rates on its website at <http://labor.illinois.gov/>. The IDOL may revise the prevailing wage rates from time to time and the contractor/subcontractor has an obligation to check the IDOL's website for revisions to prevailing wage rates and comply with the most current prevailing wage rates. For information regarding current prevailing wage rates, please refer to the IDOL website. All contractors and subcontractors rendering services under this contract must comply with all requirements of the Act, including but not limited to, all wage requirements and notice and record keeping duties, including but not limited to each contractor and subcontractor who participates in public works to file with the Illinois Department of Labor (IDOL) certified payroll for those calendar months during which work on a public works project has occurred. The Act requires certified payroll to be filed with IDOL no later than the 15th day of each calendar month for the immediately preceding month through the Illinois Prevailing Wage Portal—an electronic database IDOL has established for collecting and retaining certified payroll. The Portal may be accessed using this link: <https://www2.illinois.gov/idol/Laws-Rules/CONMED/Pages/Prevailing-Wage-Portal.aspx>. The Village reserves the right to withhold payment due to Contractor until Contractor and its subcontractors display compliance with this provision of the Act. The Contractor shall also pay prevailing wages at rates not less than those prevailing under Davis-Bacon Wage Act Provisions as determined by the U.S. Department of Labor to all laborers, workmen and mechanics performing work under this Contract, if such Act is applicable, and, in such event, the more restrictive (i.e., higher) prevailing wage requirements shall be applicable.

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

25. Standard Specifications:

- A. If applicable, all Work performed by Contractor that is associated with the fulfillment of this Agreement and/or the related Purchaser Order/Contract shall conform to the terms of the latest edition of the Illinois Department of Transportation ("IDOT") Standard Specifications for Road and Bridge Construction where this document is otherwise silent. The applicable Standard Specifications, as herein specified, shall apply to all work and materials performed under this Contract unless revised by the Specifications, also herein included as part of the Contract Documents.
  - B. If applicable, through the course of the Project, the Contractor shall be responsible for the maintenance of traffic through and around the zone of work consistent with Section 648 of the IDOT Standard Specifications for Road and Bridge Construction. The cost for this activity shall be considered incidental to the cost of the improvement.
  - C. If applicable, all traffic control measures employed during the term of this contract shall be in accordance with the applicable sections of the IDOT Standard Specifications, the Supplemental Specifications, and the "Illinois Manual Uniform Traffic Control Devices for Streets and Highways".
26. Permitted Hours of Work: All construction activity shall be permitted only during the following work hours: a ten (10) hour period from 7:00 A.M. until 5:00 P.M. on weekdays; Saturday work is permitted after 8:00 A.M. until 5:00 P.M., provided that the Contractor has made prior arrangements with representatives of the Village; and work shall not occur on Sundays or Holidays, except as specifically authorized by the Village in writing,
27. Restoration of Work Site: The Contractor shall be obligated to remove all debris from the Work site at the Contractor's expense. The Contractor shall, at its sole cost and expense, as part of the Work required by this Agreement and the related Contract, replace and restore any grass, vegetation or plantings disturbed or removed by the Contractor, to their condition before the performance of the Work, and such removal shall only occur after approval in advance in writing by the Village's designee. Without limiting the generality of the foregoing, the Contractor shall be obligated to: (1) re-grade and re-seed the ground surface, (2) replace any damaged vegetation, other than trees and bushes removed pursuant to the authority of the Village's designee, with new plantings of good health and quality with species consistent with the recommendation of the Village's designee, and (3) repair any damage to any paved surfaces disturbed by the Work. While the Work is in progress and until all required restoration work is completed, the Contractor shall comply with customary and usual initial erosion practices consistent with good engineering procedures and the requirements of all applicable ordinances.
28. Right to Alter Plans and Scope Reserved: The Village reserves the right to alter the plans, extend or shorten the improvements, add to the Work as may be necessary, and increase or decrease the scope and/or quantity of the Work, including the deduction or cancellation of any one or more of the unit price items, or to cancel the Contract and the Work in its entirety for any reason.
29. Duration: This Contract shall be in effect from the date of this Contract until the completion of the Work, but the obligations of the Contractor under the Paragraphs 14 and 15 hereof shall continue after such termination.
30. Advertisement: The Contractor is specifically denied the right to use in any form or medium the name of the Village for public advertising unless express permission is granted by the Village.
31. Amendments: No agreement or understanding to modify the Contract or the related Contract Documents shall be binding upon the Village unless such amendment is in writing and signed by the Village's authorized agent. All specifications, drawings, and data submitted to the Contractor with this Agreement or the related Contract Documents are hereby incorporated and made part thereof.
32. Termination: The following shall constitute events of default under this Agreement and the related Contract: a) any material misrepresentation made by the Contractor to the Village, b) any failure by the Contractor to perform any of its obligations under this Contract including, but not limited to, the following: (i) failure to

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

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

**To the Village:**

Name: Kenneth Dado  
Village of Orland Park  
14700 South Ravinia Avenue  
Orland Park, Illinois 60462  
Telephone: 708-403-6350  
Facsimile: 708-403-6798  
e-mail: Kdado@orlandpark.org

**To the Contractor:**

Name: Jose G. Valdivia  
Company: Era-Valdivia Contractor, Inc.  
Address: 11909 South Avenue  
City, State, Zip: Chicago, IL, 60617  
Telephone: 773-721-9650  
Facsimile: 773-721-8027  
e-mail: general@eravaldivia.com

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

34. Illinois Freedom of Information Act: The Contractor agrees to maintain all records and documents for projects of the Village of Orland Park in compliance with the Freedom of Information Act (FOIA), 5ILCS 140/4 et seq. In addition, Contractor shall produce, without cost to the Village, records which are responsive to a request received by the Village under the FOIA so that the Village may provide records to those requesting them within the timeframes required. If additional time is necessary to compile records in

response to a request, then Contractor shall so notify the Village and if possible, the Village shall request an extension so as to comply with the FOIA. In the event that the Village is found to have not complied with the FOIA, based upon Contractor's failure to produce documents or otherwise appropriately respond to a request under the FOIA, then Contractor shall indemnify and hold harmless, and pay all amounts determined to be due including but not limited to fines, costs, attorney fees and penalties

35. Supersede: The terms, conditions and specifications set forth in this Agreement shall supersede, govern, and prevail over any inconsistent terms, conditions, and/or specifications on any other Contract Documents.
36. Severability: In the event any section, subsection, paragraph, sentence, clause, phrase or provision of this instrument or part thereof shall be deemed unlawful, invalid, unenforceable or ineffective by any court of competent jurisdiction, such decision shall not affect the validity, enforceability or effectiveness of the remaining portions of this instrument.
37. Facsimile or Digital Signatures: Facsimile or digital signatures shall be sufficient for purposes of executing, negotiating, and finalizing this Contract, and this Contract shall be deemed delivered as if containing original signatures if such delivery is made by emailing a PDF of a scanned copy of the original, hand-signed document, and/or by use of a qualified, established electronic security procedure mutually agreed upon by the Parties.
38. Counterparts: This Agreement may be executed in one or more counterparts, which counterparts when affixed together, shall constitute one and the same original document.
39. No Third Party Beneficiaries: The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto.
40. Entire Agreement: The Contract Documents (including all Exhibits attached thereto which by reference are made a part of the Agreement) and all other written agreements signed by all of the parties hereto which by their express terms are a part of the Contract Documents, are the final expression of, and contain the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior understandings with respect thereto. The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto.

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

CONTRACTOR: Era-Valdivia Contractors, Inc.

VILLAGE OF ORLAND PARK

By: [Signature]  
Name: Tose G. Valdivia  
Its President and Authorized Agent

By: [Signature]  
Name: George Kocikara, Title: Village Manager

ATTEST: [Signature]

EXHIBIT A

[ATTACH]

Scope of Work as set forth in Contractor's Proposal dated June 1, 2021  
or Village RFP, ITB, and/or Purchase Order No. ITB 21-029 dated May 14, 2021

EXHIBIT B

[ATTACH IF REQUIRED]

Schedule of Fees

# Exhibit A

## BIDDER SUMMARY SHEET

ITB 21-029

Elevated Water Tank No. 7  
Rehabilitation

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

### Price Proposal

The following cash allowances shall be included in the Grand Total Bid Price below. For item 1, the Cash Allowance shall be adjusted based on actual final costs.

Item Number	Description	Estimated Quantity included in the Grand Total Bid Price	Unit	Bid Unit Price	Total bid Price Included in the Lump Sum Base Bid
1	Structural Engineering Allowance	1	Lump Sum	\$10,000.00	\$10,000.00
	Section 09 67 16-Steel Water Storage Tank Painting	1	LS	710,000.	710,000.

**GRAND TOTAL BID PRICE**

\$ 720,000.00

### AUTHORIZATION & SIGNATURE

Name of Authorized Signee: Jose G. Valdivia  
Signature of Authorized Signee: J. G. Valdivia  
Title: President Date: 6-1-2021

 **ORLAND PARK**  
**CERTIFICATE OF COMPLIANCE**

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

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

President  
as \_\_\_\_\_  
(Enter Title of Person Making Certification)

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

certifies that Bidder is:

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

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

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

☐ Sole Proprietor  
☐ Independent Contractor (Individual)  
☐ Partnership  
☐ LLC  
☒ Corporation Illinois 3-15-1987  
(State of Incorporation) (Date of Incorporation)

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

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

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

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

**4) SEXUAL HARRASSMENT POLICY COMPLIANT: Yes ☒ No ☐**

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

minimum, the following information:

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

**5) EQUAL EMPLOYMENT OPPORTUNITY COMPLIANT: Yes ☒ No ☐**

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

The Bidder shall:

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

In the same manner as the other provisions of this Agreement, the Bidder will be liable for compliance with applicable provisions of this clause by such subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply therewith. In addition, the Bidder will not utilize any subcontractor declared by the Illinois Human Rights Department to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

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

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

**6) PREVAILING WAGE COMPLIANCE:      Yes ☒    No ☐**

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

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

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

**7) PARTICIPATION IN APPRENTICESHIP AND TRAINING PROGRAM:      Yes ☒    No ☐**

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

**Name of A&T Program:** US Department of Labor - International Painters & Decorators -DC14

**Brief Description of Program:** See attached DC 14 and DC 30 Certificate

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8) **TAX COMPLIANT:** Yes ☒ No ☐

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

**AUTHORIZATION & SIGNATURE:**

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

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

**ACKNOWLEDGED AND AGREED TO:**



Signature of Authorized Officer

Jose G. Valdivia

Name of Authorized Officer

President

Title

6-1-2021

Date



## ORLAND PARK INSURANCE REQUIREMENTS

### WORKERS' COMPENSATION & EMPLOYER LIABILITY

Full Statutory Limits - Employers 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 (ISO Form CA 0001)

\$1,000,000 – Combined Single Limit Per Occurrence

### GENERAL LIABILITY (Occurrence basis) (ISO Form CG 0001)

\$1,000,000 – Combined Single Limit Per Occurrence    \$2,000,000 – General Aggregate Limit  
\$1,000,000 – Personal & Advertising Injury  
\$2,000,000 – Products/Completed Operations Aggregate  
Additional Insured Endorsements: (CG 20 10 or CG 20 26 and CG 20 01 Primary & Non-Contributory  
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, Employers' Liability

Any insurance policies providing the coverages required of the Consultant shall be specifically endorsed to identify "The Village of Orland Park, and their respective officers, trustees, directors, officials, employees, volunteers and agents as Additional Insureds on a primary/non-contributory basis with respect to all claims arising out of operations by or on behalf of the named insured." The required Additional Insured coverage shall be provided on the Insurance Service Office (ISO) CG 20 10 or CG 20 26 endorsements or an endorsement at least as broad as the above noted endorsements as determined by the Village of Orland Park. Any Village of Orland Park insurance coverage shall be deemed to be on an excess or contingent basis as confirmed by the required (ISO) CG 20 01 Additional Insured Primary & Non-Contributory Endorsement. The policies shall also contain a Waiver of Subrogation in favor of the Additional Insureds in regard to General Liability and Workers' Compensation coverage. The certificate of insurance shall also state this information on its face. Any insurance company providing coverage must hold an A, VII rating according to Best's Key Rating Guide. Each insurance policy required shall have the Village of Orland Park expressly endorsed onto the policy as a Cancellation Notice Recipient. Should any of the policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. Permitting the contractor, or any subcontractor, to proceed with any work prior to our receipt of the foregoing certificate and endorsements shall not be a waiver of the contractor's obligation to provide all the above insurance.

Consultant agrees that prior to any commencement of work to furnish evidence of Insurance coverage providing for at minimum the coverages, endorsements and limits described above directly to the Village of Orland Park, Nicole Merced, Purchasing Coordinator, 14700 S. Ravinia Avenue, Orland Park, IL 60462. Failure to provide this evidence in the time frame specified and prior to beginning of work may result in the termination of the Village's relationship with the contractor.

ACCEPTED & AGREED THIS 1st DAY OF June, 2021

Signature

Gregory Bairaktaris-EVC PM/Estimator

Printed Name & Title

Authorized to execute agreements for:

Era-Valdivia Contractors, Inc.

Name of Company

## REFERENCES

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

\*\*

**Bidder's Name:** Era-Valdivia Contractors, Inc. - Most Recent Work History  
*(Enter Name of Business Organization)*

- |                 |  |
|-----------------|--|
| 1. ORGANIZATION | <u>Village of Lemont - .750 MGL Water Tank - Containment/Repainting Full</u>             |
| ADDRESS         | <u>Water Tank - State Street, Lemont, IL</u>   |
| PHONE NUMBER    | <u>630-878-6998</u>  |
| CONTACT PERSON  | <u>Bruce Hill - Novotney Engineering,</u>  |
| YEAR OF PROJECT | <u>5-2021</u>  |
| 2. ORGANIZATION | <u>Village of Sauk Village -.500 MGL - West Water Tank - Containment/Repainting Full</u> |
| ADDRESS         | <u>Water Tank - I-394 and Sauk Trail - West Tower</u>                                    |
| PHONE NUMBER    | <u>847-343-3366</u>  |
| CONTACT PERSON  | <u>Rick Leber-Robinson Engineering</u>   |
| YEAR OF PROJECT | <u>5-2021</u>  |
| 3. ORGANIZATION | <u>Village of Villa Park Containment/Repainting Full</u>                                 |
| ADDRESS         | <u>Home Street Water Tank - .500 MGL Water Tank</u>                                      |
| PHONE NUMBER    | <u>847-962-1289</u>  |
| CONTACT PERSON  | <u>Rich Salerno - Villa Park Water Superindendent</u>                                    |
| YEAR OF PROJECT | <u>12/2021</u>   |

\*\*Complete list of work can be provide which includes Orland Park Tower # 5  
Ken Dado - OP -Public Works  
Engineer of Record - Strand Associates - Anand Sridhar

# United States Department of Labor

## Bureau of Apprenticeship and Training

### Certificate of Registration

CHICAGO AREA PAINTING & DECORATING JOINT APPRENTICESHIP & TRAINING COMMITTEE  
CHICAGO, ILLINOIS

FOR THE TRADE OF: PAINTER

*Registered as part of the National Apprenticeship Program  
in accordance with the basic standards of apprenticeship  
established by the Secretary of Labor*

Registered: MARCH 6, 1942  
Revised: APRIL 18, 1984

DATE

IL-012-0062

REGISTRATION NO.



SECRETARY OF LABOR

*Est. Clark*

*Thomas V. Hyatt*

DIRECTOR, BUREAU OF APPRENTICESHIP AND TRAINING



Era-Valdivia Contractors, Inc.  
*of*

Chicago, IL

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

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



.....  
*J.A. Wiegand*  
President, ~~SSPC~~

.....  
March 31, 2021 – March 31, 2022

.....  
*Validation Period*



Certification for dates listed above to Era-Valdivia Contractors Inc. Chicago, IL.  
Owners are advised to contact SSPC at 412-281-2331 ext. 2235 or ext. 2209 to verify authenticity of certification.  
SSPC 800 Trumbull Dr. Pittsburgh, PA 15205. PCCP rules V. July 2019



# Era-Valdivia Contractors, Inc.

of  
Chicago, IL

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

## INDUSTRIAL HAZARDOUS PAINT REMOVAL SSPC-QP2

"A"

Category

March 31, 2021 – March 31, 2022

Validation Period



*J.A. Wrought*  
President, SSPC

Certification for dates listed above to Era-Valdivia Contractors, Inc., Chicago, IL.  
Owners are advised to contact SSPC at 412-281-2331 ext. 2235 or ext. 2209 to verify authenticity of certification.

SSPC 800 Trumbull Dr. Pittsburgh, PA 15205. FCCP rules V. July 2019





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
6/24/2021

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

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

**PRODUCER**  
Assurance, a Marsh & McLennan Agency LLC company  
20 N Martingale Road  
Suite 100  
Schaumburg IL 60173

**CONTACT**  
NAME: Ashley Savage  
PHONE (A/C, No, Ext): (847) 797-5714 FAX (A/C, No): (847) 440-9123  
E-MAIL: asavage@assuranceagency.com  
ADDRESS: asavage@assuranceagency.com

**INSURED**  
Era-Valdivia Contractors, Inc.  
11909 South Avenue "O"  
Chicago IL 60617

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: Old Republic General Insurance	24139
INSURER B: American Guarantee & Liability	26247
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

## COVERAGES

CERTIFICATE NUMBER: 1043242933

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 INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:		A5CG37781814	4/1/2021	4/1/2022	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY		A5CA37781814	4/1/2021	4/1/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 0		AUC027624804	4/1/2021	4/1/2022	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$
A	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N N/A	A5CW37781814	4/1/2021	4/1/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
RE: Village of Orland Park Tank #7

It is agreed that the following are added as Additional Insureds, when required by written contract, on the General Liability and Automobile Liability policies on a primary and non-contributory basis with respect to operations performed by the Named Insured in connection with this project.  
1. Village of Orland Park, and their respective officers, trustees, directors, employees and agents  
2. Strand Associates, Inc.

A Waiver of Subrogation in favor of the Additional Insureds applies to the Worker's Compensation and General Liability policies, when required by written contract and where allowed by law.

## CERTIFICATE HOLDER

Village of Orland Park  
14700 S. Ravania Avenue  
Orland Park IL 60462

## CANCELLATION

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

*Daniel G. Garas*

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## OLD REPUBLIC GENERAL INSURANCE CORPORATION

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

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

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

#### SCHEDULE

**Name of Person or Organization:** THE OWNER AND CONTRACTOR, IF REQUIRED BY THE TERMS OF A WRITTEN CONTRACT THAT WAS FULLY EXECUTED PRIOR TO THE DATE OF THE "OCCURRENCE", AND ANY OTHER PERSONS OR ENTITIES SPECIFICALLY REQUIRED BY, AND IDENTIFIED BY NAME IN, THAT SAME CONTRACT.

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

**A. Section II – Who Is An Insured** is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of your ongoing operations performed for that insured.

**B.** With respect to the insurance afforded to these additional insureds, the following exclusion is added:

#### 2. Exclusions

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

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

Named Insured	ERA VALDIVIA CONTRACTORS, INC.		
Policy Number	A-5CG-377818-14	Endorsement No.	000
Policy Period	04/01/2021 to 04/01/2022	Endorsement Effective Date:	04/01/2021
Producer's Name:	ASSURANCE AGENCY, LTD		
Producer Number:	00C01		

\_\_\_\_\_  
AUTHORIZED REPRESENTATIVE

\_\_\_\_\_  
DATE

## OLD REPUBLIC GENERAL INSURANCE CORPORATION

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

### ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

#### SCHEDULE

<b>Name of Person or Organization:</b> THE OWNER AND CONTRACTOR, IF REQUIRED BY THE TERMS OF A WRITTEN CONTRACT THAT WAS FULLY EXECUTED PRIOR TO THE DATE OF THE "OCCURRENCE", AND ANY OTHER PERSONS OR ENTITIES SPECIFICALLY REQUIRED BY, AND IDENTIFIED BY NAME IN, THAT SAME CONTRACT.
<b>Location And Description of Completed Operations:</b> LOCATIONS AS REQUIRED BY AN EXECUTED WRITTEN CONTRACT.

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

**Section II – Who Is An Insured** is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" at the location designated and described in the schedule of this endorsement performed for that insured and included in the "products-completed operations hazard".

Named Insured	ERA VALDIVIA CONTRACTORS, INC.		
Policy Number	A-5CG-377818-14	Endorsement No.	000
Policy Period	04/01/2021 to 04/01/2022	Endorsement Effective Date:	04/01/2021
Producer's Name:	ASSURANCE AGENCY, LTD		
Producer Number:	00C01		

\_\_\_\_\_  
AUTHORIZED REPRESENTATIVE

\_\_\_\_\_  
DATE

Insured: Era-Valdivia Contractors, Inc.

Effective : 4/1/21

POLICY NUMBER: A5CG37781814

COMMERCIAL GENERAL LIABILITY  
CG 24 04 05 09

## WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

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

### SCHEDULE

**Name Of Person Or Organization:**

WHERE REQUIRED BY AN EXECUTED WRITTEN CONTRACT.

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

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

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

## BUSINESS AUTO COVERAGE FORM

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

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

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

### SECTION I – COVERED AUTOS

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

#### A. Description Of Covered Auto Designation Symbols

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

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

#### **B. Owned Autos You Acquire After The Policy Begins**

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

#### **C. Certain Trailers, Mobile Equipment And Temporary Substitute Autos**

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

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

### **SECTION II – COVERED AUTOS LIABILITY COVERAGE**

#### **A. Coverage**

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

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

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

#### **1. Who Is An Insured**

The following are "insureds":

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

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

(2) Your "employee" if the covered "auto" is owned by that "employee" or a member of his or her household.

(3) Someone using a covered "auto" while he or she is working in a business of selling, servicing, repairing, parking or storing "autos" unless that business is yours.

(4) Anyone other than your "employees", partners (if you are a partnership), members (if you are a limited liability company) or a lessee or borrower or any of their "employees", while moving property to or from a covered "auto".

(5) A partner (if you are a partnership) or a member (if you are a limited liability company) for a covered "auto" owned by him or her or a member of his or her household.

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

## **2. Coverage Extensions**

### **a. Supplementary Payments**

We will pay for the "insured":

(1) All expenses we incur.

(2) Up to \$2,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

(3) The cost of bonds to release attachments in any "suit" against the "insured" we defend, but only for bond amounts within our Limit of Insurance.

(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$250 a day because of time off from work.

(5) All court costs taxed against the "insured" in any "suit" against the "insured" we defend. However, these payments do not include attorneys' fees or attorneys' expenses taxed against the "insured".

(6) All interest on the full amount of any judgment that accrues after entry of the judgment in any "suit" against the "insured" we defend, but our duty to pay interest ends when we have paid, offered to pay or deposited in court the part of the judgment that is within our Limit of Insurance.

These payments will not reduce the Limit of Insurance.

### **b. Out-of-state Coverage Extensions**

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

(1) Increase the Limit of Insurance for Covered Autos Liability Coverage to meet the limits specified by a compulsory or financial responsibility law of the jurisdiction where the covered "auto" is being used. This extension does not apply to the limit or limits specified by any law governing motor carriers of passengers or property.

(2) Provide the minimum amounts and types of other coverages, such as no-fault, required of out-of-state vehicles by the jurisdiction where the covered "auto" is being used.

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

## **B. Exclusions**

This insurance does not apply to any of the following:

### **1. Expected Or Intended Injury**

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

### **2. Contractual**

Liability assumed under any contract or agreement.

But this exclusion does not apply to liability for damages:

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

b. That the "insured" would have in the absence of the contract or agreement.

### **3. Workers' Compensation**

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

#### **4. Employee Indemnification And Employer's Liability**

"Bodily injury" to:

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

This exclusion applies:

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

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

#### **5. Fellow Employee**

"Bodily injury" to:

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

#### **6. Care, Custody Or Control**

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

#### **7. Handling Of Property**

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

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

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

#### **8. Movement Of Property By Mechanical Device**

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

#### **9. Operations**

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

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

#### **10. Completed Operations**

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

In this exclusion, your work means:

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

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

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

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

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

#### **11. Pollution**

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

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

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

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

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

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

#### **12. War**

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

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

#### **13. Racing**

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

#### **C. Limit Of Insurance**

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

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

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

### **SECTION III – PHYSICAL DAMAGE COVERAGE**

#### **A. Coverage**

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

##### **a. Comprehensive Coverage**

From any cause except:

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

##### **b. Specified Causes Of Loss Coverage**

Caused by:

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

##### **c. Collision Coverage**

Caused by:

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

#### **2. Towing**

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

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

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

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

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

#### **4. Coverage Extensions**

##### **a. Transportation Expenses**

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

##### **b. Loss Of Use Expenses**

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

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

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

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

## **B. Exclusions**

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

### **a. Nuclear Hazard**

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

### **b. War Or Military Action**

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

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

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

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

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

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

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

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

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

- a. Permanently installed in or upon the covered "auto";
- b. Removable from a housing unit which is permanently installed in or upon the covered "auto";
- c. An integral part of the same unit housing any electronic equipment described in Paragraphs a. and b. above; or
- d. Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system.

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

## **C. Limits Of Insurance**

1. The most we will pay for:

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

- (1) The actual cash value of the damaged or stolen property as of the time of the "loss"; or
- (2) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

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

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

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

#### **D. Deductible**

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

### **SECTION IV – BUSINESS AUTO CONDITIONS**

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

#### **A. Loss Conditions**

##### **1. Appraisal For Physical Damage Loss**

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

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

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

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

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

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

- (2) The "insured's" name and address; and
- (3) To the extent possible, the names and addresses of any injured persons and witnesses.

##### **b. Additionally, you and any other involved "insured" must:**

- (1) Assume no obligation, make no payment or incur no expense without our consent, except at the "insured's" own cost.
- (2) Immediately send us copies of any request, demand, order, notice, summons or legal paper received concerning the claim or "suit".
- (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit".
- (4) Authorize us to obtain medical records or other pertinent information.
- (5) Submit to examination, at our expense, by physicians of our choice, as often as we reasonably require.

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

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

##### **3. Legal Action Against Us**

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

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

#### **4. Loss Payment – Physical Damage Coverages**

At our option, we may:

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

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

#### **5. Transfer Of Rights Of Recovery Against Others To Us**

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

### **B. General Conditions**

#### **1. Bankruptcy**

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

#### **2. Concealment, Misrepresentation Or Fraud**

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

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

#### **3. Liberalization**

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

#### **4. No Benefit To Bailee – Physical Damage Coverages**

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

#### **5. Other Insurance**

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

- (1) Excess while it is connected to a motor vehicle you do not own; or
- (2) Primary while it is connected to a covered "auto" you own.

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

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

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

#### **6. Premium Audit**

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

## 7. Policy Period, Coverage Territory

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

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

The coverage territory is:

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

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

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

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

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

## SECTION V – DEFINITIONS

A. "Accident" includes continuous or repeated exposure to the same conditions resulting in "bodily injury" or "property damage".

B. "Auto" means:

1. A land motor vehicle, "trailer" or semitrailer designed for travel on public roads; or

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

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

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

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

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

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

- a. That are, or that are contained in any property that is:

- (1) Being transported or towed by, handled or handled for movement into, onto or from the covered "auto";
- (2) Otherwise in the course of transit by or on behalf of the "insured"; or
- (3) Being stored, disposed of, treated or processed in or upon the covered "auto";

- b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or

- c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

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

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

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

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

- E.** "Diminution in value" means the actual or perceived loss in market value or resale value which results from a direct and accidental "loss".
- F.** "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
- G.** "Insured" means any person or organization qualifying as an insured in the Who Is An Insured provision of the applicable coverage. Except with respect to the Limit of Insurance, the coverage afforded applies separately to each insured who is seeking coverage or against whom a claim or "suit" is brought.
- H.** "Insured contract" means:
1. A lease of premises;
  2. A sidetrack agreement;
  3. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
  4. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;

5. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another to pay for "bodily injury" or "property damage" to a third party or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement; or
6. That part of any contract or agreement entered into, as part of your business, pertaining to the rental or lease, by you or any of your "employees", of any "auto". However, such contract or agreement shall not be considered an "insured contract" to the extent that it obligates you or any of your "employees" to pay for "property damage" to any "auto" rented or leased by you or any of your "employees".

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

- a. That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
  - b. That pertains to the loan, lease or rental of an "auto" to you or any of your "employees", if the "auto" is loaned, leased or rented with a driver; or
  - c. That holds a person or organization engaged in the business of transporting property by "auto" for hire harmless for your use of a covered "auto" over a route or territory that person or organization is authorized to serve by public authority.
- I.** "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
- J.** "Loss" means direct and accidental loss or damage.
- K.** "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
1. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
  2. Vehicles maintained for use solely on or next to premises you own or rent;
  3. Vehicles that travel on crawler treads;

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

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

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

"Suit" includes:

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

POLICY NUMBER: A5CA37781814

COMMERCIAL AUTO  
CA 04 44 10 13

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

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

This endorsement modifies insurance provided under the following:

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

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

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

**Named Insured:** ERA VALDIVIA CONTRACTORS, INC.

**Endorsement Effective Date:** 4/01/21

### **SCHEDULE**

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

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

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

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT**

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

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

Schedule

WI

BLANKET

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

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

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

Endorsement Effective 04/01/21

Policy No. A5CW37781814

Endorsement No. 000

Insured ERA VALDIVIA CONTRACTORS, INC.

Premium \$

Insurance Company

Countersigned by

OLD REPUBLIC GENERAL INSURANCE CORPORATION

**WC 00 03 13**

(Ed. 4-84)

© 1983 National Council on Compensation Insurance.

Bond No. 3216836

# Document A312™ – 2010

Conforms with The American Institute of Architects AIA Document 312

## Performance Bond

### CONTRACTOR:

(Name, legal status and address)

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

### SURETY:

(Name, legal status and principal place of business)

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

Same As Above

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

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

### OWNER:

(Name, legal status and address)

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

### CONSTRUCTION CONTRACT

Date: June 18, 2021

Amount: \$ 720,000.00

Seven Hundred Twenty Thousand Dollars and 00/100

### Description:

(Name and location)

Elevated Tank No. 7 Rehabilitation and Painting 031-6002-443900 Purchase Order No. 21-001202  
Contract No. C19-0140

### BOND

Date: June 22, 2021

(Not earlier than Construction Contract Date)

Amount: \$ 720,000.00

Seven Hundred Twenty Thousand Dollars and 00/100

Modifications to this Bond:

☒ None

☐ See Section 16

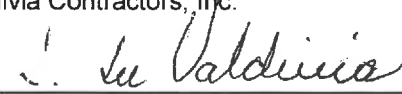
### CONTRACTOR AS PRINCIPAL

Company:

(Corporate Seal)

Era Valdivia Contractors, Inc.

Signature:



Name

Jose B. Valdivia

and Title:

President

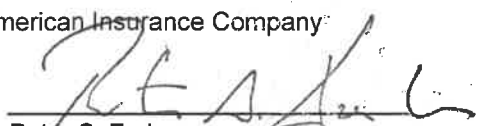
### SURETY

Company:

(Corporate Seal)

Great American Insurance Company

Signature:



Name

Peter S. Forker

and Title:

Attorney-in-Fact

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

(FOR INFORMATION ONLY — Name, address and telephone)

### AGENT or BROKER:

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

### OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **§ 14 Definitions**

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

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

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

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

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

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

§ 16 Modifications to this bond are as follows:

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

**CONTRACTOR AS PRINCIPAL**

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

**SURETY**

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

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

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

Bond No. 3216836

# Document A312™ – 2010

Conforms with The American Institute of Architects AIA Document 312

## Payment Bond

### CONTRACTOR:

(Name, legal status and address)

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

### SURETY:

(Name, legal status and principal place of business)

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

Same As Above

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

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

### OWNER:

(Name, legal status and address)

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

### CONSTRUCTION CONTRACT

Date: June 18, 2021

Amount: \$720,000.00 Seven Hundred Twenty Thousand Dollars and 00/100

### Description:

(Name and location)

Elevated Tank No. 7 Rehabilitation and Painting 031-6002-443900 Purchase Order No. 21-001202  
Contract No. C19-0140

### BOND

Date: June 22, 2021

(Not earlier than Construction Contract Date)

Amount: \$720,000.00 Seven Hundred Twenty Thousand Dollars and 00/100

Modifications to this Bond: ☒ None ☐ See Section 18

### CONTRACTOR AS PRINCIPAL

Company: (Corporate Seal)

Era Valdivia Contractors, Inc.

Signature:

Name: Jose G. Valdivia  
and Title: President

### SURETY

Company: (Corporate Seal)

Great American Insurance Company

Signature:

Name: Peter S. Forker  
and Title: Attorney-in-Fact

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

(FOR INFORMATION ONLY — Name, address and telephone)

### AGENT or BROKER:

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

### OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **§ 16 Definitions**

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

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

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

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

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

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

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

**§ 18** Modifications to this bond are as follows:

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

**CONTRACTOR AS PRINCIPAL**

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

**SURETY**

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

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

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

# GREAT AMERICAN INSURANCE COMPANY®

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

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

No. 0 20195

## POWER OF ATTORNEY

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

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

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

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

Attest

GREAT AMERICAN INSURANCE COMPANY



*Atty L C. B.*

Assistant Secretary

*Mark V Vicario*

Divisional Senior Vice President

STATE OF OHIO, COUNTY OF HAMILTON - ss:

MARK VICARIO (877-377-2405)

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



**Susan A. Kohorst**  
Notary Public, State of Ohio  
My Commission Expires 06-16-2020

*Susan A Kohorst*

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

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

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

## CERTIFICATION

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

Signed and sealed this

22<sup>nd</sup>

day of June

2021



*Atty L C. B.*

Assistant Secretary

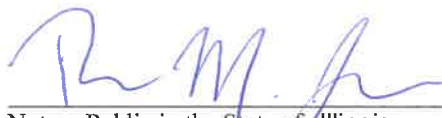
ACKNOWLEDGMENT BY SURETY

STATE OF Illinois }  
County of Lake } ss.

On this 22nd day of June, 2021, before me personally  
appeared Peter S. Forker, known to, me to be the Attorney-in-Fact of  
Great American Insurance Company, the corporation  
that executed the within instrument, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in the aforesaid County, the day and  
year in this certificate first above written.



  
\_\_\_\_\_  
Notary Public in the State of Illinois  
County of Lake