

Resolution No. 42-15

**A RESOLUTION OF THE VILLAGE OF EAST DUNDEE, ILLINOIS
APPROVING A CONTRACTOR AGREEMENT WITH
VALLEY SECURITY COMPANY**

WHEREAS, the Village of East Dundee (the "Village") is a duly organized and validly existing home-rule municipality created in accordance with the Constitution of the State of Illinois of 1970 and the laws of the State; and,

WHEREAS, the President and Board of Trustees (the "Corporate Authorities") of the Village have decided that for the Police Department Adaptive Reuse Project that the Village shall be the general contractor and the Village shall hire separate prime contractors to perform the construction; and,

WHEREAS, the Village staff has recommended that Valley Security Company be the prime contractor for detention hollow doors and frames, security glazing, detention enclosures, door hardware, sliding door locking devices and furniture and accessories, the scope of work is defined in Exhibit 2; and,

WHEREAS, Section 34.01(B)1 of the East Dundee Municipal Code provides that public improvements can be let without advertising for bids to the lowest responsible bidder by a vote of two-thirds of the Trustees finding that it is necessary and in the best interests of the Village; and,

WHEREAS, the Village staff recommends the waiving of bids to expedite the selection process, the preference for negotiated contracts, the ability to negotiate lower contract amounts and the familiarity of the contractor selected; and,

WHEREAS, the Corporate Authorities agree that the negotiated contract with Valley Security Company is necessary and in the best interests of the Village.

NOW THEREFORE, BE IT RESOLVED, by the President and Board of Trustees of the Village of East Dundee, Kane and Cook Counties, Illinois, as follows:

Section 1: That the bidding requirements are waived and the *Standard Form of Agreement Between Owner and Contractor, Construction Manager as Advisor Edition* between Valley Security Company and the Village of East Dundee, attached hereto and made a part hereof by reference as Exhibit A, is hereby approved and that Village Administrator Robert Skurla is hereby authorized to execute the Agreement on behalf of the Village in an amount not to exceed \$82,200.00.

Section 2: That this resolution shall be in full force and effect from and after its passage and approval according to law, and waiving the bidding requirement by a two-thirds vote of the trustees.

PASSED this 20th day of April, 2015, pursuant to a roll call vote as follows:

AYES: Trustees Lynam, Skillicorn, Selep, Wood and Mahony

NAYS: \emptyset

ABSENT: \emptyset

ABSTAIN: Trustee Gorman

APPROVED this 20th day of April, 2015

Attest: Katherine Holt
Katherine Holt, Deputy Village Clerk

Lael Miller
Lael Miller, Village President



Document A132™ – 2009

Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition

AGREEMENT made as of the April day of 6 in the year 2015
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

Village of East Dundee
120 Barrington Avenue
East Dundee, IL 60118

and the Contractor:
(Name, legal status, address and other information)

Valley Security Company
820 Tollgate Road
Elgin Illinois 60123

for the following Project:
(Name, location and detailed description)

East Dundee Police Facility Adaptive Reuse
115 East Third Street
East Dundee, IL 60118
Project involves the adaptive reuse at a fire station that will be converted to a police facility.

Building improvements will comply with the Illinois Municipal Jail and Lockup Standards.

An elevator will be added for ADA compliance along with a fire stair for Life Safety compliance.

The Owner has established a goal for the Project to achieve LEED certification at the Gold level.

WHENE POSSIBLE

The Construction Manager:
(Name, legal status, address and other information)

R. H. Milach Construction Services, Inc.
7211 Trey Road
McHenry, Illinois 60050

The Architect:
(Name, legal status, address and other information)

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

This document is intended to be used in conjunction with AIA Documents A232™–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; B132™–2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™–2009, Standard Form of Agreement Between Owner and Construction Manager as Adviser.

AIA Document A232™–2009 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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Dewberry Architects, Inc.
25 S. Grove Avenue, Suite 500
Elgin, IL 60120

The Owner and Contractor agree as follows.

TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 4 CONTRACT SUM
- 5 PAYMENTS
- 6 DISPUTE RESOLUTION
- 7 TERMINATION OR SUSPENSION
- 8 MISCELLANEOUS PROVISIONS
- 9 ENUMERATION OF CONTRACT DOCUMENTS
- 10 INSURANCE AND BONDS

EXHIBIT A DETERMINATION OF THE COST OF THE WORK

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Insert the date of commencement, if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

(Paragraphs deleted)

§ 3.2 The Contract Time shall be measured from the date of commencement.

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than

(Paragraphs deleted)

August 1, 2015.

init.

(Table deleted)

, subject to adjustments of this Contract Time as provided in the Contract Documents.

(Paragraphs deleted)

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be one of the following:

(Check the appropriate box.)

Stipulated Sum, in accordance with Section 4.2 below

(Paragraphs deleted)

§ 4.2 Stipulated Sum

§ 4.2.1 The Stipulated Sum shall be EIGHTY TWO THOUSAND, TWO HUNDRED DOLLARS (\$ 82,200.00), subject to additions and deletions as provided in the Contract Documents.

§ 4.2.2 The Stipulated Sum is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

§ 4.2.3 Unit prices, if any:

(Identify and state the unit price, and state the quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
N/A		

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Construction Manager by the Contractor, and upon certification of the Project Application and Project Certificate for Payment or Application for Payment and Certificate for Payment by the Construction Manager and Architect and issuance by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month

§ 5.1.3 The Owner shall make payment of the certified amount in the Application for Payment to the Contractor pursuant to the Illinois Prompt Payment Act.

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§ 5.1.4 Progress Payments Where the Contract Sum is Based on a Stipulated Sum

§ 5.1.4.1 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work and be prepared in such form and supported by such data to substantiate its accuracy as the Construction Manager and Architect may require. This schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.4.2 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.4.3 Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Ten percent percent (10 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Section 7.3.9 of the General Conditions;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of Ten percent percent (10 %);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Construction Manager or Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of the General Conditions.

§ 5.1.4.4 The progress payment amount determined in accordance with Section 5.1.4.3 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum , less such amounts as the Construction Manager recommends and the Architect determines for incomplete Work and unsettled claims; and
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of the General Conditions.

(Paragraphs deleted)

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2 of AIA Document A232-2009, and to satisfy other requirements, if any, which extend beyond final payment;

(Paragraph deleted)

- .3 a final Certificate for Payment or Project Certificate for Payment has been issued by the Architect; such final payment shall be made by the Owner not more than 30 days after the issuance of the final Certificate for Payment or Project Certificate for Payment, or as follows:

pursuant to the Illinois Prompt Payment Act

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A232-2009, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.

(Paragraphs deleted)

§ 6.2 Binding Dispute Resolution

The method of binding dispute resolution shall be as follows:

(Check the appropriate box. If the Owner and Contractor do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

(Paragraph deleted)

Litigation in a court of competent jurisdiction.

(Paragraphs deleted)

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 Where the Contract Sum is a Stipulated Sum

§ 7.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232-2009.

§ 7.1.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232-2009.

(Paragraphs deleted)

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A232-2009 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

One percent (1%)

§ 8.3 The Owner's representative:

(Name, address and other information)

Jim Kelly
Public Works Director
Village of East Dundee
120 Barrington Avenue
East Dundee, Illinois 60118

§ 8.4 The Contractor's representative:

(Name, address and other information)

§ 8.5 Neither the Owner's nor the Contractor's representative shall be changed without ten days written notice to the other party.

(Paragraphs deleted)

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

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User Notes:

(1464224360)

§ 9.1.1 The Agreement is this executed AIA Document A132–2009, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition.

§ 9.1.2 The General Conditions are AIA Document A232–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition.

§ 9.1.3 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
Project Manual	Project Manual	August 21, 2014	
Exhibit 1	Rider Number 1	January	7
Exhibit 2	Scope of Services	January	1
Exhibit 3	Safety Report Requirements		7

§ 9.1.4 The Specifications:
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Section	Title	Date	Pages
Project Manual	Project Manual	August 21, 2014	

§ 9.1.5 The Drawings:
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Title	Date
000115	Drawing Sheets	August 21, 2014

§ 9.1.6 The Addenda, if any:

Number	Date	Pages
Addendum #1	September 12, 2014	14 plus attachments
Addendum #2	September 18, 2014	11 plus attachments
Addendum #3	November 14, 2014	2 plus attachments

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

§ 9.1.7 Additional documents, if any, forming part of the Contract Documents are:

- .1 AIA Document A132™–2009, Exhibit A, Determination of the Cost of the Work, if applicable.
- .2 AIA Document A232–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition

.3
(Paragraphs deleted)

ARTICLE 10 INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A232–2009 and Contract documents.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A232–2009.)

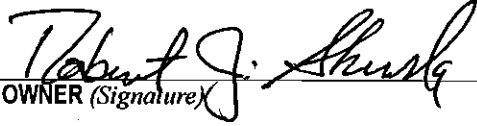
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User Notes:

(1464224360)

Type of Insurance or Bond
Insurance
Performance Bond
Labor & Material Bond

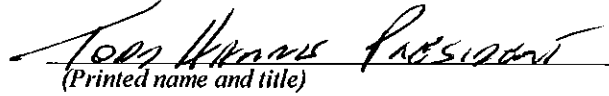
Limit of Liability or Bond Amount (\$0.00)
Section 006216
~~Contract Sum~~
Contract Sum *not entered*
11/27/15

This Agreement is entered into as of the day and year first written above.


OWNER (Signature)


CONTRACTOR (Signature)

Robert J. Skurla Village Administrator
(Printed name and title)


(Printed name and title)

Int.

Additions and Deletions Report for

AIA® Document A132™ – 2009

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 11:35:02 on 04/09/2015.

PAGE 1

AGREEMENT made as of the April day of 6 in the year 2015

...

Village of East Dundee
120 Barrington Avenue
East Dundee, IL 60118

...

Valley Security Company
820 Tollgate Road
Elgin Illinois 60123

...

East Dundee Police Facility Adaptive Reuse
115 East Third Street
East Dundee, IL 60118

Project involves the adaptive reuse at a fire station that will be converted to a police facility.
Building improvements will comply with the Illinois Municipal Jail and Lockup Standards.

An elevator will be added for ADA compliance along with a fire stair for Life Safety compliance.

The Owner has established a goal for the Project to achieve LEED certification at the Gold level.

...

R. H. Milach Construction Services, Inc.
7211 Trey Road
McHenry, Illinois 60050

PAGE 2

Dewberry Architects, Inc.
25 S. Grove Avenue, Suite 500
Elgin, IL 60120

...

TABLE OF ARTICLES

...

If, prior to the commencement of the Work, the Owner requires time to file mortgages, mechanics' liens and other security interests, the Owner's time requirement shall be as follows:

...

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than () days from the date of commencement, or as follows:

(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

August 1, 2015.

Portion of the Work

Substantial Completion Date

, subject to adjustments of this Contract Time as provided in the Contract Documents.

(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

PAGE 3

[X] Stipulated Sum, in accordance with Section 4.2 below

[] Cost of the Work plus the Contractor's Fee without a Guaranteed Maximum Price, in accordance with Section 4.3 below

[] Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 4.4 below

(Based on the selection above, complete Section 4.2, 4.3 or 4.4 below. Based on the selection above, also complete either Section 5.1.4, 5.1.5 or 5.1.6 below.)

...

§ 4.2.1 The Stipulated Sum shall be EIGHTY TWO THOUSAND, TWO HUNDRED DOLLARS (\$ 82,200.00), subject to additions and deletions as provided in the Contract Documents.

...

N/A

§ 4.2.4 Allowances included in the Stipulated Sum, if any:

(Identify allowance and state exclusions, if any, from the allowance price.)

Item

Allowance

~~§ 4.3 Cost of the Work Plus Contractor's Fee without a Guaranteed Maximum Price~~

~~§ 4.3.1 The Contract Sum is the Cost of the Work as defined in Exhibit A, Determination of the Cost of the Work, plus the Contractor's Fee.~~

~~§ 4.3.2 The Contractor's Fee:~~

~~(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)~~

~~§ 4.3.3 The method of adjustment of the Contractor's Fee for changes in the Work:~~

~~§ 4.3.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:~~

~~§ 4.3.5 Rental rates for Contractor-owned equipment shall not exceed _____ percent (____%) of the standard rate paid at the place of the Project.~~

~~§ 4.3.6 Unit prices, if any:~~

~~(Identify and state the unit price; state quantity limitations, if any, to which the unit price will be applicable.)~~

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

~~§ 4.3.7 The Contractor shall prepare and submit to the Construction Manager for the Owner, in writing, a Control Estimate within 14 days of executing this Agreement. The Control Estimate shall include the items in Section A.1 of Exhibit A, Determination of the Cost of the Work.~~

~~§ 4.4 Cost of the Work Plus Contractor's Fee with a Guaranteed Maximum Price~~

~~§ 4.4.1 The Contract Sum is the Cost of the Work as defined in Exhibit A, Determination of the Cost of the Work, plus the Contractor's Fee.~~

~~§ 4.4.2 The Contractor's Fee:~~

~~(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee.)~~

~~§ 4.4.3 The method of adjustment of the Contractor's Fee for changes in the Work:~~

~~§ 4.4.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:~~

~~§ 4.4.5 Rental rates for Contractor-owned equipment shall not exceed _____ percent (____%) of the standard rate paid at the place of the Project.~~

~~§ 4.4.6 Unit Prices, if any:~~

~~(Identify and state the unit price, and state the quantity limitations, if any, to which the unit price will be applicable.)~~

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

~~§ 4.4.7 Guaranteed Maximum Price~~

~~§ 4.4.7.1 The sum of the Cost of the Work and the Contractor's Fee is guaranteed by the Contractor not to exceed (\$ _____), subject to additions and deductions by changes in the Work as provided in the Contract Documents. Such maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would~~

cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.
(Insert specific provisions if the Contractor is to participate in any savings.)

§ 4.4.7.2 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

§ 4.4.7.3 Allowances included in the Guaranteed Maximum Price, if any:
(Identify and state the amounts of any allowances, and state whether they include labor, materials, or both.)

Item	Allowance
------	-----------

§ 4.4.7.4 Assumptions, if any, on which the Guaranteed Maximum Price is based:

...

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

month

§ 5.1.3 ~~Provided that an Application for Payment is received by the Construction Manager not later than the day of a month, the~~ The Owner shall make payment of the certified amount in the Application for Payment to the Contractor ~~not later than the day of the month. If an Application for Payment is received by the Construction Manager after the application date fixed above, payment shall be made by the Owner not later than () days after the Construction Manager receives the Application for Payment.~~
(Federal, state or local laws may require payment within a certain period of time.) pursuant to the Illinois Prompt Payment Act.

PAGE 4

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Ten percent percent (10 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Section 7.3.9 of the General Conditions;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of Ten percent percent (10 %);

...

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to percent (%) ~~the full amount~~ of the Contract Sum, Sum , less such amounts as the Construction Manager recommends and the Architect determines for incomplete Work and unsettled claims; and

...

~~§ 5.1.4.5 Reduction or limitation of retainage, if any, shall be as follows:
(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.4.3.1 and 5.1.4.3.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)~~

~~§ 5.1.5 Progress Payments Where the Contract Sum is Based on the Cost of the Work without a Guaranteed Maximum Price~~

~~§ 5.1.5.1 With each Application for Payment, the Contractor shall submit the cost control information required in Exhibit A, Determination of the Cost of the Work, along with payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached and any other evidence required by the Owner, Construction Manager or Architect to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment.~~

~~§ 5.1.5.2 Applications for Payment shall show the Cost of the Work actually incurred by the Contractor through the end of the period covered by the Application for Payment and for which the Contractor has made or intends to make actual payment prior to the next Application for Payment.~~

~~§ 5.1.5.3 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:~~

- ~~.1 Take the Cost of the Work as described in Exhibit A, Determination of the Cost of the Work;~~
- ~~.2 Add the Contractor's Fee, less retainage of — percent (— %). The Contractor's Fee shall be computed upon the Cost of the Work described in that Section at the rate stated in that Section; or if the Contractor's Fee is stated as a fixed sum, an amount which bears the same ratio to that fixed sum Fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;~~
- ~~.3 Subtract retainage of — percent (— %) from that portion of the Work that the Contractor self performs;~~
- ~~.4 Subtract the aggregate of previous payments made by the Owner;~~
- ~~.5 Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Article 5 or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and~~
- ~~.6 Subtract amounts, if any, for which the Construction Manager or Architect has withheld or withdrawn a Certificate for Payment as provided in Section 9.5 of AIA Document A232™ 2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition.~~

~~§ 5.1.5.4 The Owner, Construction Manager and Contractor shall agree upon (1) a mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.~~

~~§ 5.1.5.5 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Construction Manager and Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Article 5 or other supporting data; that the Construction Manager and Architect have made exhaustive or continuous on-site inspections; or that the Construction Manager and Architect have made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.~~

~~§ 5.1.5.6 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.~~

~~§ 5.1.6 Progress Payments Where the Contract Sum is Based on the Cost of the Work with a Guaranteed Maximum Price~~

~~§ 5.1.6.1 With each Application for Payment, the Contractor shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment.~~

~~§ 5.1.6.2 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work and be prepared in such form and supported by such data to substantiate its accuracy as the Construction Manager and Architect may require. This schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.~~

~~§ 5.1.6.3 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Contractor on account of that portion of the Work for which the Contractor has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.~~

~~§ 5.1.6.4 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:~~

- ~~.1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.10 of AIA Document A232-2009;~~
- ~~.2 Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;~~
- ~~.3 Add the Contractor's Fee, less retainage of — percent (— %). The Contractor's Fee shall be computed upon the Cost of the Work at the rate stated in Section 4.4.2 or, if the Contractor's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;~~
- ~~.4 Subtract retainage of — percent (— %) from that portion of the Work that the Contractor self-performs;~~
- ~~.5 Subtract the aggregate of previous payments made by the Owner;~~
- ~~.6 Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Section 5.1.6.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and~~
- ~~.7 Subtract amounts, if any, for which the Construction Manager or Architect have withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A232-2009.~~

~~§ 5.1.6.5 The Owner and the Contractor shall agree upon a (1) mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.~~

~~§ 5.1.6.6 In taking action on the Contractor's Applications for Payment, the Construction Manager and Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Construction Manager or Architect have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 5.1.6.1 or other supporting data; that the Construction Manager or Architect have made exhaustive or continuous on-site inspections; or that the Construction Manager or Architect have made examinations to ascertain how or for what purposes the Contractor~~

has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

~~§ 5.1.6.7 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.~~

...

- ~~.2 the Contractor has submitted a final accounting for the Cost of the Work, pursuant to Exhibit A, Determination of the Cost of the Work when payment is on the basis of the Cost of the Work, with or without a Guaranteed Maximum payment; and~~

pursuant to the Illinois Prompt Payment Act

...

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

...

For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A232-2009, the The method of binding dispute resolution shall be as follows:

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~~[] Arbitration pursuant to Section 15.4 of AIA Document A232-2009.~~

[X] Litigation in a court of competent jurisdiction.

~~[] Other: (Specify)~~

...

§ 7.2

~~Where the Contract Sum is Based on the Cost of the Work with or without a Guaranteed Maximum Price~~

~~§ 7.2.1 Subject to the provisions of Section 7.2.2 below, the Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A232-2009.~~

~~§ 7.2.2 The Contract may be terminated by the Owner for cause as provided in Article 14 of AIA Document A232-2009; however, the Owner shall then only pay the Contractor an amount calculated as follows:~~

- ~~.1 Take the Cost of the Work incurred by the Contractor to the date of termination;~~
- ~~.2 Add the Contractor's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Sections 4.3.2 or 4.4.2, as applicable, or, if the Contractor's Fee is stated as a fixed sum, an amount that bears the same ratio to that fixed sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and~~
- ~~.3 Subtract the aggregate of previous payments made by the Owner.~~

§ 7.2.3 If the Owner terminates the Contract for cause when the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, and as provided in Article 14 of AIA Document A232-2009, the amount, if any, to be paid to the Contractor under Section 14.2.4 of AIA Document A232-2009 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed the amount calculated in Section 7.2.2.

§ 7.2.4 The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 7.2.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 7, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders.

§ 7.2.5 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A232-2009; in such case, the Contract Sum and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A232-2009, except that the term 'profit' shall be understood to mean the Contractor's Fee as described in Sections 4.3.2 and 4.4.2 of this Agreement.

...

% One percent (1%)

...

Jim Kelly
Public Works Director
Village of East Dundee
120 Barrington Avenue
East Dundee, Illinois 60118

...

§ 8.6 Other provisions:

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<u>Project Manual</u>	<u>Project Manual</u>	<u>August 21, 2014</u>	
<u>Exhibit 1</u>	<u>Rider Number 1</u>	<u>January</u>	<u>7</u>
<u>Exhibit 2</u>	<u>Scope of Services</u>	<u>January</u>	<u>1</u>
<u>Exhibit 3</u>	<u>Safety Report</u>		<u>7</u>
	<u>Requirments</u>		

...

<u>Project Manaul</u>	<u>Project Manual</u>	<u>August 21, 2014</u>
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<u>000115</u>	<u>Drawing Sheets</u>	<u>August 21, 2014</u>
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<u>Addendum #1</u>	<u>September 12, 2014</u>	<u>14 plus attachments</u>
<u>Addendum #2</u>	<u>September 18, 2014</u>	<u>11 plus attachments</u>
<u>Addendum #3</u>	<u>November 14, 2014</u>	<u>2 plus attachments</u>

...
 .2 ~~AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following: A232-2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition~~

...
 .3 ~~AIA Document E202™-2008, Building Information Modeling Protocol Exhibit, if completed, or the following:~~

...
 .4 ~~Other documents, if any, listed below:
 (List here any additional documents which are intended to form part of the Contract Documents. AIA Document A232-2009 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)~~

...
 The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A232-2009, A232-2009 and Contract documents.

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<u>Insurance</u>	<u>Section 006216</u>
<u>Performance Bond</u>	<u>Contract Sum</u>
<u>Labor & Material Bond</u>	<u>Contract Sum</u>

*NOT INCLUDED
 [Signature]*

...
Robert J. Skurla Village Administrator